

Item #2:

**Ord. Preliminary Approval For A Senior Living Center
Harbor Retirement Associates, 1190 Old McHenry Road**

VILLAGE OF LONG GROVE

ORDINANCE NO. 2014-O-___

**AN ORDINANCE AMENDING THE FAIRFIELD
VILLAGE PLANNED UNIT DEVELOPMENT, APPROVING
A PRELIMINARY PLANNED UNIT DEVELOPMENT PLAT,
AND GRANTING OTHER RELIEF FOR THE
HARBORCHASE SENIOR CARE FACILITY**

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this ___ day of _____, 2014

Published in pamphlet form by direction
and authority of the Village of Long Grove,
Lake County, Illinois
this ___ day of _____, 2014

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WHEREAS, Harbor Retirement Associates ("**Applicant**") is the contract purchaser, and Long Grove Associates, LLC ("**Owner**") is the current owner, of the real property consisting of approximately 9.7 acres located at the northwest corner of Route 83 and Route 53 easterly of Old McHenry Road, currently developed with the Midwest Bank (f/k/a Fairfield Savings & Loan) building, and commonly known as 1190 Old McHenry Road, Long Grove, Illinois (the "**Property**"), which Property is legally described in Exhibit A attached to this Ordinance; and

WHEREAS, the Applicant has filed an application requesting an amendment to Ordinance No. 79-O-38, being "An Ordinance Granting Final Approval for a Planned Unit Development for Fairfield Village Planned Unit Development" (the "**Fairfield Village PUD**"), approval of a preliminary planned unit development plat, and other relief to permit the redevelopment of the Property with a senior living center having 58 Memory Care units and 80 Assisted Living units that would serve up to 150 residents, plus ancillary facilities on the Property ("**Proposed Development**"); and

WHEREAS, the Property is currently zoned in the Village's R-2 Single-Family Residence District, subject to the Fairfield Village PUD; and

WHEREAS, pursuant to notice duly published in the *Daily Herald*, the Long Grove Plan Commission and Zoning Board of Appeals (the "**PCZBA**") commenced a public hearing on June 3, 2014, for the purposes of hearing and considering testimony on the Applicant's request for an amendment to the Fairfield Village PUD, approval of a preliminary planned unit development plat, and other relief 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 plans for the Proposed Development, which plans consist of the following:

1. The Zoning Application and a supplemental narrative entitled “Harborage of Long Grove, Village of Long Grove Zoning Application/Preliminary Planned Unit Development” consisting of one sheet and bearing document identification “H:\814003\ENGINEER\05-01-14 Zoning Application.doc” (the “**Application Narrative**”);
2. An ALTA Land Title Survey prepared by Cemcon, Ltd., consisting of one sheet and bearing a completion date of 16 April 2014 (the “**Survey**”);
3. The Preliminary Engineering Plan for Harborage of Long Grove prepared by Cemcon, Ltd., consisting of one sheet and bearing a completion date of 2 May 2014 (the “**Preliminary Engineering Plan**”);
4. The Preliminary P.U.D. for Harborage of Long Grove prepared by Cemcon, Ltd., consisting of one sheet and bearing a completion date of 2 May 2014 (the “**Preliminary PUD**”);
5. Building Elevations prepared by Solomon Cordwell Buenz consisting of two sheets identified as A3.01 and A3.02 and bearing a completion date of 2 May 2014 (the “**Building Elevations**”);
6. Site Details for Signage and Trash Enclosure prepared by Solomon Cordwell Buenz consisting of one sheet identified as A1.02 and bearing a completion date of 2 May 2014 (the “**Site Details**”);
7. Lighting documentation from Kim Lighting consisting of sheets CC/CCS21 (pages 1 and 2), CC/CCS17 (pages 1 and 2), and a “Site Electric Plan – Photometrics” prepared by Solomon Cordwell Buenz consisting of one sheet identified as A1.02 and bearing a completion date of 9 May 2014 (the “**Lighting Plan**”);
8. “Preliminary Stormwater Management and Best Management Practice Narrative for Harborage of Long Grove” prepared by Cemcon, Ltd., consisting of three sheets and bearing a completion date of 2 May 2014 (the “**Stormwater Report**”);
9. “Harborage of Long Grove Traffic Narrative” prepared by Cemcon, Ltd., consisting of two sheets and bearing document identification “H:\814003\REPORTS\05-02-14 HRA LONG GROVE TRAFFIC NARRATIVE.doc” (the “**Traffic Report**”);
10. Site Plan prepared by Solomon Cordwell Buenz consisting of one sheet identified as A1.01 and bearing a completion date of 2 May 2014 (the “**Site Plan**”);

