

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

PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR ENTITLEMENTS REGARDING ORION STEM SCHOOLS AND THE PROSPERITA

The undersigned Petitioner, VRUTTHI LLC, an Illinois limited liability company (hereinafter “the Petitioner”), respectfully petitions the City of Naperville to approve the following: (i) annexation of 12.35 acres on the southwest corner of Diehl Road and Mill Street, legally described on **Exhibit A** (“Subject Property”), to the City of Naperville, subject to the City and Petitioner entering into a mutually agreeable annexation agreement; (ii) upon annexation, approval of a Map Amendment rezoning the Subject Property to OCI (Office, Commercial and Institutional District); (iii) approval of a plat of subdivision and to vacate existing utility easements; (iv) a Conditional Use to locate attached single family dwelling units and their supporting associated uses on the Subject Property in the OCI District; (v) variance from Section 6-16-3:7 to allow an off premises sign; (vi) a variance from Section 5-2C-3, Exterior Wall Construction, requiring fifty percent (50%) masonry on the single family attached townhomes to allow twenty-five (25%) masonry on the townhomes; (vii) a variance from Section 5-10-3:3.2 requiring the planting of parkway trees along Diehl Road and Mill Street; and (viii) such other variances, departures or deviations as may be necessary to develop the Subject Property as depicted on the plans submitted herewith pursuant to the appropriate provisions of the Naperville Municipal Code, as amended (hereinafter the “Code”).

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

BACKGROUND INFORMATION

1. The Petitioner is an Illinois limited liability company, with a principal place of business address of 3644 White Eagle Drive, Naperville, IL 60564, and is the contract purchaser of the Subject Property.
2. B.C.T. Limited Liability Company, an Illinois limited liability company, is the owner of the Subject Property, with a principal place of business address of 101 Kenmare Drive, Burr Ridge, IL 60527 (“Owner”).
3. The Subject Property consists of 12.35 acres and is currently vacant land.

Petitioner proposes to subdivide the Subject Property into 19 lots. Lot 1 will be approximately 5.01 acres and consist of a 44,000 square foot kindergarten through eighth grade STEM school called Orion STEM Schools with associated parking and outdoor learning and recreational space (Orion STEM Schools). Lots 2 through 19 will be the townhome lots on 6.98 acres called The Prosperita. The Prosperita will feature 17 townhome buildings consisting of seventy-six (76) two (2) bedroom units. Petitioner will also be dedicating 0.36 acres of right-of-way to DuPage County for Mill Street.

4. Vrutthi LLC, will be the owner and operator of the Orion STEM Schools and Brio Estates LLC will be the developer, owner, and operator of The Prosperita.

5. The existing land uses surrounding the Subject Property are as follows:

- a. North: DuPage County - R-3 – Vacant Land;
- b. East: Naperville - OCI and R-1 – Office Building and Nike Park;
- c. South: Naperville - OCI – Senior Living Facility;
- d. West: Naperville - R1A - Water Tower; and
City of Warrenville – S-D (Special Development District)- Water Tower and Office Building.

SUMMARY OF DEVELOPMENT

The Subject Property is located on the southwest corner of Diehl Road and Mill Street. The Petitioner is seeking to subdivide the Property and locate a kindergarten through eighth grade STEM school on the northern approximately five (5) acres of the Subject Property and a residential community consisting of seventy-six (76) townhomes on the southern approximately seven (7) acres.

ORION STEM SCHOOLS

The proposed Orion STEM Schools will consist of a two (2) story, 44,000 square foot building housing grades kindergarten through eighth grade focusing on Science, Technology, Engineering and Mathematics and entrepreneurship. In this rapidly changing world, Orion STEM Schools will provide the City of Naperville with an educational institution that will help prepare students for employment in jobs that don't even exist yet. STEM occupations are growing 20% faster than any other field, so in the future our country will need more qualified individuals to fill STEM jobs. The Petitioner is seeking to bridge STEM education with an entrepreneurial mindset to assist students who may want to be self-employed in the future.

Petitioner is looking to inspire students to make an impact on humankind using STEM and entrepreneurship to empower students, drive change, and transform the business world with empathetic leadership.

Petitioner is partnering with the International Baccalaureate, University of Chicago STEM Education, and A Leader in Me to design the school and develop the curriculum to meet her high standards. The school will include a planetarium, rainforest, lights and shadows, tinker lab, idea lab, virtual reality lab, music lab, art workshop, drama and performance area, gymnasium, and collaborative pods. The outdoor amenities will be age-based and will consist of an amphitheater and performance stage; hard surface areas for basketball, tennis, and other recreational activities; butterfly and pollinator gardens; bird sanctuary; greenhouse, garden beds, and experimental plots; arboretum; and yoga, brainstorming, music, movement, design, and building areas. With the help of the University of Chicago STEM Education team, the school is being designed to maximize indoor and outdoor learning spaces.

The school will be designed to hold approximately 350+ students. The hours will be staggered with administration being available from 7:00 am to 6:00 pm; before school learning will be open from 7:30 am to 8:10 am; kindergarten through second grade hours of attendance will be from 8:10 am to 2:45 pm; third through fifth grades hours of attendance will be from 8:20 to 3:00 pm; sixth through eighth grades hours of attendance will be from 8:30 am to 3:15 pm; and after school learning will be available to students from 2:45 pm to 6:00 pm. These staggered hours will assist in the coordination of staff parking and student arrival and departure and will also assist with drop off and pick up of students to prevent any back-ups. The parking drive aisles are wide enough and long enough to accommodate any vehicle stacking requirements.

The Petitioner envisions a maximum of 40 employees including administrators, teachers, and staff for the Orion STEM Schools. The parking lot will exceed the parking requirements of Section 6-9-3:6 of the Municipal Code of 1 parking space per employee with 50 spaces including 2 handicapped spaces. The school building is designed with one loading dock as is required at Section 6-9-4:6 of the Municipal Code. Petitioner will meet the bicycle parking space requirement of 10 spaces pursuant to Section 6-9-7:3.5. There is also a bus drop-off and pick-up area separate from the parent drop-off and pick-up area to better manage traffic on the school property. There are two access points into the school site, one full access off of West Street with one exit lane and one entrance lane, and one right-in/right-out off of Mill Street. Both access

points will be shared with the Orion STEM Schools site and The Prosperita townhome community.

The exterior of the 44,000 square foot STEM School building will consist primarily of white brick and white textured stone panel cladding, with secondary architectural metal cladding. The windows and doors will consist of aluminum frames and insulating glass. All roof mounted HVAC equipment will be screened behind the roof parapet to shield it from the view of any adjacent properties. The trash enclosures will consist of matching brick sides with white metal gates, shielding the dumpsters from any adjacent properties. The stormwater management facility will consist of an underground storage tank sufficient in size to accommodate the drainage on the site located under the hard-surface play area east of the school building.

Petitioner is seeking wall signage for the Orion STEM Schools for the facade of the school building facing Mill Street with a sign area of approximately 118.75 square feet. Additionally, there is a sign over the entrance on Mill Street a size of approximately 15 square feet. The wall signage on the east building facade is consistent with the OCI sign provisions, allowing 1.5 square feet of wall signage per linear foot of facade. Petitioner is also seeking approval of two monument signs for the Orion STEM Schools, one on Diehl Road and a shared sign with The Prosperita at the right-in/right-out entrance on Mill Street. A variance is being requested from Section 6-16-3:7 to locate an off-premises sign at the Mill Street entrance for the shared residential and school development sign.

Additionally, as requested by City staff, Petitioner will keep the same office/institutional feel along Diehl Road by locating the parking lot on the north side of the Subject Property near Diehl Road. Petitioner has been coordinating with the University of Chicago STEM Education (UC STEM) team on the Orion STEM Schools site. The UC STEM team, based on numerous studies, has recommended that the Subject Property be developed with as much green space as possible within the view of the students because students learn better when looking at green open space rather than concrete. This is also why the school has so many outdoor amenities and learning spaces. The Subject Property will be professionally landscaped to meet the City requirements pursuant to the landscape plans submitted herewith.

DuPage County has jurisdiction over Diehl Road and Mill Street adjacent to the Subject Property. In our meeting with DuPage County, they requested that Petitioner not locate parkway trees in the right-of-way. Therefore, Petitioner is seeking a variance to allow for the planting of

the City's required parkway trees on Mill Street outside of the right-of-way consistent with the properties to the south and to not plant parkway trees on Diehl Road consistent with the properties to the west.

Finally, Petitioner, through its affiliates, has opened three successful preschool facilities, 2 in Naperville and 1 in Plainfield. The students who attend her preschools are taught with the same passion-based, problem-based experiential learning that is envisioned for the Orion STEM Schools. Petitioner envisions the Orion STEM Schools as an opportunity for her preschool students to continue their education with the same focus and mindset at the Orion STEM Schools, but also to offer this opportunity to other Naperville area students.

THE PROSPERITA

The Prosperita is proposed to be a seventy-six (76) unit townhome community located on the south seven (7) acres of the Subject Property. The proposed development will provide a much-needed housing opportunity on the northwest side of the City for an underserved segment of Naperville's population that desires a safe living environment, excellent schools, and associated amenities in close proximity to employment, transportation, and a variety of retail, restaurant, entertainment, and convenience uses. The proposed development would create an optimum use of the Subject Property by providing this underserved segment of the housing market in northwest Naperville with an opportunity to reside in Naperville while also enhancing the City's real estate tax base, infusing the local economy with additional income and improving the City's work force. Additionally, this will allow for kindergarten through eighth grade students generated from the townhomes who attend the Orion STEM Schools to walk to school.

The seventy-six (76) units will be located in seventeen (17) buildings with three (3) to six (6) units per building. The townhomes will be three (3) story walk-ups with each unit having a deck. There will also be an option to have a three (3) story unit with a roof deck as shown on the elevation plans submitted herewith. Prosperita meets the density requirement for attached single-family residences in the OCI District. The Prosperita townhomes will consist of two and three-bedroom units with a maximum height of forty-three (43) feet. There will be a large square in the center of The Prosperita to encourage community, social, and passive recreational activities. The stormwater detention will be located in an underground storage tank under the center square, with a second stormwater management facility in the southeast corner of the townhome

development. The front facades of the townhome units all face the exterior of the Subject Property with rear load garages. The garages, parking areas, and drive aisles are all located internal to the Subject Property. There will be two (2) access points to The Prosperita, one full access off of West Street and one right-in/right-out off of Mill Street. There will also be two (2) access points onto the shared drive with HarborChase of Naperville for ingress and egress.

The architecture as shown on the elevations submitted with this application features high end architectural features, including architectural asphalt shingles, metal seam roofing, stone, brick, and composite siding. In order to keep the townhome units affordable and competitive with townhomes in the area, while using superior products that are durable, Petitioner is seeking a reduction in the City's masonry requirement from fifty percent (50%) to not less than twenty-five percent (25%), with 75% of the exterior elevations being composite siding. The variance from the 50% masonry coverage requirement is justified through the thoughtful application of design. It is not the overall quantity of brick that makes an elevation attractive, but the careful study of proportion, massing, ornamentation, color, and function of elements that make up the whole of a successful elevation. We intentionally placed brick at logical transition points on the front and sides, which, when contrasted with the composite siding, generates far more visual interest than a monolithic mass of a single material. Monolithic brick architecture is no longer favored in the marketplace. These transitions and material changes help the building read as a collection of units and become a focal point of the design. The proposed brick colors are complementary in nature and help establish interest and diversity while still maintaining a common design element for each building. The composite siding is a high-quality product with durability and longevity, comparable to masonry. The exterior townhome elevations will provide a superior product with 100% masonry and composite siding on all elevations, with no vinyl siding product.

