

PINs:
08-18-309-002
08-18-422-001

ADDRESSES:
126, 140 AND 148 N. WRIGHT STREET
619 E. FRANKLIN AVENUE
147 N. COLUMBIA STREET
NAPERVILLE, IL 60540

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 #20-1-061

ORDINANCE NO. 20- __

**AN ORDINANCE APPROVING A CONDITIONAL USE FOR
SINGLE FAMILY ATTACHED UNITS IN THE R2 ZONING DISTRICT AND
VARIANCES FOR HEIGHT AND SETBACK FOR
THE HERITAGE PLACE DEVELOPMENT**

RECITALS

1. **WHEREAS**, RAM West Capital LLC ("**Petitioner**"), has petitioned the City of Naperville for approval of a conditional use for single family attached dwelling units in the R2 zoning district and associated variances to the height and setback requirements for the two-parcel property located at 126, 140 and 148 North Wright Street, 619 E. Franklin Avenue, and 147 N. Columbia Street, Naperville, Illinois, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, the owner of the Subject Property is Little Friends, Inc. ("**Owner**"); and

3. **WHEREAS**, the Petitioner is in the process of acquiring ownership of the Subject Property and will be both the owner and developer of the Subject Property prior to recordation of this ordinance as provided herein; and
4. **WHEREAS**, prior to transfer of ownership of the Subject Property to the Petitioner, the Owner will record a property incentive agreement and covenant on the Subject Property pertaining to the requirements related to the protection and preservation of the Kroehler Mansion which shall be binding upon Petitioner and all subsequent owners, transferees, and assigns of the property on which the Kroehler Mansion is located; and
5. **WHEREAS**, the Subject Property is currently zoned R2 (Single Family and Low Density Multi Family Residence District) and is improved with multiple buildings, including the Kroehler Mansion and associated parking lots; and
6. **WHEREAS**, the Subject Property is located within the limits of the City's local historic district designated per Ordinance 86-100 (effective January 1, 1987) and is subject to the provisions of Section 6-11 (Zoning Regulations: Historic Preservation) for development of the Subject Property and future improvements on the Subject Property as set forth in Section 6-11-6 (Historic District: Certificate of Appropriateness), 6-11-7 (Historic District: Certificate of Appropriateness Not Required), and 6-11-8 (Historic District: Certificate of Appropriateness Required) of the Naperville Municipal Code ("**City Code**"); and
7. **WHEREAS**, the Petitioner is proposing to preserve and convert the Kroehler Mansion into two residential units, demolish the other buildings on the Subject

Property, and construct 11 buildings with 39 single family attached dwelling units, for a total of 41 dwelling units; and

8. **WHEREAS**, Petitioner’s proposal to reduce the number of residential units in the Kroehler Mansion from 3 units to 2 units will facilitate an opportunity to preserve certain historical elements of the interior of the building and result in a less intense use of this historical structure. A duplex unit is permitted by right in the R2 Zoning District but is not included within provisions of the City Code which allow multiple residential buildings to be located on a single lot. The PZC recently initiated a text amendment to correct this omission. For these reasons the City Council, in the exercise of its home rule authority, and in accordance with its authority under Sections 6-3-3:2.1 and 6-3-3:2.3 of the City Code, finds that the reduction of the number of dwelling units in the Kroehler Mansion represents an improvement to Petitioner’s adaptive reuse of this historical structure, and hereby conditions approval of the proposed Heritage Place development upon its implementation; and
9. **WHEREAS**, Petitioner sought approval of a certificate of appropriateness (COA #20-2321) for proposed exterior façade changes to the Kroehler Mansion and proposed exterior facades of the eleven (11) new townhome buildings, which COA was denied by the Historic Preservation Commission on August 27, 2020. By separate Ordinance of the City Council (Ordinance #20-____), the City Council considered Petitioner’s appeal of the Historic Preservation Commission’s denial of the COA and reversed the HPC’s finding, granting the COA in its entirety; and

10. **WHEREAS**, the petitioner is requesting approval of a conditional use in the R2 district to permit single-family attached dwelling units on the Subject Property in accordance with Section 6-6C-3 of the Naperville Municipal Code; and
11. **WHEREAS**, the petitioner is also requesting approval of a variance to reduce the minimum front yard setback requirement and a variance to increase the maximum permitted number of stories, as further described below and depicted in **Exhibit C** (“**Site Plan**”) and **Exhibit D** (“**Building Elevations**”); and
12. **WHEREAS**, Section 6-6C-7:1 (R2 zoning district: yard requirements) of the Naperville Municipal Code requires a minimum front yard setback of 25’ for all residential uses; and
13. **WHEREAS**, the proposed setbacks of the new single family attached buildings differ throughout the development to provide variation, with the closest front yard setback for buildings being 22’ from the front property line triggering the need for a variance as depicted on the **Site Plan**; and
14. **WHEREAS**, Section 6-6C-8:1(R2 zoning district: height limitations) restricts single family attached units to a maximum number of 3 stories; and
15. **WHEREAS**, the proposed new townhome buildings are 3 ½ story four-sided brick buildings which do not exceed the maximum permitted height of 40’, but exceed the maximum permitted number of stories by a ½ story; and
16. **WHEREAS**, the proposed site is designed in a manner which highlights the Kroehler Mansion as a focal point of the development and provides for its preservation and adaptive re-use for two residential units, as depicted in **Exhibit E** (“**Kroehler Mansion Elevations**”); and

