

62-O-09

AN ORDINANCE

**Amending the Special Use for
a Sheltered Care Home/Skilled Care Home
Located at 2520 Gross Point Road
in the C2 Commercial Zoning District
Granted and Amended by Ordinances 147-O-89 and 29-O-96**

WHEREAS, on March 2, 1990, the City enacted Ordinance 147-O-89, which granted a Special Use for a Sheltered Care Home on the property located at 2520 Gross Point Road (the "Subject Property"), legally described in Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, on May 9, 1996, the City enacted Ordinance 29-O-96, attached hereto as Exhibit B and incorporated herein by reference, which amended certain terms of Ordinance 147-O-89, including permitting the operation of a Skilled Care Home on the Subject Property; and

WHEREAS, Alden Estates of Evanston (the "Applicant") has submitted to the City's Community Development Department a letter, dated July 13, 2009, attached hereto as Exhibit C and incorporated herein by reference, that requests amendments to the numbers of skilled care and sheltered care beds, which are prescribed by Section 2a of Ordinance 29-O-96; and

WHEREAS, at its meeting of July 27, 2009, the Planning and Development Committee of the City Council ("P&D Committee") considered the requested amendments to Ordinances 147-O-89 and 29-O-96 and recommended City Council approval of the same; and

WHEREAS, at its meeting of August 10, 2009, the City Council considered and adopted the record and recommendation of the P&D Committee,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That the foregoing recitals are found as fact and made a part hereof.

SECTION 2: That the City Council hereby amends Ordinances 147-O-89 and 29-O-96 to permit the Applicant to operate a Special Use for a Sheltered Care Home/Skilled Care Home on the Subject Property with fifty-two (52) skilled care beds and forty-seven (47) sheltered care beds.

SECTION 3: That, when necessary to effectuate the terms, conditions, and purposes of this ordinance, 62-O-09, "Applicant" shall be read as "Applicant's agents, assigns, and successors in interest."

SECTION 4: That the Applicant, at its cost, shall record a certified copy of this ordinance, 62-O-09, including all Exhibits attached hereto, with the Cook County Recorder of Deeds, no later than thirty (30) days after its effective date.

SECTION 5: That, except as otherwise provided for in this ordinance, 62-O-09, all applicable regulations of Ordinances 147-O-89 and 29-O-96 and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and provisions of any of said documents conflict with the terms of this ordinance, this ordinance, 62-O-09, shall govern and control.

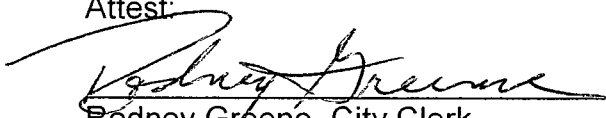
SECTION 6: That if any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that do not depend upon the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 7: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8: That this ordinance, 62-O-09, shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: July 27, 2009 Approved:
Adopted: August 10, 2009 August 12, 2009


Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene, City Clerk

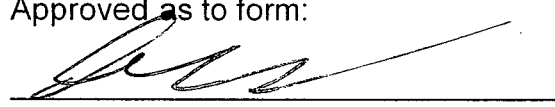
Approved as to form:

Elke Tober-Purze, Interim
First Assistant Corporation Counsel

EXHIBIT A

LEGAL DESCRIPTION

LOT 2 IN ENGLE'S RESUBDIVISION, BEING A RESUBDIVISION OF LANDECK'S DIVISION OF LOT 2 OF EVERT AND SCHAEFER SUBDIVISION OF PART OF THE NORTHEAST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED MARCH 27, 1990 AS DOCUMENT 90135710, IN COOK COUNTY ILLINOIS.

PIN: 10-10-200-077-0000

COMMONLY KNOWN AS: 2520 Gross Point Road, Evanston, Illinois.

EXHIBIT B

ORDINANCE 29-O-96

3/6/96
3/19/96
4/10/96, 5/10/96

29-O-96

AN ORDINANCE

Granting an Amendment to
Ordinance 147-0-89 to allow for Operation
of a Sheltered Care/Skilled Care Home
at 2520 Gross Point Road

WHEREAS, Ordinance 147-0-89 granted a special use pursuant to the 1960 Zoning Ordinance in case no. 89-30-SU(R) to permit construction of a ninety-nine bed sheltered care home at 2520 Gross Point Road in a District then designated as B1 Business; and

WHEREAS, with passage of the 1993 Zoning Ordinance, ("The Ordinance") the subject use became lawfully non-conforming; and