In order to be consistent with Avenida and HarborChase, all townhomes facing West Street, Mill Street, and HarborChase will have more than 50% brick on the front façade. The Prosperita uses transitional architecture to combine familiar forms with desirable modern plans and features. Its use of high-quality materials and an open floor plan give it a distinguished and sleek feel while remaining recognizable. These features are utilized in ways that fit within the context of the neighborhood while still delivering the modern architecture and features the residents will demand. The building colors have also been selected to complement the

surrounding areas. High end interior finishes will be provided throughout each townhome unit. Each unit will have its own exterior entrance and access to a dedicated patio or balcony. Garages will have direct access to each unit.

As a result of the foregoing, the proposed development will allow the Subject Property to be utilized to an extent that is compatible with the surrounding environment and to its highest and best use while enhancing the City's real estate tax base and improving the aesthetics of this highly visible area.

CITY OF NAPERVILLE LAND USE MASTER PLAN 2022

In 2022, the City of Naperville completed its Land Use Master Plan 2022 relative to this area of the City (Master Plan). The Property is designated as Employment Center on the north with minimal City Corridor designation on the south side of the Subject Property. The Prosperita offer supporting residential uses to the City Corridor designation on the far southern edge of the Subject Property. The Orion STEM Schools serves as a supporting use in the Employment Center designation under the Master Plan. While attached residential uses are not considered primary or supporting uses in the Employment Center designation, they provide a nice transition from Mill Street, which is an arterial street to the residential uses to the southwest. Additionally, the Subject Property has remained vacant for a number of years. The residential uses will provide living opportunities near commercial, office, restaurant, entertainment, recreation, and major transportation roadways providing for employment, shopping, dining, and mobility opportunities for the residents. The Prosperita and Orion STEM Schools provide appropriate OCI zoning, mobility, integrated landscaping, a consistent look with the adjacent office uses, green spaces, and open spaces integrated with the site design, surface parking for the school, and townhomes, and appropriate screening and fencing.

REQUIRED DEVELOPMENT ENTITLEMENTS – OCI ZONING DISTRICT

1. The Petitioner seeks approval of annexation to the City of Naperville.
2. The Petitioner seeks approval of a Map Amendment, rezoning the Subject Property from R-3 (Residential) in DuPage County to OCI (Office, Commercial and Institutional District) ("OCI") to allow for the construction of the Orion STEM Schools on five (5) acres and a seventy-six (76) unit townhome community located on seven (7) acres on the Subject Property.

3. The Petitioner seeks a conditional use to locate attached single-family residences in the OCI Zoning District.

4. The Petitioner seeks approval of a Preliminary Plat.

5. The Petitioner seeks a variance from the Section 6-16-3:7 of the Code to locate an off-premises monument sign for the Orion STEM Schools on The Prosperita property at the Mill Street entrance to the Subject Property.

6. The Petitioner seeks a variance from Section 5-2C-3 of the Code to reduce the masonry requirement from fifty percent (50%) to twenty-five (25%) on the single family attached townhomes.

7. Petitioner seeks a variance from Section 5-10-3:3.2 requiring the planting of parkways trees along Diehl Road and Mill Street.

8. The proposed entitlement requests meet all City and State requirements for the development of the Subject Property, except for the signage variance, masonry reduction variance, and parkway tree variance, and will facilitate the beneficial use of the Subject Property.

The required standards for a Conditional Use to allow for attached single family residential development in the OCI District, a Map Amendment to rezone the Subject Property from R-3 in DuPage County to OCI in the City, and a Sign Variance to locate an off-premises sign, a Masonry Reduction Variance to reduce the masonry requirement for townhomes, and a Parkway Tree Variance from the required planting of parkway trees in the Diehl Road and Mill Street rights-of way are addressed below in Exhibits 1, 4 and 7, respectively.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests that the Plan Commission recommend approval and the City Council approve the following: (i) annexation of the Subject Property to the City of Naperville, subject to the City and Petitioner entering into a mutually agreeable annexation agreement; (ii) upon annexation, approval of a Map Amendment zoning the Subject Property to OCI (Office, Commercial and Institutional District); (iii) approval of a plat of subdivision and to vacate existing utility easements; (iv) a Conditional Use to locate attached single family dwelling units and their supporting associated uses on the Subject Property in the OCI District; (v) variance from Section 6-16-3:7 to allow an off premises sign; (vi) a variance from Section 5-2C-3, Exterior Wall Construction, requiring fifty percent (50%) masonry on the single family attached townhomes to allow twenty-five (25%) masonry on the townhomes; (vii) a variance from the Section 5-10-3:3.2 requiring the

