

11/19/2019

**172-O-19**

**AN ORDINANCE**

**Extending the Time for the Applicant to Obtain a Foundation Permit  
and Building Permit to Construct the Planned Development at 1815  
Ridge Avenue Authorized by Ordinance 47-O-16**

**WHEREAS**, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

**WHEREAS**, as a home rule unit of government, the City has the authority to adopt legislation and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

**WHEREAS**, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

**WHEREAS**, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) grants each municipality the power to establish zoning regulations; and

**WHEREAS**, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended, (“the Zoning Ordinance”); and

**WHEREAS**, on July 25, 2016, the City Council enacted Ordinance 47-O-16, attached hereto as Exhibit 1 and incorporated herein by reference, which granted a Special Use Permit for a Planned Development (the “Planned Development”) at 1815 Ridge Avenue (the “Subject Property”), which is legally described in Exhibit 1; and

**WHEREAS**, Ordinance 47-O-16 approved the construction of a 10-story

independent and assisted living facility with 102 dwelling units, 31 assisted living units for residents with cognitive impairments, 30 memory care rooms at the Subject Property (the "Project"), which is detailed at length in Exhibit 1; and

**WHEREAS**, per Section 6-3-6-12(B), a minor adjustment to the Planned Development was approved by the Zoning Administrator on March 15, 2017 with the recommendation of the Design and Project Review Committee ("DAPR") to reduce the Floor Area Ratio from 4.35 to 3.97, to increase the upper level building setbacks from zero feet to twenty six and a half feet at a height of forty-four feet, to relocate the stairway and mechanical equipment on the north end of the building, and for the addition of a fourth floor terrace; and

**WHEREAS**, on January 8, 2018, the City Council enacted Ordinance 3-O-18, attached hereto as Exhibit 2 and incorporated herein by reference, which granted an extension of time for the Applicant to obtain a building permit to construct the Planned Development authorized by Ordinance 47-O-16; and

**WHEREAS**, by letter to the City dated October 12, 2018, the Developer and Applicant, Michael McLean (the "Applicant") requested an extension of the one-year time period to obtain a building permit and start construction for the Planned Development; and

**WHEREAS**, in order to remain in compliance with the terms of Ordinance 47-O-16 and provide for Applicant to obtain a building permit and start construction, the Applicant requested an amendment to the Planned Development; and

**WHEREAS**, on December 10, 2018, the City Council enacted Ordinance 158-O-18, attached hereto as Exhibit 3 and incorporated herein by reference, which

granted an extension of time for the Applicant to obtain a building permit to construct the Planned Development authorized by Ordinance 47-O-16; and

**WHEREAS**, the Applicant requested amendments to the previously approved ordinances in order to approve a requested major adjustment that included an increase in FAR to 4.47, an increase in parking spaces, an increased side yard setback, and a reduction of dwelling units; and

**WHEREAS**, on August 5, 2019, the City Council enacted Ordinance 82-O-19, attached hereto as Exhibit 4 and incorporated herein by reference, which granted an amendment to the Special Use Permit authorized by the previously approved ordinances; and

**WHEREAS**, by letter to the City dated October 31, 2019, Applicant, through his attorney, requested an extension of time of the Planned Development because of a delay in the permit process; and

**WHEREAS**, in order to remain in compliance with the terms of Ordinance 47-O-16 and provide for the Applicant to obtain the proper permits and start construction, it is necessary to amend the Planned Development; and

**WHEREAS**, on December 9, 2019, the Planning and Development Committee ("P&D Committee") held a meeting, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq*), during which it retained jurisdiction over the Planned Development Amendment request; and

**WHEREAS**, during said meetings, the P&D Committee received input from the public, and carefully deliberated on the Extension request and the Applicant was given notice and the opportunity to be heard at the P&D and City Council meetings; and

**WHEREAS**, at its meeting of December 9, 2019 held in compliance with the provisions of the Illinois Open Meetings Act, the City Council considered the P&D Committee's deliberations and recommendations, heard public comment, made findings and considered this Ordinance 172-O-19,

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

**SECTION 1:** The foregoing recitals are hereby found as fact and incorporated herein by reference.

**SECTION 2:** Pursuant to the terms and conditions of this ordinance, the City Council hereby grants an amendment to the Special Use Permit previously authorized by Ordinance 47-O-16 to allow for the construction and operation of the Planned Development described herein.

**SECTION 3:** Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council imposes the following conditions on the Special Use Permit granted for the Planned Development, may be amended by future ordinance(s), and violation of any of which shall constitute grounds for penalties or revocation of said Special Use Permit pursuant to Subsections 6-3-10-5 and 6-3-10-6 of the Zoning Ordinance:

- (a) Compliance with Applicable Requirements:** The Applicant shall develop and operate the Planned Development authorized by the terms of this ordinance in substantial compliance with the following: the terms of this Ordinance 172-O-19; terms of Ordinance 82-O-19; terms of Ordinance 158-O-18; terms of Ordinance 3-O-18; terms of Ordinance 47-O-16 which have not been amended by this Ordinance; all applicable City Code requirements; the Applicant's testimony to the P&D Committee, and the City Council; and the approved documents on file in this case.
- (b) Changes in Property Use:** Any change as to the property's use in the future must be processed and approved as an additional amendment to the Planned Development.

**(c) Construction Schedule: Construction Schedule:** Pursuant to Subsection 6-11-1-10(A)(4) of the Zoning Ordinance, the Applicant must obtain a foundation permit within thirty (30) days of the passing of this Ordinance. Additionally, the Applicant must submit a completed building permit application within sixty (60) days from the date the foundation permit is issued.

**(d) Recording:** Pursuant to Subsection 6-3-6-10 of the Zoning Ordinance, the Applicant shall, at its cost, record a certified copy of this ordinance, including all exhibits attached hereto, with the Cook County Recorder of Deeds, and provide proof of such recordation to the City, before the City may issue any permits pursuant to the Planned Development authorized by the terms of this ordinance.

**SECTION 4:** Except as otherwise provided for in this Ordinance 172-O-19, all applicable regulations of the Ordinance 82-O-19 and Ordinance 3-O-18 and Ordinance 47-O-16 and Ordinance 158-O-18, the Zoning Ordinance, 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/or provisions of any of said documents conflict with any of the terms herein, this Ordinance 172-O-19 shall govern and control.

**SECTION 5:** When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant and its agents, assigns, and successors in interest" and shall mean Michael McLean, and any and all successors, owners, and operators of the Subject Property.

**SECTION 6:** This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

**SECTION 7:** Except as otherwise provided for in this ordinance, all applicable regulations of the Zoning Ordinance 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 herein, this ordinance shall govern and control.

**SECTION 8:** All ordinances or parts of ordinances that are in conflict with the terms of this ordinance are hereby repealed.

**SECTION 9:** 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 can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

**SECTION 10:** The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: December 9, 2019

Adopted: December 9, 2019

Attest:

Eduardo Gomez  
~~Deven Reid, City Clerk~~  
Eduardo Gomez, Deputy City Clerk

Approved:

January 10, 2020  
Stephen H. Hagerly  
Stephen H. Hagerly, Mayor

Approved as to form:

Michelle Masoncup  
Michelle Masoncup, Corporation Counsel

**EXHIBIT 1**

**ORDINANCE 47-O-16**

**EXHIBIT 2**  
**ORDINANCE 3-O-18**



**EXHIBIT 3**

**ORDINANCE 158-O-18**

**EXHIBIT 4**  
**ORDINANCE 82-O-19**