

CITY OF FRANKLIN
SPECIAL COMMON COUNCIL MEETING
FRANKLIN CITY HALL – COMMON COUNCIL CHAMBERS
9229 WEST LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA*
WEDNESDAY, OCTOBER 9, 2019 AT 5:45 P.M.

- A. Call to Order and Roll Call.
- B. Citizen Comment Period.
- C. Affidavit of Correction for the removal of direct access to West Rawson Avenue restrictions set forth upon Certified Survey Map No. 9167 approved on May 7, 2019 by Resolution No. 2019-7489 (CSM for Ballpark Commons Apartments) and set forth upon Certified Survey Map No. 9042 approved on May 1, 2018 by Resolution No. 2018-7374 (CSM, Ballpark Commons, LLC, Applicant) (and such other technical specifications as may be set forth in such other documents as may be applicable).
- D. Request by Velo Village Apartments LLC (VELO) to undertake a portion of the public improvements within TID Nos. 5 and 7 (originally the responsibility of BPC Master Developer, LLC) necessary for the apartment project's timely commencement and to receive payments due from the City for such public improvement undertaken by VELO; such request is made with BPC's consent and with the understanding any funds from TID 5 and/or 7 paid to VELO (upon completion of the work) will be credited against amounts owed by the City to BPC for such public improvements.
- E. Request by Velo Village Apartments LLC (VELO)'s lenders to subordinate the City's rights, in the previously approved Development Agreement, to use tax increment (after an event of default) to pay the City \$4,500,000 loan prior to making payments due under the City's MRO.
- F. Adjournment.

*Supporting documentation and details of these agenda items are available at City Hall during normal business hours
[Note Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services For additional information, contact the City Clerk's office at (414) 425-7500.]

<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">October 9, 2019</p>
<p style="text-align: center;">REPORTS AND RECOMMENDATIONS</p>	<p>Affidavit of Correction for the removal of direct access to West Rawson Avenue restrictions set forth upon Certified Survey Map No. 9167 approved on May 7, 2019 by Resolution No. 2019-7489 (CSM for Ballpark Commons Apartments) and set forth upon Certified Survey Map No. 9042 approved on May 1, 2018 by Resolution No. 2018-7374 (CSM, Ballpark Commons, LLC, Applicant) (and such other technical specifications as may be set forth in such other documents as may be applicable)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;">C.</p>
<p>See attached draft Affidavit of Correction with regard to the above, which at the time of this writing remains under review by staff.</p> <p style="text-align: center;">COUNCIL ACTION REQUESTED</p> <p>A motion to authorize and approve an Affidavit of Correction for the removal of direct access to West Rawson Avenue restrictions set forth upon Certified Survey Map No. 9167 approved on May 7, 2019 by Resolution No. 2019-7489 (CSM for Ballpark Commons Apartments) and set forth upon Certified Survey Map No. 9042 approved on May 1, 2018 by Resolution No. 2018-7374 (CSM, Ballpark Commons, LLC, Applicant), or such other document(s)/method(s) as determined appropriate by City staff for execution and delivery.</p>		

Department of City Development: JED; Legal Services Dept.: jw

Affidavit of Correction

Document Number

This Affidavit of Correction (this "Affidavit") is made as of _____, 2019, by the CITY OF FRANKLIN, a municipal corporation of the State of Wisconsin (the "City").

WHEREAS, ZIM-MAR PROPERTIES, LLC, a Wisconsin limited liability company ("Owner") is the owner and holder of record title to certain real property as more particularly described on Exhibit "A" which is attached hereto and incorporated herein (the "Property");

WHEREAS, in order to subdivide the Property for purposes of Owner's planned development, Owner caused the Property to be submitted to (1) that certain Certified Survey Map No. 9042, recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin on June 14, 2018, as Document No. 10785127 ("CSM 9042") and (2) that certain Certified Survey Map No. 9167 recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin on September 30, 2019, as Document No. 10911743 ("CSM 9167" and collectively with CSM 9042, the "CSMs") requiring certain approvals by the City in accordance with Wis. Stats. Chapter 236;

