

**VILLAGE OF LONG GROVE**

**ORDINANCE NO. 2023-O-\_\_\_\_\_**

**AN ORDINANCE APPROVING A FINAL PLANNED  
UNIT DEVELOPMENT PLAT AND PLANS AND FINAL PLAT OF  
SUBDIVISION FOR THE PHILIP ESTATES PLANNED UNIT DEVELOPMENT**

Adopted by the  
President and Board of Trustees  
of  
the Village of Long Grove  
this \_\_\_\_th day of June, 2023

Published in pamphlet form by direction  
and authority of the Village of Long Grove,  
Lake County, Illinois  
this \_\_\_\_th day of June, 2023

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**WHEREAS**, Philip Estates LLC ("**Applicant**"), is the owner of certain real property consisting of approximately 34.8 acres generally located on the south side of Cuba Road east of Deerwood Drive in the Village of Long Grove (the "**Village**") and legally described in Exhibit A, hereto ("**Property**"); and

**WHEREAS**, pursuant to Village Ordinance No. 2021-O-7 (the "**Preliminary PUD Ordinance**"), the Village rezoned the Property into the R-2 Residential District under the Village Zoning Code, approved a preliminary plat of re-subdivision for the Property, granted a special use for the Property as a planned unit development, and approved a preliminary planned unit development for development of a 19-lot residential subdivision 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 approval of a final planned unit development plat for the Proposed Development; and

**WHEREAS**, pursuant to notice duly provided, the Long Grove Plan Commission conducted a public meeting on June 6, 2023 for the purposes of considering Applicant's request for approval of the final planned unit development plat to permit the Proposed Development on the Property in accordance with the final planned unit development application materials; and

**WHEREAS**, during the public meeting, representatives of Applicant presented the following plats and plans for the Proposed Development:

1. Final Plat of Philip Estates Subdivision prepared by Edward J. Molloy & Associates, consisting of 3 sheets with a last revised date of March 29, 2023 ("**Final Plat**");
2. Philip Estates Subdivision Site Improvement Plans, prepared by Haeger Engineering consisting of 35 sheets with a last revised dates of September 30, 2022 and October 10, 2022 ("**Engineering Plans**");
3. The Landscape Plan and Tree Survey, prepared by The JNL Design Group, Inc., consisting of 7 sheets with a last revised date of April 14, 2023 ("**Landscape Plans**");
4. The Final PUD Plat, prepared by Haeger Engineering consisting of 1 sheet dated March 20, 2023 (the "**Final PUD Plat**");
5. The Final Stormwater Management Summary, prepared by Cross Engineering Associates, Inc. consisting of 146 pages and dated February 2023, along with (i) the Storm Sewer Computation Sheet consisting of 1 sheet, (ii) Combined Pipe/Node Storm Sewer Report consisting of 1 sheet, and (iii) Storm Sewer Exhibit prepared by Haeger Engineering consisting of 1 sheet and dated February 16, 2023 (collectively, the "**Stormwater Studies**");

all attached to this Ordinance as Exhibit B and by this reference incorporated herein and made a part hereof (collectively, the "**Final PUD Plans**"); and

**WHEREAS**, after the conclusion of the public meeting, the Plan Commission made the following findings based on the evidence and testimony presented by Applicant:

1. The Proposed Development will be constructed in accordance with the Final PUD Plans, which Plans substantially conform to the Preliminary PUD Ordinance.
2. 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 with the intent and spirit of the comprehensive plan of the Village.
- 3. The Proposed Development satisfies the requirements for approving a final planned unit development plat to permit the Proposed Development on the Property, subject to the terms and conditions hereinafter set forth;

**WHEREAS**, based on these findings, the Plan Commission recommended that the Final PUD Plans be approved to permit the Proposed Development on the Property; and

**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 approve the Final PUD Plans to permit the construction of 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: Approval of the Final PUD Plans.** Pursuant to Section 5-11-18 of the Long Grove Zoning Code ("**Zoning Code**") and other applicable authority, and subject to the limitations therein and the conditions set forth in Section Three of this Ordinance, the Final PUD Plans shall be, and are hereby, approved to permit the Proposed Development on the Property. Upon satisfaction of the conditions precedent set forth in Sections 3.C and 3.P of this Ordinance, the appropriate Village officials shall be deemed authorized and directed to execute the Final Plat for recording.

