

**PINS:
08-08-106-009
08-08-106-010**

**ADDRESS:
5S275 AND 5S311 NAPERVILLE-WHEATON ROAD
NAPERVILLE, IL 60563**

**PREPARED BY:
CITY OF NAPERVILLE
LEGAL DEPARTMENT
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540
630/420-4170**

**RETURN TO:
CITY OF NAPERVILLE
CITY CLERK'S OFFICE
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540**

PZC Case #23-1-002

ORDINANCE NO. 23 - _____

**AN ORDINANCE GRANTING VARIANCES
FROM THE NAPERVILLE MUNICIPAL CODE
FOR NAPERVILLE-WHEATON TOWNHOMES (PEARL SUBDIVISION)**

RECITALS

1. **WHEREAS**, Naperville Wheaton LLC, 127 Aurora Avenue, Naperville, IL 60540 are the Owners and Petitioners ("**Owners**" and "**Petitioners**") of real property located at 5S275 and 5S311 Naperville-Wheaton Road, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, the Subject Property is currently zoned R3A (Medium Density Multiple-Family Residence District) and is currently vacant; and
3. **WHEREAS**, the Petitioner proposes to improve the Subject Property with nineteen (19) single-family attached dwelling units and a surface parking lot; and

4. **WHEREAS**, the Petitioner requests a variance to Section 6-6D-5 to reduce the minimum area requirement from 4,000 square feet per unit with no more than eight dwelling units per acre to permit nineteen (19) single-family attached dwelling units on the Subject Property at 2,394 square feet per unit; and
5. **WHEREAS**, the Petitioner requests a variance to Section 6-6D-7 to reduce the front yard setback from 25' to 23'; and
6. **WHEREAS**, the Petitioner requests a variance to Section 6-9-3 to permit two (2) guest parking spaces in lieu of the required five (5) guest parking spaces; and
7. **WHEREAS**, the Petitioner requests a variance to Section 6-9-2:4.2.1 to waive the garage parking requirement and allow parking within the front yard setback; and
8. **WHEREAS**, the requested variance meets the Standards for Variances as provided in **Exhibit C** attached hereto; and
9. **WHEREAS**, the Petitioner has requested that the City approve this ordinance ("**Ordinance**"), along with an ordinance amending the Leigh Subdivision annexation agreement, an ordinance revoking ordinance No. 19-019 and ordinance No. 19-094, and an ordinance waiving the masonry requirements (hereinafter cumulatively referenced as the "**Naperville-Wheaton Townhome Ordinances**"); and
10. **WHEREAS**, on March 15, 2023, the Planning and Zoning Commission considered the request and recommended approval of the Petitioner's request; and
11. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner's request should be granted as provided 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: Subject to approval, execution, and recordation of the Naperville-Wheaton Townhome Ordinances, including but not limited to this Ordinance, the following variances are approved:

- I. Variance to Section 6-6D-5 to permit 19 single-family attached dwelling units; and
- II. Variance to Section 6-6D-7 to reduce the front yard setback from 25' to 23'; and
- III. Variance to Section 6-9-3 to permit 2 guest parking spaces in lieu of the required 5 guest parking spaces; and
- IV. Variance to Section 6-9-2:4.2.1 to waive the garage parking requirement and allow parking within the front yard setback.

SECTION 3: The Site Plan, attached to this Ordinance as **Exhibit B**, is hereby approved as the controlling site plan for the Subject Property.

SECTION 4: The Landscape Plan, attached to this Ordinance as **Exhibit D**, is hereby approved for the Subject Property.

SECTION 5: The variance approved by this Ordinance shall expire unless within two (2) years from the effective date of this Ordinance if: (1) a building permit has been obtained and the construction or alteration of the structure as specified in this Ordinance has been started, or (2) the use specified in this Ordinance has commenced.

SECTION 6: This variance shall be subject to revocation for failure to comply with all other applicable provisions set forth in the Naperville Municipal Code, as amended from time to time, and all other applicable laws.

SECTION 7: The City Clerk is authorized and directed to record the Naperville-Wheaton Townhome Ordinances, including their Exhibits, with the DuPage County Recorder.

SECTION 8: If this Ordinance is not recorded with the office of the Recorder in which the Subject Property is located within one (1) year of their approval and passage by the Naperville City Council, this Ordinance shall be null and void without any further action by the City unless this Ordinance is amended by the City to extend such timeframe. The Petitioner shall defend, indemnify, and hold the City and its officers, agents and employees harmless if recordation does not occur within the original, or any extended, timeframe.

SECTION 9: 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 Recorder in which the Subject Property is located within.

SECTION 10: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2023.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2023.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk