

VILLAGE OF LONG GROVE

ORDINANCE NO. 2021-O-_____

**AN ORDINANCE REZONING CERTAIN PROPERTY TO THE R-2 DISTRICT,
AMENDING A SPECIAL USE PERMIT FOR A PLANNED UNIT
DEVELOPMENT, AND APPROVING A PRELIMINARY PLANNED
UNIT DEVELOPMENT PLAT AND PLANS AND PRELIMINARY PLAT OF
RE-SUBDIVISION FOR THE PHILIP ESTATES PLANNED UNIT DEVELOPMENT**

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this _____ day of May, 2021

Published in pamphlet form by direction
and authority of the Village of Long Grove,
Lake County, Illinois
this _____ day of May, 2021

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WHEREAS, Canterbury Parc LLC ("**Applicant**"), is the owner of certain real property consisting of approximately 34.82 acres generally located on the south side of Cuba Road east of Deerwood Drive in the Village of Long Grove and legally described in Exhibit A, hereto ("**Property**"); and

WHEREAS, the Property is currently zoned in the Village's R-1 residential zoning district, and pursuant to Ordinance Nos. 2005-O-23 and 2008-O-16 (collectively, the "**Original PUD Ordinance**") the Village previously approved a special use permit for a planned unit development on the Property and granted preliminary and final PUD and subdivision approvals for development of a 12-lot residential subdivision to be served by a communal septic system and private wells; and

WHEREAS, the Property has not been developed in accordance with the Original PUD Ordinance and currently consists of vacant, undeveloped land; and

WHEREAS, the Applicant now desires to develop the Property with a residential subdivision consisting of 19 buildable lots to be served by a privately-owned community water system and public sanitary sewer system, approximately 13.27 acres of conservation areas and permanent open space, private roadways, stormwater and drainage facilities, utility facilities, and related residential subdivision improvements (the "**Proposed Development**"); and

WHEREAS, the Applicant has filed an application requesting that the Property be rezoned from the Village's R-1 Single Family Residence District to the R-2 Single Family Residence District ("**R-2 District**") and further requesting an amendment to the Original PUD Ordinance, approval of a new preliminary planned unit development plat and plans and related

zoning relief, and approval of a preliminary plat of re-subdivision to permit the Proposed Development on the Property (collectively, the “**Requested Relief**”); and

WHEREAS, in support of its application for the Requested Relief the Applicant has submitted to the Village plans and information relating to the Proposed Development, consisting of:

- i. Preliminary Plat of Subdivision for the Philip Estates Subdivision, consisting of two sheets prepared by Edward J. Molloy & Associates, with a last revision date of February 9, 2021;
- ii. Preliminary Engineering Plan, consisting of 6 sheets prepared by Cross Engineering & Associates, Inc., with a last revised date of February 11, 2021;
- iii. Preliminary Landscape Plans, consisting of six sheets prepared by Allen L. Kracower & Associates, with a last revision date of November 10, 2020;
- iv. Wetland Delineation Report, prepared by Midwest Ecological, with a last revised date of November 6, 2020;
- v. Preliminary Stormwater Management Summary, prepared by Cross Engineering & Associates, Inc., with a last revised date of February 11, 2021;
- vi. Sanitary Sewer Lift Station Design Memorandum, consisting of 7 pages prepared by RHMG Engineers, Inc., dated April 9, 2018;
- vii. Water Supply Memorandum, consisting of 3 pages prepared by RHMG Engineers, Inc., dated October 30, 2017; and
- viii. Traffic Impact Study, consisting of 58 pages prepared by KLOA, Inc., dated May 20, 2019;

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

WHEREAS, pursuant to notice duly published in the *Daily Herald*, the Long Grove Plan Commission/Zoning Board of Appeals (the “**PCZBA**”) conducted a public hearing on March 2, 2021 for the purposes of hearing and considering testimony regarding the Requested Relief for the Property and the Proposed Development; and

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

1. The Property is currently zoned R-1 PUD and was previously granted final subdivision and PUD approvals pursuant to the Original PUD Ordinance. The

Property has not been developed pursuant to the Original PUD Ordinance and currently consists of vacant, undeveloped land.

