

BURKE, WARREN, MACKAY & SERRITELLA, P.C.

330 NORTH WABASH AVENUE
SUITE 2100
CHICAGO, ILLINOIS 60611-3607
TELEPHONE: (312) 840-7000
FACSIMILE: (312) 840-7900
www.burkelaw.com

STEPHEN R. SCHUSTER
DIRECT DIAL NUMBER
(312) 840-7113
sschuster@burkelaw.com

May 10, 2023

BY EMAIL

Allison Laff
Zoning Administrator/Deputy Director of T.E.D.
City of Naperville
400 South Eagle Street
Naperville, IL 60540
LaffA@naperville.il.us

Re: 10 Martin Ave., Naperville – Request to Release Restrictions for Medical Office Development

Dear Ms. Laff:

My firm represents Ryan Companies US, Inc., together with its affiliates 10 West Martin, LLC and 10 West Martin MOB, LLC (collectively, “Ryan”), in connection with Ryan’s proposed medical office development (the “Project”) at the property commonly referred to as 10 W. Martin Ave., Naperville, Illinois (the “Property”). This letter is being submitted in connection with Ryan’s request for the City of Naperville’s approval of an Ordinance releasing the Property from that certain Declarations of Restrictions dated August 7, 1961 made by South Washington Corporation and the City of Naperville (the “City”) and recorded January 10, 1962 as document R62-930 (the “Restrictions”). A short summary of the relevance of the restrictions to the Project and the requested relief, and an explanation for the timing of this particular request, follows.

South Washington Corporation, as owner of Lots 1-7 in in Block 1 of Brom Subdivision, recorded the Restrictions against Lots 1 and 2 of that Subdivision on January 10, 1962. Lots 1 and 2 comprise the majority of the Property and Project to be developed by Ryan. The Recitals to the Restrictions state that the Restrictions were put into place as a condition of the City’s rezoning of Lots 1-7; that rezoning in part appears to have been pursued in order to enable single- and multi-family residential development on Lots 3-7, which residential development appears to have never occurred, or has since been replaced by other uses. The Restrictions (i) prohibit the owner of Lots 1 and 2 from “placing a building on said property which covers more than 20% of the total area contained in said Lots 1 and 2” and (ii) restrict the use of Lots 1 and 2 to “business and professional offices”.

Both of these provisions in the Restrictions present problems for the Project. First and most importantly, the lot coverage ratio is exceeded by Ryan’s contemplated Project. The proposed first floor building area (based on the most recent architectural CAD file) is approximately 24,969sf and Lots 1 and 2 total approximately 100,746sf, equaling a lot coverage ratio with respect to Lots 1 and 2 of approximately 31.2%; as a point of comparison, the lot coverage ratio across the entire Project (Lots 1 and 2 plus additional

adjacent land, as recently entitled by the City) equals approximately 24.5%. Secondly, the ambiguity regarding the phrase “business and professional offices” (as distinguished from “medical offices”) could complicate the financing process for the Project. Ryan hereby requests that the City release the Restrictions by a valid resolution of the City Council, as expressly contemplated by Section 3 of the Restrictions.

10 West Martin, LLC acquired the Property in July, 2020 and at that time, we identified the Restrictions as a potential issue in connection with the future development of the Property. The correct stage for a request to release the Restrictions would have been in connection with Ryan’s initial submittals to the City in April, 2022; my firm failed to do so at that time. The Restrictions were re-identified during our efforts to finalize the transaction documents for the Project following the completion of the City’s approvals process for the Project in April, 2023, which efforts were the impetus for this request. We acknowledge and appreciate the City’s recently-completed entitlements and apologize for any inconvenience or duplicative work caused by this oversight on my firm’s part.

If you have any questions regarding these matters, please do not hesitate to contact me.

Sincerely,

/s/ Stephen R. Schuster

Stephen R. Schuster

cc: Patricia Lord, City of Naperville (*via email*)
Curt Pascoe, Ryan Companies US, Inc. (*via email*)