

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 - _____

**ORDINANCE ANNEXING CERTAIN PROPERTY LOCATED AT
504 COMMONS ROAD (AVENIDA)**

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 not within the corporate limits of any municipality, but is contiguous to the City of Naperville and is eligible for annexation; and

WHEREAS, all notices provided for by the Naperville Municipal Code, and all legal requirements for annexation pursuant to the provisions of 65 Illinois Compiled Statutes 5/7-1-1 *et seq.*, have been fully complied with, including but not limited to notification of the proposed annexation to the Naperville Fire Protection District, the Naperville Library District,

the Naperville Township Board of Trustees, the Naperville Township Tax Assessor, and the Naperville Township Highway Commissioner; and

WHEREAS, the City Council of the City of Naperville has determined that annexation of the Subject Property should be approved as provided herein; and

WHEREAS, in addition to seeking approval of the annexation provided for herein, Petitioner has also requested City approval of ordinances approving an annexation agreement, rezoning, a preliminary plat of subdivision 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 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 to the Petitioner; 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 become effective, shall not be recorded, and shall be deemed to be automatically void and of no force or effect with no further action being taken by the City or Petitioner; and

WHEREAS, the Petitioner and the City have fully complied with the statutory and Naperville Municipal Code requirements required for approval of the requested annexation; 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 annex the Subject Property.

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. 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 their passage and approval, then said Avenida Ordinances shall be deemed to be automatically null and void and of no force or effect without any further action being required by the Petitioner or the City. 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 described on **Exhibit “A”** and depicted on **Exhibit “B”** is hereby annexed by the City of Naperville.

SECTION 4: The Plat of Annexation for the Subject Property, attached to this Ordinance as **Exhibit “B”** is hereby approved.

SECTION 5: 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 an accurate map of the territory annexed as depicted on the Plat of Annexation for the Subject Property, attached to this Ordinance as **Exhibit “B”**, with the DuPage County Recorder and the DuPage County Clerk.

SECTION 6: 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 or resolution.

SECTION 7: This Ordinance shall be deemed passed upon approval of the City Council and shall be 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.

ATTEST:

Steve Chirico
Mayor

Pam Gallahue, Ph.D.
City Clerk

STATE OF ILLINOIS)
) SS
DUPAGE COUNTY)

The undersigned hereby certifies that she is the City Clerk of the City of Naperville, and that, as such, she is the custodian of the records of the municipality and keeper of the journal of proceedings of the City Council; and she further certifies that the foregoing is a true and correct copy of Ordinance No. 17 - _____, duly enacted by the City Council of the City of Naperville at a regular meeting thereof on the _____ day of _____, 2017, and passed on roll call vote as shown on the foregoing; that she further certifies that due notice, as provided by law, of the consideration of ordinance was given to the Naperville Fire Protection District, the Naperville Library District, the Naperville Township Board of Trustees, the Naperville Township Tax Assessor, and the Naperville Township Highway Commissioner on _____, and she further certifies that there is no other public library district to which any notice is required to be given under the provisions of Section 5/7-1-8 of Chapter 65 of the Illinois Compiled Statutes.

DATED this _____ day of _____, 2017.

City Clerk

The above and foregoing certificate was subscribed and sworn to before me this ____ day of _____, 2017.

Notary Public