

PIN:
08-28-301-009

ADDRESS:
24W560 77TH STREET
NAPERVILLE, IL 60565

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 #19-1-070

ORDINANCE NO. 19 - _____

**AN ORDINANCE APPROVING THE PRELIMINARY PLAT OF SUBDIVISION
FOR THE 77TH STREET PROJECT**

WHEREAS, the Marion Rowley Smith Trust dated June 6, 2008 is the owner (“**Owner**”) of real property located at 24W560 77th Street, Naperville as legally described on **Exhibit A** and depicted on **Exhibit B** (“**Subject Property**”), and Oak Creek Capital Partners, LLC (“**Petitioner**”) has petitioned the City of Naperville (“**City**”) for annexation of the Subject Property with the Owner’s approval; and

WHEREAS, the Petitioner has petitioned the City of Naperville for approval of a Preliminary Plat of Subdivision for the 77th Street Project to allow for the development of ten (10) single-family homes on the Subject Property; and

WHEREAS, the City Council of the City of Naperville has determined that the Preliminary Plat of Subdivision for the 77th Street Project should be approved as provided herein; and

WHEREAS, Petitioner has requested that the City approve this ordinance (“**Ordinance**”) along with ordinances approving an annexation agreement, approving annexation of the Subject Property, and approving rezoning (hereinafter cumulatively referenced herein as the (“**77th Street Project Ordinances**”)); and

WHEREAS, Petitioner has requested that the City delay recordation of the 77th Street Project 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 from the Owner to the Petitioner; and

WHEREAS, subject to approval of the 77th Street Project 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 77th Street Project Ordinances are not recorded within the timeframe described above, the City and Petitioner agree that the 77th Street Project 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 and of no force or effect with no further action being taken by the City or the Petitioner.

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: If recordation of the 77th Street Project Ordinances, including but not limited to this Ordinance, does not occur within three hundred and sixty-five (365) calendar

days after passage of the 77th Street Project Ordinances as provided herein, then said Ordinances shall be deemed to be automatically void without any further action being required by the City or the Petitioner. Petitioner has acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if the 77th Street Project Ordinances are not recorded within the three hundred and sixty-five (365) calendar day timeframe described herein.

SECTION 3: Subject to approval, execution, and recordation of the 77th Street Project Ordinances, the Preliminary Plat of Subdivision for the 77th Street Project, attached to this Ordinance as **Exhibit B**, is hereby approved.

SECTION 4: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 5: Upon confirmation from the City Attorney that the terms and conditions set forth or referenced herein have been fulfilled, the City Clerk is authorized and directed to record the 77th Street Project Ordinances, including their Exhibits, with the DuPage County Recorder, which ordinances shall be recorded in the following order: (1) Annexation; (2) Annexation Agreement; (3) Rezoning; and (4) Preliminary Plat of Subdivision.

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 DuPage County Recorder.

PASSED this _____ day of _____, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2019.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph. D.
City Clerk