3-O-18

AN ORDINANCE

Extending the Time for the Applicant to Obtain a Building Permit to Construct the Planned Development at 1815 Oak Authorized by Ordinance 47-O-16

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt legislation and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, et seq.) grants each municipality the power to establish zoning regulations; and

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended, ("the Zoning Ordinance"); and

WHEREAS, on July 25, 2016, the City Council enacted Ordinance 47-O-16, attached hereto as Exhibit 1 and incorporated herein by reference, which granted a Special Use Permit for a Planned Development (the "Planned Development") at 1815 Oak Avenue (the "Subject Property"), which is legally described in Exhibit 1; and

WHEREAS, Ordinance 47-O-16 approved the construction of a 10-story
independent and assisted living facility with 102 dwelling units, 31 assisted living units for residents with cognitive impairments, 30 memory care rooms at the Subject Property (the “Project”), which is detailed at length in Exhibit 1; and

WHEREAS, per Section 6-3-6-12(B), a minor adjustment to the Planned Development was approved by the Zoning Administrator on March 15, 2017 with the recommendation of the Design and Project Review Committee (“DAPR”) to reduce the Floor Area Ratio from 4.35 to 3.97, to increase the upper level building setbacks from zero feet to twenty six and a half feet at a height of forty-four feet, to relocate the stairway and mechanical equipment on the north end of the building, and for the addition of a fourth floor terrace; and

WHEREAS, by letter to the City dated November 21, 2017, the Developer and Applicant, Michael McLean (the “Applicant”) requested an extension of the one-year time period to obtain a building permit and start construction for the Planned Development (the “Amendment”); and

WHEREAS, Section 6-11-1-10(A) of the City Code and Section 5(R) of Ordinance 47-O-16 provides that the Applicant must obtain a building permit and start construction within eighteen (18) months and has not obtained a building permit to date; and

WHEREAS, in order to remain in compliance with the terms of Ordinance 19-O-16 and provide for Applicant to obtain a building permit and start construction, the Applicant requests an amendment to the Planned Development; and

WHEREAS, on January 8, 2018, the Planning and Development Committee (“P&D Committee”) held a meeting, in compliance with the provisions of the
Illinois Open Meetings Act (5 ILCS 120/1 et seq), during which it retained jurisdiction over the Planned Development Amendment request; and

WHEREAS, during said meetings, the P&D Committee received input from the public, and carefully deliberated on the Extension request and the Applicant was given notice and the opportunity to be heard at the P&D and City Council meetings; and

WHEREAS, at its meeting of January 8, 2018 held in compliance with the provisions of the Illinois Open Meetings Act, the City Council considered the P&D Committee’s deliberations and recommendations, heard public comment, made findings and considered this Ordinance 3-O-18,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.

SECTION 2: Pursuant to the terms and conditions of this ordinance, the City Council hereby grants an amendment to the Special Use Permit previously authorized by Ordinance 47-O-16 to allow for the construction and operation of the Planned Development described herein.

SECTION 3: Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council imposes the following conditions on the Special Use Permit granted for the Planned Development, may be amended by future ordinance(s), and violation of any of which shall constitute grounds for penalties or revocation of said Special Use Permit pursuant to Subsections 6-3-10-5 and 6-3-10-6 of the Zoning Ordinance:

(a) Compliance with Applicable Requirements: The Applicant shall develop and operate the Planned Development authorized by the terms of this
ordinance in substantial compliance with the following: the terms of this Ordinance 3-O-18; terms of Ordinance 47-O-16 which have not been amended by this Ordinance; all applicable City Code requirements; the Applicant's testimony to the P&D Committee, and the City Council; and the approved documents on file in this case.

(b) Changes in Property Use: Any change as to the property's use in the future must be processed and approved as an additional amendment to the Planned Development.

(c) Construction Schedule: Construction Schedule: Pursuant to Subsection 6-11-1-10(A)4 of the Zoning Ordinance, the Applicant must obtain a building permit within twelve (12) months of the passing of this Ordinance. Additionally, the Applicant must complete the construction of this Planned Development within twenty-four (24) months from the date the Applicant receives its building permit.

