<u>Item #5</u>:
Ordinance Approving Preliminary PUD, Karen's Corner

VILLAGE OF LONG GROVE

ORDINANCE NO. 2016-O-____

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT AND APPROVING A PRELIMINARY PLANNED UNIT DEVELOPMENT PLAT FOR THE KAREN'S CORNER PLANNED UNIT DEVELOPMENT

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this ____ day of March, 2016

Published in pamphlet form by direction
and authority of the Village of Long Grove,
Lake County, Illinois
this ____ day of March, 2016

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VILLAGE OF LONG GROVE

ORDINANCE NO. 2016-O-__

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WHEREAS, Therese R, Iverson, individually and as Trustee under the Therese R. Iverson Living Trust, dated February 11, 2010, and KC1, Inc. (collectively, "***Applicant***"), are the owner and contract purchaser, respectively, of the real property consisting of approximately 35 acres generally located at the northwest corner of Old Hicks Road and Checker Road in the Village of Long Grove and legally described in Exhibit A, hereto ("***Property***"); and

WHEREAS, pursuant to Resolution No. 2016-R-___, the Village of Long Grove approved an annexation agreement ("***Annexation Agreement***") with the Applicant regarding the Property; and

WHEREAS, the Annexation Agreement provided that, among other things, a portion of the Property consisting of the northern approximately 26 acres would be annexed to the Village and zoned into the R-2 Single-Family Residence District, and the entire Property would be developed as a planned unit development consisting of a residential subdivision containing not more than 18 single-family residential lots and related common improvements ("***Proposed Development***"); and

WHEREAS, the northern 26 acres of the Property has been annexed into the Village, and the entire Property has been zoned in the Village's R-2 Single-Family Residence District; and

WHEREAS, the Applicant has filed an application requesting approval of a special use permit for a planned unit development and approval of a preliminary planned unit development plat and plans to permit the Proposed Development on the Property; and

WHEREAS, pursuant to notice duly published in the *Daily Herald*, the Long Grove Plan Commission conducted a public hearing on January 5, 2016 for the purposes of hearing and considering testimony regarding the Applicant's request for approval of a special use permit for a planned unit development and approval of a preliminary planned unit development plat for the Proposed Development on the Property; and

WHEREAS, during the public hearing, representatives of the Applicant presented oral and written testimony, including without limitation the preliminary planned unit development plat and plans for the Karen's Corner Planned Unit Development, consisting of:

i. Preliminary Site Plan, consisting of one sheet prepared by IG Consulting, Inc. and dated October 30, 2015;

ii. ALTA / ACSM Land Title Survey, prepared by IG Consulting, Inc. and dated June 29, 2015;

iii. Preliminary Landscape Plan, consisting of two sheets prepared by IG Consulting, Inc. and dated October 30, 2015;

iv. Wetland Delineation Report, prepared by Midwest Ecological, Inc. and dated June 9, 2015;

v. HydroCAD Drainage Calculations, prepared by IG Consulting, Inc. and dated November 20, 2015; and

vi. a Preliminary Plat of Subdivision, prepared by IG Consulting, Inc. and last revised on November 17, 2015;

copies of which are attached to this Ordinance, and by this reference incorporate herein, as **Exhibit B** (collectively, the "***Preliminary PUD Plat***"); and

WHEREAS, following the public hearing, the Plan Commission made the following findings:

1. According to the testimony and other evidence presented by the Applicant, including without limitation the Preliminary PUD Plat, the Proposed Development consists of 18 buildable lots that will be developed with single family residential dwellings, as well as private roadways, pathways, and other common improvements.

2. The Applicant testified that the Proposed Development shall be constructed in accordance with the Preliminary PUD Plat.

