

PINs:

01-22-300-015
01-22-400-007
01-22-400-008
01-22-400-009
01-22-400-010
01-22-400-011
01-22-400-012
01-22-400-013
01-22-400-014

ADDRESS:

VACANT
23450 AND 23700 W 119TH STREET
PLAINFIELD, IL 60585

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 #18-1-022

ORDINANCE NO. 18 - _____

**AN ORDINANCE AUTHORIZING THE EXECUTION OF
AN ANNEXATION AGREEMENT FOR THE PROPERTY LOCATED AT THE
NORTHWEST CORNER OF 119TH STREET AND BOOK ROAD
(AKA POLO CLUB)**

WHEREAS, D.R. Horton, Inc - Midwest ("Petitioner") has petitioned the City of Naperville ("City") on its own behalf and on behalf of Polo Club Multifamily LLC, for annexation of real property located at the northwest corner of 119th Street and Book Road, commonly known as 23450 and 23700 W 119th Street, legally described on **Exhibit A** and depicted on **Exhibit B** ("Subject Property"); and

WHEREAS, Chicago Title Land Trust Company, as Trustee, ("Owner") is the Owner of the Subject Property; and

WHEREAS, Petitioner has also filed a petition to rezone the Subject Property to R3A (Medium Density Multiple-Family Residence District) upon annexation, and subdivide it in order to develop 126 single family detached homes, 221 single family attached homes, and 290 apartment homes, for a total of 637 dwelling units; and

WHEREAS, Petitioner has requested the City approve this ordinance (“Ordinance”) along with ordinances annexing the Subject Property, approving rezoning of the Subject Property, approving a preliminary plat of subdivision, and approving a preliminary planned unit development (“PUD”) and associated PUD deviations (hereinafter cumulatively referenced herein as the “Polo Club Ordinances”); and

WHEREAS, Petitioner and Owner have requested the City delay recordation of the Polo Club Ordinances with the Will 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 time to acquire title to the Subject Property-Horton as that term is defined in the Annexation Agreement; and

WHEREAS, subject to approval of the Polo Club Ordinances, the City has agreed to the proposed timeframe for their recordation with the Will County Recorder as set forth above. If all the Polo Club Ordinances are not recorded within the timeframe described above, the City, the Petitioner, and the Owner agree the Polo Club Ordinances, including but not limited to this Ordinance, shall not be recorded and shall be deemed to be automatically null and void with no further action being taken by the City, the Petitioner, or the Owner; and

WHEREAS, the Petitioner and the Owner are ready, willing, and able to enter into an annexation agreement and to perform the obligations required therein and as set forth in

the Naperville Municipal Code (“Code”), as amended from time to time; and

WHEREAS, the Petitioner and the City of Naperville have fully complied with the statutory and Code provisions required for the approval and execution of an annexation agreement; and

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 Annexation Agreement 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: Petitioner, or an assignee approved by the City Manager in compliance with Section S29.4 of the Annexation Agreement, shall provide evidence of ownership of the Subject Property-Horton to the satisfaction of the City Attorney and submit a properly executed Annexation Agreement to the City. The Mayor is then authorized and directed to execute, and the City Clerk is authorized and directed to attest, the Annexation Agreement for the Subject Property on behalf of the City. Upon confirmation that all required fees have been paid, and properly executed documents have been submitted, and subject to the provisions of Section 3 and Section 4 below, the City Clerk is then authorized and directed to record the Polo Club Ordinances, including their Exhibits, with the Will County Recorder in the following order: (1) Annexation; (2) Annexation Agreement; (3) Rezoning; (4) Preliminary Plat of Subdivision; and (5) Preliminary PUD and associated deviations.

SECTION 3: If recordation of the Polo Club Ordinances does not occur within three hundred and sixty-five (365) calendar days after their passage and approval then said Ordinances shall not be recorded and shall be deemed to be automatically null and void without any further action being required by the Petitioner or the City. Petitioner and Owner have acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if this Ordinance, including the Exhibits attached hereto, is not recorded within three hundred and sixty-five (365) calendar day timeframe described herein.

SECTION 4: The City of Naperville may, at its sole discretion, and without any claim of vested rights or damages to the Petitioner or the Owner, determine not to execute or record the Annexation Agreement, or execute or record any of the Polo Club Ordinances, if a boundary line agreement with the Village of Plainfield is not first recorded by both the City of Naperville and the Village of Plainfield.

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 or resolution.

SECTION 6: This Ordinance shall be in full force and effect upon its recordation with the Will County Recorder.

PASSED this _____ day of _____, 2018.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2018.

ATTEST:

Steve Chirico
Mayor

Pam Gallahue, Ph.D.
City Clerk