(d) Recording: Pursuant to Subsection 6-3-6-10 of the Zoning Ordinance, the Applicant shall, at its cost, record a certified copy of this ordinance, including all exhibits attached hereto, with the Cook County Recorder of Deeds, and provide proof of such recordation to the City, before the City may issue any permits pursuant to the Planned Development authorized by the terms of this ordinance.

SECTION 4: Except as otherwise provided for in this Ordinance 3-O-18, all applicable regulations of the Ordinance 47-O-16, the Zoning Ordinance, and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and/or provisions of any of said documents conflict with any of the terms herein, this Ordinance 3-O-18 shall govern and control.

SECTION 5: When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant and its agents, assigns, and successors in interest" and shall mean Michael McLean, and any and all successors, owners, and operators of the Subject Property.

SECTION 6: This ordinance shall be in full force and effect from and after
its passage, approval, and publication in the manner provided by law.

SECTION 7: Except as otherwise provided for in this ordinance, all applicable regulations of the Zoning Ordinance and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and provisions of any of said documents conflict with the terms herein, this ordinance shall govern and control.

SECTION 8: All ordinances or parts of ordinances that are in conflict with the terms of this ordinance are hereby repealed.

SECTION 9: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 10: The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Ayes: 7
Nayes: 0

Introduced: January 5th, 2018
Adopted: January 9th, 2018

Attest: Devon Reid, City Clerk

Approved:

January 16, 2018
Stephen H. Hagerthy, Mayor

Approved as to form:

W. Grant Farrar, Corporation Counsel
EXHIBIT 1

ORDINANCE 47-O-16
AN ORDINANCE

Granting Special Use Approval for a Planned Development and Special Use Approval for an Independent and Assisted Living Facility Located at 1815-1823 Ridge Avenue and Amending the Zoning Map to Re-Zone Certain Properties from the C2 Commercial Zoning District to the D4 Downtown Transition Zoning District

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970, states that the “powers and functions of home rule units shall be construed liberally," was written "with the intention that home rule units be given the broadest powers possible" (Scadron v. City of Des Plaines, 153 Ill.2d 164, 174-75 (1992)); and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, et seq.) grants each municipality the power to establish zoning regulations; and
WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended, ("the Zoning Ordinance"); and

WHEREAS, Michael McLean ("Applicant"), the Applicant for the proposed development located at 1815-1823 Ridge Avenue, Evanston, Illinois (the "Subject Property"), legally described in Exhibit A, which is attached hereto and incorporated herein by reference, applied, pursuant to the provisions of the Zoning Ordinance, specifically Section 6-7-2, "Zoning Map," 6-3-5, "Special Uses," Section 6-3-6, "Planned Developments," and Section 6-11-1-10, "Planned Developments," to place certain properties within the D4 Downtown Transition Zoning District ("D4 District") and permit the construction and operation of a Planned Development with an Independent and Assisted Living Facility located at the Subject Property in the D4 District; and

WHEREAS, the Applicant sought approval to re-zone the Subject Property from the current C2 Commercial Zoning Districts to the proposed D4 Downtown Transition Zoning District; and

WHEREAS, the Applicant sought approval to construct a new eleven (11) -story one hundred five (105) foot tall independent and assisted living facility consisting of up to one hundred forty (140) dwelling units and twenty-five (25) memory care rooms, with a floor area ratio of approximately 5.4, approximately one hundred forty-six thousand, six hundred forty-three (146,643) square feet of residential space, seventy (70) open on-site parking spaces, zero (0) foot front setback along the west property line, four (4) foot side setback along the south property line, zero (0) foot rear setback along the east property line, and two (2) short loading docks; and

~2~
WHEREAS, construction of the Planned Development, as proposed in the application, requires exception from the strict application of the Zoning Ordinance with regards to the number of dwelling units; and

WHEREAS, pursuant to Subsection 6-3-6-5 of the Zoning Ordinance, the City Council may grant Site Development Allowances from the normal district regulations established in the Zoning Ordinance; and

