

**PIN:**  
**08-28-301-009**

**ADDRESS:**  
**24W560 77<sup>TH</sup> STREET**  
**NAPERVILLE, IL 60565**

**PREPARED BY:**  
**CITY OF NAPERVILLE**  
**LEGAL DEPARTMENT**  
**630/420-4170**

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

**PZC Case #19-1-070**

**ORDINANCE NO. 19 - \_\_\_\_\_**

**ORDINANCE ANNEXING CERTAIN PROPERTY LOCATED AT  
24W560 77<sup>TH</sup> STREET (77<sup>TH</sup> STREET PROJECT)**

**WHEREAS**, the Marion Rowley Smith Trust dated June 6, 2008 is the owner (“**Owner**”) of real property located at 24W560 77<sup>th</sup> Street, Naperville as legally described on **Exhibit A** and depicted on **Exhibit B** (“**Subject Property**”), and Oak Creek Capital Partners, LLC (“**Petitioner**”) has petitioned the City of Naperville (“**City**”) for annexation of the Subject Property with the Owner’s approval; and

**WHEREAS**, the Subject Property is not within the corporate limits of any municipality, but is contiguous to the City of Naperville and eligible for annexation; and

**WHEREAS**, all notices provided for by the Naperville Municipal Code, and all legal requirements for annexation pursuant to the provisions of 65 Illinois Compiled Statutes 5/7-1-1 *et seq.*, have been fully complied with; and

**WHEREAS**, the City Council of the City of Naperville has determined that annexation of the Subject Property should be approved as provided herein; and

**WHEREAS**, Petitioner has requested that the City approve this ordinance (“**Ordinance**”) along with ordinances approving an annexation agreement, approving rezoning of the Subject Property, and approving a preliminary plat of subdivision, (hereinafter cumulatively referenced herein as the (“**77<sup>th</sup> Street Project Ordinances**”)); and

**WHEREAS**, Petitioner has requested that the City delay recordation of the 77<sup>th</sup> Street Project Ordinances with the DuPage County Recorder for a period of time not to exceed three hundred and sixty-five (365) calendar days after their passage in order to allow the Petitioner to finalize the purchase and sale agreement for the Subject Property and to transfer ownership of the Subject Property from the Owner to the Petitioner; and

**WHEREAS**, subject to approval of the 77<sup>th</sup> Street Project Ordinances, the City has agreed to the proposed timeframe for their recordation with the DuPage County Recorder as set forth herein. In the event that all of the 77<sup>th</sup> Street Project Ordinances are not recorded within the timeframe described above the City and Petitioner agree that the 77<sup>th</sup> Street Project Ordinances shall not become effective, shall not be recorded, and shall be deemed to be automatically void and of no force or effect with no further action being taken by the City or Petitioner; and

**WHEREAS**, the Petitioner and the City have fully complied with the statutory and Naperville Municipal Code requirements required for approval of the requested annexation.

**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 powers, 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:** If recordation of the 77<sup>th</sup> Street Project Ordinances, including but not limited to this Ordinance, does not occur within three hundred and sixty-five (365) calendar days after their passage and approval, then said Ordinances shall be deemed to be automatically null and void and of no force or effect without any further action being required by the Petitioner or the City. Petitioner has acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if the 77<sup>th</sup> Street Project Ordinances are not recorded within the three hundred and sixty-five (365) calendar day timeframe described herein.

**SECTION 3:** Subject to approval, execution, and recordation of 77<sup>th</sup> Street Project Ordinances, the Subject Property described on **Exhibit A** and depicted on **Exhibit B** is hereby annexed by the City of Naperville.

**SECTION 4:** The Plat of Annexation for the Subject Property, attached to this Ordinance as **Exhibit B**, is hereby approved.

**SECTION 5:** Upon confirmation from the City Attorney that the terms and conditions set forth or referenced herein have been fulfilled, the City Clerk is authorized and directed to record this Ordinance, together with an accurate map of the territory annexed as depicted on the Plat of Annexation for the Subject Property, attached to this Ordinance as **Exhibit B**, with the Will County Recorder and the Will County Clerk.

**SECTION 6:** 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.

**SECTION 7:** This Ordinance shall be in full force and effect upon its recordation with  
the DuPage County Recorder

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

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Steve Chirico  
Mayor

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Pam Gallahue, Ph.D.  
City Clerk

STATE OF ILLINOIS    )  
                                  ) SS  
DUPAGE COUNTY        )

The undersigned hereby certifies that she is the City Clerk of the City of Naperville, and that, as such, she is the custodian of the records of the municipality and keeper of the journal of proceedings of the City Council; and she further certifies that the foregoing is a true and correct copy of Ordinance No. 19 - \_\_\_\_\_, duly enacted by the City Council of the City of Naperville at a regular meeting thereof on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, and passed on roll call vote as shown on the foregoing; that she further certifies that due notice, as provided by law, of the consideration of ordinance was given to the Naperville Fire Protection District Trustees, the Lisle Township Board Trustees and Clerk and Tax Assessor, the Lisle Township Highway Commissioner, and the Lisle Library Board of Trustees on October 24, 2019, and she further certifies that there is no other public library district to which any notice is required to be given under the provisions of Section 5/7-1-8 of Chapter 65 of the Illinois Compiled Statutes.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
City Clerk

The above and foregoing certificate was subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public