

**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. 17-077 GRANTING CERTAIN ZONING  
VARIANCES FOR THE PROPERTY 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, 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**") for the Use described herein; 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 approved by separate ordinance which 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 (approved by separate ordinance) 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 function in an integrated manner to be used for residential apartments and that the Total Property function as a single apartment community for the defined Use 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**, the City Council of the City of Naperville has determined that the Petitioner's request to amend Ordinance 17-077 to replace Exhibit B with amended **Exhibit B** attached hereto should be granted 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 here in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

**SECTION 2:** Ordinance No. 17-077 is hereby amended by replacing Exhibit B with amended **Exhibit B** (Site Plan) attached hereto, and by incorporating the terms and conditions of the BRB Ordinance described herein. All other provisions set forth in Ordinance No. 17-077 shall remain in full force and effect.

**SECTION 3:** 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 4:** The City Clerk is authorized and directed to record this Ordinance with the DuPage County Recorder.

**SECTION 5:** 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.

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Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, Ph.D.  
City Clerk