WHEREAS, on March 9, 2016 and April 6, 2016, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 et seq.) and the Zoning Ordinance, the Plan Commission held a public hearing on the application for Special Use Approval for a Planned Development with an Independent and Assisted Living Facility and Rezoning from the C2 Zoning Districts to the D4 Zoning District, case no. 15PLND-0112, heard extensive testimony and public comment, received other evidence, and made written minutes, findings, and recommendations; and

WHEREAS, the Plan Commission's written findings state that the application meets applicable standards set forth for Special Uses in Subsection 6-3-5-10 of the Zoning Ordinance and Planned Developments in the D4 Downtown Transition District per Subsection 6-11-1-10 of the Zoning Ordinance and Map Amendments per Subsection 6-3-4-5 of the Zoning Ordinance; and

WHEREAS, on April 6, 2016, the Plan Commission recommended the City Council approve the application with conditions; and

WHEREAS, on June 15, 2016, the Applicant submitted revised plans seeking approval for the following: approval to construct a ten (10) -story one hundred five (105) foot tall independent and assisted living facility consisting of up to one
hundred two (102) dwelling units, thirty-one (31) assisted living with cognitive impairments units, and thirty (30) memory care rooms, with a floor area ratio of approximately 4.35, approximately one hundred forty-six thousand, six hundred forty-three (146,643) square feet of residential space, sixty-seven (67) on-site parking spaces; and

WHEREAS, on July 11, 2016, the Planning and Development ("P&D") Committee of the City Council held a meeting, in compliance with the provisions of the Open Meetings Act and the Zoning Ordinance, received input from the public, carefully considered the Plan Commission's record and findings, the Applicant's amended application dated June 15, 2016, and recommended the City Council accept and approve the amended application; and

WHEREAS, at its meetings on July 11, 2016 and July 25, 2016, held in compliance with the Open Meetings Act and the Zoning Ordinance, the City Council considered the recommendation of the P&D Committee, received additional public comment, made certain findings, and adopted said recommendation; and

WHEREAS, it is well-settled law that the legislative judgment of the City Council must be considered presumptively valid (see Glenview State Bank v. Village of Deerfield, 213 Ill.App.3d 747) and is not subject to courtroom fact-finding (see National Paint & Coating Ass'n v. City of Chicago, 45 F.3d 1124),

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as facts and incorporated herein by reference.
**SECTION 2:** The City Council hereby amends the Zoning Map to remove those properties with the addresses and PINs listed in Exhibit B and identified in Exhibit C, both attached hereto and incorporated herein by reference, from the C2 Commercial Districts and place them within the D4 Downtown Transition District.

**SECTION 3:** Pursuant to the terms and conditions of this ordinance, the City Council hereby grants the Special Use Approval applied for in case no. 15PLND-0112, to allow construction and operation of the Planned Development for a ten (10) - story one hundred five (105) foot tall independent and assisted living facility consisting of up to one hundred two (102) dwelling units, thirty-one (31) assisted living with cognitive impairments units, and thirty (30) memory care rooms, with a floor area ratio of approximately 4.35, approximately one hundred forty-six thousand, six hundred forty-three (146,643) square feet of residential space, sixty-seven (67) open on-site parking spaces.

**SECTION 4:** The City Council hereby grants the following Site Development Allowances:

(A) **Number of Dwelling Units:** A Site Development Allowance is hereby granted for one hundred forty (104) residential dwelling units, whereas subsection 6-11-2-4(B) of the Zoning Ordinance allows for a maximum of eighty-four (84) residential dwelling units in the D4 District.

**SECTION 5:** Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council imposes the following conditions on the Special Use Approval granted hereby, which may be amended by future ordinance(s), and violation of any of which shall constitute grounds for penalties or revocation of said Special Use Permit pursuant to Subsections 6-3-10-5 and 6-3-10-6 of the Zoning Ordinance:
(A) **Compliance with Applicable Requirements:** The Applicant shall develop and operate the Planned Development authorized by the terms of this ordinance in substantial compliance with the following: the terms of this ordinance; the Site and Landscape Plans in Exhibit D and E, attached hereto and incorporated herein by reference; all applicable City Code requirements; the Applicant’s testimony and representations to the Design and Project Review Committee, the Plan Commission, the P&D Committee, and the City Council; and the approved documents on file in this case.

