

PIN:
08-19-400-010

ADDRESS:
831 S. JULIAN STREET
NAPERVILLE, IL 60540

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 #20-1-026

ORDINANCE NO. 20 -

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT FOR THE PROPERTY LOCATED AT 831 S. JULIAN STREET (M. HOUSE CREEK ESTATES)

RECITALS

1. **WHEREAS**, Mathieson House, LLC d/b/a M. House ("**Petitioner**") has petitioned the City of Naperville ("**City**") for annexation of real property located at 831 S. Julian Street, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, Kyle and Joni Javes are the owners ("**Owners**") of the Subject Property; and
3. **WHEREAS**, Petitioner has also filed a petition to rezone the Subject Property to R1A (Low Density Single-Family Residence District) upon annexation and to subdivide the Subject Property into 2 lots in order to construct two single-family residences; and

4. **WHEREAS**, Petitioner has requested that the City approve this ordinance (“**Ordinance**”) along with ordinances annexing the Subject Property, approving rezoning of the Subject Property, approving a preliminary/final plat of subdivision, and approving a height variance (hereinafter cumulatively referenced herein as the “**831 S. Julian Street Ordinances**”); and
5. **WHEREAS**, Petitioner has requested that the City delay recordation of the 831 S. Julian Street 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 to the Petitioner; and
6. **WHEREAS**, subject to approval of the 831 S. Julian Street 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 831 S. Julian Street Ordinances are not recorded within the timeframe described above, the City and Petitioner agree that the 831 S. Julian Street Ordinances, including but not limited to this Ordinance, shall not become effective, shall not be recorded and shall be deemed to be automatically null and void with no further action being taken by the City or the Petitioner; and
7. **WHEREAS**, the Petitioner is ready, willing, and able to enter into an annexation agreement and to perform the obligations required herein and as set forth in the Naperville Municipal Code (“**Code**”), as amended from time to time; and

8. **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
9. **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 shall provide evidence of ownership of the Subject Property 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 below, the City Clerk is then authorized and directed to record the 831 S. Julian Street Ordinances, including their Exhibits, with the DuPage County Recorder in the following order: (1) Annexation; (2) Annexation Agreement; (3) Rezoning; (4) Preliminary/Final Plat of Subdivision; and (5) Variance.

SECTION 3: If recordation of the 831 S. Julian Street 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 has 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: 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 5: This Ordinance shall be in full force and effect upon its recordation with the DuPage County Recorder.

PASSED this _____ day of _____, 2020.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2020.

ATTEST:

Steve Chirico
Mayor

Pam Gallahue, Ph.D.
City Clerk