

8-O-20

AN ORDINANCE

**Granting a Special Use Permit for a Planned Development
Located at 999-1015 Howard Street in the B2 Business District**

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 ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970, which states that the “powers and functions of home rule units shall be construed liberally,” was written “with the intention that home rule units be given the broadest powers possible” (*Scadron v. City of Des Plaines*, 153 Ill.2d 164); 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 1979, as amended, (“the Zoning Ordinance”); and

WHEREAS, David Block, Director of Development for Evergreen Real Estate Group, and representative of 1015 Howard LP (the “Applicant”) located at 999-

1015 Howard Street, Evanston, Illinois (the "Subject Property"), legally described in Exhibit A, which is attached hereto and incorporated herein by reference, applied, pursuant to the provisions of the Zoning Ordinance, specifically, Section 6-3-6, "Planned Developments," to permit the construction and operation of a Planned Development located at the Subject Property in the B2 Business District ("B2 District"); and

WHEREAS, the Applicant sought approval to construct a four (4) story, 73,017 square foot addition to the existing CJE Senior Life building, with sixty (60) affordable dwelling units for seniors, and fifty-five (55) parking spaces; and

WHEREAS, construction of the Planned Development, as proposed in the application, requires exception from the strict application of the Zoning Ordinance with regards to building height, number of parking spaces, interior yard setback, rear yard setback, and loading zone vertical clearance; and

WHEREAS, pursuant to Subsection 6-3-6-5 of the Zoning Ordinance, the City Council may grant Site Development Allowances to the normal district regulations established in the Zoning Ordinance; and

WHEREAS, on December 11, 2019, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*) and the Zoning Ordinance, the Plan Commission held a public hearing on the application for a Special Use Permit for a Planned Development, case no. 19PLND-0012, heard extensive testimony and public comment, received other evidence, and made written minutes, findings, and recommendations; and

WHEREAS, the Plan Commission's written findings state that the application for the proposed Planned Development does not meet applicable standards

set forth for Planned Developments in the B2 Zoning District per Subsection 6-9-3-3 and 6-9-1-9 of the Zoning Ordinance; and

WHEREAS, the Plan Commission recommended the City Council approve the application; and

WHEREAS, on January 13, 2019, the Planning and Development (“P&D”) Committee of the City Council held meetings, in compliance with the provisions of the Open Meetings Act and the Zoning Ordinance, received input from the public, carefully considered and adopted the findings and recommendations of the Plan Commission, and recommended approval thereof by the City Council; and

WHEREAS, at its meetings of January 13, 2020 and January 27, 2019, held in compliance with the Open Meetings Act and the Zoning Ordinance, the City Council considered the recommendation of the P&D Committee, the Applicant’s application, received additional public comment, made certain findings, and adopted said recommendation; and

WHEREAS, it is well-settled law that the legislative judgment of the City Council must be considered presumptively valid (see *Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747 (1991)) and is not subject to courtroom fact-finding (see *National Paint & Coating Ass’n v. City of Chicago*, 45 F.3d 1124 (7th Cir. 1995)),

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 facts and incorporated herein by reference.

SECTION 2: Pursuant to the terms and conditions of this ordinance, the City Council hereby grants the Special Use Permit applied for in case no. 19PLND-0012, to allow construction and operation of the Planned Development described herein.

SECTION 3: The City Council hereby grants the following Site Development Allowances:

- (A) **Building Height:** A Site Development Allowance is hereby granted for an approximately fifty-one (51) feet maximum building height, whereas subsection 6-9-3-8 of the Zoning Ordinance requires a maximum allows building height of forty-five (45) feet in the B2.
- (B) **Parking Spaces:** A Site Development Allowance is hereby granted permitting fifty-five (55) parking spaces, whereas table 16-B of subsection 6-16-3-5 of the Zoning Ordinance requires a minimum of sixty-nine (69) parking spaces.
- (C) **Interior Yard Setback:** A Site Development Allowance is hereby granted permitting an interior yard setback of zero (0) feet from the Subject Property line, whereas subsection 6-9-3-7(F) of the Zoning Ordinance requires a minimum of a five (5) foot interior yard setback from the Subject Property line for this building in the B2 District.
- (D) **Rear Yard Setback:** A Site Development Allowance is hereby granted permitting a rear yard setback of zero (0) feet from the Subject Property line, whereas subsection 6-9-3-7(G) of the Zoning Ordinance requires a minimum of a fifteen (15) foot rear yard setback from the Subject Property line for this building in the B2 District.
- (E) **Loading Area:** A Site Development Allowance is hereby granted permitting a loading area with a vertical clearance of eleven (11) feet ten (10) inches, whereas subsection 6-16-4-5 of the Zoning Ordinance requires all loading areas to have a vertical clearance of at least fourteen (14) feet.