2. Applicant is requesting that the Property be rezoned in the R-2 District and that the Original PUD Ordinance be amended to approve the Preliminary Plans for the Proposed Development and to approve a preliminary plat for re-subdivision of the Property.
3. According to the testimony and other evidence presented by the Applicant, including without limitation the Preliminary Plans, the Proposed Development would consist of 19 buildable lots to be developed with custom single family residential dwellings, as well as approximately 13.27 acres of conservation areas and permanent open space, private roadways, stormwater and drainage facilities, utility facilities, and other common improvements. The Proposed Development is proposed to be served by the Lake County public sanitary sewer system and by a private community potable water system operated by the adjacent Glenstone Homeowners' Association.
4. The overall density of the Proposed Development (19 buildable lots on approximately 34.82 gross acres of land) is consistent with the density permitted under the R-2 District zoning regulations (which provide for a two-acre minimum lot size) subject to approval of a 15% density increase. The Applicant is requesting a 15% density increase pursuant to Section 5-11-18(E)(m)(3) of the Zoning Code in light of the quality and design of the Proposed Development, including its preservation of existing trees, open space, and natural resources on the Property; construction of new public pathways; and utility system improvements.
5. The Applicant testified that the Proposed Development shall be constructed in accordance with the Preliminary Plans.
6. The evidence presented demonstrates that, subject to the conditions hereinafter set forth, the Property is appropriately classified in the R-2 District, which zoning designation is consistent with adjacent properties and development trends in the immediate neighborhood, including the existing R-2 PUD Glenstone Subdivision residential development located to the north of the Property.
7. The evidence presented further demonstrates that, subject to the conditions hereinafter set forth, 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 and overall site density, and such departures are authorized pursuant to Section 5-11-18(G) and 5-11-18(E)(m)(3) of the Zoning Code and are deemed to be in the public

interest due to the overall design and quality of the Proposed Development, including the preservation of wetlands, trees, open space, and other significant natural resources; construction of new public pathways; and utility system improvements;

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

8. The evidence presented demonstrates that the Proposed Development satisfies all applicable requirements for classifying the Property in the R-2 District, amending the Original PUD Ordinance, and approving the Preliminary Plans 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 March 2, 2021, the PCZBA recommended that the Property be re-zoned to the R-2 District, that the Original PUD Ordinance be amended as set forth herein, and that the Preliminary Plans be approved pursuant to Section 5-11-18 of the Zoning Code, along with the necessary deviations from otherwise applicable lot size and density regulations to permit the Proposed Development on the Property; and

WHEREAS, following the PCZBA recommendation, the Applicant has offered to contribute \$107,000.00 to the Village pathway system, as more specifically set forth in this Ordinance; and

WHEREAS, the President and Board of Trustees, having considered the recommendations of the PCZBA and being fully advised in the premises, adopt the findings set forth above and determine that it is in the best interests of the Village and its residents to grant the Requested Relief to permit 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: Rezoning. Pursuant to Section 5-11-16 of the Long Grove Zoning Code and subject to the terms and conditions of this Ordinance, the Property is hereby zoned in the R-2 Single Family Residence District.

SECTION THREE: Amendment of the Original PUD Ordinance and Approval of the Preliminary Plans and Preliminary Subdivision Plat.

(a) 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 Four of this Ordinance, the Original PUD Ordinance shall be, and is hereby, amended to approve the Preliminary Plans for the Proposed Development as the preliminary PUD plat and plans for the Property. All other prior preliminary and final PUD approvals for the Property (including those previously granted by the Original PUD Ordinance) are hereby vacated, repealed, and superseded by the approvals granted in this Ordinance.

(b) Pursuant to Sections 6-2-2 and 6-3-2 of the Subdivision Code, and subject to the limitations therein and the conditions set forth in Section Four of this Ordinance, the "Preliminary Plat of Subdivision for the Philip Estates Subdivision" as set forth in the Preliminary Plans is hereby approved as a preliminary plat of re-subdivision for the Property.

