

PINs:

**05-32-300-014
08-05-027-036**

ADDRESS:

**LOT 4 OF NOKIA CAMPUS SUBDIVISION
NWC OF NAPERVILLE ROAD & WARRENVILLE 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**

**BRB Case #105
PZC Case 21-1-086**

ORDINANCE NO. 21 -

**AN ORDINANCE GRANTING A VARIANCE FROM SECTION 5-2C-3 (EXTERIOR
WALL CONSTRUCTION) OF TITLE 5 (BUILDING REGULATIONS) OF
THE NAPERVILLE MUNICIPAL CODE FOR
NAPER COMMONS**

RECITALS

1. **WHEREAS**, Pulte Home Company, LLC, 1900 East Golf Road, Suite 300, Schaumburg, Illinois, 60173 ("**Petitioner**") has petitioned the City of Naperville for approval of a variance to the exterior wall construction ordinance for approximately 65 acres of real property located at the northwest corner of Naperville Road and Warrenville Road within the corporate limits of the City of Naperville ("**City**"), legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**") and known as Lot 4 of the Nokia Campus Subdivision, for a development to be known as Naper Commons; and

2. **WHEREAS**, Nokia of America Corporation f/k/a Alcatel-Lucent USA Inc. f/k/a/ Lucent Technologies Inc. f/k/a NS-MPG Inc., a Delaware corporation, 600-700 Mountain Avenue, Murray Hill, New Jersey, 07974, is the current owner (“**Owner**”) of the Subject Property; and
3. **WHEREAS**, the Petitioner is proposing to subdivide the Subject Property in order to construct 66 single-family attached units (townhomes) and 161 single-family detached units and proposes that the sixty-six (66) single-family attached dwelling units be constructed with an exterior finish of 100% LP Smart Siding (“**Proposed Building Materials**”); and
4. **WHEREAS**, Section 5-2C-3 (Exterior Wall Construction) of Title 5 (Building Regulations) of the Municipal Code requires that a minimum of fifty percent (50%) of the exterior wall construction for all single-family attached dwelling units shall be constructed of solid masonry, face brick, manufactured concrete stone veneer (1½” inch thickness) set individually into mortar bed, or other masonry products as approved by the City Council; and
5. **WHEREAS**, Petitioner accordingly requests a variance to Section 5-2C-3 (Exterior Wall Construction) in order to eliminate any requirement for exterior masonry on the sixty-six (66) single-family attached dwelling units to be constructed on the Subject Property; and
6. **WHEREAS**, on December 16, 2020, the Building Review Board (BRB) conducted a hearing to consider BRB Case 105 (PZC 20-1-086) and recommended approval of Petitioner’s request; and

7. **WHEREAS**, the Proposed Building Materials satisfy the intent of Section 5-2C-3 (Exterior Wall Construction) to provide durable materials on single-family attached dwelling units and also provide a consistent aesthetic with the proposed single-family detached dwelling units on the Subject Property; and
8. **WHEREAS**, Petitioner has requested that the City approve this ordinance ("**Ordinance**") along with ordinances approving a preliminary plat of subdivision and an owner's acknowledgement and acceptance agreement, a preliminary planned unit development plat with certain deviations, a conditional use to permit single-family attached dwelling units, and a variance for storm water storage in the detention basin (which ordinances, including this Ordinance, are collectively referenced hereinafter as the "**Naper Commons Ordinances**"); and
9. **WHEREAS**, Petitioner has requested that the City delay recordation of the Naper Commons Ordinances with the DuPage County Recorder until on or before October 29, 2021 (hereinafter the "**Recording Timeframe**") in order to allow the Petitioner to finalize the purchase and sale agreement for the Subject Property and for ownership of the Subject Property to be transferred to the Petitioner; and
10. **WHEREAS**, subject to approval of the Naper Commons Ordinances, the City has agreed to the Recording Timeframe set forth in Recital 9 above. If all of the Naper Commons Ordinances, including all exhibits thereto, and the fully executed Owner's Acknowledgement and Acceptance Agreement for Naper Commons, are not recorded within the Recording Timeframe, the City and Petitioner agree that the Naper Commons Ordinances shall not become effective, shall not be recorded, and

shall be deemed to be automatically null and void and of no force or effect with no further action being taken by the City or the Petitioner; and

11. **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 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: If recordation of the Naper Commons Ordinances, including but not limited to this Ordinance, does not occur on or before October 29, 2021 (the Recording Timeframe provided in Recital 9 hereof), then said Ordinances shall be deemed to be automatically void without any further action being required by the City or the Petitioner. Petitioner has acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if the Naper Commons Ordinances are not recorded within the Recording Timeframe.

SECTION 3: Subject to approval, execution, and recordation of the Naper Commons Ordinances, a variance to Section 5-2C-3 (Exterior Wall Construction) of Title 5 (Building Regulations) of the Naperville Municipal Code to reduce the required masonry materials on the single-family attached dwelling units from fifty percent (50%) to zero (0%) in order to construct sixty-six (66) single-family attached dwelling units on the Subject Property with the

Proposed Building Materials described in Recital 7 hereof, as depicted on the Building Elevations attached as **Exhibit C**, is hereby granted.

SECTION 4: Subject to approval, execution, and recordation of the Naper Commons Ordinances including all exhibits thereto, and recordation of a fully executed Owner's Acknowledgment and Acceptance Agreement as set forth in the ordinance approving a Preliminary Plat of Subdivision for Naper Commons, the Building Elevations attached to this Ordinance as **Exhibit C**, are hereby approved.

SECTION 5: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 6: Upon confirmation from the City Attorney that the terms and conditions set forth and referenced herein have been fulfilled, the City Clerk is authorized and directed to record with the DuPage County Recorder: (i) the Naper Commons Ordinances, including but not limited to this Ordinance, together with their exhibits; and then to record (ii) the fully executed Owner's Acknowledgment and Acceptance Agreement for Naper Commons.

SECTION 7: 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 8: This Ordinance shall be in full force and effect upon its recordation with 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