17. **WHEREAS**, the development also includes a variety of amenities, including a public park located west of the Kroehler Mansion, a public park located between lots 27 and 28, and a private rose garden located north of the Kroehler Mansion, as depicted in **Exhibit F** (“**Landscape Plan**”); and
18. **WHEREAS**, City support for the conditional use and associated variances is premised on the preservation and adaptive re-use of the Kroehler Mansion and construction of the two public parks, a private garden, and a public pedestrian pathway (hereinafter “**Preservation Amenities**”), all of which will contribute to a setting which highlights the Kroehler Mansion as a critical component of the development; and
19. **WHEREAS**, the requested conditional use and associated variances meet the standards for conditional uses and the standards for variances as provided in **Exhibit G** (“**Standards**”) attached hereto; and
20. **WHEREAS**, on August 27, 2020, the Historic Preservation Commission considered the requested conditional use and variances and issued a recommendation to deny said requests to the Planning and Zoning Commission; and
21. **WHEREAS**, on September 16, 2020, the Planning and Zoning Commission conducted a public hearing to consider the requested conditional use and variances and recommended approval of the Petitioner’s requests; and
22. **WHEREAS**, Petitioner has requested that the City approve this ordinance along with an ordinance approving a preliminary subdivision plat and owner’s acknowledgement and acceptance (hereinafter cumulatively referenced herein as the “**Heritage Place**”

Ordinances") in addition to an Ordinance Approving Certificate of Appropriateness #20-2321; and

23. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner's requests should be granted as provided herein; and

24. **WHEREAS**, Petitioner has requested that the City delay recordation of the Heritage Place Ordinances with the DuPage County Recorder until no later than October 21, 2021 in order to allow the Petitioner to finalize the purchase and sale agreement for the Subject Property and to transfer ownership of the Subject Property to the Petitioner; and

25. **WHEREAS**, subject to approval of the Heritage Place Ordinances the City has agreed to the proposed timeframe for their recordation with the DuPage County Recorder as set forth herein. In the event that all of the Heritage Place Ordinances are not recorded within the timeframe described above the City and Petitioner agree that the Heritage Place Ordinances, shall not be recorded and shall be deemed to be automatically void with no further action being taken by the City or Petitioner; and

26. **WHEREAS**, both the Petitioner and the City acknowledge and agree that in the event that the Heritage Place Ordinances and the Ordinance Approving Certificate of Appropriateness #20-2321 are not recorded within the timeframe provided for herein, they shall be deemed to be automatically null and void with no further action being taken by the City or the Petitioner and that in no event shall the City be liable or responsible in any manner therefor.

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 in this Section 1. All exhibits referenced in this ordinance shall be deemed incorporated and made part hereof.

SECTION 2: If recordation of the Heritage Place Ordinances and the Ordinance Approving Certificate of Appropriateness #20-2321 does not occur on or before October 21, 2021, then said Ordinances shall be deemed to be automatically null and void and of no force and effect 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 Heritage Place Ordinances are not recorded on or before October 21, 2021.

SECTION 3: Subject to approval, execution, and recordation of the Heritage Place Ordinances and the Ordinance Approving Certificate of Appropriateness #20-2321, a conditional use to allow for 41 residential units on the Subject Property pursuant to Section 6-6C-3 (R2 District: Conditional Uses) of the Municipal Code is hereby granted.

SECTION 4: Subject to approval, execution, and recordation of the Heritage Place Ordinances and the Ordinance Approving Certificate of Appropriateness #20-2321 a variance from Municipal Code Section 6-6C-8:1 (R2: height limitations) to allow 3 ½ story single family attached units is hereby granted.

SECTION 5: Subject to approval, execution, and recordation of the Heritage Place Ordinances, a variance from Municipal Code Section 6-6C-7:1 (R2: Yard Requirements) to allow reduced front yard setbacks, as depicted on the Site Plan, on lots 1 through 39 in the Heritage Place Subdivision is hereby granted.

SECTION 6: Following the approval, execution, and recordation of the Heritage Place Ordinances and the Ordinance Approving Certificate of Appropriateness #20-2321 the Subject Property shall continue to be located within the local historic district and subject, at all times, to the provisions set forth in Chapter 11 (Historic Preservation) of Title 6 (Zoning Ordinance) of the Naperville Municipal Code, as amended from time to time.

SECTION 7: The conditional use and variances approved by this Ordinance are predicated upon the preservation and adaptive re-use of the Kroehler Mansion as provided herein and the construction and maintenance of the Preservation Amenities. Any changes which affect either the Kroehler Mansion or the Preservation Amenities shall be processed in accordance with Section 6-3-8 (Conditional Uses) of the Naperville Municipal Code.

SECTION 8: This ordinance shall be subject to revocation for failure to comply with all other applicable provisions set forth in the Naperville Municipal Code, as amended from time to time, and all other applicable laws. Further, the entitlements granted by this ordinance shall be subject to revocation upon any request to demolish the Kroehler Mansion or eliminate any of the Preservation Amenities.

SECTION 9: Upon confirmation from the City Attorney that the terms and conditions set forth or referenced herein have been fulfilled, the City Clerk is authorized and directed to record this Ordinance, together with the exhibits attached hereto, with the DuPage County Recorder.

SECTION 10: 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 11: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 12: This Ordinance shall be in full force and effect upon its recordation with the DuPage County Recorder.

PASSED this _____ day of _____, 2020.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2020.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk