

STATE OF ILLINOIS        )  
  )  
COUNTY OF DUPAGE        )  
  )  
CITY OF NAPERVILLE        )

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION TO GRANT A MAP AMENDMENT (REZONING), A SUBDIVISION VARIANCE FROM SECTION 7-4-4:2.2, AND PRELIMINARY/FINAL PLAT OF SUBDIVISION FOR THE PROPERTY AT 8S201 COLLEGE ROAD**

**THE UNDERSIGNED** Petitioner, Edmund Burke (hereinafter the “Petitioner”) respectfully petitions the City of Naperville (the “City”) to, upon annexation of the property legally described on Exhibit A (the “Property”) pursuant to a separate petition submitted by the Owners of Record of the Property: (i) zone the Property in the City’s E2 (Medium Density Estate) District; (ii) approve a Subdivision variance from section 7-4-4:2.2 of the City of Naperville Municipal Code (the “Code”); (iii) approve a preliminary and final plat of subdivision; and (iv) such other relief from the Code as may be deemed necessary and appropriate to develop the Property.

In support of this Petition, the Petitioner represents to the City as follows:

1. The Owner of the Property is Christopher B. Burke and Susan S. Burke (“Owner”).
2. Owner filed a separate petition with the City of Naperville to annex the Property to the City of Naperville (“Annexation Petition”).
3. The Petitioner, is the contract purchaser of what is depicted as Lot 2 on the Preliminary/Final Plat of Subdivision Timec Resubdivision attached hereto as **Exhibit B** (“Plat”).
4. Upon subdivision, the Owner will remain the owner of what is depicted as Lot 1 on the Plat.
5. The Subject Property is zoned R-1 in unincorporated DuPage County and consists of one (1) lot totaling approximately 4.016 acres.
6. The existing land uses surrounding the Property are as follows:

- a. North: E2 Single Family Residential
- b. East: E2 Single Family Residential
- c. South: R-1 Unincorporated DuPage County
- d. West: E2 Single Family Residential

**APPROVAL OF REZONING TO E2**

7. Upon annexation of the Property to the City of Naperville, Petitioner respectfully requests that the Property be zoned E2 medium density estate district.

8. The rezoning request is appropriate based on the following factors:

- a. *The amendment promotes the public health, safety, comfort, convenience and general welfare and complies with the policies and official land use plan and other official plans of the City; and*

Pursuant to section 6-5-3 in the Code, the Petitioner shall request a zoning classification for the Property upon annexation to the City of Naperville. The requested zoning is consistent with both the proposed use of the Property and the existing use of the properties in the immediate vicinity. All adjacent incorporated properties to the north, east, and west are zoned E2 and the adjacent properties to the south not yet incorporated to the City of Naperville are zoned for residential use in DuPage County. In addition, Naperville's comprehensive plan addressing the Hobson Road Study designates the future land use for the Property as E2, which is entirely consistent with Petitioner's rezoning request.

- b. *The trend of development in the area of the subject property is consistent with the requested amendment; and*

The trend of development in the area of the Property has been and continues to be single-family residential. Upon annexation to the City, the requested zoning is consistent with the nearby adjacent properties, all of which are zoned E2 in the City of Naperville. Further, the requested zoning will permit the development of a two-lot residential subdivision. Lot 1 will be approximately 88,058 square feet and Lot 2 will be 86,861 square feet. Accordingly, both lots will

drastically exceed the E2 minimum lot size of 40,000 square feet in addition to the City's 90% rule of 58,491 square feet, keeping the nature of the E2 district consistent throughout the area.

- c. The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification; and*

The existing zoning classification of the Property is R-1 in unincorporated DuPage County. The Owner submitted a separate petition for Annexation to the City of Naperville and upon annexation, Petitioner requests the Property be zoned E2, which is consistent with the existing zoning designations for nearby and adjacent properties that have been incorporated to the City of Naperville.

- d. The subject property has not been utilized under the existing zoning classification for a substantial period of time; and*

The Property has never been utilized under a City of Naperville zoning designation as the Property is zoned R-1 in unincorporated DuPage County and upon annexation to the City, the Code requires Petitioner to request a zoning designation for the Property.

- e. The amendment, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

As mentioned above, zoning the Property E2 is consistent with the single-family residential character of the neighborhood. The surrounding properties that remain unincorporated are zoned for residential use in DuPage County. All surrounding properties are intended for single-family residential homes, which is the very use for which Petitioner plans to utilize the Property.

**APPROVAL OF A SUBDIVISION VARIANCE FROM SECTION 7-4-4:2.2**

- 9. Petitioner's Property is currently improved with one single-family residence, which access is provided via a private driveway beginning at the point where College Road terminates.
- 10. Upon subdivision of the Property, the same access drive will be maintained for future

ingress and egress because Lot 1 and Lot 2 will not have right-of-way frontage.

