

PIN: 07-01-08-412-001

**ADDRESS:**

**BOUNDED BY 248TH AVENUE ON THE EAST SIDE,  
103RD STREET ON THE SOUTH SIDE, NANNYBERRY  
STREET ON THE WEST SIDE AND ASHWOOD ROAD  
ON THE NORTH SIDE**

**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 #22-1-002

**ORDINANCE NO. 22 -**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF THE  
THIRD AMENDMENT TO THE ANNEXATION AGREEMENT FOR  
ASHWOOD PARK (A/K/A 248th ASSEMBLAGE CENTER)**

**RECITALS**

1. **WHEREAS**, the Roman Catholic Diocese of Joliet Trust, 16555 South Weber Road, Crest Hill, IL, 60403, is the owner ("**Owner**") of real property bounded by 248th Avenue on the east side, 103rd Street on the south side, Nannyberry Street on the west side, and Ashwood Road on the north side, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, Silverthorne Development Company, 1827 E. Lincoln Highway, Suite 1, DeKalb, IL 60115, ("**Petitioner**") is the contract purchaser of the Subject Property and has petitioned the City of Naperville ("**City**") for the Third Amendment to the Annexation Agreement for Ashwood Park (A/K/A 248th ASSEMBLAGE CENTER) and a preliminary/final plat of subdivision for the Subject Property and has been authorized by the Owner to submit the subject petition; and

3. **WHEREAS**, on March 16, 2004, the City of Naperville City Council passed Ordinance 04-043 authorizing the execution of the Annexation Agreement for Ashwood Park (a/k/a 248th Assemblage Center) (hereinafter “**ANNEXATION AGREEMENT**”) and Ordinance 04-044 annexing a number of properties located north of 111th Street and west of 248th Avenue known as the 248th Assemblage Center, one of which properties was identified as “Property J” or “Pod 8” (hereinafter “**POD 8**”) in the ANNEXATION AGREEMENT; and
4. **WHEREAS**, per the ANNEXATION AGREEMENT, POD 8 was to be developed as a church site; and
5. **WHEREAS**, the ANNEXATION AGREEMENT was executed on October 21, 2004, and recorded with the Will County Recorder as Document No. R2004-196961; and
6. **WHEREAS**, on September 16, 2014, the City of Naperville City Council passed the following ordinances establishing a new controlling site plan for POD 8 to allow for the development of the Ashwood Heights Subdivision to include 22 single-family residential lots; however, Lot 23 continued to be reserved for a church site:
  - a. Ordinance 14-145 authorizing the execution of the First Amendment to the Annexation Agreement for Ashwood Park (a/k/a 248th Assemblage Center) (hereinafter “**FIRST AMENDMENT**”), and
  - b. Ordinance 14-146 approving the Preliminary/Final Subdivision Plat and the Owners Acknowledgement and Acceptance (hereinafter “**Ashwood Heights OAA**”) for the Ashwood Heights Subdivision.
7. **WHEREAS**, the FIRST AMENDMENT was executed on October 10, 2014, and recorded with the Will County Recorder as Document No. R2014-101527; and

8. **WHEREAS**, Ordinance 14-146 and the Ashwood Heights OAA were recorded with the Will County Recorder as Document No. R2014-101528; and
9. **WHEREAS**, on April 19, 2016, the City of Naperville City Council passed Ordinance 16-053 authorizing the execution of the Second Amendment to the Annexation Agreement for Ashwood Park (a/k/a 248th Assemblage Center) to allow for the development of the Enclave at Ashwood Park subdivision on the property denoted as "Pod 19" in the ANNEXATION AGREEMENT (hereinafter "**SECOND AMENDMENT**"), which SECOND AMENDMENT applies only to "Pod 19"; and
10. **WHEREAS**, the SECOND AMENDMENT was executed on April 26, 2016, and recorded with the Will County Recorder as Document No. R2016-040666; and
11. **WHEREAS**, upon acquisition of the Subject Property, Petitioner is ready, willing, and able to enter into the Third Amendment to the ANNEXATION AGREEMENT (hereinafter "**THIRD AMENDMENT**") and to perform the obligations required herein and as set forth in the Naperville Municipal Code ("**Code**"), as amended from time to time; and
12. **WHEREAS**, Petitioner has petitioned the City of Naperville for the THIRD AMENDMENT for Ashwood Park (a/k/a 24<sup>th</sup> Assemblage Center) authorized by Ordinance No. 04-043 in order to develop the Subject Property into nine (9) single family residential lots; and
13. **WHEREAS**, Petitioner has requested that the City approve this ordinance ("**Ordinance**") along with an ordinance approving a preliminary/final plat of subdivision, (hereinafter cumulatively referenced as the "**Ashwood Heights Unit 2 Ordinances**"); and

14. **WHEREAS**, Petitioner has requested that the City delay recordation of the Ashwood Heights Unit 2 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 Petitioner to finalize the purchase and sale agreement for the Subject Property and to transfer ownership of the Subject Property to Petitioner; and

15. **WHEREAS**, subject to approval of the Ashwood Heights Unit 2 Ordinances the City has agreed to the proposed timeframe for their recordation with the Will County Recorder as set forth herein. In the event that all of Ashwood Heights Unit 2 Ordinances are not recorded within the timeframe described above, the City and Petitioner agree that the Ashwood Heights Unit 2 Ordinances shall not be recorded and shall be deemed to be automatically null and void with no further action being taken by the City or Petitioner; and

16. **WHEREAS**, Petitioner and City of Naperville have fully complied with the statutory and Code provisions required for the approval and execution of the THIRD AMENDMENT; and

17. **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 THIRD AMENDMENT 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 THIRD AMENDMENT to the City. The Mayor is then authorized and directed to execute, and the City Clerk is authorized and directed to attest, the THIRD AMENDMENT for the Subject Property on behalf of the City. Upon confirmation from the City Attorney that the terms and conditions set forth or referenced herein have been fulfilled, 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 Ashwood Heights Unit 2 Ordinances, including their Exhibits, with the Will County Recorder, or to provide for recordation as may otherwise be approved by the City Attorney.

**SECTION 3:** If recordation of the Ashwood Heights Ordinances, including but not limited to this Ordinance, does not occur within three hundred and sixty-five (365) calendar days after passage of the Ashwood Heights Unit 2 Ordinances as provided herein, then said Ordinances shall be deemed to be automatically null and void and of no force and effect without any further action being required by the City or Petitioner. Petitioner has acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if the Ashwood Heights Unit 2 Ordinances are not recorded within the three hundred and sixty-five (365) calendar day timeframe described herein.

**SECTION 4:** The Preliminary/Final Plat of Subdivision for Ashwood Heights Unit 2, dated January 6, 2022, with a revision date of August 24, 2022, shall be the controlling site plan for the Subject Property and shall be attached to the THIRD AMENDMENT as **Exhibit**

**B.**

**SECTION 5:** The Landscape Plan for Ashwood Heights Unit 2, attached to this Ordinance as **Exhibit D**, is hereby approved.

**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.

**SECTION 7:** This Ordinance shall be in full force and effect upon its recordation with the Will County Recorder.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Steve Chirico  
Mayor

ATTEST:

\_\_\_\_\_  
Pam Gallahue, Ph.D.  
City Clerk