

PIN:
07-24-400-001

ADDRESS:
310 MARTIN AVENUE

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 #18-1-130

ORDINANCE NO. 19 - _____

**AN ORDINANCE AMENDING ORDINANCE NO. 17-075 BY APPROVING A
PRELIMINARY/FINAL PLAT OF SUBDIVISION IN PLACE OF THE PREVIOUSLY
APPROVED PRELIMINARY PLAT OF SUBDIVISION
FOR NAPERVILLE ELDERLY HOMES LOCATED AT 310 MARTIN AVENUE**

WHEREAS, for the past forty (40) years, Naperville Elderly Homes Inc. ("NEH" or "Petitioner"), a not-for-profit corporation formed in 1967, has owned and operated the Martin Avenue Apartments, a government-subsidized, nonprofit housing center that offers housing opportunities for seniors or persons with disabilities on a limited income ("**Use**"), on approximately 3.3 acres of real property located at 310 Martin Avenue, Naperville IL, which is legally described in **Exhibit A**, and depicted on **Exhibit B** ("**Subject Property**"); and

WHEREAS, the Subject Property is currently zoned OCI (Office Commercial and Institutional District) and is improved with one hundred and twenty-two (122) apartments (hereinafter referred to as "**Original Building**"); and

WHEREAS, in 2017, the Petitioner submitted a petition to construct a new sixty-eight (68) unit apartment building, which building would be attached to the Original Building via a common corridor (hereinafter “**the Expansion**”); and

WHEREAS, in order to accommodate construction of the Expansion, on June 6, 2017 the Naperville City Council passed the following ordinances: Ordinance No. 17-075 (Approval of a Deviation and Preliminary Plat of Subdivision which created a separate lot for the Expansion), Ordinance No. 17-076 (Approval of a Conditional Use for Multi-Family Dwellings), Ordinance No. 17-077 (Approval of Certain Zoning Variances), and Ordinance No. 17-078 (Approval of a Variance Regarding Exterior Wall Construction). The foregoing ordinances are hereinafter referenced cumulatively herein as the “Naperville Elderly Homes Ordinances”; and

WHEREAS, following the 2017 City Council approval of the Naperville Elderly Homes Ordinances, the scope of the project was modified to include both construction of the Expansion and renovation of the Original Building for the Use described herein (collectively referenced herein as the “**Project**”); and

WHEREAS, to obtain funding from the Illinois Housing Development Authority for both the Original Building and the Expansion, Petitioner is seeking to amend Ordinance No. 17-075 to replace the preliminary plat of subdivision previously approved with the Preliminary/Final Plat of Subdivision of the Subject Property attached hereto as **Exhibit B**; said Preliminary/Final Plat of Subdivision will adjust the shared lot line between Lot 1 and Lot 2 of the Subject Property and result in a portion of the Original Building being located on Lot 1 and a portion of the Original Building and the Expansion (Original Building and Expansion are hereinafter referenced as “Building”) being located on Lot 2. A portion

of the Building containing seventy-one (71) apartments for the Use described herein shall be located on Lot 1. A portion of the Building containing one hundred and nineteen (119) apartments for the Use described herein shall be located on Lot 2; and

WHEREAS, the fundamental components of the Project, including total unit count, parking, building size, and setbacks, remain consistent with the approvals set forth in the Naperville Elderly Homes Ordinances; however, this Ordinance and the remaining Naperville Elderly Homes Ordinances and exhibits are being updated to reflect the revised subdivision of the Subject Property (herein cumulatively referenced as the “**Updated Naperville Elderly Homes Ordinances**”); and

WHEREAS, based on the revised location of the property line established pursuant to the Preliminary/Final Plat of Subdivision (**Exhibit B**) in relation to the Building on the Subject Property, certain terms and conditions are imposed on the Subject Property, including but not limited to a requirement that the Building and Total Property shall at all times function in an integrated manner as set forth in: “Ordinance No. 19-___ Upholding the Building Review Board’s Interpretation of the Application of Title 5 (Building Regulations) of the Naperville Municipal Code for the Property Located at 310 Martin Avenue, Naperville and Denying Variances to Table 705.8 and Section 706.1.1 of the 2012 International Building Code” (hereinafter the “**BRB Ordinance**”), the terms and conditions of which BRB Ordinance are incorporated herein by reference; and

WHEREAS, NEH will record a Declaration of Covenants, Conditions, Restrictions and Easements for Naperville Elderly Homes with the DuPage County Recorder (“Declaration”) on the Subject Property subsequent to recordation of the Updated Naperville Elderly Ordinances and prior to issuance by the City of either a site or building

permit for the Subject Property, which Declaration will govern the operation of the Project;
and

WHEREAS, capitalized terms used herein, unless otherwise defined herein, shall have the meaning set forth in said Declaration; and

WHEREAS, “Lot 1” and “Lot 2”, as defined in the Declaration, shall comprise the property and improvements on each respective Lot of the Subject Property, and “Total Property” shall be defined in the Declaration as Lot 1 and Lot 2 collectively; and

WHEREAS, in 2017 the Petitioner also petitioned the City of Naperville for the following deviations: (i) approval of a deviation to Section 7-3-5 (Dedication of Park Lands and School Sites or for Payments or Fees in Lieu Of) of the Municipal Code to waive the required school donation due to the age-restricted nature of the proposed development; (ii) a deviation to Section 7-3-5 (Dedication of Park Lands and School Sites or for Payments or Fees in Lieu Of) of the Municipal Code to require construction of an accessible pathway from the Subject Property to connect with the path system within Knoch Park, in lieu of the required cash park donation, due to the age-restricted nature of the proposed development; and

WHEREAS, the City Council of the City of Naperville has determined that Ordinance No. 17-175 should be amended to approve a Preliminary/Final Plat of Subdivision in place of the previously approved Preliminary Plat of Subdivision for Naperville Elderly Homes.

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: Ordinance No. 17-075 is amended by approving the Preliminary/Final Plat of Subdivision for Naperville Elderly Homes attached hereto as **Exhibit B**, and by incorporating the terms and conditions of the BRB Ordinance described herein.

SECTION 3: The deviations approved by Ordinance No. 17-175 shall remain in full force and effect:

SECTION 4: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 5: 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 6: The City Clerk is authorized and directed to record this Ordinance and its Exhibits with the DuPage County Recorder.

SECTION 7: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this ____ day of _____, 2019.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk