

ORDINANCE NO. 20-6-2163

**AN ORDINANCE APPROVING A TEXT AMENDMENT TO THE ZONING CODE, A
VARIATION FROM THE NATURAL RESOURCES PROTECTION STANDARDS, FINAL PLAT
OF SUBDIVISION AND FINAL PLANS, AS WELL AS APPROVAL OF A PLAT OF
VACATION AND PLAT OF DEDICATION FOR THE
DEVELOPMENT OF AN AGE-RESTRICTED RESIDENTIAL DEVELOPMENT ON A
PORTION OF THE "VILLAGE GREEN" PROPERTY
(Briargate Subdivision)**

**VILLAGE OF LINDENHURST
LAKE COUNTY, ILLINOIS**

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President and Board of Trustees
of the
Village of Lindenhurst, Lake County, Illinois
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AN ORDINANCE APPROVING A TEXT AMENDMENT TO THE ZONING CODE, A VARIATION FROM THE NATURAL RESOURCES PROTECTION STANDARDS, FINAL PLAT OF SUBDIVISION AND FINAL PLANS, AS WELL AS APPROVAL OF A PLAT OF VACATION AND PLAT OF DEDICATION FOR THE DEVELOPMENT OF AN AGE-RESTRICTED RESIDENTIAL DEVELOPMENT ON A PORTION OF THE "VILLAGE GREEN" PROPERTY
(Briargate Subdivision)

WHEREAS, on March 21, 2007, the Village, Lindenhurst Land Company, LLC ("**Nasr**"), MCW Property Corporation ("**MCW**") and Oliver McMillan, LLC ("**OM**") entered into an Annexation Agreement for the annexation, zoning, and development of certain property known as Lindenhurst Village Green ("**Property**"), which Annexation Agreement was approved by the Village Board by Ordinance No. 07-3-1614 and recorded on April 30, 2007 in the Office of the Recorder of Deeds for Lake County, Illinois as Document Number 6176345; and

WHEREAS, Northern Plains, LLC ("**NP**") is the owner of Lots 1, 10, 15, and 17 of the Property, as legally described in **Exhibit A** to this Ordinance ("**NP Parcel**"); and

WHEREAS, NP has requested certain changes to the previous approvals to allow the development of 231 single family age-restricted residential units in a development called "Briargate Subdivision," on the NP Parcel; and

WHEREAS, NP filed an application with the Village requesting approval of (1) an amendment to the Annexation Agreement for the NP Parcel; (2) rezoning of the NP Parcel from the R-4 and CBR-2 districts to the R-1 district; (3) a special use permit to allow age-restricted housing on the NP Parcel; (4) approval of a preliminary plat of resubdivision of the NP Parcel; and (5) approval of preliminary site and landscaping plans for the NP Parcel;

WHEREAS, on May 13, 2019, the Village Board approved Ordinance No. 19-4-2133 (recorded with the Lake County Recorder of Deeds on September 25, 2019 as Document No. 7595688) approving the proposed rezoning and special use permit applications and the preliminary plat and plans, and on that same date approved a First Amendment to the

Annexation Agreement for the Briargate Subdivision (recorded with the Lake County Recorder of Deeds on September 25, 2019 as Document No. 7595687); and

WHEREAS, Pulte Home Company, LLC ("**Pulte**"), the contractor purchaser of the NP Parcel, has prepared final plans for the development of the Briargate Subdivision, which plans are substantially in conformance with the preliminary plans approved by Ordinance No. 19-4-2133 except for minor changes to (1) add a clubhouse; (2) reduce the number of residential units from 231 to 228; (3) modify the configuration of Briargate Boulevard; (4) modify the rear yard setbacks for the residential lots; and (5) modify the natural resource protection standards; and

WHEREAS, Pulte has subsequently applied for approval of (1) a final plat of subdivision; (2) final plans; (3) a text amendment to the rear yard setback standards of the Zoning Ordinance; (4) a variation from the natural resources protection requirements of the Zoning Ordinance; (5) a plat of vacation; and (6) plat of dedication of Briargate Boulevard ("**Application**"); and

WHEREAS, the Plan Commission conducted a public hearing on the Application on June 3, 2020, and made a recommendation to the Village Board of Trustees on the Application; and

WHEREAS, the Mayor and Village Board of Trustees find and determine that it is in the Village's best interests to approve the Application, as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Lindenhurst, Lake County, Illinois, as follows:

SECTION 1. Recitals. The recitals are incorporated into this Ordinance by reference.

SECTION 2. Findings of Fact. The Village Board of Trustees adopts the findings of fact incorporated into the public hearing record of the Plan Commission as its findings of fact in support of the Application.

SECTION 3. Zoning Code Amendment. The Village Board of Trustees hereby approves an amendment to Section 159-4.103(B)(2) of the Village's Zoning Code to hereafter read as follows (deleted language is shown in ~~stricken text~~ and added language is shown in **bold, double-underlined text**)

"(2) *Senior Housing, Age Restricted.* The following specific standards must be considered in granting a special use permit for a senior housing, age restricted single family development.

(a) The otherwise applicable bulk standards set forth in division 159-4.104(A) of this part may be modified as part of the special use permit approval for a senior housing, age restricted development, subject to the following limitations:

1. The minimum lot area may not be reduced below 6,000 square feet in area.
2. The minimum lot width may not be reduced below 50 feet, measured at the setback line.
3. The required front yard may not be reduced below 20 feet.
4. The required rear yard may not be reduced below **25 19** feet.
5. The required side yard may not be reduced below 6 feet.
6. The required corner side yard may not be reduced below 20 feet.
7. The maximum lot coverage may not exceed 50%.
8. The maximum building height may not exceed 30 feet.
9. The gross density may not exceed 4.0, and the net density may not exceed 6.

(b) Any special use permit approval for a senior housing, age restricted development shall be conditioned upon the recordation of a declaration of covenants, conditions and restrictions that restricts the occupancy of the residential housing in accordance with applicable Federal laws."

SECTION 4. Variation. Subject to the conditions set forth in Section 9 of this Ordinance, the Village Board of Trustees hereby approves a variation from Section 159-7.201 of the Zoning Code to reduce the natural resources protection standard for mature trees from 70% to 28% to allow the development of a senior housing residential development on the NP Parcel.

SECTION 5. Final Plat of Subdivision Approval. Subject to the conditions set forth in Section 9 of this Ordinance, the Village Board of Trustees hereby approves the Final Plat of Subdivision, Briargate Subdivision – Phase 1 for the NP Parcel, which Final Plat is attached to

this Ordinance as **Exhibit B**. Final plats of subdivision for Phases 2 and 3 of the Briargate Subdivision must be presented to the Village and approved prior to the expiration of the Annexation Agreement.

SECTION 6. Vacation of Spine Road Easement. Subject to the conditions set forth in Section 9 of this Ordinance, the Village Board of Trustees hereby approves the vacation of the spine road easement as depicted on the Plat of Vacation attached to this Ordinance as **Exhibit C**.

SECTION 7. Dedication of Briargate Boulevard. Subject to the conditions set forth in Section 9 of this Ordinance, the Village Board of Trustees hereby accepts the dedication of the Briargate Boulevard right of way as depicted on the Plat of Dedication attached to this Ordinance as **Exhibit D**.

SECTION 8. Final Plans Approval. Subject to the conditions set forth in Section 9 of this Ordinance, the Village Board of Trustees hereby approves the following final plans for the Briargate Subdivision on the NP Parcel, which final plans are attached to this Ordinance as **Exhibit E**:

- A. Final Site Plan, prepared by Pearson, Brown & Associates, Inc., consisting of 1 sheet, and last revised on May 27, 2020.
- B. Final Landscape Plan, prepared by Dickson Design Studio, consisting of 17 sheets, and last revised on June 5, 2020.
- C. Signage Plan, prepared by Pearson, Brown & Associates, Inc., consisting of 8 sheets, and last revised on December 11, 2019.
- D. Architectural Elevations, prepared by Pulte, consisting of five models, and last revised on May 5, 2020.

SECTION 9. Conditions. The approvals granted above are conditioned upon and limited by the following requirements, conditions, and restrictions, the violation of any of which shall, in the sole discretion of the Mayor and Board of Trustees, render void all permits and approvals granted pursuant to this Ordinance:

- A. No Authorization of Work. This Ordinance does not authorize commencement of any work on the NP Parcel. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind shall be commenced on the NP Parcel pursuant to the approvals granted in this Ordinance unless and until all permits, approvals, and other authorizations for any such work have been properly applied for, paid for, and granted in accordance with applicable law.
- B. Compliance with Laws. The Village's Zoning Code, the Subdivision Code, the Building Code, and all other applicable ordinances and regulations of the Village shall continue to apply to the NP Parcel, and the development and use of the NP Parcel must be in compliance with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction except as expressly provided herein. Any development of the NP Parcel will require compliance with the applicable procedures required by the Village's Zoning Code and other applicable ordinances.
- C. Final Engineering Plans. Final engineering plans must be submitted for approval by the Village Administrator and Village Engineer prior to any development on the NP Parcel.
- D. Improvements. All improvements for the proposed development on the NP Parcel must be installed in accordance with the approved final engineering plans, and will be subject to the review and approval of the Village Administrator and Village Engineer. Before any development may occur on the NP Parcel, performance security must be posted as required by the Village's Subdivision Code.
- E. Sidewalks and Bike Paths. The sidewalks and bike paths will be installed in the locations depicted on the site plans attached as Exhibit A. In order to address elevations and street crossings, as well as compliance with the ADA, the proposed path along Falling Waters Boulevard has been relocated to the south side.
- F. Briargate Boulevard. The Village's acceptance of the dedication of the Briargate Boulevard right of way is not an acceptance of the Briargate Boulevard street and other public improvements related to Briargate Boulevard, which must be completed, inspected, and approved in accordance with the Village's subdivision requirements and the approved final engineering plans and standards.
- G. Spine Road. NP and Pulte agree to indemnify, hold harmless, and defend the Village and its officers, officials, employees, consultants, contractors, and volunteers from any and all claims and damages arising out of or from the Village's approval of the vacation of the spine road easement in Section 6 of this Ordinance.
- H. Clubhouse. Pulte agrees to construct a clubhouse on Lot 29 of the NP Parcel as part of Phase 2 of the development of the Briargate Subdivision, and will commence the construction of the clubhouse within three months of the issuance of the first building permit for a residence in Phase 2. Architectural and site plans for the clubhouse must be submitted to the Village for approval prior to issuance of a building permit for construction. If the Village Administrator, in the