planting of parkway trees along Diehl Road and Mill Street; and (viii) such other variances, departures or deviations as may be necessary to develop the Subject Property as depicted on the plans submitted herewith pursuant to the appropriate provisions of the Code, as amended.

RESPECTFULLY RESUBMITTED this 14 day of February, 2023.

PETITIONER:

VRUTTHI LLC,
an Illinois limited liability company

By: 
Rosanova & Whitaker, Ltd. Attorney for the Petitioner

EXHIBIT 1
CONDITIONAL USE STANDARDS

Section 6-3-8:2: Standards for Granting or Amending a Conditional Use:

1. *The establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the public health, safety and general welfare;*

Petitioner is seeking a conditional use to locate a townhome community called The Prosperita and its supporting uses on vacant land that Petitioner is seeking to annex and rezone to OCI (Office, Commercial and Institutional) District at the southwest corner of Diehl Road and Mill Street. The establishment and maintenance of the townhome community on the Subject Property will not be detrimental to or endanger the public health, safety or general welfare. In fact, the establishment of The Prosperita will promote the public health, safety, and welfare of the community by allowing underperforming, vacant land in DuPage County to be utilized as a residential development, which, in turn, will support the commercial development and employment opportunities in the area and enhance the City's property tax base.

2. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;*

The Prosperita townhome development will not be injurious to the other property in the immediate area for purposes already permitted. Other than a small parcel across Diehl Road to the north, the surrounding properties are completely built out with commercial and institutional uses. As stated above, the proposed conditional use will allow underperforming land to be utilized as a residential development, which, in turn, will support commercial and employment opportunities in the area. Therefore, The Prosperita will enhance the use and enjoyment of the other property in the area for the uses permitted, including retail, fitness, restaurant, entertainment, and employment uses. Further, by utilizing an underperforming lot, property values in the vicinity will not be diminished or impaired but will likely be enhanced by the high-end townhome development to support of the surrounding uses.

3. *The establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the district;*

There is little unimproved property in the vicinity that would be affected by the establishment of The Prosperita on the Subject Property, except the small vacant parcel to the north of Diehl Road. Adding additional rooftops to the area will enhance the viability of the surrounding area and make the unimproved property to the north more desirable to a commercial or institutional user. The proposed Prosperita townhome development would be in harmony with any future development to the north by providing consumers and employees for future commercial or institutional users. The establishment of The Prosperita will not impede the orderly development and improvement of the adjacent undeveloped property but will enhance development of any adjacent properties.

4. *The establishment of the conditional use is not in conflict with the adopted comprehensive master plan;*

The Master Plan shows this property as City Commercial and Employment Center. The Prosperita offer supporting uses to the City Corridor designation on the far southern edge of the Subject Property. While attached residential uses are not considered primary or supporting uses in the Employment Center designation, they provide a nice transition from Mill Street, which is an arterial street to the residential uses to the southwest. Additionally, the Subject Property has remained vacant for a number of years. Post-pandemic, vacant office space is available in the I-88 Corridor, and commercial development has decreased, making this parcel less likely to be developed with an office or commercial use. The residential uses will provide living opportunities near commercial, office, restaurant, entertainment, and recreational uses and major transportation roadways providing for mobility of the residents. The proposed townhome development is not in conflict with the adopted Master Plan but in harmony with it.

