

**PBH Windscape, LLC and Windscape Naperville, LLC**  
Windscape of Naperville

Exhibit C: Petitioner’s Responses to Standards for PUD Deviations  
(Section 6-4-3-12.1 of the City Naperville Zoning Ordinance)

Buildings #873 and #859 (the “Buildings”) within the property located at 896 Benedetti Drive, Naperville, Illinois and commonly known as the Windscape of Naperville Apartments (the “Property”) encroach into existing 30-foot front or rear yard setbacks by approximately 5 feet and 4.1 feet, respectively. The 30-foot setbacks were prescribed by the PUD Ordinance for Windscape Village (the “PUD Ordinance”) approved by the City of Naperville (“City”) as Ordinance No. 84-173 on November 5, 1984. Petitioner requests a deviation from the PUD Ordinance to modify the setbacks to 25 feet in order that the Buildings will be compliant with Section 6-6E-7(2) of the City’s Zoning Ordinance (“Zoning Ordinance”).

In addition, the PUD Ordinance for the Property prescribes a minimum of 604 parking spaces at the Property. This figure was based on the following calculations:

1.5 spaces per 1-bedroom unit	384
2 spaces per 2-bedroom unit	192
28 spaces for the office/clubhouse	28
Total required	604

The Property was developed and constructed in accordance with this parking requirement. However, the prior owner modified the Property for compliance with Americans with Disabilities Act (“ADA”) standards, at which time the number of available spaces was reduced to 580. Petitioner requests a deviation from the approved PUD Ordinance to authorize the existing number of spaces on the Property.

Petitioner’s responses to the standards set forth in the Ordinance for the granting of such deviations follow.

**12.1.1. Whether the requested deviation would undermine the intent and purpose of the underlying zoning district.**

The requested deviations will maintain the overall intent of the underlying R-3 Medium Density Multiple-Family Residence District by permitting the Property to continue to operate as it has since it was initially developed, providing housing for hundreds of Naperville residents. The proposed deviations from the PUD Ordinance would not undermine the intent and purpose of the underlying R-3 District. Rather, the requested deviations would legalize conditions that have existed within the Property for decades. Specifically:

1. The modification of the setbacks will not result in any impact whatsoever to the operation of the Property as a multi-family apartment community in accordance with the Zoning Ordinance, and will have no impact on public health, safety, comfort, convenience or general welfare.

In addition, please note that Section 6-6E-7(2) of the Zoning Ordinance indicates that front (and rear) yard setbacks in the R-3 District are to be 25 feet plus 1 foot for each 2 feet by which the building or structure exceeds 28 feet in height. As shown on the enclosed survey, the Building is 26.7 feet in height, which would ordinarily require only a 25 foot front (or rear) yard setback. Accordingly, the setback requirement of the PUD Ordinance is in excess of the Zoning Ordinance requirement by 25%, which appears to be disproportionate and unnecessary. Thus, 25-foot setbacks are appropriate for the Property.

2. As noted above, the Property was developed with 604 parking spaces, which was compliant with the PUD Ordinance. However, the prior owner of the Property modified the parking areas at the Property to bring it into compliance with the ADA, at which time the total number of parking spaces was reduced to 580. The shortage of parking spaces has existed for nearly thirty years and Petitioner is unaware of any issues with

under-parking at the property or affecting any neighboring properties. Strict compliance with the PUD Ordinance would necessitate adding parking spaces in the Property, which would involve paving over existing green space or landscaped areas. The requested deviation would allow the Property to retain its current level of tree cover and open space. As such, the requested deviation will not have an impact on the zoning district or the community.

**12.1.2. Whether the requested deviation would be a detriment to the provision of municipal services and infrastructure.**

The requested deviations will not impact the delivery of public services in any way, nor will they result in additional traffic or residents or create any new public space or improvements that require maintenance by the City. As noted above, the deviations will allow Petitioner to continue to operate the Property in the same manner as it has been operated for decades.

Conversely, strict enforcement of the existing setback requirements would require demolition of part or all of the Buildings, displacing long-time residents and reducing the total number of residential apartment units available to the community. Strict enforcement of the parking requirement would also require a significant reduction of permeable green space within the community, which would have numerous detrimental impacts on the neighborhood. Such extreme outcomes are exceptional hardships that are not warranted by the minor nature of the existing encroachments and the parking deficiency.

**12.1.3. Whether the requested deviation would contribute a planned unit development which offers a superior level of design, amenity enhancement, or environmental benefit; or would enhance community vitality through the inclusion of attainable or barrier free housing.**

The requested deviations will have no impact on the integrity of the PUD's design, amenities or environmental benefits. The deviations will simply confirm the existing character of the development and allow Petitioner to maintain the Property in the same condition as it has existed for nearly thirty years.

The deviations will result in no alterations to the essential character of the neighborhood as no changes will occur as a result. There will be no detriment to adjacent property, as the properties in this portion of the community have been coexisting for many years and have had no detrimental impact on each other. Indeed, in the case of the setback encroachment by Building #873, the Building does not feel as though it encroaches onto the public way or inhibits the natural light and air of the surrounding community. Pacific Avenue, at the point directly adjacent to Building #873, is a two-lane roadway that is tree lined and landscaped on both sides and improved with sidewalks. A casual observer would be unlikely to recognize that the Building is in violation of the 30-foot setback requirement. At the point directly adjacent and east of Building #859, the bleachers for the Naperville North High School football stadium are the nearest structure and are totally unaffected by the location of the Building. With respect to parking, the loss of green space that would be necessary to add parking on the Property would result in the loss of green space which could have a negative environmental impact at the Property and in its vicinity.