**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 recordation of the Final Plat, and after all permits, approvals, and other authorizations for such work have been properly applied for, paid for, and granted in accordance with the Requirements of Law (as hereinafter defined).
- 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 (including the Village) and agencies having jurisdiction (the “**Requirements of Law**”), as well as the approvals of the Conservancy Scenic Corridor Committee (“**CSCC**”) in accordance with the Village Code and the requirements of the Preliminary PUD Ordinance.
- C. Revisions to Engineering Plans; Technical and Field Modifications to Final PUD Plans. Applicant shall proceed with the Proposed Development in accordance with the Final PUD Plans, subject to:
  - 1. Revisions to the Engineering Plans to provide for the replacement of pre-existing drain tiles on the Property; provided, however, that Applicant may seek a variance from this requirements of this Ordinance and of the Village and County Watershed Development Ordinance, which variance shall be subject to approval by resolution of the Village Board.
  - 2. Such technical modifications that are reasonably required by the Village Engineer to ensure compliance with all Requirements of Law, as well as such modifications approved by the Village Engineer for purposes of addressing field conditions affecting the implementation of the Final PUD Plans; provided, however, that any such modifications that require changes to the Final PUD Plans that will materially affect the character of the Proposed Development shall only be approved following review and approval of the Village Board.
- D. Other Governmental Approvals. The Final Plat shall not be recorded unless and until Applicant has applied for and obtained all required permits and approvals, including from the Lake County Stormwater Management Commission, the Lake County Public Health Department, and the Lake County Public Works Department (“**LCPWD**”). To the extent such approvals are subject to conditions that affect any of the approved Final PUD Plans, the Final Plat shall not be

recorded unless and until the Village Engineer approves any necessary revisions to the approved Final PUD Plans and the Village Manager and Village Engineer confirm that such conditions or necessary revisions do not materially change other elements of the Final PUD Plans, which approval or confirmation shall not be unreasonably withheld or delayed.

E. 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 in accordance with the Engineering Plans, subject to any modifications to such Engineering Plans as approved in writing by the Village Engineer. The Village hereby consents to such connection. The construction and installation of the sanitary sewer system as provided in the Engineering Plans shall be the responsibility of the Applicant, without cost or expense to the Village; provided, however, that, Applicant shall be solely responsible for securing all easements and authorizations for such installation prior to construction thereof. Following final approval by the Village Engineer (and, to the extent applicable, the LCPWD) of Applicant's installation of the sanitary sewer system to serve the Property:

1. The operation, maintenance, repair, and replacement of all on-site sanitary sewer facilities (the "**On-Site Sewer Facilities**") shall be the responsibility of the Applicant without cost or expense to the Village, except that Applicant may transfer such responsibilities relating to the On-Site Sewer Facilities to a duly established home owners' association (the "**HOA**") that is governed by a declaration of covenants, conditions, and restrictions approved by the Village Attorney (the "**CCRs**") in accordance with Section 3.K of this Ordinance; provided, however, that any such transfer of the On-Site Sewer Facilities shall not occur until at least 30 days after Applicant shall have provided the Village Manager with written notice of such proposed transfer; and
2. Unless the LCPWD otherwise directs, the Applicant shall dedicate all components of the sanitary sewer facilities to be installed outside the boundaries of the Property (the "**Off-Site Sewer Facilities**") to LCPWD following approval of their installation by the Village Engineer and LCPWD. Until LCPWD accepts dedication of the Off-Site Sewer Facilities, the Applicant shall be responsible for their operation, maintenance, repair, and replacement without cost or expense to the Village or LCPWD; but
3. If LCPWD directs that the Off-Site Sewer Facilities are not to be dedicated or accepted by LCPWD, then the operation, maintenance, repair, and replacement of the Off-Site Sewer Facilities shall be the responsibility of the Applicant without cost or expense to the Village, except that Applicant may transfer such responsibilities relating to the Off-Site Sewer Facilities to the HOA; provided that any such transfer of the Off-Site Sewer Facilities shall not occur until at least 30 days after Applicant shall have provided the Village Manager with written notice of such proposed transfer. In addition, for purposes of operating, maintaining, repairing, and replacing of the

Off-Site Sewer Facilities pursuant to this Subsection 3.E.3, the Applicant (or the HOA if so transferred) shall:

- (a) be deemed a public utility for purposes of locating the Off-Site Sewer Facilities within any public right-of-way under the Village's jurisdiction (the "**Village R-O-Ws**");
  - (b) notify the Village of any activities to occur within the Village R-O-Ws and secure such approvals and authorizations from the Village as provided in the Village Code and other Village ordinances and enactments (including any conditions reasonably imposed in connection with the granting of any such approval or authorization);
  - (c) undertake all necessary and appropriate safety measures while undertaking any activities in the Village R-O-Ws as may be required by the Village; and
  - (d) restore the Village R-O-Ws to a safe condition in a manner at least as good as had existed prior to undertaking such activities in the Village R-O-Ws.
- F. Impact Fees. The Applicant shall comply with the applicable impact fee requirements contained in Section 5-11-18(K) of the Zoning Code and Chapter 9 of Title 6 of the Long Grove Village Code. The aggregate final amount of impact fees due for the Proposed Development shall be \$264,480.00, as further described in Exhibit C hereto, and the "Fee per Dwelling Unit" set forth in Exhibit C shall be paid by the Applicant prior to issuance of any building permit for a residence on any particular residential lot on the Property.
- G. Improvements. As a condition precedent to the Village's issuance of any building permit for any improvements for the Proposed Development on the Property, the Applicant shall provide to the Village a letter or letters of credit in a form acceptable to the Village Attorney otherwise meeting the requirements of Section 6-5-6 of the Village Code.
- H. Roadways. The roadways within the Proposed Development shall be privately owned and maintained and installed in accordance with the Preliminary PUD Ordinance and the Final PUD Plans, as reviewed and approved by the Village Engineer and the Long Grove Fire Protection District.
- I. Fire Safety. All building plans for residences and accessory buildings within the Proposed Development shall be subject to the review and approval of the Long Grove Fire Protection District to ensure construction consistent with fire safety standards and the Requirements of Law.
- J. Pathways. Prior to the issuance of any certificate of occupancy for any lot on the Property, the Applicant shall construct and complete, at its sole cost and expense, pedestrian pathways in accordance with the requirements of the Preliminary PUD Ordinance and as depicted on the Final PUD Plans, which pathways shall be reasonably accessible to the general public. 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 or the CCRs for the Property, the Applicant shall be responsible for maintenance of the pathways in perpetuity.

- K. Declaration of Covenants and Restrictions. Contemporaneously with the recordation of the Final Plat, the Applicant shall record a declaration of covenants and restrictions (“**CCRs**”), which CCRs shall be subject to the review and approval of the Village Attorney. The CCRs shall satisfy the requirements set forth in the Preliminary PUD Ordinance. In addition, the CCRs may provide for the HOA to assume certain responsibilities of Applicant consistent with this Ordinance (or as otherwise approved by the Village Board). In addition, the CCRs shall provide, *inter alia*, for the Village to have the right (but not the responsibility) to undertake any action required of the Applicant or HOA under this Ordinance or the Requirements of Law and to (i) recover the cost thereof from the HOA or the owners of lots within the Property, (ii) recover the costs of enforcement or collection incurred by the Village (including attorneys’ fees), (iii) collect interest at an annualized rate of 9% on any amounts not paid within 30 days after a written demand by the Village therefor, and (iv) file a lien in the nature of a mortgage against each lot of record within the Property making the lot owners jointly and severally liable for the foregoing amounts.
  
- L. Design Standards. Prior to the issuance of a building permit for each lot to be developed upon the Property, the Applicant shall submit elevations and detailed plans and renderings for review and approval by the Architectural Commission as provided in Section 5-11-19 of the Zoning Code consistent with the requirements of this Ordinance, the Final PUD Plat, the requirements of the Preliminary PUD Ordinance (including without limitation the floor area provisions thereof), and the architectural control and anti-monotony regulations contained in the Long Grove 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 Commission.
  
