

PIN:

07-04-203-024 [formerly known as
07-04-203-022] [part of]

ADDRESSES:

Vacant property located on the south side
of Ferry Road and west of Illinois Route 59
and part of the Iron Gate Motor Condos
Development located at 2228 Ferry Road,
Naperville, IL 60563

PREPARED BY:

CITY OF NAPERVILLE
LEGAL DEPARTMENT
630/420-4170

RETURN TO:

CITY OF NAPERVILLE CITY
CLERK'S OFFICE
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540

PZC Case# 20-1-065

ORDINANCE NO. 21 -

**AN ORDINANCE GRANTING A STORMWATER VARIANCE
FOR IRON GATE PHASE 2A, BUILDING 3, AND PHASE 2B**

RECITALS

1. **WHEREAS**, High Point Investments, Inc., 2228 Ferry Road, #101, Naperville, Illinois, 60563 is the owner (hereinafter "**Owner**" or "**Petitioner**") of approximately 5.078 acres of real property located on the south side of Ferry Road and west of Illinois Route 59 within the corporate limits of the City of Naperville ("**City**"), legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, the Subject Property is currently zoned I (Industrial) district with a conditional use for the Iron Gate Motor Condos PUD; and

3. **WHEREAS**, by separate ordinance, Petitioner has sought a major change to the Iron Gate Motor Condos PUD to allow for development of a commercial building (Building 3) on Phase 2A and fifty-one (51) single-family attached dwelling units on Phase 2B of the Subject Property; said ordinance is contingent upon approval and execution of an agreement pertaining to the Naperville Park District land-cash donation, which agreement shall be attached as Exhibit C of the Owner's Acceptance and Acknowledgment Agreement attached to said ordinance; and
4. **WHEREAS**, Petitioner has also petitioned the City of Naperville for approval of a variance to Section 5-7-1 of the Naperville Municipal Code ("**Code**"), to allow a 4 to 1 detention basin sideslope and 1.0 foot freeboard for development of Iron Gate Motor Condos Phase 2A, Building 3 and Phase 2B on the Subject Property; and
5. **WHEREAS**, Section 5-7-1 of the Code requires storm water systems to be designed in accordance with the City of Naperville Design Manual for Public Improvements ("**Design Manual**"); and
6. **WHEREAS**, the Design Manual identifies design requirements for storm water facilities including detention basins and overflow routes (swales); and
7. **WHEREAS**, per Section 2.5.2.2 of the Design Manual states that stormwater overflow routes adjacent to residential developments shall have no less than 1.5 feet of freeboard between the design highwater level in the swale and the lowest adjacent top of foundation elevation; and
8. **WHEREAS**, the proposed development provides only a 1.0-foot freeboard between the between the design highwater level in the swale and the lowest adjacent top of foundation elevation due to site constraints adjacent to residential units with no basements; and

9. **WHEREAS**, per Section 2.5.4.3 of the Manual establishes that the maximum sideslopes of a detention pond adjacent to a residential area shall be 6 to 1; and
10. **WHEREAS**, the existing stormwater detention basin was previously built to commercial standards with sideslopes of 4 to 1; and
11. **WHEREAS**, modifying the existing stormwater detention basin to 6 to 1 sideslope is not practical and will disturb existing wetland plantings; and
12. **WHEREAS**, per Section 5-7-2:5 of the Code, the City Council may grant, deny, or grant with modification a variance from the requirements of Code Chapter 7 (Storm Runoff Control) upon the recommendation of the City Engineer; and
13. **WHEREAS**, the City Engineer has recommended that the requested variance be granted; and
14. **WHEREAS**, Petitioner has requested that the City approve this ordinance ("**Ordinance**"); and
15. **WHEREAS**, this Ordinance and the "Ordinance Approving a Major Change to the Iron Gate Motor Condos PUD, a Final PUD Plat for Iron Gate Motor Condos Phase 2A, Building3, and Phase 2B, and Various Deviations", shall collectively be referenced herein as the "**Iron Gate Motor Condos Phase 2A, Building 3 and Phase 2B Ordinances**"; and
16. **WHEREAS**, the City Council of the City of Naperville has determined, subject to the provisions and conditions set forth and referenced herein, that the variance to the Naperville Municipal Code described herein should be approved as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule powers, as follows:

SECTION 1: The foregoing Recitals are incorporated as though fully set forth here in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

SECTION 2: Subject to approval, execution, and recordation of Iron Gate Motor Condos Phase 2A, Building 3 and Phase 2B Ordinances, a variance to Section 5-7-1 (Storm Runoff Control: Storm Water Design) of Title 5 (Building Regulations) of the Naperville Municipal Code to allow for a stormwater detention basin sideslope of 4 to 1 and a 1.0 foot freeboard between the between the design highwater level in the swale and the lowest adjacent top of foundation elevation identified on the Final Engineering Plans attached as **Exhibit C** is hereby granted.

SECTION 3: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 4: Upon confirmation from the City Attorney that the terms and conditions set forth and referenced in the Iron Gate Motor Condos Phase 2A, Building 3 and Phase 2B Ordinances have been fulfilled, the City Clerk is authorized and directed to record with the DuPage County Recorder: (i) the Iron Gate Motor Condos Phase 2A, Building 3 and Phase 2B Ordinances, including but not limited to this Ordinance, together with their exhibits; and then to record (ii) the fully executed Owner's Acknowledgement and Acceptance Agreement for Iron Gate Motor Condos Phase 2A, Building 3 and Phase 2B, together with Exhibits A through C.

SECTION 5: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

SECTION 6: The Iron Gate Motor Condos Phase 2A, Building 3 and Phase 2B Ordinances shall be automatically null and void and of no further force or effect if they are not recorded with the Office of the DuPage County Recorder within one (1) year of their approval.

SECTION 7: This Ordinance shall be in full force and effect upon its recordation with the Office of the DuPage County Recorder.

PASSED this _____ day of _____, 2021.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2021.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk

