

May 3, 2024

Mr. Bradley Joseph Johnson
7S720 Lynne Drive
Naperville, IL 60540

RE: Notice of Proposed City of Naperville Groundwater Ordinance pertaining to former gas station property at 1061 South Washington Street, Naperville, IL and adjacent property located at 5 East Gartner Road, Naperville, DuPage County Illinois to be considered by the Naperville City Council on May 21, 2024.

Dear Mr. Johnson:

Attached please find an ordinance, referenced herein as a “**Groundwater Ordinance**”, which, if passed, will affect property you own located at 5 East Gartner Road, Naperville, IL.

Pioneer Engineering & Environmental Services, LLC (**Pioneer**) was hired by Naper North Property, LLC, the current owner of property located at 1061 South Washington Street, Naperville, IL (referenced in the attached Groundwater Ordinance as the **Commercial Property**), to provide regulatory closure services related to a leaking underground storage tank (LUST) incident #20180735. This LUST incident was reported in 2018 when the underground storage tanks (USTs) were removed from the former gas station site in accordance with the prevailing state UST regulations. The current property owner never operated the gas station but did remove the tanks in order to prepare the site for future redevelopment and/or sale. The former gas station site was already undergoing closure for a prior LUST incident (#950750) reported in 1995 by another company on behalf of ExxonMobil.

On behalf of the owner of Commercial Property, Pioneer is in the process of working with the Illinois Environmental Agency (“**IEPA**”) to obtain a No Further Remediation (“**NFR**”) letter with respect to property affected by the LUST incidents referenced above. Operation of the gas station by the prior owner on the Commercial Property resulted in petroleum related chemicals (including benzene) in the groundwater at levels above the acceptable levels for “potable” water sources (defined in the following paragraph). Your property, located at 5 East Gartner Road, Naperville, IL, is referenced in the attached Groundwater Ordinance as the “**Other Property**”.

To protect human health, Illinois regulations require that the owner of the Commercial Property either clean up groundwater contamination or demonstrate that the groundwater in the area of the release will not be used as potable water. Groundwater is the water beneath the ground stored in the pores of soil and rock; some communities and homeowners pump this water out of wells to

supply potable water. Potable means fit for human consumption including drinking, bathing, preparing food, washing dishes, and so forth.

Under Illinois regulations, a local ordinance that effectively prohibits the installation and use of potable water supply wells may be used as an institutional control to allow contamination above the groundwater ingestion remediation objectives to remain in the groundwater (35 Illinois Administrative Code 742.1015). An institutional control is a legal mechanism for imposing a restriction on land use.

Pioneer conducted a search for potable water wells using the required IEPA databases and information sources and no known potable water supply wells were discovered within a 2,500-foot radius of the former gas station site located at 1061 South Washington Street. In addition, Pioneer understands that your property and surrounding properties use potable water from Lake Michigan which is supplied by the City of Naperville via a standard municipal water delivery system.

The owner of the Commercial Property has requested that the City of Naperville pass the enclosed Groundwater Ordinance which will act as an institutional control to prohibit human and domestic consumption of the groundwater in areas that are or may become affected by the contamination.

To date, the former gas station site has been thoroughly assessed in accordance with the applicable state regulations. All technical data and related reports have been submitted to the IEPA and all work has subsequently been approved by the IEPA's LUST group. Petroleum-related impacts typical of gas station operations were identified in soil and groundwater samples collected from various locations and all residual soil and groundwater contamination has been allowed to be managed in-place pursuant to the risk-based objectives of the applicable IEPA regulations and common industry practices.

At this time, all that is required for the owner of the Commercial Property to obtain an NFR letter is approval and recordation of the attached Groundwater Ordinance in order to prohibit the potable use of groundwater at the former gas station site and any off-site properties within the modeled extent of potential future contaminant migration. The public right-of-ways for Washington St. and Gartner Rd. adjacent to the former gas station and your property at 5 East Gartner Road (PIN: 08-19-312-031) are located within the predicted extent of potential future contaminant migration. The City has passed other similar location-specific groundwater ordinances in order to facilitate the regulatory closure of environmentally impacted sites within the city limits.

While there is no evidence of soil contamination on your property at this time, there is evidence of probable groundwater contamination on your property. The proposed Groundwater Ordinance will help protect the health and welfare of the public by prohibiting use of groundwater that could conceivably be impacted by contamination. Under the Groundwater Ordinance the Commercial

Property (located at 1061 South Washington, Naperville) and the Other Property (located at 5 East Gartner Road, Naperville) will not be permitted to install or use a private potable water well. Upon issuance of an NFR by the IEPA, the Ordinance will be recorded with the DuPage County Recorder on the Commercial Property and the Other Property.

