

STATE OF ILLINOIS        )  
  )  
COUNTY OF DUPAGE        )  
  )  
CITY OF NAPERVILLE      )

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION TO GRANT A MAP AMENDMENT (REZONING), AND PRELIMINARY/FINAL PLAT OF SUBDIVISION FOR THE PROPERTY 722 WOODLAWN AVENUE**

**THE UNDERSIGNED** Petitioner, Mathieson House, LLC, d/b/a M House, an Illinois limited liability company (hereinafter “the Petitioner”) respectfully petitions the City of Naperville (the “City”) to, upon annexation of the property legally described on Exhibit A (the “Property”) pursuant to a separate petition submitted by the Owners of Record of the Property: (i) zone the Property in the City’s R1A Low Density Single-Family Residence District; (ii) approve a preliminary and final plat of subdivision; (iii) approve a deviation from the 33’ platted setback; and (iv) such other relief from the City of Naperville Municipal Code (the “Code”) as may be deemed necessary and appropriate to develop the Property.

In support of this Petition, the Petitioner represents to the City as follows:

1. The Owner of the Property is Jeffrey Goldstone and Kimberly Goldstone (“Owner”).
2. Owner filed a separate petition with the City of Naperville to annex the Property to the City of Naperville (“Annexation Petition”).
3. The Petitioner, Mathieson House, LLC d/b/a M House, is the developer of the Property and has been hired by the Owner to construct a custom home on the Property.
4. The Subject Property is zoned R-4 in unincorporated DuPage County and consists of one (1) lot totaling approximately 0.8 acres.
5. The existing land uses surrounding the Property are as follows:
  - a. North: R1A single family residential

- b. East: R1A single family residential
- c. South: R1A Single Family Residential
- d. West: R1 Single Family Residential

**APPROVAL OF REZONING TO R1A**

6. Upon annexation of the Property to the City of Naperville, Petitioner respectfully requests that the Property be zoned R1A, low density single-family residence district.

7. The rezoning request is appropriate based on the following factors:

- a. *The amendment promotes the public health, safety, comfort, convenience and general welfare and complies with the policies and official land use plan and other official plans of the City; and*

Pursuant to section 6-5-3 in the Code, the Petitioner shall request a zoning classification for the Property upon annexation to the City of Naperville. The requested R1A zoning is consistent with both the proposed use of the Property and the existing use of the properties in the immediate vicinity. Adjacent incorporated properties to the north are zoned R1A, the incorporated property to the west is zoned R1, and the incorporated properties to the south and east are zoned R1A. In addition, Naperville's comprehensive plan designates the Property's future land use as single-family/duplex residential, which is entirely consistent with Petitioner's request.

- b. *The trend of development in the area of the subject property is consistent with the requested amendment; and*

The trend of development in the area of the Property has been and continues to be single-family residential. Upon annexation to the City, the requested zoning is consistent with the nearby adjacent properties, all of which are zoned R1A and R1 in the City of Naperville. Further, the requested zoning will permit the development of a new custom home in keeping with the trend of development in the neighborhood.

- c. *The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification; and*

The existing zoning classification of the Property is R-4 in unincorporated DuPage County. The Owner submitted a separate petition for Annexation to the City of Naperville and upon annexation, Petitioner requests the Property be zoned R1A, which is consistent with the existing zoning designations for nearby and adjacent properties that have been incorporated to the City of Naperville.

*d. The subject property has not been utilized under the existing zoning classification for a substantial period of time; and*

The Property has never been utilized under a City of Naperville zoning designation as the Property is zoned R-4 in unincorporated DuPage County and upon annexation to the City, the Code requires Petitioner to request a zoning designation for the Property.

*e. The amendment, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

As mentioned above, zoning the Property R1A is consistent with the single-family residential character of the neighborhood. The nearby properties that remain unincorporated are zoned for residential use in DuPage County. All surrounding properties are intended for single-family residential homes, which is the very use for which Petitioner plans to utilize the Property.

**APPROVAL OF A PRELIMINARY AND FINAL PLAT OF SUBDIVISION**

8. Petitioner seeks approval of a Preliminary and Final Plat of Subdivision, a copy of which has been submitted herewith, to establish easements and create a legal lot of record. The proposed subdivision meets the standards for a subdivision consistent with the standards set forth in the Code.

**A DEVIATION FROM THE SUBDIVISION REGULATIONS OF THE  
PLATTED SETBACK REQUIREMENT**

9. The Property is located within the Arthur T. McIntosh and Company's Naperville Estates Subdivision (the "Subdivision").

