

STATE OF ILLINOIS)
)
COUNTY OF DUPAGE)
)
CITY OF NAPERVILLE)

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION
FOR DEVELOPMENT APPROVAL**

THE UNDERSIGNED Petitioner, Charleston Investments, LLC, an Illinois limited liability company (hereinafter “the Petitioner”), respectfully petitions the City of Naperville to approve: (i) a conditional use under Section 6-7F-3 of the City of Naperville’s Municipal Code (the “Code”) to permit a townhome development in the OCI district; (ii) a variance from section 6-7F-5:1 of the Code to allow one unit per 2,723 square feet in lieu of one unit per 4,000 square feet; (iii) a variance from section 5-10-3:5.2.1 of the Code to permit a 3.0’ wide landscape area adjacent to a drive aisle; (iv) a variance from Section 5-10-3:5.2.4.1 so that a solid fence does not have to be installed along the shared property line with River Place Condominiums at the request of River Place’s Condo Board; (v) a variance from Section 6-9-2:4.3.1 to permit two guest parking spaces in the front yard setback area; and (vi) such other relief from the Code as may be deemed necessary and appropriate to develop the property legally described on Exhibit A (“Subject Property”) in accordance with the plans submitted herewith.

BACKGROUND INFORMATION

1. Charleston Investments, LLC, an Illinois limited liability company, with an office at 933 E. Ogden Avenue, Naperville, Illinois 60563, is the Petitioner.
2. Thomas J. Eganhouse, as Trustee of the Thomas J. Eganhouse Trust dated September 24, 1999, and Betty A. Eganhouse, as Trustee of the Betty A. Eganhouse Trust dated October 14, 1999, are the record owners of the Subject Property (the “Owner”).
3. Petitioner is the contract purchaser of the Subject Property.

4. The Subject Property consists of one lot totaling approximately 21,780 square feet located along Aurora Avenue in Naperville, Illinois.
5. The Subject Property is currently occupied by a vacant commercial building that was formerly used as a veterinary clinic.
6. The Subject Property is transitional in nature.
7. The existing land uses surrounding the Subject Property are as follows:
 - a. North: R1A PUD Zoning – Naperville Riverwalk Park
 - b. East: R1A Zoning: Naperville Riverwalk Park
 - c. South: R1A Zoning: Naperville Central High School
 - d. West: R1A PUD Zoning: River Place Condominiums (“River Place”)

SUMMARY OF DEVELOPMENT

The Subject Property is located along Aurora Avenue between Rotary Hill and the River Place Condominiums and is within walking distance to downtown Naperville. Accordingly, this new residential development will function as a bridge between the River Place Condominiums to the west and Rotary Hill and downtown Naperville to the east. Being residential in nature, the proposed eight townhomes will provide a consistent use to the existing River Place Condominiums to the west and avoid a potential inconsistent use permitted in the existing OCI zoning district such as a commercial use.

The proposed residential development will be similar in quality and materials to the existing Charleston Row projects on Aurora Avenue which was very well received. The project will consist of eight (8) townhomes ranging from approximately 3,200 square feet to 3,400 square feet. Consistent with the existing Charleston Row developments, each of these homes will be maintenance free, with the homeowner’s association being responsible for all exterior

maintenance, landscaping, and snow removal. The proposed architecture is also a continuation of the quality associated with the existing Charleston Row projects. These new homes will be similarly designed in the classic style of a French city home. Exterior materials will be primarily limestone cladding and hard-coat stucco in a matching color. The roof of the buildings will be simulated slate shingles with steep roof pitches at the perimeter, adding to the French city house feeling. Windows throughout the building are accented by stone or stucco sills and cornices with decorative brackets. Each home will be three (3) stories with a patio and rooftop deck. At the rear of each home will be the two-car garages which are topped by terraces accessed off of each kitchen.

A well-designed landscape plan will also ensure compatibility with the surrounding area and enhance the appearance of the overall community. Landscape treatments include extensive foundation plantings and shade trees, as well as a perimeter buffer. Additionally, the Petitioner is working with River Place relative to landscaping materials along the shared property line which will complement both properties. The Petitioner is also working with the City and Riverwalk Commission relative to installing a sidewalk connection along the east property line of the Subject Property to provide access to Rotary Hill to both residents of the Subject Property and River Place.

Vehicular access will be provided from Aurora Avenue, and no additional curb cuts will be required. A traffic study has been submitted evidencing the roadway network has sufficient capacity to serve the Subject Property. Additionally, a small residential development will generate significantly less traffic than uses permitted in the OCI zoning district. Resident parking and guest parking will also meet City requirements.

