

ORDINANCE NO. 18 - _____

**AN ORDINANCE AUTHORIZING EXECUTION OF A
A ROADWAY IMPROVEMENT RECAPTURE AGREEMENT FOR
VILLAS AT TRAFFORD PLACE**

WHEREAS, Ordinance 15-167, entitled “An Ordinance Authorizing the Execution of an Annexation Agreement for the Property Located at 8S454 and 8S474 College Road (Villas at Trafford Place)”, was approved by the Naperville City Council on May 6, 2015 pursuant to 65 ILCS 5/11-15.1-1 of the Illinois Municipal Code, and was recorded with the DuPage County Recorder as Document Number R2015-068334 (hereinafter “Annexation Agreement”); and

WHEREAS, pursuant to the terms of the Annexation Agreement and an Owner’s Acknowledgement and Acceptance dated September 8, 2015 and recorded with the DuPage County Recorder as Document Number R2015-116803, the owner and developer (“Owner and Developer”) of the property which was the subject of the Annexation Agreement (“Subject Property”) was to construct, or cause to be constructed: (i) certain off-site roadway improvements necessary to extend Castle Lawn Court (formerly known as College Road) from the northern border of the Subject Property to 75th Street (“Offsite Castle Lawn Court Improvements”); and (ii) a left-hand turn lane from 75th Street to Castle Lawn Court (“75th Street Improvements), collectively referenced herein as the “Roadway Improvements”; and

WHEREAS, the Annexation Agreement further provided that upon completion of the Roadway Improvements and submission of “as built” costs therefor, the Owner and Developer could submit a written request for a recapture agreement to be entered into between the City of Naperville and the Owner and Developer by which properties which

benefit from the Roadway Improvements (“Benefiting Properties”) would be obligated to pay for a proportionate share of the costs of the Roadway Improvements which benefit their properties, which payment would be made to the City and remitted to the Owner and Developer; and

WHEREAS, the Roadway Improvements were completed by K. Hovnanian at Trafford Place, LLC as Owner and Developer of the Subject Property at the time the Roadway Improvements were made; and

WHEREAS, the Roadway Improvements have been approved by the City Engineer and the “as-built” costs therefor have been established; and

WHEREAS, K. Hovnanian at Trafford Place, LLC now seeks approval of a recapture agreement to be recorded against property identified as the Benefiting Property located at 24W575 75th Street, Naperville, IL, PIN 08-28-301-018; and

WHEREAS, the City Engineer in in agreement with the identification of the Benefiting Property described above and recommends that the City enter into the “Villas at Trafford Place Subdivision Naperville, Illinois Roadway Improvement Recapture Agreement” (“Recapture Agreement”) attached hereto as Attachment #1; and

WHEREAS, K. Hovnanian at Trafford Place, LLC represents and affirms that it was solely responsible for construction and installation of the Roadway Improvements which are the subject of the Recapture Agreement described herein, and is solely entitled to payment of any recapture amounts collected by the City of Naperville pursuant to said Recapture Agreement; and

WHEREAS, notice of the proposed Recapture Agreement was given to the owner of the Benefiting Property by the Owner and Developer which notice is attached hereto as Attachment #2.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, COUNTIES OF DUPAGE AND WILL, ILLINOIS, in exercise of its home rule authority, as follows:

SECTION 1: The Recapture Agreement attached to this Ordinance as Attachment #1 is hereby approved.

SECTION 2: The City Manager and City Clerk are directed to execute the Recapture Agreement on behalf of the City.

SECTION 3: The City Clerk is directed to record the Recapture Agreement against the Benefiting Property with the DuPage County Recorder as provided 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, resolution, or provision of the Naperville Municipal Code.

SECTION 5: This Ordinance shall be in full force and effect upon its passage and approval.

ADOPTED this _____ day of _____, 2018.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2018.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk