

P.I.N.s:

01-15-101-044 (part of)

01-15-101-048-0000

01-15-101-049-0000

PROPERTY ADDRESSES:

4111 Tower Ct., Naperville, IL 60564 [Lot 1]

4243 Tower Ct., Naperville, IL 60564 [Lot 2]

4231 Tower Ct., Naperville, IL 60564 [Lot 3]

4119 Tower Ct., Naperville, IL 60564 [Outlot A]

2808 103rd St., Naperville, IL 60564

2812 103rd St., Naperville, IL 60564

RETURN TO/PREPARED BY:

CITY OF NAPERVILLE

CITY CLERK'S OFFICE/

COMMUNITY SERVICES DEPARTMENT

400 SOUTH EAGLE STREET

NAPERVILLE, IL 60540

ORDINANCE NO. 25 -

**AN ORDINANCE APPROVING A SECOND AMENDMENT TO THE
SITE DEVELOPMENT AND ESCROW AGREEMENT FOR THE RESUBDIVIDED
SOUTH FORTY PROPERTY**

RECITALS

1. **WHEREAS**, on April 15, 2025 the Naperville City Council passed Ordinance No. 25-034 approving the Final Plat of Naperville-South Forty Lots 4, 5, 6 and 7 Resubdivision (the "**South Forty Final Resubdivision Plat**").
2. The South Forty Final Resubdivision Plat created four lots: Lot 1, Lot 2, Lot 3, and Outlot A. Lot 1 was sold to LTF Real Estate Company, Inc. in July of 2025. The City currently retains ownership of Lot 2, Outlot A, and Lot 3. Tower Court Naperville, LLC ("**TCN**") is the contract purchaser of Lot 3. Said resubdivided lots are legally described on **Exhibit A** and depicted on **Exhibit B**.

3. **WHEREAS**, in order to promote efficiency of stormwater management needed to serve Lot 1, Lot 2, Lot 3, and Outlot A as well as two City-owned properties located east of Tower Court, it was agreed by the City, LTF, and TCN, that stormwater management (a “**Stormwater Management System**”) would be consolidated largely on Outlot A and that Outlot A would be conveyed by the City to a Property Owner’s Association upon completion of the work required to construct certain shared improvements intended to serve Lot 1, Lot 2, and Lot 3. The purchase price paid by LTF for Lot 1, and the purchase price to be paid by TCN for Lot 3, include their respective shares of the land which comprise Outlot A.
4. **WHEREAS**, on April 15, 2025, the City Council approved Ordinance 25-035, approving a Site Development and Escrow Agreement for the South Forty Property, setting forth the shared funding obligations of the owners of Lot 1, Lot 2, and Lot 3 for: mass grading of Lots 1, 2, and 3; construction of a shared stormwater pond and related facilities on Outlot A; installation of utilities, including a pump station; and construction of a north-south shared access drive from a new access road to be constructed from Illinois Route 59 on City Lot 2 along part of the western property line of Outlot A and then north to the Lot 1 property.
5. **WHEREAS**, on June 17, 2025, the City Council passed Ordinance 25-057, approving an amendment to the Site Development and Escrow Agreement for the South Forty Property, allocating additional shared funding of design and construction costs outlined in an amended Exhibit D1 and D2 of the Site Development and Escrow Agreement.

6. **WHEREAS**, additional construction costs have arisen due to unexpected and unsuitable soil conditions, excess top soil, and delays caused by environmental remediation efforts pertaining to Lot 3. Said additional costs are set forth on Second Amended Exhibit D1(Shared Design and Construction Costs redlined) and Second Amended Exhibit D2 (Shared Design and Construction Costs unlined) attached to the Second Amendment to the Site Development and Escrow Agreement attached hereto as **Exhibit C**. LTF has agreed to these new additional costs. The City has agreed to these new additional costs which shall be reimbursed as to Lot 3 by the future purchaser of Lot 3 unless otherwise agreed to in writing by the City Manager.
6. **WHEREAS**, in addition, it has been agreed by the City, LTF and TCN that two City-owned properties located east of Tower Court at 2808 103rd Street and 2812 103rd Street Naperville on which a City Fire Department substation DPU-W water tower are respectively located shall not be obligated to contribute toward future costs of maintenance, repair, reconstruction, or operation of the Stormwater Management System provided for in the Site Development Agreement.
7. **WHEREAS**, the Second Amendment to the Site Development and Escrow Agreement, attached hereto as **Exhibit C**, which reflects the new additional shared costs described in Recital 5 above and which stipulates that the two City-owned properties located east of Tower Court shall have no obligation to contribute to future costs of the Stormwater Management System is in the best interest of the City and should be approved subject to the terms and conditions set forth and referenced herein.

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: The Second Amendment to the Site Development and Escrow Agreement attached hereto as **Exhibit C** is hereby approved.

SECTION 3: The City Manager is hereby authorized to execute, and the City Clerk is hereby authorized to attest, the Second Amendment to the Site Development and Escrow Agreement attached hereto as **Exhibit C** as directed by the City Attorney.

SECTION 4: The City Clerk is authorized and directed to record this Ordinance and its exhibits with the Office of the Will County Recorder.

SECTION 5: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

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. 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 Will County Recorder.

SECTION 7: This Ordinance shall be in full force and effect upon its passage,
approval, and recordation accordingly to law.

PASSED this _____ day of _____, 2025.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2025.

Scott A. Wehrli
Mayor

ATTEST:

Dawn C. Portner
City Clerk