10. The Final Plat of Subdivision was recorded in in DuPage County in 1927 as document number R1927-236013 (the "Plat").

11. The Plat depicts a thirty-three (33) foot setback requirement in the side yard of the Property.

12. Nearby and adjacent properties who were originally subject to the same 33' platted setback requirement have all since abrogated or deviated from said setback as follows:

- a. 716 Woodlawn Ave. abrogated the 33' platted setback pursuant to the Sieberts Woodlawn Avenue Subdivision plat recorded as Document No. R2012-021499 in DuPage County, Illinois
- b. 616 Driftwood Court abrogated the 33' platted setback pursuant to the Avere Subdivision plat recorded as Document No. R2007-111383 in DuPage County, Illinois
- c. 612 Driftwood Court abrogated the 33' platted setback pursuant to the Avere Subdivision plat recorded as Document No. R2007-111383 in DuPage County, Illinois
- d. 815 S. Julian Street deviated from the 33' platted setback pursuant to Ordinance No. 21-092 recorded as Document No. R2021-136320 in DuPage County, Illinois.

13. The Petitioner seeks a deviation from the historic 33' side yard platted setback line in order to redevelop the Property consistent with current zoning ordinances and the character of surrounding properties.

14. The Petitioners' proposed development is consistent with the existing land use, surrounding residential uses, the City's Comprehensive Plan and will allow the Petitioner to utilize the Property in a manner that is compatible with the surrounding environment and to its highest and best use.

In support of Petitioner's request for a Platted Setback Deviation from thirty-three (33) feet, the Petitioner sets forth the following findings of fact:

*(a) The Petitioner has shown that strict adherence to the provisions of this Title would cause unnecessary hardship due to conditions which are unique to the site and not caused by the Owner or Petitioner; and*

Strict adherence to the historic platted setback line would require Petitioner to situate their home at, or in excess of, thirty-three feet from the interior side yard line. Generally speaking, the Code permits a minimum 8-foot side yard (for a total of 20 feet for two yards) in the R1A district. Requiring Petitioner to adhere to a 33' side yard setback would (i) ignore existing violations and/or deviations previously approved by the City; and (ii) severely inhibit the usability of the side yard for construction thus situating the home unnecessarily close to the adjacent property at 734 Woodlawn. This situation was not created by the Petitioner but is a product of historic plat requirements dating back to 1927.

The properties immediately adjoining the Property (616 Driftwood Court, 612 Driftwood Court, and 716 Woodlawn Avenue) have all since abrogated the 33' building setback line. More recently, 815 S. Julian received approval to deviate from the 33' platted setback line, which ran through the rear yard of that Property. The property located at 716 Woodlawn Ave. was granted

approval to abrogate the platted setback by the City pursuant to Ordinance No. 11-184. In the ordinance for 716 Woodlawn Ave., the City specifically acknowledged that abrogation of the thirty-three (33) foot platted setback requirement set forth in the Plat reflects the prevailing physical characteristics of the neighborhood. For the foregoing reasons, strict adherence to the provisions of this Title would cause unnecessary hardship due to unique conditions (90 year old platted setback) not caused by Petitioner.

*(b) The requested Subdivision Deviation is not contrary to the intent and purpose of the provisions of this title.*

The requested subdivision deviation is not contrary to the intent and purpose of the provision of this title. The underlying purpose of a setback requirement is to (i) ensure proper light and air to surrounding properties; and (ii) create a degree of consistency in a neighborhood. Here, in the event that a deviation from the platted thirty-three (33) foot interior yard setback is approved, Petitioner will still be restricted by the requirements set forth in the R1A zoning district as it relates to the home's setbacks and the home must still maintain a distance of 8 feet from the interior side lot line pursuant to the Code (combination of 20' for two yards), which Petitioner will wholly comply with. The applicable side and rear yard requirements established by the underlying zoning, will ensure that adequate light and air is preserved for adjacent homeowners. As evidenced by the previous approvals granted, existing homes immediately adjacent to the Property do not respect the thirty-three (33) foot platted setback as the City previously granted the abrogation for said setback to these adjacent properties. There is no uniformly respected building line along these properties under the Plat such that granting the deviation would be contrary to the intent and purposes of the zoning ordinance.

**WHEREFORE**, by reason of the foregoing, the undersigned Petitioner respectfully requests the City Council and Plan Commission take the necessary steps to, upon annexation of

the Property: (i) zone the Property in the City's R1A Low Density Single-Family Residence District; (ii) approve a preliminary and final plat of subdivision; (iii) approval of a deviation from the 33' platted setback; and (iv) such other relief from the Naperville Municipal Code as may be deemed necessary and appropriate to develop the Property.

**RESPECTFULLY SUBMITTED** this 5<sup>th</sup> day of May, 2022.

PETITIONER:

Mathieson House, LLC, an Illinois limited liability company

By:   
\_\_\_\_\_  
ROSANOVA & WHITAKER, LTD.  
ATTORNEY FOR PETITIONER

**EXHIBIT A**  
**LEGAL DESCRIPTION**

THE WEST 149 FEET OF LOT 1 IN BLOCK 10 IN ARTHUR T. MCINTOSH AND COMPANY'S NAPERVILLE ESTATES, BEING A SUBDIVISION OF PART OF SECTION 19, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 20, 1927, AS DOCUMENT 236013, IN DUPAGE COUNTY, ILLINOIS.

COMMONLY KNOWN AS:           722 Woodlawn Avenue, Naperville, IL 60540

PIN:                               08-19-400-006