

MEMORANDUM

TO: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Community Development Director 

MEETING DATE: December 1, 2022

SUBJECT: **PC 22-02: 400 E. St. Charles Road: New Directions Housing – Final Ordinance of approval**

New Directions Housing, as petitioner and prospective contract purchaser of the property, is seeking a planned development amendment approval in order to provide for a 30-unit multiple-family dwelling unit on the property at 400 E. St. Charles Road. This petition was considered by the Plan Commission on January 24, 2022, and initially forwarded to the Village Board for consideration on March 17, 2022.

Prior to Board consideration of the petition, the petitioner and adjacent property owners at 500 E. St. Charles Road (Oakview Estates Condominium Association) alerted the Village that there were unresolved items related to maintenance and cross-access agreements for the shared driveway that serves the properties at 400 and 500 E. St. Charles Road. As the proposed development at 400 E. St. Charles Road assumes continued existence and use of the shared driveway, staff asked Village Counsel to review the matter. Counsel recommended that a formal cross-access agreement with the adjacent Oakview Estates Condominium Association prior to the Village Board taking final action on the petition.

Negotiations between the parties have been ongoing throughout 2022. At the request of the petitioner, the Village Board has continued the petition several times while the parties continued to work on this agreement. On July 21, 2022 and concurrent with a representation that the basic terms of an agreement had been reached amongst the parties, the Village Board approved a first reading of the associated zoning Ordinance.

On November 17, 2022, the petitioner informed staff that the parties have negotiated and completed a cross-access agreement that will be executed and recorded against both properties upon the petitioner's acquisition of the property at 400 E. St. Charles Road, which is projected to occur in 2023. As such, the petitioner therefore requests that the Village Board take final action on the zoning petition at the December 1, 2022 Village Board meeting.

As the cross-access agreement will not be executed until after December 1, 2022, Village staff and the Village Attorney recommend that should the Board approve the petition, the final ordinance should include a condition of approval memorializing the representation that the cross-access agreement will be executed and recorded after property acquisition. A revised draft ordinance on

the Village Board agenda has been updated to include this condition of approval. The previously transmitted plans and supportive information that was considered as part of the Plan Commission's public hearing process remain essentially unaffected.

This transmittal also includes a letter from the petitioner stating the finalization of the cross-access agreement.

REQUESTED ACTION:

This matter is being placed on the December 1, 2022, Village Board meeting agenda on "Items for Separate Action" for final consideration. Attached is the amended Ordinance of approval that would supersede the draft Ordinance that was considered by the Village Board at its July 11, 2022 meeting.

ORDINANCE NO. _____

**AN ORDINANCE GRANTING A MAJOR CHANGE TO A
PLANNED DEVELOPMENT PURSUANT TO TITLE 15,
CHAPTER 155, SECTION 155.504 OF THE LOMBARD ZONING
ORDINANCE, FOR THE PROPERTY AT 400 E. ST. CHARLES
ROAD IN THE OAKVIEW ESTATES PLANNED
DEVELOPMENT, AS ESTABLISHED BY ORDINANCE 5488
AND AMENDED BY ORDINANCES 7342, 7484, 7529, 7609, 7653,
AND 7811**

(PC 22-02: Oakview Estates Planned Development – 400 E. St. Charles Road)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, the Subject Property, as described in Section 2 below, is zoned R4PD Limited General Residence District Planned Development; and,

WHEREAS, the Subject Property, as described in Section 2 below, is subject to the standards for the Oakview Estates Planned Development, as adopted by the President and Board of Trustees of the Village of Lombard by Ordinance 5488 and amended by Ordinances 7342, 7484, 7529, 7609, 7653, and 7811; and,

WHEREAS, an application has heretofore been filed requiring approval of the following major change, pursuant to the Lombard Zoning Ordinance (Title 15, Chapter 155 of the Village Code):

1. Pursuant to Section 155.504 (A) (major changes in a planned development) of the Lombard Zoning Ordinance, amend the Oakview Estates Planned Development, as established by Ordinance No. 5488 and amended by Ordinances 7342, 7484, 7529, 7609, 7653, and 7811 as follows:
 - a. For the property located at 400 E. St. Charles Road, change the approved land use from attached single-family (townhomes) to multiple-family dwelling units, based upon the submitted plans.

