

**Item #3:**  
**Ordinance Approving Harbor Retirement Associates**  
1190 Old McHenry Road

**VILLAGE OF LONG GROVE**

**ORDINANCE NO. 2014-O-\_\_**

**AN ORDINANCE APPROVING A FINAL PLANNED UNIT DEVELOPMENT PLAT  
FOR THE HARBORCHASE SENIOR CARE FACILITY**

Adopted by the  
President and Board of Trustees  
of  
the Village of Long Grove  
this \_\_<sup>th</sup> day of November, 2014

Published in pamphlet form by direction  
and authority of the Village of Long Grove,  
Lake County, Illinois  
this \_\_<sup>th</sup> day of November, 2014

VILLAGE OF LONG GROVE

ORDINANCE NO. 2014-O-\_\_

**AN ORDINANCE APPROVING A FINAL PLANNED UNIT DEVELOPMENT PLAT  
FOR THE HARBORCHASE SENIOR CARE FACILITY**

**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, 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 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 planned unit development plat, and other zoning 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 zoned in the Village's R-2 Single-Family Residence District, subject to the Fairfield Village PUD; and

**WHEREAS**, the existing building on the Property, which will be demolished in connection with the Proposed Development, houses cellular antenna facilities (the "**PWS Antenna Facilities**"), which must be temporarily relocated on the Property during the construction of the Proposed Development and permanently removed or relocated upon the completion of the Proposed Development; and

**WHEREAS**, pursuant to Ordinance 2014-O-12 (the “**Preliminary PUD Ordinance**”), the Village President and Board of Trustees: (i) approved an amendment to the Fairfield Village PUD; (ii) granted approval of a preliminary planned unit development plat, as defined in the Preliminary PUD Ordinance (“**Preliminary PUD Plat**”); and (iii) granted zoning relief with respect to the building height, parking, porte cochere, and temporary location of PWS Antenna Facilities relating to the Proposed Development (collectively, the “**Preliminary Approvals**”), subject to the conditions and limitations set forth in the Preliminary PUD Ordinance; and

**WHEREAS**, the Preliminary Approvals were subject to, *inter alia*, the Applicant’s submission for review and approval of a final planned unit development plat that is in substantial conformance with the Preliminary PUD Plat and otherwise complies with all applicable laws, including without limitation the Long Grove Zoning Code (“**Zoning Code**”), within two years of the effective date of the Preliminary PUD Ordinance; and

**WHEREAS**, the Preliminary Approvals were further subject to, *inter alia*, the Applicant’s provision of details for the temporary outdoor location of the PWS Antenna Facilities, the ultimate disposition of the PWS Antenna Facilities, and the construction of various Development Amenities (as defined in the Preliminary PUD Ordinance), which details are subject to review by the PCZBA and final approval by the Village Board; and

**WHEREAS**, the Applicant timely submitted a final planned unit development plat (“**Final PUD Plat**”) and plans for the Proposed Development, including details regarding disposition of the PWS Antenna Facilities and the Development Amenities, copies of which Final PUD Plat and plans are attached to this Ordinance as Exhibit B and made a part hereof (collectively, “**Final PUD Plans**”), and requested approval of the Final PUD Plans in accordance with the terms of the Preliminary PUD Ordinance and Section 5-11-18 of the Zoning Code; and

**WHEREAS**, pursuant to Section 5-11-18(D)(3) of the Zoning Code, the Long Grove Plan Commission and Zoning Board of Appeals (“**PCZBA**”) conducted a public meeting on November 4, 2014 for the purpose of considering the Applicant’s request for approval of the Final PUD Plat; and

**WHEREAS**, during the public meeting, the PCZBA found as follows:

1. The construction and maintenance of the Proposed Development on the Property in accordance with the Final PUD Plans, subject to the conditions hereinafter set forth, is in the public interest and:
  - 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 set forth in the Zoning Code;
  - c. Is consistent with the zoning and subdivision regulations otherwise applicable to the Property except for reasonable and appropriate departures, including the deviations with respect to building height, parking, porte cochere, and temporary location of the PWS Antenna Facilities that were conditionally approved by the Preliminary PUD Ordinance, and is in the public interest;
  - d. Adequately provides for public services, vehicular traffic, open space, light and air, and recreational and visual enjoyment;
  - e. Is compatible with and beneficial to the adjacent properties and neighborhood;
  - f. Is desirable to the physical development and economic well-being of the community; and
  - g. Conforms with the intent and spirit of the Village’s Comprehensive Plan;
2. The Final PUD Plat substantially conforms with the Preliminary PUD Plat and satisfies the requirements for approving the Final PUD Plans to permit the Proposed Development on the Property, subject to the conditions and modifications hereinafter set forth;

**WHEREAS**, on November 4, 2014, the PCZBA recommended that the Final PUD Plans be approved, subject to certain conditions as set forth in the PCZBA’s recommendation to the Village President and Board of Trustees; 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 approve the Final PUD Plans 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 herein.

**SECTION TWO:**      **Approval of the Final PUD Plans.** The Final PUD Plans attached hereto as Exhibit B is hereby approved subject to the conditions and restrictions set forth in Section Three of this Ordinance.