attached to this Ordinance as Exhibit B (collectively “**Preliminary PUD Plat**”); and

WHEREAS, during the public hearing, the PCZBA made the following findings:

1. According to the testimony and other evidence presented by the Applicant, the Property is located within the R-2 Residence District, but pursuant to the Fairfield Village PUD is currently used for office and related non-residential purposes.
2. According to the testimony and other evidence presented by the Applicant, including without limitation the Preliminary PUD Plat, the Proposed Development will provide a residential senior care facility having a lesser density on the Property than is currently authorized under the Fairfield Village PUD.
3. The Applicant testified that the Proposed Development shall be constructed in accordance with the Preliminary PUD Plat.
4. The Applicant testified that the Proposed Development will comply with the applicable height regulations except for the 42-foot high cupola, which is an architectural element intended to reference the nearby Sunset Grove development.
5. The Applicant testified that the Proposed Development will provide 126 parking spaces, which is consistent with employee, resident, and visitor demands for similar facilities.
6. The Applicant testified that the building on the Property currently houses cellular antenna facilities (the "**PWS Antenna Facilities**"), which PWS Antenna Facilities will need to be temporarily located on the Property during the construction of the Proposed Development through 2015. The Applicant also testified that the status of the PWS Antenna Facilities following construction of the Proposed Development is still unresolved.
7. The Applicant testified that the Proposed Development will include an expansion of the Village pathway system, enhanced landscaping at the Village entryway point at Route 53 and Old McHenry Road, an identification sign that references the Village at the Village entryway point at Route 53 and Old McHenry Road, and an extension of the Village public water system (the "**Development Amenities**").
8. The Applicant testified that the Proposed Development will be staffed at all times. Staff will comprise approximately 90 persons. No more than 45 employees will be on duty during any of the work shifts for the Proposed Development, and the standard three work shifts (7 a.m. through 3 p.m., 3 p.m. through 11 p.m., and 11 p.m. through 7 a.m.) are designed to avoid conflicts with customary rush hour traffic (the "**Operational Impact Controls**").
9. The Applicant testified that it will develop operational protocols with emergency service providers to minimize the noise and other impacts that such emergency providers may have on nearby residences (the "**Emergency Plans**").
10. The Applicant testified that the porte cochere on the east side of the Proposed Development is an accessory structure for the safety and convenience of the residents of the Proposed Development.

11. 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) 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;
 - (d) is compatible with the adjacent properties and neighborhood;
 - (e) is not detrimental to the tax base and economic well-being of the entire community; and
 - (f) conforms to the intent and spirit of the comprehensive plan of the Village.

12. The evidence presented demonstrates that the Proposed Development satisfies the requirements for amending the Fairfield Village PUD and approving the Preliminary PUD Plat (inclusive of the parking, cupola height, porte cochere, and temporary location of the PWS Antenna Facilities) to permit the Proposed Development on the Property, subject to the terms and conditions hereinafter set forth;

WHEREAS, based on these findings, on June 3, 2014, the PCZBA recommended an amendment to the Fairfield Village PUD to permit the Proposed Development, approval of the Preliminary PUD Plat, and other relief for the Proposed Development on the Property; and

WHEREAS, the President and Board of Trustees, having considered the recommendations of the PCZBA and being fully advised in the premises, have determined that it is in the best interests of the Village and its residents to amend the Fairfield Village PUD to permit the Proposed Development, approve the Preliminary PUD Plat, and grant other relief for the Proposed Development on the Property, subject to the terms and conditions of this Ordinance as hereinafter set forth;

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: Amend Fairfield Village PUD, Approval of the Preliminary PUD Plat, and Provisional granting of Other Zoning Relief. Pursuant to Sections 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, the Village Board hereby: (a) approves an amendment to the Fairfield Village PUD to permit the Proposed Development; (b) grants preliminary approval of the Preliminary PUD Plat; and (c) grants zoning relief with respect to the building height, parking, porte cochere, and temporary location of the PWS Antenna Facilities relating to the Proposed Development on the Property.