3. The evidence presented demonstrates that, subject to the conditions hereinafter set forth, the construction and maintenance of the Proposed Development on the Property:

   (a) is consistent with the stated purpose of the planned unit development regulations;

   (b) meets the requirements and standards of the planned unit development regulations;

   (c) departs from certain of the generally-applicable zoning and subdivision standards, including those governing lot size, density, and building setbacks, and such departures are deemed to be in the public interest due to the overall design and quality of the Proposed Development;

   (d) meets the standards for approval of a 15% density increase pursuant to Section 5-11-18(E)(2)(m)(3) of the Zoning Code due to the quality of the Proposed Development in light of the goals and standards of the Zoning Code;

   (e) makes adequate provision for public services, provides adequate control over vehicular traffic, provides and protects designated open space, and furthers the amenities of light and air, recreation, and visual enjoyment;

   (f) is compatible with the adjacent properties and neighborhood;

   (g) is not detrimental to the tax base and economic well-being of the entire community; and

   (h) conforms with the intent and spirit of the comprehensive plan of the Village.

4. The evidence presented demonstrates that the Proposed Development satisfies the requirements for granting a special use permit for a planned unit development and approving the Preliminary PUD Plat to permit the Proposed Development on the Property pursuant to Section 5-11-18 of the Zoning Code and subject to the terms and conditions hereinafter set forth;

WHEREAS, based on these findings, on January 5, 2016, the Plan Commission recommended that a special use permit be granted for a planned unit development and the Preliminary PUD Plat be approved, along with the necessary deviations from otherwise applicable lot size, density, and setback regulations, including approval of a density increase of not more than 15% pursuant to Section 5-11-18(E)(2)(m)(3) of the Zoning Code, to permit the Proposed Development on the Property; and

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WHEREAS, the President and Board of Trustees, having considered the recommendations of the Plan Commission and being fully advised in the premises, have determined that it is in the best interests of the Village and its residents to grant a special use permit for a planned unit development and approve the Preliminary PUD Plat to permit the Proposed Development on the Property, subject to the terms and conditions of this Ordinance as hereinafter set forth; and

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, COUNTY OF LAKE, STATE OF ILLINOIS, as follows:

SECTION ONE: Recitals. The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth.

SECTION TWO: Grant of a Special Use Permit for a Planned Unit Development and Approval of the Preliminary PUD Plat. Pursuant to Section 5-11-18 of the Long Grove Zoning Code, and subject to the limitations therein and the conditions set forth in Section Three of this Ordinance, a special use permit for a planned unit development ("***Special Use Permit***") shall be, and is hereby, granted, and the Preliminary PUD Plat shall be, and is hereby, approved to permit the Proposed Development on the Property. In connection with the approval of the Special Use Permit and the Preliminary PUD Plat, the Village Board hereby grants the Applicant relief from the lot size and setback requirements of the Zoning Code and approval of a density increase pursuant to Section 5-11-18(E)(2)(m)(3) of the Zoning Code, all as necessary to permit the Proposed Development on the Property as depicted on the Preliminary PUD Plat.

SECTION THREE: Conditions on Approval. The approvals granted pursuant to Section Two of this Ordinance shall be, and they are hereby, conditioned upon and limited by the following conditions, the violation of any of which shall, in the reasonable discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the approvals granted herein:

A. No Authorization of Work. This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind shall be commenced on the Property pursuant to the approvals granted in this Ordinance unless and until all conditions of this Ordinance precedent to such work have been fulfilled, including without limitation approval and recordation of a final plat of subdivision and final planned unit development plat and Village approval of final plans (including, but not limited to, engineering and landscaping plans) for the Proposed Development, and after all permits, approvals, and other authorizations for such work have been properly applied for, paid for, and granted in accordance with applicable law.

B. Compliance with Laws. The Zoning Code, the Subdivision Code, the Building Code, and all other applicable ordinances and regulations of the Village shall continue to apply to the Property except as expressly modified by this Ordinance, and the development and use of the Property shall be in compliance with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.