REQUIRED DEVELOPMENT ENTITLEMENTS – OCI ZONING DISTRICT

1. The Petitioner seeks a conditional use to allow for townhomes in the OCI zoning district.
2. The Petitioner seeks approval of an area requirement variance from Section 6-7F-5:1 of the City’s code to allow one unit per 2,723 square feet in lieu of one unit per 4,000 square feet of land area.
3. The Petitioner seeks approval of a landscape variance from Section 5-10-3:5.2.1 of the Code to permit a 3.0’ wide landscape area adjacent to the access drive.
4. The petitioner seeks a variance from Section 5-10-3:5.2.4.1 so that a solid fence does not have to be installed along the shared property line with River Place Condominiums at the request of River Place’s Condo Board.
5. The Petitioner seeks a variance from Section 6-9-2:4.3.1 to permit two guest parking spaces in the front yard setback area.
6. The proposed entitlement requests meet all City and State requirements for the development of the Subject Property and will facilitate the beneficial use of the Subject Property as stated below.

CONDITIONAL USE TO ALLOW TOWNHOMES IN THE OCI ZONING DISTRICT

- a. *The establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the public health, safety and general welfare; and*

The proposed conditional use will not be detrimental to or endanger public health, safety or the general welfare. The use provides for needed and desirable living options that help create enhanced living opportunities and complement the surrounding area while also improving the real estate tax base and value of adjacent properties. The proposed residential use will provide a much-needed improvement to the underperforming Subject Property which has been occupied by a vacant commercial building for several years and which is out of character for the area. The

proposed townhomes will be constructed with quality materials consistent with the classic style of a French city home associated with the existing Charleston Row projects located along Aurora Avenue. The conditional use will also provide an opportunity for those seeking an upscale row home opportunity within walking distance of necessities such as pharmacies, retail, and dining and entertainment venues to be able to enjoy such a lifestyle along the Naperville Riverwalk. In addition, the conditional use will provide for the development of underperforming land to be utilized for its highest and best use in that a residential use on the Subject Property is consistent with the surrounding area in lieu of additional commercial uses given the location adjacent to River Place and the Naperville Riverwalk Park and Rotary Hill. These factors will in turn contribute to and support Downtown Naperville businesses and enhance the City's workforce and retail and property tax bases. Lastly, Petitioner's proposal will result in a residential development which is about ½ of the density of the adjacent River Place Condominiums. Petitioner not only finds the proposal to be generally less impactful than the existing River Place residences, but also less impactful than permitted uses in the OCI district which include, but are not limited to, commercial services, banks and financial institutions, and professional and medical offices.

- b. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood; and*

Petitioner is proposing a residential use that is significantly less dense and with a lesser height than River Place. In addition, the traffic study submitted herewith illustrates the proposal will generate less traffic than many of the permitted uses in the OCI zoning district of higher intensity such as hospitals, professional and medical offices, fitness facilities, and veterinary clinics, which is what the Subject Property was most recently used for several years ago. Since

its use as a veterinary clinic, the Subject Property has been vacant for several years. Accordingly, the conditional use will provide for the overall improvement of the Subject Property, which will improve property values in the area as well as the eliminate the Subject Property's current appearance as a vacant building with overgrown landscaping. As a result, the property values in the area will increase, as well as the housing stock will be improved.

c. The establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the district.

Under the City's Land Use Master Plan, which was adopted on March 1, 2022 ("Land Use Plan"), the Subject Property is designated as transitional, which anticipates low-intensity office, service and residential uses that are designed in a manner compatible with the adjacent neighborhood and specifically include townhome or row house residential developments in the definition of the same. Therefore, the proposed development of an upscale row home development is consistent with the City's Land Use Plan for this property, which will then help ensure the normal, orderly and desirable development of the Subject Property in a way that is consistent and compatible with the trend of development. The proposed development will create the highest and best use of the Subject Property by eliminating a vacant commercial building, which has been vacant for several years, creating a situation where the Subject Property has been underperforming and underutilized in an otherwise extremely desirable location adjacent to the riverwalk and walking distance to downtown Naperville.

d. The establishment of the conditional use is not in conflict with the adopted comprehensive master plan.

The proposed development is right on target with the City's Land Use Plan as evidenced herein, which is the comprehensive master plan for this area and which designates the Subject Property for residential use. Petitioner's proposal of upscale row homes not only fits the mold

for residential developments designated under the Land Use Plan, but also complements the adjacent neighborhoods being located next to River Place and Rotary Hill by being less dense and less impactful than what is envisioned under the Land Use Plan.

**AREA REQUIREMENT VARIANCE FROM SECTION 6-7F-5:1 OF THE CITY CODE
TO ALLOW ONE UNIT PER 2,723 SQUARE FEET IN LIEU OF ONE UNIT PER 4,000
SQUARE FEET OF LAND AREA**

- a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The Subject Property consists of approximately 21,780 square feet. The City's OCI zoning district requires 4,000 square feet per dwelling unit for single-family attached residences. Density limitations ensure that public facilities, be it utilities, schools, parks, or roadway infrastructure, are not overwhelmed by the number of people output from a development. In this instance, the proposed use of the Subject Property as eight (8) dwelling units is a substantially less intense use than other uses within and/or contemplated for the surrounding area. Specifically, the River Place Condominiums to the west of the Subject Property has 240 units and maintains a density of 1,438 square feet per dwelling unit. In addition, River Place maintains a maximum height of 58 feet, which is 15 feet higher than the maximum height restrictions in the OCI district. Also worth mentioning is a previous proposal on the Subject Property that proposed a nine (9) story multi-family residential building with a height of 87 feet. Comparatively, under the current proposal, Petitioner will not require a variance from the OCI district's maximum height restriction of 43 feet. Though Petitioner does require a variance to allow one unit per 2,723 square feet under the Code, the Petitioner's proposal is significantly less intense than the previous proposal and River Place; all of which were contemplated in this area governed by the same characteristics. In addition, the existing Charleston Row projects on

Aurora Avenue required the same variance request, which provided for a successful development and product design without negatively impacting the area.

Moreover, maintaining the Subject Property in its current configuration as a vacant commercial building is not an efficient use of resources or the highest and best use of the Subject Property. The requested variance to allow for eight (8) homes on the Subject Property is consistent with what is appropriate for a downtown area property and is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. Lastly, the proposed Charleston Row III will be immediately adjacent to substantial open space and recreation areas, optimizing the use of the Subject Property

- b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

The Subject Property is unique as it is bounded by Aurora Avenue and is a transitional property separating high-density condominiums to the quiet nature of the Naperville Riverwalk. A residential use is the most appropriate use for the Subject Property and is consistent with the trend of development in the immediate area, as opposed to permitted uses in the OCI district of service establishments (including, but not limited to, pet grooming and training, laundry services, appliance repairs, and electrician shops), bank and/or financial institutions, and fitness facilities. Therefore, strict enforcement of this title would substantially negatively affect the marketability and viability of these townhomes and this project. Without the density variance, the project would no longer be viable.

- c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The existing structure currently located on the Subject Property is vacant, run down, and out of character for the neighborhood. As such, Petitioner's variance request could be restated as

a request to improve the existing condition with townhomes complementary to the surrounding uses and which will increase the property values in the area. In addition, the area variance request is minimal in comparison to River Place, which has 240 units and maintains a density of 1,438 square feet per dwelling unit. In addition, River Place maintains a maximum height of 58 feet, which is 15 feet higher than the maximum height restrictions in the OCI district, which Petitioner's proposal will wholly comply with. Also previously contemplated for the Subject Property was a development consisting of a nine (9) story multi-family residential building with a height of 87 feet. Comparatively, under the current proposal, Petitioner will not require a variance from the OCI district's maximum height restriction of 43 feet, and the development proposal is substantially less dense and less intense than River Place and the previous proposal, and thus, the requested variance will not impose a substantial detriment to adjacent properties.

VARIANCE FROM SECTION 5-10-3:5.2.1 OF THE CITY CODE TO PERMIT A 3-FOOT WIDE LANDSCAPE AREA ALONG THE WEST PROPERTY LINE

- a. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The purpose of the City's landscape requirements is to foster aesthetically pleasing development which will protect and preserve the appearance, character, general health, safety, and welfare of the community, and enhance property values. The Code's perimeter parking lot landscaping requirements are in effect as a way of screening adjacent parcels from surface parking lots with a 5' wide landscaped area. Currently, there is extensive landscaping located along the existing property line between the Subject Property and River Place, and Petitioner is diligently working with River Place to develop a mutually agreed upon enhanced landscape buffer between the Subject Property and River Place. At the request of River Place, the Petitioner will be installing additional landscape materials on the River Place property to further

enhance the landscape buffer. Also, the Petitioner is removing the “surface parking lot” aspect that comes with a commercial property and proposing a drive aisle to serve as access to the proposed townhomes. Accordingly, Petitioner is requesting a variance to permit a 3.0’ wide landscaped area along the perimeter of the proposed driveway and is ensuring that River Place benefits from adequate screening being located adjacent to the driveway serving the Subject Property, as well as River Place’s property, all of which is in harmony with the purpose of enforcing landscape requirements under the City Code to foster an aesthetically pleasing development and which will ultimately protect and preserve the appearance and character of the area.