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 planned unit development plat, 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, 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 from 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 conformance with the Preliminary PUD Plat and otherwise comply with all applicable laws, including without limitation the Zoning Code. This

Ordinance shall be null and void unless the Applicant has obtained approval of the Final PUD Plat within such two year period. The Final PUD Plat shall depict all easement areas, private roadways, and Development Amenities.

- 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 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 Proposed Development, which plans shall be subject to the review and approval of the Architectural Committee, the Village Planner, and the Village Forester as part of the Final PUD Plat.
- F. Building Design. The exterior appearance of the buildings for the Proposed Development shall be subject to the review and approval of the Village's Architectural Committee.
- G. 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, including without limitation Section 6-5-6 of the Code.
- H. Development Amenities. The Applicant shall provide details plans for the Development Amenities that shall be subject to the review and approval of the Village Engineer and PCZBA and subject to the final approval of the Village Board.
- I. Operational Impact Controls. The Applicant shall provide details plans for the Operational Impact Controls that shall be subject to the review and approval of the Village Manager and subject to the final approval of the Village Board.
- J. Emergency Plans. The Applicant shall consult with the Long Grove Fire Protection District regarding its Emergency Plans and thereafter provide details for the Emergency Plans that shall be subject to the review of the PCZBA and Village Manager and subject to the final approval of the Village Board.
- K. PWS Antenna Facilities. The Applicant shall provide details for the temporary outdoor location of the PWS Antenna Facilities and the ultimate disposition of the PWS Antenna Facilities, which details shall be subject to review of the PCZBA and final approval of the Village Board.
- L. Height Restriction. Notwithstanding the definition of "building height" contained in Section 5-2-2 of the Long Grove Zoning Code, the cupola for the Proposed Development may extend up to 42' in height.
- M. Liquor; Video Gaming. Any request for a liquor license in connection with the Proposed Development shall be subject to the terms and provisions of the Village alcoholic beverages regulations; provided, however, under no circumstance may video gaming be permitted in connection with the Proposed Development.

- N. Fees and Costs. The Applicant and Owner shall be responsible for paying all applicable fees relating to the granting of the approvals set forth herein in accordance with the Long Grove Zoning Code. In addition, the Applicant and Owner shall reimburse the Village for all of its costs (including without limitation engineering, planning, and legal expenses) incurred in connection with the review, consideration, approval, implementation, or enforcement of this Ordinance 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 the Owner and upon any and all of the Applicant's and Owner'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 or Owner, as the case may be, 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 and Owner to provide the Village with an enforceable transferee assumption agreement as herein provided shall result in the Applicant and Owner 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 and Owner.
- P. Fairfield Village PUD. Except as otherwise provided in this Ordinance, the Fairfield Village PUD shall remain in full force and effect.

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 the Applicant and Owner have (i) caused duly authorized representatives of the Applicant and Owner to execute and (ii) thereafter files with the Village their 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 and Owner do not so file their 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 _____, 2014.

AYES:

NAYS:

ABSENT:

APPROVED this ____ day of _____, 2014.

Village President

ATTEST:

Village Clerk

3670445_v2

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B
PRELIMINARY PUD PLAT

[ATTACH PLANS]

DRAFT

EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

Pursuant to Section Four of Long Grove Ordinance No. 2014-O-___, and to induce the Village of Long Grove to grant the approvals provided for in that Ordinance, the undersigneds acknowledges 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 Ordinance No. 2014-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 and/or Owner 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 and Owner 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 and Owner.

Harbor Retirement Associates

By: _____

Its: _____

Long Grove Associates, LLC

By: _____

Its: _____