

**PINS:
08-08-106-009
08-08-106-010**

**ADDRESSES:
5S275 AND 5S311 NAPERVILLE-WHEATON ROAD
NAPERVILLE, IL 60563**

**PREPARED BY:
CITY OF NAPERVILLE
LEGAL DEPARTMENT
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540
630/420-4170**

**RETURN TO:
CITY OF NAPERVILLE
CITY CLERK'S OFFICE
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540**

PZC Case #23-1-002

ORDINANCE NO. 23 -

**AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AMENDMENT
TO THE LEIGH SUBDIVISION ANNEXATION AGREEMENT FOR
NAPERVILLE-WHEATON TOWNHOMES (PEARL SUBDIVISION)**

RECITALS

1. **WHEREAS**, Naperville Wheaton LLC, 127 Aurora Avenue, Naperville, IL 60540 are the Owners and Petitioners ("**Owners**" and "**Petitioners**") of real property located at 5S275 and 5S311 Naperville-Wheaton Road, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, the Owners have petitioned the City of Naperville ("**City**") for an amendment to the Annexation Agreement for the development known as Leigh Subdivision which was previously approved for the Subject Property; and
3. **WHEREAS**, on February 5, 2019, the City Council of the City of Naperville passed Ordinance 19-016 authorizing the execution of the Annexation Agreement for Leigh Subdivision (hereinafter "**Annexation Agreement**"); and

4. **WHEREAS**, the Annexation Agreement was recorded on January 28, 2020 with the DuPage County Recorder as Document No. R2020-009411; and
5. **WHEREAS**, the Owners no longer wish to pursue development of the Subject Property in accordance with the Leigh Subdivision Annexation Agreement; and
6. **WHEREAS**, the Petitioner has petitioned the City of Naperville for an amendment to the Annexation Agreement to allow for a development known as Naperville-Wheaton Townhomes; and
7. **WHEREAS**, the Petitioner has requested that the City approve this ordinance ("**Ordinance**"), along with an ordinance revoking ordinance No. 19-019 and ordinance No. 19-094, an ordinance approving variances to allow for construction of nineteen (19) single family attached dwelling units and an associated surface parking lot, and an ordinance waiving the masonry requirements (hereinafter cumulatively referenced as the "**Naperville-Wheaton Townhome Ordinances**"); and
8. **WHEREAS**, the Petitioners are ready, willing, and able to enter into the amendment to the Annexation Agreement and to perform the obligations required herein and as set forth in the Naperville Municipal Code ("**Code**"), as amended from time to time; and
9. **WHEREAS**, Petitioner and City of Naperville have fully complied with the statutory and Code provisions required for the approval and execution of the amendment to the Annexation Agreement; and
10. **WHEREAS**, the City Council of the City of Naperville has determined that it is in the best interests of the City of Naperville to enter into the amendment attached hereto as **Exhibit C**.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority, as follows:

SECTION 1: The foregoing Recitals are incorporated as though fully set forth in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

SECTION 2: The City Clerk is authorized and directed to record the Naperville-Wheaton Townhome Ordinances, including their Exhibits, with the DuPage County Recorder.

SECTION 3: This Ordinance shall be subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 4: If this Ordinance is not recorded with the office of the Recorder in which the Subject Property is located within one (1) year of their approval and passage by the Naperville City Council, this Ordinance shall be null and void without any further action by the City unless this Ordinance is amended by the City to extend such timeframe. The Petitioner shall defend, indemnify, and hold the City and its officers, agents and employees harmless if recordation does not occur within the original, or any extended, timeframe.

SECTION 5: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code. Technical and minor substantive revisions as deemed acceptable to the City Attorney may be made to this Ordinance and to the exhibits hereto prior to recordation with the office of the Recorder in which the Subject Property is located within.

SECTION 6: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2023.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2023.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk