

ORDINANCE NO. F-0049

**AN ORDINANCE APPROVING SUBDIVISION OF A CERTAIN PIECE OF PROPERTY, AMENDING THE WHEATON ZONING ORDINANCE MAP, AND GRANTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT-MARRIOTT SENIOR LIVING SERVICES, INC. -
BRIGHTON GARDENS**

WHEREAS, written application has been made to subdivide certain property into two parts, amend the Zoning Map, which is attached to and forms a part of the Zoning Ordinance of Wheaton, Illinois, and issue a special use permit to allow the construction and use of a planned unit development for a three-story, one hundred twenty-three bed, 75,000 square-foot assisted living facility for seniors on the property legally described herein within the city limits of Wheaton, Illinois ("City"), and commonly known as the east one-half of the eight-acre parcel of property located on the north side of Butterfield Road opposite Leask Lane; and

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the City Zoning Ordinance, a public hearing was conducted by Board of Zoning Appeals on June 25, 1996, to consider the zoning requests; and the Wheaton Board of Zoning Appeals has recommended approval of the subdivision, zoning amendment, and issuance of the special use permit.

WHEREAS, the plat of resubdivision for Brighton Gardens has been submitted to, and reviewed by the Wheaton City Council; and the Wheaton City Council has recommended that the plat of resubdivision be approved.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, Du Page County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The plat of resubdivision for Brighton Gardens, prepared by Cemcon, Ltd., 1N131 County Farm Road, Winfield, Illinois, dated May 1, 1996 and revised June 19, 1996 and June 20, 1996, is approved. The Mayor is authorized to sign the approval form and the City Clerk is authorized and directed to attest to the signature of the Mayor and attach a certified copy of this ordinance of approval to the plat of resubdivision for Brighton Gardens, prepared by Cemcon, Ltd., 1N131 County Farm Road, Winfield, Illinois, dated May 1, 1996 and revised June 19, 1996 and June 20, 1996.

Section 2: The Zoning Map, which is attached to and forms a part of the City Zoning Ordinance, is amended by deleting the following-described property from the C-3 Commercial District zoning classification and including it in the R-5 Residential Planned Unit Development District zoning classification:

THE EAST 355 FEET OF LOT 12 IN DANADA FARMS EAST UNIT 1,
BEING A SUBDIVISION OF PART OF SECTION 28 AND THE NORTH 1/2
OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD

PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 10, 1987 AS DOCUMENT R87-175209, IN DU PAGE COUNTY, ILLINOIS. (LOT 1)

The following-described property has been, and continues to be zoned and classified in the C-3 Commercial District zoning classification:

LOT 12, EXCEPT THE EAST 355 FEET, IN DANADA FARMS EAST UNIT 1, BEING A SUBDIVISION OF PART OF SECTION 28 AND THE NORTH 1/2 OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 10, 1987 AS DOCUMENT R87-175209, IN DU PAGE COUNTY, ILLINOIS. (LOT 2)

Section 3: Pursuant to the Findings of Fact determined by the Wheaton Board of Zoning Appeals, the subdivision, rezoning, and special use permit are hereby issued and granted for the construction and use of a planned unit development on Lot 1 consisting of a three-story, 75,000 square-foot, one hundred twenty-three bed assisted living facility for seniors in substantial compliance with the "Preliminary Site Plan", dated June 6, 1996, and revised June 20, 1996, Sheet No. A1; the "Preliminary Landscape Plan", Sheet No. L1, dated June 4, 1996 and revised June 12, 1996 and June 20, 1996; the elevation plan, dated May 6, 1996, Sheet No. A6, prepared by Shayman, Salk, Arenson, Susselholz & Company, Northbrook, Illinois, and in further substantial compliance with the following conditions, restrictions, and requirements:

- A. Prior to the issuance of a site development or building permit for Lot 1, owner/developer shall:
 - (1) Agree to construct the exterior of the building utilizing brick as a component instead of siding.
 - (2) Submit to the City site lighting and photometric details in conformance with the Wheaton Zoning Ordinance; the site lighting and photometric details shall be subject to the reasonable approval of the Director of Engineering.
 - (3) Contact the Du Page County Department of Environmental Concerns for their permit requirements regarding the proposed sanitary sewer extension.
 - (4) Contact the Illinois Department of Transportation regarding their comments and permit requirements for the construction of driveway access to Butterfield Road from Lots 1 and 2.