11. Upon annexation, the City requires a residential lot width of 40' between the right-of-way line and the building line.

12. The Property is unique in that the existing private drive is part of the parcel and cannot be increased to accommodate this subdivision requirement.

13. Accordingly, Petitioner respectfully requests a variance from section 7-4-4:2.2 of the Code and Petitioner meets the standards for granting a subdivision variance as follows:

- a. *The petitioner has shown that strict adherence to the provisions of this Title would cause unnecessary hardship due to conditions which are unique to the site and not caused by the owner or petitioner; and*

The Property is unique in that College Road terminates and an access driveway has been platted as part of the Property's parcel as far back as 1977 pursuant to the Charles Barr Assessment Plat recorded as document number R77-19071 in DuPage County, Illinois ("Charles Barr Plat"). Since the recording of the Charles Barr Plat, the Property was resubdivided pursuant to the Schaden's Assessment Plat recorded as Document No. R1994-237001 ("Schaden Plat") and again in 1998 pursuant to the Final Plat of Subdivision for Kannry Subdivision recorded as Document No. R1998-277533 ("Kannry Subdivision"). Each of the referenced plats have carried forward the existing access driveway as a means of ingress and egress to the Property and was not a condition created by the Petitioner or Owner, but is certainly a necessary means of access to the Property.

The City requires a residential lot width of 40' between the right-of-way line and the building line. In this instance, the measurement is taken from the location where College Road terminates. This is not a true representation of the "residential lot width" given the unique configuration of the Property and provided that this specific area where the measurement is taken is where College Road terminates and the access driveway begins, in lieu of the two residential

lots being proposed. If the access driveway depicted on the Plat of Subdivision was a right-of-way for the purposes of understanding residential lot width, each individual lot would have a lot width of 253.51 feet and 307 feet, respectively. However, given the unique nature of the parcel, the measurement is taken from the termination of College Road due to its status as a right-of-way resulting in Lots 1 and 2 existing without frontage to a technical right-of-way. Lastly, it is impossible for Petitioner and Owner to increase the lot width and comply with the Code requirements due to the limitation of the platted parcel that is the Property, which cannot be extended beyond its existing boundaries as this would extend into the neighboring parcel.

*b. The requested subdivision deviation is not contrary to the intent and purpose of the provisions of this title.*

The purpose of the City's Subdivision regulations is to establish the requirements and standards regulating the subdivision and platting of land within the corporate limits, and plat approval jurisdiction of the City, for the promotion of the public health, safety, comfort, morals, and welfare of the community. The intent of these regulations is to provide for the orderly and harmonious development of the City and the surrounding areas within the City's planning jurisdiction. Due to the unique configuration of the Property, the residential lot width at the right-of-way line is measured at the access driveway where College Road terminates and not that of the two proposed resubdivided lots, each of which will maintain a sizable lot width. Accordingly, the requested subdivision deviation will not inhibit harmonious development in the City and the deviation request is not contrary to the intent and purpose of the City's Subdivision regulations.

**APPROVAL OF A PRELIMINARY AND FINAL PLAT OF SUBDIVISION**

14. Petitioner seeks approval of a Preliminary and Final Plat of Subdivision, a copy of which

has been submitted herewith, to establish easements and create two legal lots of record. The proposed subdivision meets the standards for a subdivision consistent with the standards set forth in the Code.

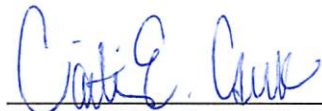
**WHEREFORE**, by reason of the foregoing, the undersigned Petitioner respectfully requests the City Council and Plan Commission take the necessary steps to, upon annexation of the Property: (i) zone the Property in the City's E2 Medium Density Estate District; (ii) approve a Subdivision variance from section 7-4-4:2.2 of the Code; (iii) approve a preliminary and final plat of subdivision; and (iv) such other relief from the Naperville Municipal Code as may be deemed necessary and appropriate to develop the Property.

RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of November, 2021.

PETITIONER:

EDMUND BURKE

By:



\_\_\_\_\_  
ROSANOVA & WHITAKER, LTD.  
ATTORNEY FOR PETITIONER

**EXHIBIT A**  
**LEGAL DESCRIPTION**

LOT 2 IN KANNRY SUBDIVISION, BEING A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 2, 1995 AS DOCUMENT NUMBER R1998-277533, IN DUPAGE COUNTY, ILLINOIS.

Commonly known as: 8S201 College Road, Naperville, IL 60540  
PIN: 08-28-200-022