C. Final Planned Unit Development Plat. Within two years after the effective date of this Ordinance, the Applicant shall submit for review and approval a final planned unit development plat ("***Final PUD Plat***"), which plat shall be in substantial conformity with the Preliminary PUD Plat and otherwise comply with all applicable laws, including without limitation all applicable provisions of the Zoning Code. This Ordinance shall be null and void unless the Applicant has filed a complete Final PUD Plat for Village review and approval within such two year period. The Final PUD Plat shall depict, without limitation, all wetlands, open space areas, conservancy and scenic corridors and easements and other conservation areas, stormwater drainage and detention facilities and easements, pathways, private roadways and traffic improvements, and sanitary sewer improvements and shall contain language approved by the Village Attorney restricting development within all such areas. In addition, the Final PUD Plat shall contain language approved by the Village Attorney granting the Village (or another public body designated by the Village) and/or a homeowners association for the entire Property easement rights, conservation rights, or other property rights (but not fee simple title) as requested by the Village for preservation and maintenance of wetland, conservancy, stormwater, drainage, scenic corridor, and pathway areas on the Property.

D. Final Engineering. The Applicant shall submit to the Village for its review and approval final engineering plans for the Proposed Development, which plans shall be subject to the Village Engineer's review and Village Board approval as part of the Final PUD Plat.

E. Final Landscaping. The Applicant shall submit to the Village for its review and approval final landscaping plans for the Property, which plans shall be subject to the Village Forester's review and Village Board approval as part of the Final PUD Plat.

F. Sanitary Sewer System. Sanitary sewer service shall be provided to the Proposed Development by a sanitary sewer system connected to the Lake

County sanitary sewer system, subject to an agreement acceptable to the Village, or by such other system as is acceptable to the Village Engineer and approved as part of the Final PUD Plat. The sanitary sewer system shall be built at the Applicant's sole cost and expense and in accordance with the Final Engineering Plans and Final PUD Plat.

G. Impact Fees. The Applicant shall comply with the applicable impact fee requirements contained in Section 5-11-18(K) of the Zoning Code, Chapter 9 of Title 6 of the Long Grove Village Code, and the Annexation Agreement. The final amounts of the impact fees due for the Proposed Development shall be as set forth in the Ordinance approving the Final PUD Plat.

H. Improvements. The Applicant shall provide sufficient security for all required improvements for the Proposed Development in an amount and form satisfactory to the Village and in accordance with the applicable provisions of the Village Code and the Annexation Agreement.

I. Roadways. The roadways within the Proposed Development shall be privately owned and maintained and installed in accordance with the Preliminary PUD Plat and the Final PUD Plat, as reviewed and approved by the Village Engineer and the applicable fire authorities. The width of the private roadways shall be subject to the Village Engineer's review and approval and shall be depicted on the Final PUD Plat.

J. Pathways. Prior to the issuance of any certificate of occupancy for the Property, the Applicant shall construct and complete, at its sole cost and expense, pedestrian pathways, which pathways shall be reasonably accessible to the general public. The final design and location of the pathways shall be reviewed and approved by the Village Engineer and depicted on the Final PUD Plat. In addition, as part of the approval of the Final PUD Plat, the Applicant shall grant to the Village such easements or other property rights (but not fee simple title) that the Village may reasonably request over the pathways and immediately adjacent areas pursuant to an agreement acceptable to the Village Attorney, which agreement shall also preclude any use of or access to the easement area by any non-emergency motor vehicles. Unless otherwise provided in such agreement, the Applicant shall be responsible for maintenance of the pathways in perpetuity.

K. Declaration of Covenants and Restrictions. Prior to the recordation of the Final PUD Plat, the Applicant shall record a declaration of covenants and restrictions, which declaration shall be consistent with the Annexation Agreement and shall be subject to the review and approval of the Village Attorney.

L. CSCC Review. Prior to the approval of the Final PUD Plat, the Applicant shall submit to the Conservancy Scenic Corridor Committee ("***CSCC***"), for its review and approval, plans for the proposed final location and proposed planting materials for all conservancy and scenic corridor areas on the Property. In addition, the CSCC shall confirm that all conservancy and scenic corridor areas on the Property are depicted on the Final PUD Plat in locations that are either owned in fee simple by an association representing the entire property, or are subject to easements providing for control and maintenance of the conservancy and scenic corridor areas by such association.