B. In lieu of constructing a public sidewalk along Butterfield Road adjacent to Lots 1 and 2, as required by Section 58-74 of the Wheaton City Code, the owner of Lot 1 shall construct, at the owner's expense, a public sidewalk conforming to the design standards of the City and the Illinois Department of Transportation along Butterfield Road from the access drive for Lots 1 and 2, as said access drive is identified on the Preliminary Site Plan, east to the west access drive of the property immediately to the east of Lot 1, commonly referred to as the Briarbrook Apartment Complex; said public sidewalk shall be shown on the final set of Engineering Plans for the subject development and shall be subject to the reasonable approval of the Director of Engineering.

C. In the event the City or Owner(s) of Lots 1 and/or Lot 2 determine that the installation of a fully activated traffic signal is necessary at the access drive for Lots 1 and 2 along Butterfield Road, as said access drive is identified on the Preliminary Site Plan, and provided appropriate warrants are met and permits are issued by the applicable governmental authority for the traffic signal, Owner(s) shall, at Owner's expense, design and install such traffic signal with the expense equally shared by the Owner(s) of Lots 1 and 2, or as such Owner(s) may otherwise agree. The design, quality, and type of traffic signal shall be subject to the approval of the Director of Engineering, which approval shall not be unreasonably withheld.

D. In the event that a bridge providing access from Lots 1 and 2 in the Resubdivision of Lot 11 in Danada Farms East Unit 1 and Lots 1 and 2 is hereafter approved by the City and constructed by the Owner(s) of Lots 1 and 2, an easement over, along, and across Lots 1 and 2 for purposes of providing motor vehicle ingress to and egress from Lots 1 and 2 in the Resubdivision of Lot 11 in Danada Farms East Unit 1 shall be granted; the form and content of said easement shall be prepared by legal counsel for the Owner(s) of Lots 1 and 2 and shall be subject to reasonable approval of the City Attorney. Also, in the event a bridge is approved by the City, the Owner(s) of Lots 1 and 2 shall, at Owner's expense, design, install, operate, and maintain such bridge with the expense equally shared by the Owner(s) of Lots 1 and 2, or as such Owner(s) may otherwise agree.

E. Within sixty (60) days of receiving an occupancy permit (temporary or permanent), Lot 2 shall not be used for storage of any construction material including, but not limited to, brick, stone, or spoil material.

F. The owner of Lot 1 shall maintain all landscaping and plantings on the property so that the number, quality, and character of the landscaping shall not be less than that which is illustrated on the approved landscape plan. In the event any landscaping, plantings, or vegetation on the property dies, in whole or in part, at any time, the owner shall, forthwith, replace the non-viable landscaping vegetation

and/or plantings with reasonably similar substitutes of original planting size or larger, as directed by the City.

G. This special use permit, and the conditions, restrictions, and requirements recited herein, shall be considered a declaration of restrictive covenants and shall be binding upon Lots 1 and 2 and their owner(s), their successors, assigns, and grantees; this ordinance shall be recorded in the office of J. P. Carney, Recorder of Deeds, Du Page County, Illinois.

By application for, and receipt of, any site development or building permit and the commencement of construction of any improvements on Lot 1, the owner(s), for himself/itself, his/its successors, assigns, and grantees, thereby agrees to all terms and conditions of this ordinance and declares this ordinance to constitute a covenant running with, and binding, the subject property, in perpetuity.

Section 4: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 5: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

ATTEST:

Emily M. Donahoe
City Clerk

James Carr

Mayor

ROLL CALL VOTE:

Ayes: Councilwoman Davenport
Mayor Carr
Councilman Gresk
Councilwoman Johnson
Councilman Mork
Councilwoman Culler

Nays: Councilman Eckhoff

Absent: None

Motion Carried

Passed: August 19, 1996

Published: August 20, 1996