This letter is provided for informational purposes and no action is required on your part.

The City of Naperville will consider the proposed Groundwater Ordinance at its regular meeting held on May 21, 2024 at the City's Municipal Center located at 400 South Eagle Street, Naperville, IL 60540. The meeting begins at 7 p.m.

You may obtain a copy of the complete IEPA file for this site by submitting a written request to the Freedom of Information Act (FOIA) Officer, Illinois EPA, Bureau of Land, 1021 North Grand Avenue, P.O. Box 19276, Springfield, Illinois 62794-9276, or by submitting a FOIA request online through the IEPA website. When requesting a copy of the file, please reference LPC #0434675143, DuPage County.

If you have any questions, you may attend the Naperville City Council meeting on May 21, 2024 and/or you may email or call me at nandrade@pioneerees.com/773-938-3062. Also feel free to call or email William Novack, City of Naperville Director of Transportation, Engineering, and Development at novackw@naperville.il.us/630-420-6704, or Pat Lord, Senior Assistant City Attorney, at lordp@naperville.il.us/630-420-4172. You may also contact the Illinois Environmental Protection Agency, Bureau of Land Project Manager, Jennifer Rossi, at 217-782-9285 or by email at jenny.rossi@illinois.gov.

Yours truly,



Nicole Andrade, P.E.
Senior Engineer, Pioneer Engineering & Environmental Services, LLC
On behalf of Naper North Property, LLC

Enc./Proposed City of Naperville Groundwater Ordinance

EXHIBIT A

“Commercial Property”:

Naper North Property, LLC is the owner of the Commercial Property referenced in the Groundwater Ordinance to which this Exhibit A is attached as identified by the following PIN, and the associated common address, which is seeking issuance of a No Further Remediation Letter (“NFR”) to be recorded on the Commercial Property listed below:

PIN 08-19-318-002/Common address: 1061 South Washington Street, Naperville, IL 60540

The following are the PINS, Common Addresses and Legal Descriptions of the Commercial Property and Other Property subject to the Groundwater Ordinance:

PIN 08-19-318-002/Common address: 1061 South Washington Street, Naperville, IL 60540

LEGAL DESCRIPTION:

THAT PART OF LOT ONE OF BLOCK ONE OF MOSER HIGHLANDS UNIT NUMBER 11, A SUBDIVISION OF PART OF SECTIONS 24 AND 25, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF SECTIONS 19 AND 30, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED JULY 31, 1959 AS DOCUMENT NUMBER 933603 IN RECORDER’S OFFICE OF DUPAGE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT IN THE NORTHEASTERLY LINE OF LOT 1 WHICH IS 142.0 FEET NORTHWESTERLY, AT MEASURED ALONG SAID NORTHEASTERLY LINE, FROM THE INTERSECTION OF SAID NORTHEASTERLY LINE WITH A CURVE OF 65.0 FOOT RADIUS WHICH JOINS THE SAID NORTHEASTERLY LINE WITH THE SOUTHEASTERLY LINE OF LOT 1; RUNNING THENCE SOUTHWESTERLY AT RIGHT ANGLES WITH SAID NORTHEASTERLY LINE A DISTANCE OF 105.0 FEET TO A POINT; RUNNING THENCE SOUTHEASTERLY IN A STRAIGHT LINE FOR A DISTANCE OF 173.0 FEET MORE OR LESS TO A POINT ON THE SOUTHEASTERLY LINE OF LOT 1 WHICH IS 101.5 FEET SOUTHWESTERLY MEASURED ALONG THE SOUTHEASTERLY LINE, FROM THE POINT OF INTERSECTION OF SAID SOUTHEASTERLY LINE WITH THE SAID CURVE OF 65.0 FOOT RADIUS; RUNNING THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY LINE A DISTANCE OF 101.5 FEET TO SAID POINT OF INTERSECTION; RUNNING THENCE NORTHERLY ALONG SAID CURVE TO ITS POINT AT INTERSECTION WITH SAID NORTHEASTERLY LINE OF LOT 1; RUNNING THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY LINE A DISTANCE OF 142.0 FEET TO THE POINT OF BEGINNING IN DUPAGE COUNTY, ILLINOIS.

and

PIN 08-19-312-031/Common address: 5 East Gartner Road, Naperville, IL 60540

LEGAL DESCRIPTION:

LOT 16 IN BLOCK 1 IN MOSER HIGHLANDS UNIT NO. 13, BEING A SUBDIVISION IN SECTION 19, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 31, 1959 AS DOCUMENT 933604, IN DUPAGE COUNTY, ILLINOIS.