Administrator's discretion, determines that the architectural design of the proposed clubhouse is consistent with the character of the approved elevations for the residential homes in the development and the site plan for the clubhouse is substantially in conformance with the approved final plans attached as Exhibit E, then the clubhouse plans will be approved by the Village Administrator. Upon completion of the clubhouse, Pulte agrees to convey ownership of the clubhouse to the homeowners association, which association will have maintenance and management responsibilities for the clubhouse.

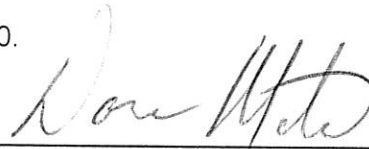
- I. Architectural Plans. Applications and plans for individual building permits must be substantially in conformance with the architectural elevations submitted and approved by this Ordinance. Any new elevations or major changes to any of the approved architectural elevations may be approved by the Village Board by resolution without a public hearing or formal amendment to this Ordinance.
- J. Phasing. In accordance with the Annexation Agreement, as amended by the First Amendment, it is understood that the Briargate Subdivision will be developed in phases, and that public improvements necessary for each individual phase must be constructed and completed with that phase of development.
- K. Other Governmental Approvals. No final plat of subdivision will be recorded unless and until all required permits and approvals from all governmental bodies having jurisdiction over the NP Parcel that are necessary for subdivision approval have been applied for and issued, including without limitation approval of access by the Illinois Department of Transportation and approval of the Stormwater and Floodplain Management Design and Watershed Development Ordinance Permit Application by the Lake County Stormwater Management Commission ("**SMC**"). With respect to the watershed development application and stormwater and floodplain management design plans for this development, it is acknowledged that Pulte prepared and submitted its watershed development application and stormwater report to the Village in 2019, and intends to proceed in accordance with the SMC requirements applicable at the time of submittal of its application to SMC, and pursuant to the stormwater permit issued by SMC in 2019.
- L. Recording Costs. Pulte and NP are jointly and severally responsible for the costs of recording this Ordinance and the Final Plat of Subdivision.
- M. Covenants, Conditions and Restrictions (CCRs). Prior to the transfer of all or any part of the NP Parcel, Pulte will record covenants, conditions, and restrictions against the NP Parcel including among other provisions, language pertaining to the age-restricted nature of the proposed development, as required by the First Amendment to the Annexation Agreement. The declaration of covenants and restrictions will be subject to the reasonable approval of the Village Attorney and Village Administrator.
- N. Continued Effect. The Annexation Agreement, as amended by the First Amendment, and the various zoning and subdivision approvals for the NP Parcel remain in full force and effect to govern the use and development of the NP Parcel except to the extent expressly provided herein.

- O. Transfer of Property; Release of Obligations. Upon the transfer of any portion of the NP Parcel from NP to Pulte, and upon the execution by all parties of a transferee assumption agreement in a form and substance acceptable to the parties, NP will be released from the obligations pertaining to that portion of the NP Parcel being transferred. The failure of the parties to provide the Village with a fully executed copy of a transferee assumption agreement by Pulte to be bound by this Ordinance will result in NP remaining fully liable for all of the obligations of this Ordinance but will not relieve Pulte of its liability for those obligations as a successor to NP.

SECTION 10. Conflict. All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

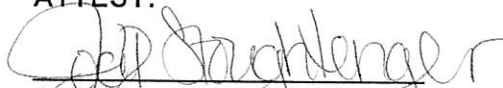
SECTION 11. Effective Date. This Ordinance shall be in full force and effect following (i) its passage and approval as required by law and (ii) submittal of a signed unconditional agreement and consent in the form of **Exhibit F**. In the event a fully executed copy of the unconditional agreement and consent is not submitted within 60 days of the date of passage of this Ordinance by the Village Board, the Board will have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Lindenhurst, Illinois, this 22nd day of June, 2020.



DOMINIC MARTURANO, VILLAGE PRESIDENT

ATTEST:



Jody Stoughtenger, Village Clerk

TRUSTEES

Bill Anderson
Patty Chybowski
Dawn Czarny
Patrick Dunham
Heath Rosten
Dawn Suchy

AYE

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NAY