- b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

The existing drive aisle is required to be widened to accommodate emergency equipment and to allow for the appropriate turn radius into each garage of the proposed townhomes, which ultimately reduces the width of landscape area Petitioner can provide adjacent to River Place. Therefore, strict enforcement of this title would substantially negatively affect the marketability and viability of these townhomes and this project.

- c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The Subject Property is unique as it is bounded by Aurora Avenue and is a transitional property separating condominiums from the Naperville Riverwalk. The purpose of this Code requirement is to ensure proper screening between parking lots and adjacent parcels. The character of the Subject Property will substantially improve upon receiving the requisite development approvals. Transforming the Subject Property into an upscale residential use will diminish the number of vehicles and trips that were previously entering and exiting the Subject

Property. Petitioner recognizes the value in appropriate screening and is working with River Place to provide for mutually agreed upon landscape treatments to provide a nice buffer between the two properties. Accordingly, a 3.0' wide landscape area between the proposed drive aisle and River Place meets the Code's objectives and will not be detrimental to adjacent property.

VARIANCE FROM SECTION 5-10-3:5.2.4.1 SO THAT A FENCE DOES NOT HAVE TO BE INSTALLED ALONG THE SHARED PROPERTY LINE WITH RIVER PLACE

- a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The City's landscape and screening requirements are intended to increase the compatibility of adjacent uses by requiring a buffer or screen between uses to minimize harmful impacts conducted or created by adjoining or nearby uses. The proposed development is a compatible land use located adjacent to River Place. However, the Code requires a solid fence to be located along the west property line to screen the new residential community from River Place. The condition under the Code triggering the need for a fence contemplates the location of a surface parking lot being adjacent to residential property, and accordingly, the proposed development should not be subject to this solid fence requirement as they are compatible residential uses. In addition, there is extensive landscaping currently located along the existing property line between the Subject Property and River Place. Petitioner is also diligently working with River Place to develop a mutually agreed upon enhanced landscape buffer between the Subject Property and River Place in order to provide a substantial buffer between the neighboring properties, which adequately meets the purpose and intent of the City's screening requirements. The Petitioner does anticipate that a 5' tall black aluminum fence could be built along the property line to delineate the properties, but it will not be a solid fence such as wood or vinyl as anticipated by the Code.

- b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

The OCI (Office, Commercial, and Institutional) zoning district acts as a transitional zone between intensive business areas and residential neighborhoods. The provision of the Code requiring a fence between residential uses is intended to screen residential uses from traffic and vehicle circulation generated by a surface parking lot. The conditions of the development proposed by the Petitioner are significantly less intense than what is contemplated for a parking lot serving those commercial uses in the OCI district. Under the proposal, a surface parking lot will not be constructed or required, and instead, Petitioner will be installing a driveway to serve as access to and from the proposed row homes. This condition is significantly different than the condition contemplated under this provision of the Code. Accordingly, the proposed development will not generate the number of cars, circulation, and overall general traffic in comparison to a commercial use with a surface parking lot in this location. Recognizing this, River Place has requested the Petitioner does not install a solid fence between the properties, and instead, develop a mutually agreeable landscape buffer to allow for appropriate screening and separation between the residential uses. Given the conditions of the development proposed by the Petitioner, the intent of this provision and the Code, and the ongoing discussions with River Place to ensure proper screening between the Properties, strict enforcement of this title would result in practical difficulties and undesirable conditions for both the Petitioner and River Place.

- c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The requested variance will not alter the essential character of the neighborhood. In fact, granting the variance will help facilitate the development of 8 upscale row homes consistent with the land use of the adjacent River Place Condominiums, and which will be an improvement for this otherwise vacant and underperforming property. In addition, the variance to allow Petitioner not to have a fence located between the proposed driveway and River Place is being requested as part of the proposed development at the request of River Place and accordingly, the variance will not be a substantial detriment to the adjacent property.

A VARIANCE FROM SECTION 6-9-2:4.3.1 OF THE CITY CODE TO ALLOW TWO GUEST PARKING SPACES TO BE LOCATED IN THE FRONT YARD SETBACK 5' FROM THE RIGHT-OF-WAY LINE ALONG AURORA AVENUE

- a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

City Code requires .25 guest parking spaces per unit for apartments and single-family attached homes unless a reduction is approved by the City Zoning Administrator in accordance with Code Section 6-9-3:1. In this instance, the Petitioner proposes to meet the guest parking requirement of two (2) spaces, but requests approval to locate the two (2) guest parking spaces adjacent to Aurora Avenue within the front yard setback, which Petitioner believes is the most suitable location. This request is consistent with the nature of the surrounding area, which includes parking lots associated with the adjacent Rotary Hill, Naperville Central High School and River Place Condominiums, all of which are located along Aurora Avenue. Additionally, the area at the front of the building where the guest parking spaces will be located will be extensively landscaped to enhance the appearance of the new development as evidenced by the landscape plan submitted herewith.

- b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

The Subject Property is unique as it is bounded by Aurora Avenue, for which the City has requested a 33' right-of-way dedication. If the Petitioner chose not to honor the City's request for a 33' wide land dedication along Aurora Avenue, the two (2) guest parking spaces would be approximately 38' setback, which exceeds the required 20' setback by 18'. However, the Petitioner would like to accommodate the City's request for additional land, but a variance is then triggered to allow guest parking to be 5' from the new right-of-way line. Therefore, strict enforcement of this title would either result in (i) the City not getting the additional right-of-way that it seeks; or (ii) elimination of the guest parking spaces.

- c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The variance to locate guest parking spaces within the front yard setback will not alter the essential character of the neighborhood. As mentioned, all surrounding uses have very large parking lots along Aurora Avenue. In this instance the Petitioner is proposing two (2) guest parking spaces along Aurora Avenue. It is very important to note that City Code specifically allows guest parking to be located within the front yard setback when associated with a residential use (see Code Section 6-9-2:4.2.1.5.). Here we have a residential use, but the property is zoned OCI ("Office, Commercial, Institutional"), which does permit residential uses, but is not technically a residential zoning district. Certainly, such a fine distinction is not consistent with the intent of the City Code to permit guest parking in a front yard setback of residential uses and specifically states: "guest parking spaces, as required under 6-9-3:1 of this Code, shall be permitted to be located within the required front or corner side yard". Here, we have a situation where guest parking is permitted by the Code for residential uses, the Petitioner is proposing a residential use, the location of the guest parking spaces along Aurora Avenue is

consistent with the surrounding area, and the variance will allow for a significant land dedication to the City.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests the City Council and Plan Commission take the necessary steps to approve (i) a conditional use under Section 6-7F-3 of the City of Naperville's Municipal Code to permit a townhome development in the OCI district; (ii) a variance from section 6-7F-5:1 of the Code to allow one unit per 2,723 square feet in lieu of one unit per 4,000 square feet; (iii) a variance from section 5-10-3:5.2.1 of the Code to permit 3.0' wide landscape area adjacent to the drive aisle; (iv) a variance from Section 5-10-3:5.2.4.1 so that a solid fence does not have to be installed along the shared property line with River Place Condominiums at the request of River Place's Condo Board; (v) a variance from Section 6-9-2:4.3.1 to permit two guest parking spaces in the front yard setback area; and (vi) such other relief from the Code as may be deemed necessary and appropriate to develop the Subject Property.

RESPECTFULLY SUBMITTED this 16th day of June, 2022.

PETITIONER:

Vincent M. Rosanova

Rosanova & Whitaker, Ltd.
Attorneys for the Petitioner

LIST OF EXHIBITS

EXHIBIT A: LEGAL DESCRIPTION OF SUBJECT PROPERTY

EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1: THE EASTERLY 90 FEET OF THE SOUTHERLY 265 FEET OF LOT 4 IN BOECKER AND VON OVEN ASSESSMENT PLAT, A SUBDIVISION OF PART OF THE SOUTH HALF OF SECTION 13 AND THE NORTH HALF OF SECTION 24, ALL IN TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 31, 1932 AS DOCUMENT 332563, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2: THE WESTERLY 3.5 FEET OF THE EASTERLY 93.5 FEET OF THE SOUTHERLY 265 FEET OF LOT 4 IN BOECKER AND VON OVEN ASSESSMENT PLAT, A SUBDIVISION OF PART OF THE SOUTH HALF OF SECTION 13 AND THE NORTH HALF OF SECTION 24, ALL IN TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 31, 1932 AS DOCUMENT 332563, IN DUPAGE COUNTY, ILLINOIS.

Commonly known as: 445 Aurora Avenue, Naperville, Illinois
PIN: 07-24-200-007