

ORDINANCE NO. 1514

AN ORDINANCE TO CONDITIONALLY REZONE CERTAIN LANDS
IN THE CITY OF ST. FRANCIS AS A
PLANNED UNIT DEVELOPMENT-MIXED USE UNDER
ARTICLE IV, CHAPTER 455 OF
THE CITY OF ST. FRANCIS ZONING CODE
3700 SOUTH LAKE DRIVE
PIN: 543-9023-000; 543-9024-000; and 543-9025-000

WHEREAS, an Application dated December 7, 2021 has been filed by Michael J. Campbell as Managing Member for Campbell Capital Group, LLC, a foreign limited liability company (“Applicant”) to rezone approximately 21.36 acres of real property commonly referred to as 3700 South Lake Drive, City of St. Francis, Milwaukee County, Wisconsin, as more particularly described in the attached Exhibit A (the “Subject Property”); and

WHEREAS, the Subject Property was zoned as a planned development prior to the current zoning code, but has remained undeveloped and the Applicant has requested that the City approve a Planned Unit Development-Mixed Use of the Subject Property pursuant to the provisions of the Chapter 455 of the City of St. Francis Code of Ordinances to permit development of the Subject Property for commercial and residential purposes; and

WHEREAS, the Applicant seeks to develop and use the Subject Property through the construction of a mixed-use residential and commercial/retail development project in two phases: Phase I consisting of one (1) four and five-story building with: one level of under-podium parking, approximately 8,000 sq. ft. of first-floor commercial/retail rental units, and approximately 280 luxury residential apartments on floors 2 through 5; and Phase II consisting of one (1) four and five-story building consisting of approximately 4,000 sq. ft. of commercial/retail space and approximately 200 residential apartments, a club room overlooking Lake Michigan for each Phase of the development, a two-story clubhouse/leasing office, resort-style pool, courtyards, lounge with coffee bar, fitness center with yoga and multipurpose fitness room, business center, bike storage, outdoor recreational area, grill areas and parking, all as set forth in the initial PUD Project Plan attached hereto and incorporated by reference as Exhibit B and as more particularly described in the Development Agreement between the City and Applicant as required under § 455-35(B)(4) of the City of St. Francis Code of Ordinances; and

WHEREAS, concurrently with the development of Phase I, Developer will create an approximately 4.62 acre “no build” area on the southern end of the Property at the location set forth on the site plan approved by the City upon which parking and a private park will be provided and such area will provide an area for unobstructed views of Lake Michigan; and

WHEREAS, use of the property for a mixed-use residential and commercial Planned Unit Development is only permitted if a Planned Unit Development is approved by the Common Council under §§ 455-34 of the City of St. Francis Zoning Code following a public hearing and receipt of Planning Commission recommendations; and

WHEREAS, the Applicant has supplied all required data pursuant to Section 455-33(D) of the City of St. Francis Zoning Code for initial PUD Plan and rezoning for the entire tract; and

WHEREAS, the Applicant's proposal has been available for inspection in the office of the City Clerk/Treasurer since December 7, 2021 and the Application and related information provided by Applicant has been available for public inspection in the office of the City Clerk/Treasurer since December 7, 2021; and

WHEREAS, the Application was considered by the City of St. Francis Planning Commission at regular meeting held on December 15, 2021 as provided in § 455-34(D)(1); and

WHEREAS, the Planning Commission has recommended to the Common Council for the City of St. Francis ("Common Council") that the requested zoning be approved as presented at the meeting held on December 15, 2021 and

WHEREAS, notice having been properly given, a public hearing was held before the Common Council on February 1, 2022 upon due notice to the public as required by Section 455-34 of the City of St. Francis Code of Ordinances; and

WHEREAS, pursuant to Section 455-34(D) the Council has duly considered all of the following before making a decision on the requested zoning:

1. Consistency with the Comprehensive Smart Growth Plan;
2. Consistency with the purposes of this chapter;
3. Consistency with the recommendations of the Planning Commission;
4. Conformance with the standards set forth in § 455-35;
5. Findings and recommendations of City staff; and
6. All verbal and written comments received at the public hearing.

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the City of St. Francis, will not be contrary to the public health, safety, or general welfare of the City of St. Francis, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and

general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the City of St. Francis comprehensive plan;

NOW, THEREFORE, the Common Council of the City of St. Francis, Milwaukee County Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Commencing upon the date hereof, the Zoning Map of the City of St. Francis is hereby conditionally amended to rezone the Subject Property as a Planned Unit Development – Mixed Use to permit development and use of the Subject Property for residential and commercial/retail purposes in two phases: Phase I consisting of one (1) four and five-story building with: one level of under-podium parking, approximately 8,000 sq. ft. of first-floor commercial/retail rental units, and approximately 280 luxury residential apartments on floors 2 through 5; and Phase II consisting of one (1) four and five-story building consisting of approximately 4,000 sq. ft. of commercial/retail space and approximately 200 residential apartments, a club room overlooking Lake Michigan for each Phase of the development, a two-story clubhouse/leasing office, resort-style pool, courtyards, lounge with coffee bar, fitness center with yoga and multipurpose fitness room, business center, bike storage, outdoor recreational area, grill areas and parking, all as set forth in the initial PUD Project Plan attached hereto and incorporated by reference as Exhibit B, subject to initial and continued compliance with each of the conditions stated in Section 2 of this Ordinance being fully met.

SECTION 2: CONDITIONS IMPOSED.

The rezoning of the Subject Property to permit a Planned Unit Development as set forth in the Application dated December 7, 2021 and related plans and materials submitted by the Applicant and on file in the office of the Zoning Administrator is hereby granted subject to compliance with all of the following conditions:

1. Commencement of project. Common Council, Aesthetic Control Board, Planning Commission and staff approvals are required to finalize the detailed PUD plans, after which construction of private and public facilities may commence subject to Applicant's compliance with all of the following:
 - a. Applicant must demonstrate to the City Administrator and City Attorney's reasonable satisfaction that Applicant has obtained fee title to the Subject Property within twelve months of the date of this Ordinance.
 - b. Approvals, fees and infrastructure required. Building plans must be submitted to the Common Council, Aesthetic Control Board, and Planning Commission for their review and approval prior to issuance of any building permits.
 - c. No building permit shall be issued until all applicable fees and assessments have been paid and a developer's agreement has been approved. For phased development, such developer's agreements may provide for the construction of improvements and the use of common areas outside of the phased stage.

2. Expiration of approvals. If the Common Council and Planning Commission have not approved detailed PUD plans within one year of the date the Common Council approved this Ordinance, the PUD Zoning granted hereunder shall lapse and zoning for the parcel reverts to its prior status, unless the time for approval of detailed PUD plans is extended in writing by the Common Council. Furthermore, after the Common Council and Planning Commission have approved the detailed PUD plans, construction of Phase I of shall be commenced within one year and construction of Phase II shall be commenced within five years of such detailed PUD plan approval, unless an extension has been granted in writing by the Common Council. In the event that construction has not commenced for each Phase as required and been actively pursued, and a written extension of time has not been granted by the Common Council, the PUD zoning approval shall lapse without further action of the Common Council being required and no further development of the Subject Property may be commenced.
3. The Subject Property shall, except as otherwise expressly provided herein or in the detailed PUD Plans be used in compliance with all applicable provisions of the City Code including, but not limited to, fire safety, noise, parking, public health, sign regulations, and zoning regulations.
4. Development of parcel 543-9025-000 shall be limited to the construction of surface parking and landscaping in compliance with the plans approved by the Planning Commission.
5. The Applicant is required and must have all plans current, approved by the Planning Commission for the City of St. Francis, and on file with the Planning Commission for the City of St. Francis. The Applicant shall be entitled to amend or change any plan contemplated herein subject to the aforementioned conditions and subject to the Planning Commission for the City of St. Francis approval and without a public hearing, if such amendments and/or change is not a substantial change from the original plan as approved and as allowed herein.
6. The Applicant shall comply with all Federal, State, County, and local rules, codes, ordinances, regulations, and initial and detailed PUD plans in the construction, operation, and maintenance of the Subject Property. In the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control.
7. The Applicant is required to properly maintain the Subject Property at all times and in full compliance with the property maintenance ordinance provisions of the City of St. Francis, as amended from time-to-time, to the satisfaction of the Building Inspector.
8. The Applicant must pay all fees, costs, and assessments due and owing to the City of St. Francis and all costs and expenses incurred by the City of St. Francis, including legal and engineering fees and costs, arising out of or related to the Application, the review thereof, this Ordinance, and subsequent development of the Subject Property.

9. Any application for use of, or construction on, the lands described on Exhibit A, is an acknowledgement by Applicant that the Subject Property is subject to these conditions of approval. Applicant waives any claim(s) that it may have against the City of St. Francis, including, but not limited to, claims for damages, costs, and expenses, and claims of vested rights to the proposed development of the Subject Property, in the event any owner(s) of the Subject Property do not agree to the required terms.
10. Applicant shall satisfy all comments and concerns of the Building Inspector, City Engineer, Fire Chief, Police Chief, and Health Department pertaining to the Application and subsequent development and operation on the Subject Property under this Ordinance.
11. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In the case of a question as to the classification of use, the question shall be submitted to the Planning Commission for determination.
12. No use is hereby authorized unless that use is conducted in a lawful, orderly, and peaceful manner. Nothing in this Ordinance shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order, or rule of either the City of St. Francis, the County of Milwaukee, the State of Wisconsin, the United States of America, or other duly constituted authority except only to the extent that it authorizes a nonconforming use of the Subject Property in specific respects expressly described herein. This Ordinance shall not be deemed to constitute a building permit, nor shall this Ordinance constitute any other license or permit required by City Ordinance or other law or regulation.
13. The Planned Unit Development granted under this Ordinance may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in Chapter 455 of the City of St. Francis Zoning Code for its original approval.
14. Any violation of this Ordinance shall constitute a violation of the Zoning Ordinance for the City of St. Francis and shall be subject to the enforcement procedures contained in the City of St. Francis Zoning Code, as amended from time-to-time, and such other remedies as may be available to the City of St. Francis under Wisconsin law.

SECTION 3: SEVERABILITY.

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and posting/publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 25th day of May 2022.

City of St. Francis

By: /s/Ken Tutaj

Ken Tutaj, Mayor

ATTEST: /s/Anne B. Uecker, MMC/WCPC

Anne B. Uecker, City Clerk/Treasurer

Exhibit A

Legal Description of Subject Property

Los 1, 2 and 3 of Certified Survey Map No. 7689, recorded on December 22, 2005, as Document No. 9152209, being a division of Lot 1 of Certified Survey Map No. 7688 in the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 14 and the Northwest $\frac{1}{4}$ and Southwest $\frac{1}{4}$ of the fractional Southeast $\frac{1}{4}$ of Section 14, Town 6 North, Range 22 East, in the City of St. Francis, County of Milwaukee, State of Wisconsin.

Exhibit B

Initial PUD Project Plan