*Note: PINs and Addresses listed above are those in place as of February 28, 2024

Additionally, portions of the right-of-ways for Washington Street and Gartner Road adjacent to the Commercial Property and Other Property as shown on Exhibit B are included in the area subject to the Groundwater Ordinance described as follows:

Just the ROWs:

BEGINNING AT THE SOUTHERN MOST POINT OF PARCEL 08-19-318-002, MOVING NORTHEAST AND THEN NORTHWEST ALONG THE SOUTHEASTERN AND NORTHEASTERN PARCEL BORDERS, TO THE NORTHERN MOST POINT OF SAID PARCEL; THENCE CROSSING SOUTH WASHINGTON STREET TO A POINT 25.75 FEET NORTHWESTERLY OF THE WESTERN MOST POINT OF PARCEL 08-19-312-031, THEN SOUTHEAST AND NORTHEAST ALONG THE SOUTHERN AND EASTERN PARCEL BORDERS, TO THE EASTERN MOST POINT OF PARCEL 08-19-312-031; THENCE CROSSING EAST GARTNER ROAD SOUTHEASTERLY TO A POINT 6.37 FEET NORTHEASTERLY OF THE NORTHERN MOST POINT OF PARCEL 08-19-319-011, THENCE SOUTHWEST AND SOUTHEAST ALONG THE NORTHERN AND WESTERN PARCEL BORDERS OF PARCEL 08-19-319-011 TO A POINT 72.64 FEET SOUTHEASTERLY OF WESTERN MOST POINT OF SAID PARCEL; THENCE CROSSING SOUTH WASHINGTON STREET SOUTHWESTERLY TO A POINT 7.27 FEET NORTHEAST OF THE NORTHERN MOST POINT OF PARCEL 08-30-105-012; THENCE SOUTHWESTERLY ALONG NORTHERN PARCEL BOUNDARY OF SAID PARCEL, 243.48 FEET; THENCE CROSSING WEST GARTNER ROAD NORTHWESTERLY TO THE POINT OF BEGINNING (SOUTHERN POINT OF PARCEL 08-19-318-002).

The Whole Area:

BEGINNING AT THE SOUTHERN MOST POINT OF PARCEL 08-19-318-002, MOVING NORTHWEST THEN NORTHEAST ALONG THE SOUTHERN AND WESTERN PARCEL BORDERS, TO THE NORTHERN MOST POINT OF SAID PARCEL; THENCE CROSSING SOUTH WASHINGTON STREET TO A POINT 25.75 FEET NORTHWESTERLY OF THE WESTERN MOST POINT OF PARCEL 08-19-312-031, THEN NORTHEAST AND SOUTHEAST ALONG THE WESTERN AND NORTHERN PARCEL BORDERS, TO THE EASTERN MOST POINT OF PARCEL 08-19-312-031; THENCE CROSSING EAST GARTNER ROAD SOUTHEASTERLY TO A POINT 6.37 FEET NORTHEASTERLY OF THE NORTHERN MOST POINT OF PARCEL 08-19-319-011 THENCE SOUTHWEST AND SOUTHEAST ALONG THE NORTHERN AND WESTERN PARCEL BORDERS OF PARCEL 08-19-319-011 TO A POINT 72.64 FEET SOUTHEASTERLY OF WESTERN MOST POINT OF SAID PARCEL; THENCE CROSSING SOUTH WASHINGTON STREET SOUTHWESTERLY TO A POINT 7.27 FEET NORTHEAST OF THE NORTHERN MOST POINT OF PARCEL 08-30-105-012, THEN SOUTHWESTERLY ALONG THE WESTERN SIDE OF SAID PARCEL, 243.48 FEET; THENCE CROSSING WEST GARTNER ROAD NORTHWESTERLY TO THE POINT OF BEGINNING (SOUTHERN MOST POINT OF PARCEL 08-19-318-002).

Common Addresses/PINs:

1061 South Washington Street,
Naperville, IL
PIN: 08-19-318-002

5 East Gartner Road
Naperville, IL
PIN: 08-19-312-031

**PREPARED BY AND
RETURN TO:**

CITY OF NAPERVILLE
LEGAL DEPARTMENT
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540

ORDINANCE NO. 24 - _____

**AN ORDINANCE PROHIBITING THE USE OF GROUNDWATER
AS A POTABLE WATER SUPPLY BY THE INSTALLATION
OR USE OF POTABLE WATER SUPPLY WELLS
OR BY ANY OTHER METHOD WITHIN THE SPECIFIED LIMITS FOR THE
PROPERTIES LOCATED AT 1061 SOUTH WASHINGTON STREET AND
5 EAST GARTNER ROAD, NAPERVILLE, ILLINOIS 60540,
INCLUDING POINTS OF WITHDRAWAL BY THE CITY OF NAPERVILLE**