- M. Compliance with Final PUD Plans, and Preliminary PUD Approval. The development, use, and maintenance of the Property shall comply with the Final PUD Plans, the terms of this Ordinance, and all provisions contained in the Preliminary PUD Approval; provided, however that to the extent any of the Final PUD Plans or other terms of this Ordinance differ from the Preliminary PUD Ordinance (including the preliminary plans approved thereby), the Final PUD Plans and the terms of this Ordinance shall govern.
  
- N. Landscape Plans. Landscaping on the Property shall be installed pursuant to the Landscape Plans included as part of the Final PUD Plans attached to this Ordinance. The Applicant (or the HOA, if assigned in accordance with the provisions of this Ordinance) shall be required to maintain such landscaping in



accordance with good arboricultural and landscaping practices. If, for whatever reason, any of the plantings depicted on any approved landscaping plans are removed, destroyed, or fail to survive two years following completion of installation of all such plantings, the Applicant shall, not later than the next planting season occurring at least 30 days after the applicable Applicant receives notice from the Village, replace such plantings with substitute plantings that substantially conform to the size and type of the original plantings, as depicted on the Landscape Plans. For purposes of this Subsection, a “planting season” shall be either the period between 15 April and 15 June or the period between 1 September and 1 November in any calendar year.

- O. Final Plat Approvals. Upon approval of this Ordinance, the Village Manager and Village Attorney shall confirm that the Final Plat conforms in all manners to the terms of this Ordinance and Requirements of Law and direct Applicant to make any final technical changes as required herein. Upon satisfactorily completing such changes, the Applicant shall deliver the Final Plat to the Village for execution and recording; provided however, that no signatures or certifications shall be affixed to the Final Plat by the Village until the Applicant shall have: (i) obtained all other approvals, sworn statements, signatures, and certifications required for the Final Plat; (ii) presented the Village with adequate evidence of merchantable fee simple title to the Property; (iii) paid to the Village any outstanding invoices for legal, engineering, consulting, and administrative fees, costs, and expenses as provided in Subsection 3.P of this Ordinance; (iv) deposited with the Village Clerk a sufficient sum, in current funds, to reimburse the Village for the actual cost of recording the Final Plat; and (v) delivered to the Village the fully executed CCRs in accordance with Subsection 3.K of this Ordinance. Following the execution and attestation of the Final Plat by the Village President and Village Clerk, the Village shall cause the Final Plat to be recorded in the office of the Lake County Recorder.
  
- P. 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 the Final PUD Plans. 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.
  
- Q. 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.

- R. Amendments. To the extent not prohibited by the Illinois Plat Act or the Village Code, any and all applications to amend this Ordinance and/or the Preliminary Plat Ordinance shall be required to be made and authorized only by the owner or owners of the property legally described in such application.

In addition, any violation of this Ordinance shall be deemed a violation of the Long Grove Zoning Code and shall subject 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 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 D, 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 \_\_\_th day of June, 2023.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_th day of June, 2023.

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

ATTEST:

\_\_\_\_\_  
Village Clerk

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

**EXHIBIT B**  
**FINAL PUD PLANS**

*[ATTACH PLANS]*

**EXHIBIT C**

**Impact Fees**

<b><u>Impact Fee</u><sup>1</sup></b>	<b><u>Fee Per Dwelling Unit</u></b>	<b><u>Number of Dwelling Units</u></b>	<b><u>Total Fee</u></b>
Elementary School	\$3,860.00	19	\$73,340.00
High School	\$2,160.00	19	\$41,040.00
Park Site	\$7,900.00	19	\$150,100.00
<b>Total</b>			\$264,480.00

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<sup>1</sup> See Village Code §§ 6-9-13 and 6-9-14.

**EXHIBIT D**

**UNCONDITIONAL AGREEMENT AND CONSENT**

Pursuant to Section Four of Long Grove Ordinance No. 2023-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. 2023-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 Applicant 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.

**PHILIP ESTATES, LLC**

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

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