SECTION 4: Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council imposes the following conditions on the Special Use Permit granted hereby, which 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 terms of this ordinance; the Site and Landscape Plans in Exhibits D and E, attached hereto and incorporated herein by reference; all applicable legislation; the Applicant's testimony and representations to the Design and Project Review Committee, the Plan Commission, the P&D Committee, and the City Council; and the approved documents on file in this case.
- (B) **Continued Design Development:** The applicant shall continue to work with staff on design details on the east and west building elevations.
- (C) **Construction Management Plan:** The Applicant shall sign and agree to a Construction Management Plan (CMP) with the City of Evanston prior to issuance of the Building Permit. The CMP shall include but is not limited to the following: construction phasing/staging plans; construction hours; site access including traffic and pedestrian safety plans; contractor parking; damage control and vibration monitoring; construction exhibits; project communication and signage.
- (D) **Waste:** Prior to issuance of building permit, the Applicant shall develop and obtain the Director of the Public Works Agency's approval of a garbage and waste management plan for the subject property.
- (E) **Landscape Plan:** Prior to issuance of building permit, the Applicant shall develop and obtain the Director of the City's Public Works Agency's approval of a revised Landscape Plan with a tree list.
- (F) **Snow:** Prior to issuance of building permit, the Applicant shall develop and obtain the Director of the Public Works Agency's approval of a snow removal management plan for the subject property.
- (G) **Update to Plans:** The Applicant shall update the plans for the project to show the public sidewalk extending through the driveways off Howard Street.
- (H) **Construction Schedule:** Pursuant to Subsection 6-9-1-9(A)(4) of the Zoning Ordinance, the planned development shall be completed within two (2) years of the issuance of the special use permit for the planned development.
- (I) **Recordation:** 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 5: When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant's tenants, agents, assigns, and successors in interest."

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.

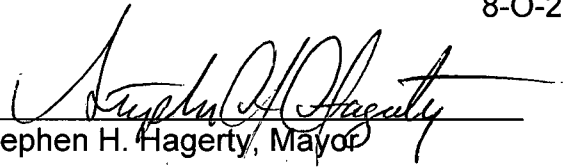
Introduced: January 13, 2020

Approved:

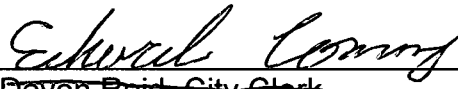
Adopted: January 21, 2020

_____ 2020

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Not dated
here -


Stephen H. Hagerty, Mayor

Attest:


Devon Reid, City Clerk
Edwards Gomez, Deputy City Clerk

Approved as to form:

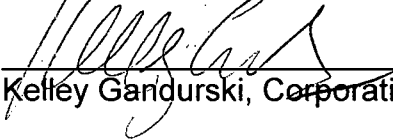

Kelley Gandurski, Corporation Counsel

EXHIBIT A**Legal Description**

LOTS 3 TO 18, BOTH INCLUSIVE, IN GRANT AND GRANT'S HOWARD RIDGE ADDITION TO EVANSTON, BEING A SUBDIVISION OF LOT 1 (EXCEPT THE SOUTH 43 FEET DEEDED TO THE CITY OF EVANSTON FOR HOWARD STREET) IN CORRECTION PLAT OF SUBDIVISION OF LOT 9 (EXCEPT THE NORTH 24 FEET THEREOF) IN COUNTY CLERK'S DIVISION OF UNSUBDIVIDED LANDS IN THE NORTHWEST 1/4 OF LOT 13 IN COUNTY CLERK'S DIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINs: 11-30-12-057-0000;
11-30-12-042-0000;
11-30-12-043-0000;
11-30-12-044-0000;
11-30-12-045-0000;
11-30-12-046-0000;
11-30-12-047-0000;
11-30-122-048-0000;
11-30-122-049-0000;
11-30-122-050-0000;
11-30-122-051-0000;
11-30-122-052-0000;
11-30-122-053-0000

COMMONLY KNOWN As: 999-1015 Howard Street

EXHIBIT B
Development Plans

EXHIBIT C
Landscape Plans