1. **WHEREAS**, certain real property located at 1061 South Washington Street, Naperville, IL, which is legally described on **Exhibit A** and depicted on **Exhibit B**, has been used over a period of time for commercial purposes including operating as a gas station, (hereinafter the "**Commercial Property**"); and
2. **WHEREAS**, because of said use on the Commercial Property, concentrations of certain chemical constituents in the groundwater beneath the City of Naperville on the Commercial Property as well as adjacent residential real property (hereinafter the "**Other Property**") located at 5 East Gartner Road, Naperville, IL and

which is legally described on **Exhibit A** and depicted on **Exhibit B**, as well as adjacent City of Naperville rights-of-way legally described on **Exhibit A** and depicted on **Exhibit B**, may exceed Class I groundwater quality standards for potable resource groundwater as set forth in 35 Illinois Administrative Code ("**Ill. Adm. Code**") 620 or Tier 1 remediation objectives as set forth in 35 Ill. Adm. Code 742; and

3. **WHEREAS**, the owner/operator of the Commercial Property is seeking issuance of a No Further Remediation ("**NFR**") letter from the Illinois Environmental Protection Agency ("**IEPA**") for the Commercial Property pursuant to the IEPA's Site Remediation Program; and

4. **WHEREAS**, in order to obtain an NFR for the Commercial Property, the IEPA has advised that it will be necessary for the City of Naperville to pass an ordinance as provided for in Title 35, Part 742.1015 of the Ill. Adm. Code; and commonly referred to as an "institutional control", prohibiting the use, or attempt to use as a potable water supply, groundwater from within that portion of the corporate limits of the City of Naperville as described on **Exhibit A** and depicted with hash-marks on **Exhibit B** which includes the Commercial Property, the Other Property, and City of Naperville rights-of-way; and

5. **WHEREAS**, the City of Naperville desires to limit potential threats to human health from groundwater contamination while facilitating the redevelopment and productive use of properties that are the source of said chemical constituents; and

6. **WHEREAS**, the public water supply for the Commercial Property and the Other Property is provided from Lake Michigan through the DuPage County Water Commission by the City of Naperville.

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 that:

SECTION 1: Recitals incorporated/Exhibits Incorporated. The foregoing Recitals are substantive and are incorporated in this Section 1 as though fully set forth. **Exhibit A** and **Exhibit B** are deemed incorporated herein and made part hereof.

SECTION 2: Use of groundwater as a potable water supply prohibited. Except for such uses or methods in existence before the effective date of this Ordinance, the use or attempt to use, as a potable water supply groundwater from within the specified limits of the Commercial Property and the Other Property, or adjacent City of Naperville rights-of-way, legally described on **Exhibit A** and depicted on **Exhibit B**, by the installation or drilling of wells or by any other method is hereby prohibited, including points of withdrawal by the City of Naperville.

SECTION 3: Penalty. Any person or entity violating the provisions of this Ordinance shall be subject to a fine of up to \$500.00 for each violation, and each day a violation continues shall constitute a separate offense.

SECTION 4: Definitions. "Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns. "Potable water" is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

SECTION 5: Repealer. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed insofar as they are in conflict with this Ordinance.

SECTION 6: Severability. If any provision of this Ordinance or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of the Ordinance as a whole or of any portion not adjudged invalid.

SECTION 7: Recording. This Ordinance, along with the Exhibits attached hereto, and an instrument from IEPA memorializing IEPA's determination of "NFR" as to the Commercial Property legally described on **Exhibit A** and depicted on **Exhibit B**, shall be recorded against the Commercial Property and the Other Property with the Office of the DuPage County Recorder within forty-five (45) days of receipt of an NFR letter from the IEPA, and a copy of such recorded document shall further be submitted to the Environmental Health Services Division of the DuPage County Health Department and the IEPA within thirty (30) days after said recording.

SECTION 8: Effective date. This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2024.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2024.

Scott A. Wehrli
Mayor

ATTEST:

Dawn C. Portner
City Clerk



EXHIBIT B
Contaminant Migration
Diagram
1061 South Washington
Street
Naperville, IL

Scale:
1" = 50'
0' 50'

Drawn by:
M. S. Valadez

Job No:
16-0177-105

Date:
April 2024

Checked by:
Nicole Andrade

Legend: Approximate Property Line
Groundwater Ordinance Area

	PIN	Common Address
1	08-19-318-002	1061 South Washington Street Naperville, IL 60540
2	08-19-312-031	5 East Gartner Road Naperville, IL 60540