WHEREAS, section 6-6-7 of the 1993 Ordinance ("The Ordinance") allows special uses granted under previous zoning ordinances to continue, subject to any conditions imposed by the grant; and

WHEREAS, among the conditions imposed on the aforesaid grant was number one, the substance of which was that any changes in operation of the subject home which necessitated an amendment to the Home's Certificate of Need, dated June 2, 1989, issued by the Illinois Health Facilities Planning Board, shall terminate the special use and necessitate a reapplication therefor; and

WHEREAS, the lessee, Alden Estates of Evanston ("Alden Estates"), has sought to amend said Certificate of Need to allow the offering of skilled care as well as sheltered care; and

WHEREAS, Alden Estates filed an application seeking release of the aforesaid condition one; and

WHEREAS, the City Council, pursuant to section 6-3-1-6(E) of The Ordinance, referred the application to the Zoning Board of Appeals ("ZBA"); and

WHEREAS, the ZBA took jurisdiction of the application pursuant to section 6-3-1-4(G) of The Ordinance; and

WHEREAS, the ZBA conducted a public hearing on February 20, 1996 pursuant to proper notice in case no. 96-1-R(R) on the application to modify the aforesaid condition number one of Ordinance 147-0-89 and the covenant recorded pursuant thereto; and

WHEREAS, the ZBA reviewed the application pursuant to the special use provisions of section 6-3-5 of the Ordinance; and

WHEREAS, the ZBA has recommended that the application for said release of condition be granted,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That based upon the testimony, plans, and other evidence presented at the hearing, and upon deliberations and findings of fact contained in the transcript of ZBA case no. 96-1-R(R), the City Council hereby grants the application of Alden Estates of Evanston for release of condition one imposed by Ordinance 147-0-89 to permit operation of a sheltered care home/skilled care home consisting of forty-two skilled care beds and fifty-seven sheltered care beds, at 2520 Gross Point Road on property classified as a C2 Commercial District under the 1993 Zoning Ordinance and legally described as:

LOT 2 IN ENGLE'S RESUBDIVISION, BEING A RESUBDIVISION OF LANDECK'S DIVISION OF LOT 2 OF EVERT AND SCHAEFER SUBDIVISION OF PART OF THE NORTHEAST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED MARCH 27, 1990 AS DOCUMENT 90135710, IN COOK COUNTY, ILLINOIS.

SECTION 2: Pursuant to section 6-3-5-12 of The Ordinance, which provides that the City Council may impose conditions and limitations on the grant of a special use, these conditions and limitations are hereby imposed, having been accepted by the applicant:

- a. The proposed construction, operation and patient population of the sheltered care home/skilled care home consisting of 42 skilled care beds and 57 sheltered care beds shall be in substantial compliance with the testimony presented on February 20, 1996 and the plans placed on file in connection with this case and any changes in the proposed construction, operation or patient population of the proposed facility which are not in substantial compliance with the testimony presented by applicant, or which necessitate an amendment to the Certificate of Need, dated May 18, 1995 issued by the Illinois Health Facilities Planning Board with respect to this facility, or the issuance of a new Certificate of Need by said Health Facility Planning Board, shall terminate this special use and necessitate a reapplication for a new special use pursuant to the applicable regulations and procedures set forth in the Evanston Zoning Ordinance.
- b. No resident shall be admitted to, or kept in, the facility:
 - 1) Who is mentally ill, in need of mental treatment, and at risk, because, due to the mental illness, the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future as determined by professional evaluation, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Nursing Home Care Act, 210 ILCS 45/1-101, et seq., ("the Act").
 - 2) Who is destructive of property, himself, or others, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.
- c. No resident shall be admitted to the facility who is developmentally disabled and who needs programming for such conditions, as described in the rules governing intermediate care facilities for the developmentally disabled (77 Ill. Adm. Code 350). Such person shall only be admitted to licensed as

intermediate care facilities for the developmentally disabled under 77 Ill. Adm. Code 350 or if under 18, in a long-term care facility for persons under 22 years of age which is licensed under 77 Ill. Adm. Code 390. Persons from 18 to 21 years of age in need of such care may be kept in either facility, provided that all involuntary discharges and transfers shall be in accordance with sections 3-401 through 3-423 of the Act.

- d. Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Illinois Department of Public Health.
- e. The applicant shall commit no less than twenty percent (20%) of the skilled care beds to Evanston medicaid patients.
- f. The front canopy shall have a minimum height of 12 feet in order to allow emergency vehicle access.
- g. The applicant agrees that the subject property shall remain on the tax rolls and that the special use shall expire if and when the subject property is removed from the tax rolls.
- h. The applicant shall prepare a covenant of agreement to run with the land, agreeing to the above terms and conditions; the covenant shall provide that if other uses are established, that said uses shall be in conformance with uses which are permitted under the Zoning Ordinance, and said covenant shall be in a form acceptable to the Corporation Counsel, and a copy of the recorded covenant shall be provided to the City Community Development Department and to the Office of the Corporation Counsel.
- i. Compliance with all conditions of Ordinance 147-0-89 and with Ordinance 29-0-96 and the covenant recorded pursuant hereto.

SECTION 3: All provisions of Ordinance 147-0-89 are still in full force and effect except for the aforesaid condition one, which has been released by this Ordinance 29-0-96 and for which section 2a hereof has been substituted.

SECTION 4: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced March 11, 1996

Adopted: March 25, 1996

Approved May 9 1996

Lorraine H. Norton
Mayor

ATTEST:

Kristen Davis
City Clerk

Approved as to form:

[Signature]
Corporation Counsel

EXHIBIT C

APPLICANT'S LETTER OF JULY 13, 2009

APPLEGATE & THORNE-THOMSEN

A PROFESSIONAL CORPORATION

322 SOUTH GREEN STREET
SUITE 400
CHICAGO, ILLINOIS 60607
PHONE 312-421-8400
FAX 312-421-6162

DIRECT DIAL:

312-491-2207
sfriedland@att-law.com

July 13, 2009

BENNETT P. APPLGATE
NICHOLAS J. BRUNICK
MARK W. BURNS
ANN M. CHAVIE
DIANE K. CORBETT
PAUL DAVIS
STEVEN D. FRIEDLAND
GLENN A. GRAFF
KELLI HARSCH
NICOLE A. JACKSON
CALEB A. JEWELL
DEBRA A. KLEBAN
WILLIAM G. SKALITZKY
KATHIE SOROKA
BENJAMIN J. SWARTZENDRUBER
THOMAS THORNE-THOMSEN
WARREN P. WENZLOFF

BY EMAIL AND REGULAR MAIL

Dennis Marino
Interim Director of Community Development
City of Evanston
Law Department
2100 Ridge Avenue
Evanston, IL 60201

**Re: Request for Amendment to Special Use Permit at 2520 Gross Point Rd.
Alden Estates of Evanston**

Dear Dennis:

As we discussed at our meeting, my client, Alden Estates of Evanston, currently operates a sheltered care home/skilled care home at the above noted location. The facility contains 99 beds. The current configuration of the facility consists of 42 skilled care beds and 57 sheltered care beds. My client has the opportunity to increase the number of skilled care beds at the facility to 52. This would thereby reduce the number of sheltered care beds to 47.

The special use which permits the operation of the facility was originally granted in 1989 by Ordinance 147-O-89; which was later amended in 1996 by Ordinance 29-O-96. The 1996 Amendment to the Special Use authorized the current split of 42 skilled care beds and 57 sheltered care beds. Alden requests that the City approve another amendment to the Ordinance to change the bed mix to 52 skilled care beds and 47 sheltered care beds. This change will permit the facility to devote the entire third floor to skilled care. It will not, however, change the current operation of the facility because the third floor currently operates as a skilled care floor even though only 42 of the 52 beds on that floor are occupied by skilled care patients.

Alden is able to increase the number of skilled care beds to 52 without an amendment to its Certificate of Need or the issuance of a new Certificate of Need by the Health Facility Planning Board. This is important because Section 2(a) of the 1996 Ordinance provides that changes to the operation of the facility which necessitate an amendment to the Certificate of

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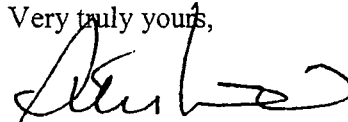
Dennis Marino
July 13, 2009
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Need or a new Certificate of Need require a new special use under the Evanston Zoning Ordinance.

It is my understanding that you, in consultation with the law department, have determined that an amendment to the existing special use may be considered directly by the City Council Committee on Planning and Development. Please accept this letter as Alden's formal request to schedule a hearing with the Planning and Development Committee to consider the proposed amendment to the existing special use permit.

If you have any questions or need of other information, please do not hesitate to call.

Very truly yours,



Steven Friedland

SDF/ds

cc: Elke Tober-Purze
Ken Cox
Bill Dunkley
Randi Schullo

91444 (revised)