M. Design Standards. The Applicant shall submit elevations and detailed plans and renderings for review and approval by the Architectural Board as provided in Section 5-11-19 of the Zoning Code. The review of elevations and detailed plans and renderings shall include without limitation consideration of details regarding the exterior architectural styles, quality of design and its relationship to the overall development, predominant materials, exterior amenities, and interior amenities. No signage or exterior lighting for the Property shall be installed without prior approval from the Architectural Board.

N. Fees and Costs. The Applicant shall be responsible for paying all applicable fees relating to the granting of the approvals set forth herein in accordance with the Long Grove Village Code and Zoning Code. In addition, the Applicant shall reimburse the Village for all of its costs (including without limitation engineering, planning, and legal expenses) incurred in connection with the preparation, review, consideration, approval, implementation, or enforcement of this Ordinance, the Preliminary PUD Plat, and any Final PUD Plat. Any amount not paid within 30 days after delivery of a demand in writing for such payment shall, along with interest and the costs of collection, become a lien upon the Property, and the Village shall have the right to foreclose such lien in the name of the Village as in the case of foreclosure of liens against real estate.

O. Transferees. The rights and obligations set forth in this Ordinance shall be binding on the Applicant and upon any and all of the Applicant's heirs, successors, and assigns, and upon any and all successor legal or beneficial owners of all or any portion of the Property. To the extent that a successor becomes bound to the obligation created herein pursuant to a transferee assumption agreement acceptable to the Village, and such successor demonstrates to the Village that it has the financial viability to meet the obligations herein, the Applicant shall be released from its obligations under this Ordinance to the extent of the transferee's assumption of such liability. The failure of the Applicant to provide the Village with an enforceable transferee assumption agreement as herein provided shall result in the Applicant remaining fully liable for all of its obligations under this Ordinance but shall not relieve the transferee of its liability for all such obligations as a successor to Applicant.

In addition, any violation of this Ordinance shall be deemed a violation of the Long Grove Zoning Code and shall subject the Applicant to enforcement proceedings accordingly.

SECTION FOUR: Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall be of no force or effect unless and until: (i) the Annexation Agreement has been executed by the Village and Applicant and recorded with the Lake County Recorder of deeds; and (ii) the Applicant has caused duly authorized representatives of the Applicant to execute and thereafter file with the Village its unconditional

agreement and consent, in the form attached hereto as **Exhibit C**, and by this reference incorporated herein and made a part hereof; provided further that, if the Applicant does not so file its unconditional agreement and consent within 30 days following the passage of this Ordinance, the Village Board may, in its discretion and without public notice or hearing, repeal this Ordinance and thereby revoke the approvals granted in this Ordinance. Upon this Ordinance having full force and effect, the Village Clerk shall cause it to be recorded in the Office of the Lake County, Illinois Recorder of Deeds.

PASSED this ____ day of March, 2016

AYES: ( )

NAYS: ( )

ABSENT: ( )

APPROVED this ___day of March, 2016

_____
Village President

ATTEST:

_____
Village Clerk

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPTING THEREFROM THE SOUTH 591.07 FEET OF THE NORTH 901.30 FEET OF THE EAST 368.48 FEET THEREOF), IN LAKE COUNTY, ILLINOIS.

PINs: 14-36-300-003, 14-36-300-038 and 14-36-300-039.

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EXHIBIT B

PRELIMINARY PUD PLAT

[ATTACH PLANS]

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EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

Pursuant to Section Four of Long Grove Ordinance No. 2016-O-___, and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigneds acknowledge for themselves and their successors and assigns in title to the Property that they:

1. have read and understand all of the terms and provisions of said Ordinance No. 2016-O-___;

2. hereby unconditionally agree to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the Long Grove Zoning Code, and all other applicable codes, ordinances, rules, and regulations;

3. acknowledge and agree that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time;

4. acknowledge that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right;

5. agree to and do hereby hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of these parties in connection with the Village's adoption of the Ordinance granting the approvals to the Applicant pursuant to the Ordinance; and

6. represent and acknowledge that the persons signing this Unconditional Agreement and Consent are duly authorized to do so on behalf of the Applicant.

Therese R. Iverson, individually and as Trustee under the Therese R. Iverson Living Trust, dated February 11, 2010

_____

KC1, Inc.

By: _____

Its: _____

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