(c) In connection with approval of the Preliminary Plans pursuant to this Ordinance, the Village Board hereby further approves: (i) a 15% density increase pursuant to Section 5-11-18(E)(m)(3) of the Zoning Code to permit development of 19 buildable lots on the Property as depicted on the Preliminary Plans; and (ii) relief from the otherwise applicable Zoning Code requirements for lot size pursuant to Section 5-11-18(G)(3) of the Zoning Code to permit lot

sizes within the Proposed Development as depicted on the Preliminary Plans and in no event less than 40,148 square feet in size.

SECTION FOUR: Conditions on Approval. The approvals granted pursuant to Sections Two and Three of this Ordinance shall be, and 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, final 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 Village of Long Grove Zoning Code, Subdivision Code, Building Code, Tree Preservation Ordinance, and all other applicable ordinances and regulations of the Village shall continue to apply to the Property except as expressly modified by this Ordinance. Additionally, the development and use of the Property shall comply with all applicable laws, code, ordinances, 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. The Preliminary Plan approvals granted by Section Three of 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 protected wetlands, permanent open space areas, conservancy and scenic corridors and easements and other conservation areas, utility and stormwater drainage and detention facilities and easements, pathways, and private roadways and traffic 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 such easement rights, conservation rights, or other property rights (but not fee simple

title) as may be requested by the Village for preservation, maintenance, and use of wetland, conservancy, stormwater, drainage, scenic corridor, utility, and pathway facilities and areas on the Property.

- D. Final Subdivision Plat. Within two years after the effective date of this Ordinance, the Applicant shall submit to the Village for its review and approval a final subdivision plat for the Proposed Development that substantially conforms with the preliminary plat of subdivision included in the Preliminary Plans and satisfies all applicable requirements of the Subdivision Code for final plats of subdivision. Such final plat shall be subject to the Village Engineer's review and Village Board approval as part of the Final PUD Plat and in accordance with the Subdivision Code.
- E. Final Engineering. The Applicant shall submit to the Village for its review and approval final engineering plans for the Proposed Development that substantially conform with the engineering plans included in the Preliminary Plans, which plans shall be subject to the Village Engineer's review and Village Board approval as part of the Final PUD Plat.
- F. Final Landscaping. The Applicant shall submit to the Village for its review and approval final landscaping plans for the Property that substantially conform with the landscaping plans included in the Preliminary Plans, which plans shall be subject to the Village Forester's review and Village Board approval as part of the Final PUD Plat.
- G. Declaration of Covenants and Restrictions. Prior to the recordation of the Final PUD Plat, the Applicant shall record a declaration of covenants and restrictions ("**Declaration**"), which Declaration shall be subject to the review and approval of the Village Manager in consultation with the Village Attorney. The Declaration shall, at a minimum, include provisions: (a) establishing a homeowners' association for the entire Property (the "**HOA**") having adequate means to undertake the financial and related obligations described herein; (b) requiring preservation in perpetuity of all platted conservation, scenic corridor, and permanent open space areas on the Property; (c) requiring maintenance in perpetuity by the HOA of all platted outlots, conservation and open space areas, private roadways and related improvements, landscaping in outlots and common areas, pathways, stormwater detention facilities, common utility system improvements and facilities, and all other common areas and improvements on the Property; and (d) authorizing, but not requiring, the Village to perform such maintenance, including maintenance of landscaping and pathways, at the expense of the HOA if the HOA fails to fulfill its obligations under the Declaration and to file a lien against the Property in the amount of any maintenance costs and expenses incurred by the Village.
- H. Roadways. Applicant, at its sole expense, shall construct roadways within the Proposed Development in substantial conformity with the Preliminary Plans and in accordance with the approved Final PUD Plat. The roadways shall be owned and maintained in perpetuity by the HOA in accordance with the Final PUD Plat and Declaration. Applicant or the HOA shall not establish any restrictions on vehicular or pedestrian access to the roadways within the Proposed

Development, other than reasonable and generally applicable traffic control and safety regulations.

