
ORDINANCE NO. 2015-16-29

*An Ordinance Amending Ordinance No. 04-05-29, An Ordinance
Zoning Certain Property Commonly Known as Creekside
to R-4 Residential Planned Development and B-3 Planned Development District
from the Village of Johnsburg Zoning*

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AN ORDINANCE PASSED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF JOHNSBURG
AT A SPECIAL MEETING ON APRIL 19, 2016

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF JOHNSBURG

President

Edwin P. Hettermann

Board of Trustees

Tom Curry
Kyle Frost
John Huemann
Mary Lou Hutchinson
Greg Klemstein
Kevin McEvoy

Village Administrator

Claudett E. Peters

ORDINANCE NO. 2015-16-29

***An Ordinance Amending Ordinance No. 04-05-29, An Ordinance
Zoning Certain Property Commonly Known as Creekside
to R-4 Residential Planned Development and B-3 Planned Development District
from the Village of Johnsburg Zoning Ordinance***

WHEREAS, on September 7, 2004, the President and Board of Trustees of the Village of Johnsburg, McHenry County, Illinois, (the "Village") passed Ordinance No. 04-05-29, *An Ordinance Zoning Certain Property Commonly Known as Creekside to R-4 Residential Planned Development and B-3 Planned Development District from the Village of Johnsburg Zoning Ordinance*; and

WHEREAS, the purpose of the Ordinance was to zone property commonly known as Creekside in Johnsburg, Illinois; and

WHEREAS, the Ordinance was filed in the office of the McHenry County Clerk in 2005; and

WHEREAS Section 2(ii) of Ordinance 04-05-29 prohibits the rental of any townhome unit in Phase III of the subject property; and

WHEREAS, the successor owner, GWF Johnsburg LLC having determined that said prohibition creates a hardship adversely affecting the development of the property, caused to be published notice of hearing to be held before the Johnsburg Planning and Zoning Commission to amend said ordinance removing said rental restriction; and

WHEREAS, a public hearing was held by the Planning & Zoning Commission, after due notice in the manner provided by law; and

WHEREAS, THE VILLAGE BOARD has determined that the economy has caused a hardship resulting in the property having been largely vacant since 2005; the subject property is in its own area, separated by right of way and future landscaping; health, safety and welfare will not be adversely impacted because other properties in the area are also rented; and granting the amendment is in harmony with the general purpose and intent of the Zoning Code.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the VILLAGE OF JOHNSBURG, McHenry County, Illinois, as follows:

SECTION 1: That an amendment is granted to Ordinance 04-05-29, *An Ordinance Zoning Certain Property Commonly Known as Creekside to R-4 Residential Planned Development and B-3 Planned Development District from the Village of Johnsburg Zoning Ordinance*, allowing for the rental of the six unit townhome building depicted in Exhibit A currently constructed on the property and legally described in Exhibit B hereto. Said amendment is conditioned upon the following:

GWF Johnsburg, its successors and assigns, shall be permitted to rent the single, existing six unit building currently situated on the Subject Property, as depicted in Exhibit B, at this time. If GWF Johnsburg, or its successor or assign, or their respective contractor, elects to construct an additional townhome unit or units on the Subject Property, GWF Johnsburg or the then owner of the relevant portion of the Subject Property which constructed or caused to be constructed such additional townhome unit, shall not be allowed to rent out such additional constructed townhome unit(s) on the Subject Property. However, upon the construction of an additional townhome unit by GWF Johnsburg, its successor or assign, or their respective contractor, in the event that such additional constructed townhome unit is sold through a bona fide, arm's length transaction for fair market value to a third party, such rental prohibition shall be removed with respect to such unit upon such third party taking title and possession of such additional constructed townhome unit. However, in the event that an identical third party purchases two or more additional constructed townhome units, the prohibition on rental shall remain in place with respect to each additional constructed townhome unit bought after the first additional constructed townhome unit. The removal of the rental prohibition on certain townhome units on the terms and conditions set forth above shall not apply to the single family (detached) residential units elsewhere on the Subject Property. The Village shall have legal standing and the right, without the obligation, to enforce this condition against the unit owner, his, her or its successors and assigns as to all or any portion of the Subject Property and subsequent purchasers of all or any portion of the Subject Property. In the event that the Village brings an action in law or equity or both to enforce this condition, and the Village prevails, the Village shall be awarded its attorney's fees and costs against the non-prevailing party; including attorney's fees and costs associated with any appeal.

The maintenance of the one- six unit rental building and its associated grounds shall be undertaken by one entity such maintenance to be consistently performed for all units in such building, the cost of which shall be incorporated into the rental cost for each unit in such building.

SECTION 2: That all requirements set forth in the Zoning Ordinance of the Village of Johnsburg as would be required by any owner of property zoned in the same manner as the Subject Property and those requirements in Ordinance 04-05-29, shall be complied with, except as otherwise provided in this Ordinance.

SECTION 3: A certified copy of this Ordinance shall be recorded in the office of the McHenry County Recorder of Deeds.

SECTION 4: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Voting Aye: Trustees Curry, Huemann, Frost, McEvoy, Hutchinson and President Hettermann

Voting Nay: None

Abstain: None

Absent: Trustee Klemstein


APPROVED:



Village President Edwin P. Hettermann



ATTEST:


Village Clerk Claudett E. Peters

Passed: April 19, 2016

Approved: April 19, 2016

Published: April 19, 2016

Prepared by:

Claudett Peters, Village Administrator
Village of Johnsburg
1515 Channel Beach Avenue
Johnsburg, Illinois 60051
815.385.6023

CERTIFICATION

I, CLAUDETT E. PETERS, do hereby certify that I am the duly appointed, acting and qualified Clerk of the Village of Johnsburg, McHenry County, Illinois, and that as such Clerk, I am the keeper of the records and minutes and proceedings of the President and Board of Trustees of said Village of Johnsburg.

I do further certify that at a regular meeting of the President and Board of Trustees of the Village of Johnsburg, held on the 19th day of April, 2016, the foregoing Ordinance entitled *An Ordinance Repealing Ordinance No. 15-16-29, An Ordinance Zoning Certain Property Commonly Known as Creekside to R-4 Residential Planned Development and B-3 Planned Development District from the Village of Johnsburg Zoning Ordinance* was duly passed by the President and Board of Trustees of the Village of Johnsburg.

The pamphlet form of Ordinance No. 2015-16-29 including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was available in the Village Hall, commencing on the 19th day of April, 2016, and will continue for at least 10 days thereafter. Copies of such Ordinance are also available for public inspection upon request in the office of the Village Clerk.

I do further certify that the original, of which the attached is a true and correct copy, is entrusted to me as the Clerk of said Village for safekeeping, and that I am the lawful custodian and keeper of the same.

Given under my hand and seal of the Village of Johnsburg, this 19th day of April, 2016.



Claudett E. Peters, Village Clerk
Village of Johnsburg,
McHenry County, Illinois

EXHIBIT B

LEGAL DESCRIPTION

LOT 169 IN REMINGTON GROVE OF JOHNSBURG-PHASE 3, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND PART OF THE SOUTHEAST QUARTER OF SECTION 15, ALL IN TOWNSHIP 45 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 31, 2007, AS DOCUMENT NO. 2007R0037770, IN MCHENRY COUNTY ILLINOIS.