

PINs: See EXHIBIT A

**ADDRESS:
504 COMMONS 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**

PZC Case #16-1-136

ORDINANCE NO. 17 - _____

**AN ORDINANCE REZONING THE PROPERTY LOCATED
AT 504 COMMONS ROAD (AVENIDA) TO
OCI (OFFICE, COMMERCIAL AND INSTITUTIONAL DISTRICT)**

WHEREAS, BCT, LLC (“Owner”) is the owner of the real property located at the southwest corner of Mill Street and Commons Road (504 Commons Road), legally described on **Exhibit “A”** and depicted on **Exhibit “B”** (“Subject Property”) and has filed a petition for annexation of the Subject Property into the City of Naperville (“City”); and

WHEREAS, Avenida Senior Living, LLC (“Petitioner”) is the contract purchaser of the Subject Property; and

WHEREAS, the Subject Property is presently zoned R-3 (Single-Family Residence District) in unincorporated DuPage County and is currently unimproved; and

WHEREAS, Avenida Senior Living, LLC, (“Petitioner”) has petitioned the City of Naperville (“City”) for rezoning of the Subject Property to OCI (Office, Commercial and Institutional District) upon annexation; and

WHEREAS, on January 18, 2017 and July 19, 2017 the Planning and Zoning Commission conducted a public hearing to consider the rezoning request and recommended approval of PZC 16-1-136; and

WHEREAS, the requested rezoning meets the Standards for Granting a Map Amendment as prepared by the petitioner and provided in **Exhibit “C”** attached hereto; and

WHEREAS, the City Council of the City of Naperville has determined that the Petitioner’s request should be granted subject to the terms and conditions provided herein; and

WHEREAS, in addition to seeking approval of the rezoning provided for herein, Petitioner has also requested City approval of ordinances approving annexation, an annexation agreement, a preliminary subdivision plat and deviations, and an ordinance approving a conditional use for multi-family residential units and variances to reduce the lot area and number of parking spaces on the Subject Property (all five ordinances hereinafter cumulatively referenced herein as the “Avenida Ordinances”); and

WHEREAS, Petitioner has requested that the City delay recordation of the Avenida Ordinances with the DuPage County Recorder for a period of time not to exceed three hundred and sixty-five (365) calendar days after their passage in order to allow the Petitioner to finalize the purchase and sale agreement for the Subject Property and to obtain ownership of the Subject Property; and

WHEREAS, subject to approval of the Avenida 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 Avenida Ordinances are not recorded within the timeframe

described above, the City and Petitioner agree that the Avenida 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

WHEREAS, the City Council of the City of Naperville has determined that, subject to the terms and conditions set forth or referenced in the Avenida Ordinances, it is in the best interests of the City of Naperville to rezone the Subject Property 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 in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

SECTION 2: If recordation of the Avenida Ordinances does not occur within three hundred and sixty-five (365) calendar days after passage of the Avenida Ordinances as provided herein, then said Avenida Ordinances shall be deemed to be automatically void without any further action being required by the City or Petitioner. Petitioner has acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if the Avenida Ordinances are not recorded within the three hundred and sixty-five (365) calendar day timeframe described herein.

SECTION 3: Subject to approval, execution, and recordation of the Avenida Ordinances, the Subject Property, legally described on **Exhibit “A”** and depicted on **Exhibit “B”**, is hereby rezoned to OCI (Office, Commercial and Institutional District) in the City of Naperville.

SECTION 4: The Zoning Map of the City of Naperville shall be amended in accordance with this Ordinance upon recordation of this Ordinance.

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 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 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 deemed passed upon approval of the City Council and in full force and effect upon its recordation with the DuPage County Recorder.

PASSED this _____ day of _____, 2017.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2017.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph. D.
City Clerk