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on February 21, 2022, pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the major changes, approval of the conditional use and approval of the deviation; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein;

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That major changes for a portion of a planned development as set forth below is hereby granted for the Subject Property legally described in Section 2, subject to the conditions set forth in Section 3:

1. Pursuant to Section 155.504 (A) (major changes in a planned development) of the Lombard Zoning Ordinance, amend the Oakview Estates Planned Development, as established by Ordinance No. 5488 and amended by Ordinance No. 7342, as follows:
 - a. For the property located at 400 E. St. Charles Road, change the approved land use from attached single-family (townhomes) to multiple-family dwelling units, based upon the submitted plans.

SECTION 2: That this ordinance is limited and restricted to the subject property generally located at 400 E. St. Charles Road, Lombard, Illinois, and more specifically legally described as set forth below:

LOT 1 IN OAKVIEW ESTATES SECOND RESUBDIVISION BEING A RESUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 5, AND THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED APRIL 27, 2018 AS DOCUMENT NUMBER R2018-036834, IN DUPAGE COUNTY, ILLINOIS.

PROPERTY COMMONLY KNOWN AS: 400 EAST ST. CHARLES ROAD,
LOMBARD, ILLINOIS

PIN: 06-05-426-010

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions:

1. That the petitioner shall develop the site in accordance with the plans submitted as part of this petition and referenced in the Inter-Departmental Review Committee Report, except as they may be changed to conform to Village Code;
2. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report;
3. That the development establish and maintain compliance with the Fair Housing Act's "Housing for Older Persons" Exemptions pursuant to 24 C.F.R. §§ 100.300-100.308;
4. That prior to the issuance of building permits by the Village, the petitioner and the Oakview Estates Condominium Association shall execute and record a mutually acceptable and duly authorized cross-access easement agreement pertaining to the subject property and the property at 500 E. St. Charles Road; in the event such cross-access easement agreement is not executed and recorded prior to the commencement time provisions as set forth within Section 155.103(F)(11) of Village Code, the approvals granted by this ordinance shall become null and void without the need for further action of the Village Board; and
5. This approval shall be subject to the commencement time provisions as set forth within Section 155.103(F)(11).

SECTION 4: That all other relief granted by Ordinances 7342, 7484, 7529, 7609, 7653, and 7811 is hereby repealed.

SECTION 5: This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Passed on first reading this _____ day of _____, 2022.

First reading waived by action of the Board of Trustees this _____ day of _____, 2022.

Passed on second reading this _____ day of _____, 2022, pursuant to a roll call vote as follows:

Ordinance No. _____

Re: PC 22-02

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Ayes: _____

Nays: _____

Absent: _____

Approved by me this _____ day of _____, 2022.

Keith T. Giagnorio, Village President

ATTEST:

Elizabeth Brezinski, Village Clerk

Published in pamphlet from this _____ day of _____, 2022.

Elizabeth Brezinski, Village Clerk

NEW DIRECTIONS HOUSING CORPORATION

November 17, 2022

Mr. Bill Heniff
Director of Community Development
Village of Lombard
255 E. Wilson
Lombard, Illinois 60148

Re: 400 East Apartments – Cross-Access Agreement

Dear Bill:

As you have requested:

- 1) A cross-access agreement has been negotiated and an agreement has been reached between the Seller, New Directions Housing Corporation and Oakview Estates Condominium Association. Upon acquisition of the property, the agreement will be executed by all parties and recorded against the properties.
- 2) New Directions does not object to a condition of approval being attached to the draft Ordinance of zoning entitlement for the subject property to memorialize this representation.

Sincerely,

New Directions Housing Corporation



Rodger Brown
President