- I. Pathways. Applicant, at its sole expense, shall install pathways within the Proposed Development and adjacent Cuba Road right-of-way in substantial conformity with the Preliminary Plans and in accordance with the approved Final PUD Plat ("**Pathways**"); provided, however, that the finished surface of all Pathways shall be a minimum of six feet (6') in width. The Final PUD Plat and Declaration shall provide for the Pathways to be owned and maintained by the HOA, but such Pathways shall be subject to an easement for use by the general public. In addition, Applicant agrees to contribute the following sums for use in the development of the Village path system:
 - i. \$50,000.00 to be paid following the approval of the final plat of subdivision for the Proposed Development but prior to recordation of such plat; and
 - ii. \$3,000.00 at the time of issuance of a certificate of occupancy for each lot.

- J. Water Service. Potable water service shall be provided to the Proposed Development via a private water system. All necessary on- and off-site water system improvements and facilities shall be built at the Applicant's sole cost and expense in accordance with the Final Engineering Plans and Final PUD Plat and in compliance with all applicable laws, codes, and regulations. Applicant shall obtain and establish at its sole expense all necessary property rights, approvals, and authorizations for any and all off-site water system improvements. The water source that serves the Proposed Development must satisfy all applicable federal and State standards for safe drinking water.

- K. Sanitary Sewer Service. Sanitary sewer service shall be provided to the Proposed Development via connection to the Lake County public sanitary sewer system pursuant to an agreement between Applicant and Lake County in a form acceptable to the Village. Applicant shall obtain and establish at its sole expense all necessary property rights, approvals, and authorizations for any and all off-site sanitary sewer system improvements. All necessary sanitary sewer system improvements and facilities shall be built at the Applicant's sole cost and expense in accordance with the Final Engineering Plans and Final PUD Plat and in compliance with all applicable laws, codes, and regulations. The Village hereby authorizes the Property to be served by the Lake County public sanitary sewer system in accordance with the Village's sanitary sewer service agreement with Lake County.

- L. 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. 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.

- M. 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.

- N. 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, provided, however, that the widths of the scenic corridor areas on the Property shall be as depicted on the Preliminary PUD Plat. In addition, all conservancy and scenic corridor areas on the Property shall be depicted on the Final PUD Plat in locations that are either owned in fee simple by the HOA or are subject to easements in a form satisfactory to the CSCC and Village Manager (in consultation with the Village Attorney) providing for appropriate control and maintenance of the conservancy and scenic corridor areas by the HOA.
- O. Signage and Lighting. No signage or exterior lighting may be installed on the Property without prior review and approval from the Village’s Architectural Commission.
- P. Maximum Floor Area. The maximum floor area of each residential dwelling unit constructed on the Property shall comply with the applicable regulations of the R-2 District[; **provided, however that in no event may any residential dwelling unit on the Property exceed [5,500] square feet of floor area**].
- Q. 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 Plans, 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.
- R. 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 FIVE: 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 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 May, 2021.

AYES: ()

NAYS: ()

ABSENT: ()

APPROVED this ___day of May, 2021.

Village President

ATTEST:

Village Clerk

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B
PRELIMINARY PLANS

[ATTACH PLANS]

EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

Pursuant to Section Five of Long Grove Ordinance No. 2021-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. 2021-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, regulations, and approvals applicable to the development;
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, defend, 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 with respect to Property or any Village action respecting the development thereof, including without limitation the adoption of the Ordinance or granting the approvals to the Owner pursuant to the Ordinance, except as may arise from the Village's gross negligence or willful misconduct, and provided that the Village shall assert its available immunities in connection with such claims; in the event that the Village elects to retain separate counsel in defense of any such claims, the undersigneds hereby agree to reimburse the Village for its attorneys' fees and costs incurred in connection of such defense of claims; 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.

CANTERBURY PARC, LLC

By: _____

Its: _____

