

**PINs:**

**05-32-300-014**

**08-05-027-036**

**ADDRESS:**

**LOT 4 OF NOKIA CAMPUS SUBDIVISION  
NWC OF NAPERVILLE ROAD & WARRENVILLE 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 20-1-086**

**ORDINANCE NO. 21 -**

**AN ORDINANCE GRANTING A STORMWATER VARIANCE FOR  
NAPER COMMONS**

**RECITALS**

1. **WHEREAS**, Pulte Home Company, LLC, 1900 East Golf Road, Suite 300, Schaumburg, Illinois, 60173 ("**Petitioner**") has petitioned the City of Naperville for approval of a variance to Section 5-7-1 of the Naperville Municipal Code to allow for an increase in the stormwater storage depth for approximately 65 acres of real property located at the northwest corner of Naperville Road and Warrenville Road within the corporate limits of the City of Naperville ("**City**"), legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**") and known as Lot 4 of the Nokia Campus Subdivision, for a development to be known as Naper Commons; and

2. **WHEREAS**, Nokia of America Corporation f/k/a Alcatel-Lucent USA Inc. f/k/a/ Lucent Technologies Inc. f/k/a NS-MPG Inc., a Delaware corporation, 600-700 Mountain Avenue, Murray Hill, New Jersey, 07974, is the current owner (“**Owner**”) of the Subject Property; and
3. **WHEREAS**, the Petitioner is proposing to subdivide the Subject Property in order to construct 66 single-family attached units (townhomes) and 161 single-family detached units; and
4. **WHEREAS**, Section 5-7-1 of the Naperville Municipal Code requires storm water systems to be designed in accordance with the City of Naperville Design Manual for Public Improvements (“**Design Manual**”); and
5. **WHEREAS**, the Design Manual identifies design requirements for storm water facilities including detention basins; and
6. **WHEREAS**, per Section 2.5.4.3 of the Design Manual, the maximum allowable depth of water in a detention basin is 6.0 feet; and
7. **WHEREAS**, the proposed detention basin on the Subject Property will require 7.4 feet of depth in order to provide additional storage, maintain conveyance of offsite flows, and preserve the existing overflow elevation; and
8. **WHEREAS**, per Section 5-7-2:5 of the Naperville Municipal Code (“**Code**”), upon recommendation by the City Engineer, the City Council may grant, deny, or grant with modification a variance from the requirements of Code Chapter 7 (Storm Runoff Control); and
9. **WHEREAS**, the City Engineer has recommended that the variance be granted; and
10. **WHEREAS**, Petitioner has requested that the City approve this ordinance (“**Ordinance**”) along with ordinances approving a preliminary plat of subdivision and an owner’s acknowledgement and acceptance agreement, a preliminary planned unit

development plat with certain deviations, a conditional use to permit single-family attached dwelling units, and a variance for exterior wall construction (which ordinances, including this Ordinance, are collectively referenced hereinafter as the “**Naper Commons Ordinances**”); and

11. **WHEREAS**, Petitioner has requested that the City delay recordation of the Naper Commons Ordinances with the DuPage County Recorder until on or before October 29, 2021 (hereinafter the “**Recording Timeframe**”) in order to allow the Petitioner to finalize the purchase and sale agreement for the Subject Property and for ownership of the Subject Property to be transferred to the Petitioner; and

12. **WHEREAS**, subject to approval of the Naper Commons Ordinances, the City has agreed to the Recording Timeframe set forth in Recital 11 above. If all of the Naper Commons Ordinances, including all exhibits thereto, and the fully executed Owner’s Acknowledgement and Acceptance Agreement for Naper Commons, are not recorded within the Recording Timeframe, the City and Petitioner agree that the Naper Commons Ordinances shall not become effective, shall not be recorded, and shall be deemed to be automatically null and void and of no force or effect with no further action being taken by the City or the Petitioner; and

13. **WHEREAS**, the City Council of the City of Naperville has determined, subject to the provisions and conditions set forth and referenced herein, that the variance to the Naperville Municipal Code should be approved 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:** If recordation of the Naper Commons Ordinances, including but not limited to this Ordinance, does not occur on or before October 29, 2021 (the Recording Timeframe provided in Recital 11 hereof), then said Ordinances shall be deemed to be automatically void 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 Naper Commons Ordinances are not recorded within the Recording Timeframe.

**SECTION 3:** Subject to approval, execution, and recordation of the Naper Commons Ordinances, a variance to Section 5-7-1 (Storm Runoff Control: Storm Water Design) of Title 5 (Building Regulations) of the Naperville Municipal Code to allow for an increase in the storm water storage depth from the maximum of a 6.0 depth to a 7.4 depth for the detention basin identified on the Preliminary Engineering Plan attached as **Exhibit C** is hereby granted.

**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:** Upon confirmation from the City Attorney that the terms and conditions set forth and referenced herein have been fulfilled, the City Clerk is authorized and directed to record with the DuPage County Recorder: (i) the Naper Commons Ordinances, including but not limited to this Ordinance, together with their exhibits; and then to record (ii) the fully executed Owner's Acknowledgement and Acceptance Agreement for Naper Commons.

**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, resolution, or provision of the Naperville Municipal Code.

**SECTION 7:** This Ordinance shall be in full force and effect upon its recordation with the DuPage County Recorder.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, Ph.D.  
City Clerk