EXHIBIT 4

STANDARDS FOR GRANTING A MAP AMENDMENT (REZONING)

Section 6-3-7:1: Standards for Granting a Map Amendment (Rezoning):

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

The Petitioner is seeking to annex the Subject Property and rezone it from R-3 in DuPage County to OCI (Office, Commercial, Institutional) District in the City of Naperville. The surrounding properties in the City of Naperville are zoned OCI, with the exception of Nike Park, which is zoned R-1. The property to the west is zoned S-D, Special Development District in Warrenville, but is office uses and a water tower. With the school on the corner as an institutional use, the surrounding City properties being zoned OCI, and the Master Plan classifying the Subject Property as Employment Center, the requested amendment complies with the policies and Master Plan of the City.

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

The trend of development in the area is OCI zoning with the exception of Nike Park, which is zoned R-1, but could still be considered an institutional use.

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

The existing zoning classification is R-3 in DuPage County. The requested OCI zoning is more appropriate and suitable for this major office, commercial and institutional corridor than single family detached residential zoning. The school will provide that same institutional feel along Mill Street and Diehl Road, and the townhomes on the southern portion of the Subject Property provide a nice transition from Mill Street to the residential uses to the southwest.

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

The Subject Property has been vacant since the property was platted and zoned R-3 in DuPage County in 1926. The Subject Property is underutilized, and the proposed uses will help make underperforming property viable, improving the City's tax base.

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

The essential character of the area is office, commercial and institutional uses. The rezoning to OCI will not alter the essential character but will be consistent and harmonious with the essential character of the neighborhood. Since the adjacent properties are office, institutional, vacant, and Nike Park, the proposed amendment will not be a substantial detriment to adjacent property.

EXHIBIT 7

STANDARDS FOR GRANTING A ZONING VARIANCE

Section 6-3-6:2 – Standards for Granting a Zoning Variance

1. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan;*
 - a. Petitioner is seeking a variance from Section 6-16-3:7 of the Code to locate an off-premises sign for the Orion STEM Schools on The Prosperita property at the Mill Street entrance to the Subject Property. Petitioner is allowed one (1) sign for the School and two (2) residential development monument signs on Mill Street. Petitioner, instead, would like to locate the sign for the Orion Stem Schools at the entrance to the Subject Property on Mill Street. The intent of the signage code in relevant part is to limit the number of signs while still providing identifying signage to advertise or identify a use to passersby and direct persons to that use. Petitioner feels that the shared signage will meet the intent of the Code. Because this is a private school, identifying the building as a STEM school is critical to its success. The sign variance request is in harmony with the purpose and intent of the Code and Master Plan.
 - b. Petitioner is also seeking a variance from Section 5-2C-3 to reduce the fifty percent (50%) brick requirement on the exterior elevations of the townhomes to twenty-five percent (25%). Petitioner is committed to utilizing a variety of high-quality materials on the exterior walls of the townhomes, including brick, cast stone, composite siding (vertical board and batten, horizontal lap, and panels), architectural shingles, and metal standing seam accent roofing as shown on the materials board. No vinyl siding will be used. The intent of the masonry requirement is to encourage the use of high-quality, long lasting building materials to drive higher home values. The masonry requirement was established in the early 2000's when masonry was a predominant single-family building component and siding was deemed an inferior building product. Two decades later, siding options are substantially improved, and in some applications like composite siding, may even provide a higher quality and higher performance, with long-term color stability, and lower maintenance applications than other exterior wall options. The market has shown broad acceptance of this product, revealing that fifty percent (50%) masonry does not equate to higher quality or higher value in today's market. Therefore,

the variance is in harmony with the general purpose and intent of this Title and the Master Plan.