(B) **Affordable Housing Contribution:** The Applicant shall pay a one-time contribution of four hundred thousand dollars ($400,000) to the City’s Affordable Housing Fund. The contribution will be made in two (2) equal installments. The first installment shall be made within ten (10) business days of the issuance of the Temporary Certificate of Occupancy (TCO) and the second installment shall be made within one (1) year of the TCO issuance date.

(C) **Affordable Housing Units:** The Applicant shall have two (2) on site affordable housing units at eighty percent (80%) of the area median income ("AMI").

(D) **Alley Reconstruction:** The Applicant shall reconstruct the public alley to the south adjacent to the Subject Property.

(E) **Oak Avenue Streetscape Improvements:** The Applicant shall construct the streetscape improvements and roadway widening from the Subject Property to Clark Street and modify the island in the Clark Street and Oak Avenue intersection per proposed development plans and landscape plans in Exhibit B and Exhibit C.

(F) **Traffic Signal Improvements:** The Applicant shall upgrade existing traffic signals located at Church Street and Oak Avenue intersection to include pedestrian countdown timers.

(G) **Street Crosswalk Improvements:** The Applicant shall install the following crosswalks: (1) east side of the intersection at Ridge Avenue and Clark Street; (2) east side of the intersection at Clark Street and Oak Avenue; and (3) all sides of the intersection at Church Street and Oak Avenue.

(H) **Ridge Avenue Streetscape Improvements:** The Applicant must construct the streetscape improvements along Ridge Avenue, including the new eight (8) foot wide parkway, five (5) foot wide public sidewalk, increased landscaping and two (2) public seating areas with water feature or art installation per proposed development plans and landscape plans in Exhibit B and Exhibit C.

(I) **On-Site Bicycle Parking:** The Applicant must install twenty-eight (28) bicycle parking spaces for visitors located on the west and south portions of the development.
(J) **Bike Share Membership:** The Applicant must provide a ten thousand dollar ($10,000.00) sponsorship for the Divvy bike share program prior to the issuance of the building permit.

(K) **Public Art Contribution:** The Applicant must install an art installation within the pocket park north of the proposed building.

(L) **Landscape Maintenance:** The Applicant must submit a three (3) year maintenance agreement for all landscaped areas on site, inclusive of the gardens and green roof, prior to the issuance of the building permit.

(M) **City of Evanston Employment:** The Applicant agrees to employ at least ten (10) Evanston residents during construction. The Applicant also agrees to offer fifty percent (50%) of the permanent jobs to Evanston residents, subject to their qualifications for employment.

(N) **LEED Silver Certification:** The Applicant agrees to comply with the City of Evanston Green Building Ordinance and obtain a LEED Silver Certification Rating or higher for the Planned Development on the Subject Property.

(O) **No Further Remediation Letter:** The Applicant must submit a "No Further Remediation" letter prior to the issuance of the Certificate of Occupancy.

(P) **Changes in Use:** Any changes in use must be approved as an amendment to the Planned Development on the Subject Property.

(Q) **Construction Management Plan:** The Applicant shall sign and agree to a Construction Management Plan (CMP) with the City of Evanston prior to issuance of the Building Permit. The CMP shall include but is not limited to the following: construction staging plan, on-street and on-site construction parking restrictions, hours of operation, a plan including cross sections showing pedestrian access around the site with the use of curb ramps, signage and/or striping, if necessary, foundation survey of surrounding structures including weekly reporting of seismographs for the duration of construction, submittal of environmental testing report prior to construction, visibility diagram for all construction site access points, proposed schedule for street opening for utility connections with cross section details, and project updates via monthly newsletter and project website.

(R) **Construction Schedule:** Pursuant to Subsection 6-11-1-10(A)(4) of the Zoning Ordinance, the Applicant shall obtain a building permit within eighteen (18) months of the passing of this Ordinance. Additionally, the Applicant must complete the construction of this Planned Development within twenty-four (24) months from the date the Applicant receives its building permit.

(S) **Recordation:** Pursuant to Subsection 6-3-6-10 of the Zoning Ordinance, the Applicant shall, at its cost, record a certified copy of this ordinance, including all exhibits attached hereto, with the Cook County Recorder of Deeds, and provide
proof of such recordation to the City, before the City may issue any permits pursuant to the Planned Development authorized by the terms of this ordinance.

SECTION 6: When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant's tenants, agents, assigns, and successors in interest."

SECTION 7: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SECTION 8: Except as otherwise provided for in this ordinance, all applicable regulations of the Zoning Ordinance and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and provisions of any of said documents conflict with the terms herein, this ordinance shall govern and control.

SECTION 9: All ordinances or parts of ordinances that are in conflict with the terms of this ordinance are hereby repealed.

SECTION 10: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 11: The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.
Introduced: July 11, 2016
Adopted: July 25, 2016

Approved: August 1, 2016
Elizabeth B. Tisdaile, Mayor

Attest:
Rodney Greene, City Clerk

Approved as to form:
W. Grant Farrar, Corporation Counsel
EXHIBIT A

Legal Description

TRACT 1:

Parcel 1:
LOTS 4, 5, 6 AND 7 (EXCEPT THAT PART TAKEN FOR WIDENING RIDGE AVENUE ACCORDING TO DOCUMENT NO. 15800534 RECORDED DECEMBER 28, 1953) IN THE RESUBDIVISION OF BLOCK 1 IN E. A. PRATT'S ADDITION TO EVANSTON, A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 3, 1875 AS DOCKET NO. 42276, ALL IN COOK COUNTY, ILLINOIS.

Parcel 2:
THAT PART OF THE VACATED WEST RAILROAD AVENUE (VACATED BY PLAT OF VACATION RECORDED AS DOCUMENT 87518006) ADJACENT TO THE RESUBDIVISION OF BLOCK 1 IN E. A. PRATT'S ADDITION TO EVANSTON, A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 6 IN E. A. PRATT'S ADDITION, FORESAID; THENCE EAST ON THE SOUTH LINE OF SAID LOT 6, EXTENDED EAST, 59.60 FEET TO A POINT IN THE EAST LINE OF SAID WEST RAILROAD AVENUE; THENCE NORTHWESTERLY ON THE EASTERLY LINE OF SAID WEST RAILROAD AVENUE, 302.45 FEET TO A POINT; THENCE SOUTHEASTERLY AT RIGHT ANGLES TO SAID EASTERLY LINE OF RAILROAD AVENUE, 50.00 FEET TO A POINT ON THE WESTERLY LINE OF SAID RAILROAD AVENUE; THENCE SOUTHEASTERLY ON THE WEST LINE OF SAID WEST RAILROAD AVENUE, 270.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN(s):
11-18-116-021-0000
11-18-116-022-0000
11-18-116-023-0000

COMMONLY KNOWN AS: 1815-1823 Ridge Avenue; Evanston, Illinois.
TRACT 2:

LOTS 1, 2 AND 3 (EXCEPT THAT PART TAKEN FOR WIDENING OF RIDGE AVENUE ACCORDING TO DOCUMENT NO. 15800534紀錄DDECEMBER 28, 1953) IN THE RESUBDIVISION OF BLOCK 1 IN ELISA A. PRATT'S ADDITION TO EVANSTON, A SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, LYING EAST OF RIDGE ROAD, AND WEST OF THE MILWAUKEE DIVISION OF THE CHICAGO AND NORTHWESTERN RAILROAD INN SECTION 18, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN.

PIN(s): 11-18-116-018-0000
        11-18-116-019-0000
        11-18-116-020-0000

COMMONLY KNOWN AS: Ridge Avenue & Green Bay Road, Evanston, Illinois.
EXHIBIT B

Addresses and PINs of Properties Removed from the C2 Commercial District and Placed Within the D4 Downtown Transition District

Commonly Known As: 1815-1823 Ridge Avenue

PIN(s):
11-18-116-018-0000
11-18-116-019-0000
11-18-116-020-0000
11-18-116-021-0000
11-18-116-022-0000
11-18-116-023-0000
EXHIBIT C

Map of Properties Removed from the C2 Commercial District and Placed Within the D4 Downtown Transition District
Proposed Zoning Change
1815 Ridge Avenue - C2 to D4
EXHIBIT D

Development Plans
EXHIBIT E

Landscape Plans