**SECTION THREE:**      **Conditions on Approval.** The approval of the Final PUD Plans shall be, and is hereby, conditioned upon and limited by the following conditions, the violation of any of which shall, in the sole discretion of the President and Board of Trustees, render void all approvals granted pursuant to this Ordinance:

- 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 except only after all conditions of this Ordinance precedent to such work have been fulfilled, including without limitation Village approval of all final plans for the Proposed Development (including, without limitation, the plan approvals required by Subsections 3.c, 3.d, and 3.g this Ordinance) and recordation of a final planned unit development plat, and until 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. Except as otherwise provided in this ordinance and the Preliminary PUD Ordinance (Ordinance No. 2014-O-12), 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. 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 Engineering. The Final PUD Plans attached hereto as Exhibit B are subject to review, modification, and final approval by the Village Engineer. Any such plan modifications shall not require public notice or hearing or amendment to this Ordinance, unless otherwise determined by the Village Board.
- d. Final Landscaping. The landscaping and tree preservation plans included in the Final PUD Plans attached hereto as Exhibit B are subject to review, modification, and final approval by the Village Arborist. Any such plan modifications shall not require public notice or hearing or amendment to this Ordinance, unless otherwise determined by the Village Board.
- e. Architectural Review. Applicant shall construct and maintain the Proposed Development in general conformity with the architectural plans and lighting plans as ultimately approved by the Village Architectural Commission (the "**Final Architectural Plans**").
- f. PWS Antenna Facilities. The Applicant shall cause the PWS Antenna Facilities to be temporarily relocated to the location depicted on the Final PUD Plans prior to beginning construction of the Proposed Development, and shall cause the PWS Antenna Facilities to be permanently removed or relocated off of the Property no later than May 1, 2016.
- g. Development Amenities. The Applicant shall construct and maintain (except as otherwise noted) the Development Amenities as depicted on the Final PUD Plans, including extension of the Village pathway system, landscaping, signage, and extension of the Village public water system, subject to the following modifications:
  - i. Public Water System. The Final PUD Plans shall be modified to include extension of the existing Village water main on Route 83 from the western edge of the Property along Old McHenry Road to the intersection of Old McHenry Road and Robert Parker Coffin Road.

- ii. Wayfinding Signage. The Final PUD Plans shall be modified to include wayfinding signage on the Property adjacent to the intersection of Route 53 and Route 83 providing direction to the Village's historic downtown, consistent with the Village's Downtown Master Plan.

The plan modifications required by this subsection 3.g shall be subject to review and final approval of the Village Engineer and Village Manager, and such modifications shall not require public notice or hearing or amendment to this Ordinance unless otherwise determined by the Village Board.

- h. Designation of Approved Final PUD Plans. Upon the review and approval of the Final PUD Plans (including without limitation the Final PUD Plat, engineering plans, landscaping and tree preservation plans, and architectural plans) in accordance with Sections 3.c, 3.d, 3.e, and 3.g of this Ordinance (including any modifications to the Final PUD Plans attached hereto as Exhibit B)(the "**Final Approved Plans**"), the Village Manager shall sign and date such Final Approved Plans and cause a true and correct copy of the signed and dated Final Approved Plans to be recorded against the Property.
- i. 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. 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 review, consideration, approval, implementation, or enforcement of this Ordinance. 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.
- j. Transferees. The rights and obligations set forth in this Ordinance shall be binding on the Owner and Applicant, and upon any and all of their 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 Owner and/or Applicant shall be released from their obligations under this Ordinance to the extent of the transferee's assumption of such liability. The failure of the Owner or Applicant to provide the Village with an enforceable transferee assumption agreement as herein provided shall result in the Owner and/or

Applicant remaining fully liable for all of their obligations under this Ordinance but shall not relieve the transferee of its liability for all such obligations as a successor to Owner or Applicant.

- k. Continued Effect of the Planned Unit Development. Except as expressly modified by this Ordinance, the terms and conditions of Ordinance No. 2014-O-12 shall remain in full force and effect. Except as expressly modified by this Ordinance and Ordinance No. 2014-O-12, the Fairfield Village PUD shall remain in full force and effect, and the Owner and Applicant shall comply with all requirements, conditions, and restrictions therein. To the extent any terms of this Ordinance conflict with the terms of Ordinance No. 2014-O-12 or the Fairfield Village PUD, the terms of this Ordinance shall control.

In addition, any violation of this Ordinance shall be deemed a violation of the Long Grove Village Code and shall subject the Owner or 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 caused duly authorized persons to execute and thereafter file 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 Owner and Applicant do not so file the 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 all 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 \_\_\_<sup>th</sup> day of November, 2014.

AYES: ( )

NAYS: ( )

ABSENT: ( )

APPROVED this \_\_\_<sup>th</sup> day of November, 2014.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village

Clerk

**EXHIBIT A**

**Legal Description of the Property**

DRAFT

**EXHIBIT B**  
**FINAL PUD 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 such Ordinance, the undersigneds acknowledge for the Owner and Applicant and their successors and assigns in title to the Subject Property that each of the Owner and Applicant:

1. has read and understands all of the terms and provisions of said Ordinance No. 2014-O-\_\_;
2. hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of Ordinance No. 2014-O-\_\_, Ordinance No. 2014-O-12, and Ordinance No. 79-O-38, and any amendments thereto; the Long Grove Zoning Code; and all other applicable codes, ordinances, rules, and regulations;
3. acknowledges and agrees 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 approvals or permits for the use of the Property, and that the Village's issuance of any approval or permit does not, and shall not, in any way, be deemed to insure the Owner or Applicant against damage or injury of any kind and at any time;
4. acknowledges that all public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right;
5. agrees to and does 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 Owner and the Applicant pursuant to the Ordinance; and
6. represents and acknowledges that the persons signing this Unconditional Agreement and Consent are duly authorized to do so on behalf of the Applicant and Owner.

**LONG GROVE ASSOCIATES, LLC**

**HARBOR RETIREMENT ASSOCIATES**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_