Additionally, in order to keep the townhome units affordable and competitive with other townhome developments in the area, while using superior products that are durable, Petitioner is seeking a reduction in the City's masonry requirement. The variance from the 50% masonry coverage requirement is justified through the thoughtful application of design. It is not the overall quantity of brick that makes an elevation attractive, but the careful study of proportion, massing, ornamentation, color, and function of elements that make up the whole of a successful elevation. We intentionally placed brick at logical transition points on the front and sides, which, when contrasted with the composite siding, generates far more visual interest than a monolithic mass of a single material. Monolithic brick architecture is no longer favored in the marketplace. These transitions and material changes help the building read as a collection of units and become a focal point of the design. The proposed brick colors are complementary in nature and help establish interest and diversity while still maintaining a common design element for each building. The composite siding is a high-quality product with durability and longevity, comparable to masonry. The exterior townhome elevations will provide a superior product with 100% masonry and composite siding on all elevations, with no vinyl siding product. In order to be consistent with Avenida and HarborChase, all townhomes facing West Street, Mill Street, and HarborChase will have more than 50% brick on the front façade.

c. Petitioner is also seeking a variance from Section 5-10-3:3.2 requiring the planting of parkway trees on Diehl Road and Mill Street. DuPage County has jurisdiction over Diehl Road and Mill Street adjacent to the Subject Property. In Petitioner's meetings with DuPage County, they have requested that Petitioner not plant parkway trees in the rights-of-way. On Mill Street, Petitioner will plant trees just outside of the right-of-way, consistent with the properties along Mill Street to the south and east. On Diehl Road, Petitioner is seeking a variance to permit Petitioner to not plant trees to keep the area consistent with the commercial, institutional and office properties to the west. The parkway tree variance request is in keeping with DuPage County's request and in harmony with the purpose and intent of the Code and Master Plan.

2. *Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district;*

a. Strict enforcement of the sign location would create identification issues for the STEM School and the townhome community, resulting in practical difficulties because the Orion STEM Schools is a private school, and its viability is dependent upon passersby being able to identify the school as a STEM school. Petitioner would be allowed to locate a sign on Mill Street on the school property, but there is only one entrance on Mill Street, which might cause confusion on where to enter the school property. The shared sign at the Mill Street entrance will provide motorists with direction on where to enter the Subject Property to get to the Prosperita and Orion STEM Schools. While public schools are not dependent upon the advertising signage provides because they are destination locations and are not seeking student enrollment, The Orion STEM Schools viability is based on attracting students to the school. Therefore, not allowing a shared sign at the entrance on Mill Street will create practical difficulties not otherwise found in the OCI District

b. Petitioner is seeking a reduction in the masonry requirement for the townhome portion of the development. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district. Most properties in the OCI District do not provide single family attached units. Additionally, the cost of utilizing fifty percent (50%) of brick causes a difficulty and a hardship on Petitioner because other townhome developments in the area do not meet the fifty percent (50%) brick requirement. To keep the townhomes affordable and to be competitive with other townhome developments in the area, the Petitioner is requesting a reduction in the brick requirement as other newer construction townhomes in the area have little to no brick. The materials utilized by Petitioner will result in 100% masonry/composite which is far superior to 50% brick and vinyl siding and will not cause a decrease in value of the townhome units.

c. Strict enforcement of the parkway tree requirements of the Code would require that Petitioner not comply with DuPage County's request that Petitioner not plant

parkway trees in DuPage County's right-of-way along Diehl Road and Mill Street. Strict compliance would result in the practical difficulty that Petitioner would have to ignore the County's request regarding its right-of-way while we are also seeking permission for a right-in/right-out on Mill Street to enter the Subject Property. This condition is not found on many other properties in the City since in most cases, the City has jurisdiction over the adjacent streets or obtains jurisdiction during annexation. As a compromise, along Mill Street, Petitioner proposes to plant trees just outside of the right-of-way, consistent with the properties along Mill Street to the south and east. On Diehl Road, Petitioner is proposing to not plant trees to keep the area consistent with the commercial, institutional and office properties to the west.