WHEREAS, CSM 9042 contains a restriction at Note 14 which states that there shall be no direct access to Rawson Avenue or Loomis Road from any Lot of CSM 9042 except by Ballpark Drive (the "CSM 9042 Access Restriction");

WHEREAS, CSM 9167 contains a restriction at Note 11 which states that there shall be no direct access to Rawson Avenue from any Lot of CSM 9167 except by Ballpark Drive (the "CSM 9167 Access Restriction") and together with the CSM 9042 Access Restriction (the "CSM Access Restrictions");

WHEREAS, the City agrees and acknowledges that the City has taken all necessary steps to approve the planned development of the Property as a multi-family residential complex, including access to and from the Property and Rawson Avenue, and that it was an inadvertent error for the CSM Access Restriction to have been maintained on CSM 9042 and included on CSM 9167;

WHEREAS, the City now desires to correct and partially release the CSM Access Restrictions as set forth below;

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City hereby agrees and acknowledges that the CSM 9042 Access Restriction and the CSM 9167 Access Restriction set forth on the CSMS are hereby corrected and revised as follows:

(a) The CSM 9042 Access Restriction is hereby corrected and revised to read as follows: "There shall be no direct access to Rawson Avenue and Old Loomis Road from any Lot of the CSM except by Ballpark Drive and by the private access drive depicted on the plans City-file stamped February 11, 2019 attached to and incorporated in the City of Franklin Resolution 2019-006."

(b) The CSM 9167 Access Restriction is hereby corrected and revised to read as follows: "There shall be no direct access to Rawson Avenue from any Lot of the CSM except by Ballpark Drive and by the private access drive depicted on the plans City-file stamped February 11, 2019 attached to and incorporated in the City of Franklin Resolution 2019-006."

(Signatures follow on next page)

This document was drafted by Molly A. Perillo, Esq, c/o Foley & Lardner LLP, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202

Recording Area

Name and Return Address

City of Franklin
c/o City Clerk
9229 West Loomis Road
Franklin, Wisconsin 53132

Part of 754-9001-000; 754-9002-000

Parcel Identification Number (PIN)

IN WITNESS WHEREOF, the City has set its hands and seal on date set forth above.

CITY OF FRANKLIN

By: _____
Stephen R. Olson, Mayor

By: _____
Sandra L. Wesolowski, City Clerk

STATE OF WISCONSIN)
 SS
COUNTY OF MILWAUKEE)

On this _____ day of _____, 2019, before me personally appeared Stephen R. Olson and Sandra L. Wesolowski, who being by me duly sworn, did say that they are respectively the Mayor and City Clerk of the City of Franklin, and that the seal affixed to said instrument is the corporate seal of said municipal corporation, and acknowledged that they executed the foregoing assignment as such officers as the deed of said municipal corporation by its authority and pursuant to resolution file No. _____ adopted by its Common Council on _____, 2019.

NOTARY PUBLIC
My commission expires _____

Approved as to contents
Date:

City Engineer

Approved as to form only
Date:

City Attorney

Exhibit A

Description of the Property

Lot 2 of Certified Survey Map No. 9042 recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin on June 14, 2018, as Document No. 10785127, being a part of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ and Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 9, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

Lot 2 of Certified Survey Map No. 9167 recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin on September 30, 2019, as Document No. 10911743, being a redivision of Lot 1 of Certified Survey Map No. 9042, being part of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 9, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

<p>APPROVAL <i>slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE October 9, 2019</p>
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COUNCIL ACTION REQUESTED

A motion to authorize and approve an agreement for Velo Village Apartments LLC (VELO) to undertake a portion of the public improvements within TID Nos. 5 and 7 (originally the responsibility of BPC Master Developer, LLC) necessary for the apartment project's timely commencement and to receive payments due from the City for such public improvement undertaken by VELO; such request is made with BPC's consent and with the understanding any funds from TID 5 and/or 7 paid to VELO (upon completion of the work) will be credited against amounts owed by the City to BPC for such public improvements.

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