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

a. The off-premises sign will have no impact on the essential character of the neighborhood, which is largely office, commercial and institutional, nor will it be a substantial detriment to the adjacent property, which in this case is Nike Park. The shared sign will result in one (1) sign along Mill Street, rather than the three (3) signs that would otherwise be permitted. There will not be a detriment to the vacant property to the north, the office and the Nike Park property to the east, or the institutional property to the south.

b. The requested variance from the masonry requirement will not alter the essential character of the neighborhood, which is largely commercial, office, and institutional uses and the park site across Mill Street. The front facades on the townhomes facing West Street, Mill Street, and Harbor Chase will have in excess of 50% brick on the front facades to be compatible with Avenida and HarborChase. Petitioner intends to utilize high-end materials on the exterior walls of the townhomes, which will result in higher quality, higher performance, long-term color stability, and lower maintenance applications for the townhomes. As stated above, the 100% masonry/composite siding will result in a superior townhome development. There will be no detriment to the park, institutional, office and commercial uses immediately adjacent to The Prosperita.

c. The requested parkway tree variance will not alter the essential character of the neighborhood nor be a substantial detriment to the adjacent properties in that the location of "parkway" trees just outside of the right-of-way on Mill Street will be consistent with

the look and feel of properties to the south, and not planting trees in the Diehl Road right-of-way will be consistent with the look and feel of properties immediately to the west.

**EXHIBIT A
LEGAL DESCRIPTION**

THAT PART OF THE SOUTH HALF OF SECTION 1 AND THE NORTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1 IN THE FINAL PLAT OF SUBDIVISION FOR HARBORCHASE OF NAPERVILLE RECORDED AS DOCUMENT R2014-088045 SAID POINT ALSO BEING ON THE EAST LINE OF WEST STREET DEDICATED PER DOCUMENTS R95-183401, R97-92072 AND R98-117566; THENCE NORTH 00 DEGREES 28 MINUTES 30 SECONDS EAST 933.27 FEET ALONG SAID EAST LINE OF WEST STREET TO A POINT ON THE SOUTH LINE OF LAND CONVEYED TO THE COUNTY OF DUPAGE FOR DIEHL ROAD BY WARRANTY DEED RECORDED JULY 14, 1989 AS DOCUMENT R89-084247; THENCE NORTH 87 DEGREES 43 MINUTES 22 SECONDS EAST 467.87 FEET ALONG SAID SOUTH LINE TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY 99.23 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 100.00 FEET AND A CHORD BEARING NORTH 63 DEGREES 50 MINUTES 56 SECONDS WEST; THENCE NORTH 87 DEGREES 46 MINUTES 40 SECONDS EAST 17.02 FEET TO A POINT ON THE WESTERLY LINE OF MILL STREET (COUNTY HIGHWAY 32) DEDICATED PER DOCUMENTS 213969 AND R2010-041209; THENCE SOUTH 00 DEGREES 28 MINUTES 30 SECONDS WEST 915.28 FEET ALONG SAID WESTERLY LINE TO THE NORTHEAST CORNER OF LOT 1 IN THE AFOREMENTIONED HARBORCHASE OF NAPERVILLE; THENCE NORTH 89 DEGREES 31 MINUTES 30 SECONDS WEST 570.14 ALONG THE NORTH LINE OF SAID LOT 1 TO THE POINT OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.

Commonly known as : Southwest corner of Diehl Road and Mill Street, Naperville, IL

PINS:

07-01-401-012	07-01-405-033
07-01-401-014	07-01-405-034
07-01-401-016	07-01-406-010
07-01-401-017	07-01-406-011
07-01-402-013	07-01-406-012
07-01-402-016	07-01-406-013
07-01-402-018	07-01-406-014
07-01-402-019	07-01-406-015
07-01-405-002	07-01-406-028
07-01-405-003	07-01-406-029
07-01-405-004	07-01-406-030
07-01-405-005	07-01-406-032
07-01-405-006	07-01-406-033
07-01-405-007	07-01-406-034
07-01-405-024	07-01-406-035
07-01-405-026	07-01-406-036
07-01-405-027	07-01-406-037
07-01-405-029	07-12-200-030
07-01-405-030	07-12-201-034
07-01-405-031	
07-01-405-032	