

PINs: SEE EXHIBIT A

ADDRESS:  
VACANT PROPERTY  
SWC OF DIEHL RD & MILL ST  
NAPERVILLE, IL 60563

PREPARED BY:  
CITY OF NAPERVILLE  
LEGAL DEPARTMENT  
630/420-4170

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

PZC Case #22-1-097

ORDINANCE NO. 23 - \_\_\_\_\_

**AN ORDINANCE APPROVING A CONDITIONAL USE TO PERMIT  
SINGLE-FAMILY ATTACHED DWELLING UNITS IN THE OCI DISTRICT FOR  
THE ORION PROSPERITA DEVELOPMENT**

1. **WHEREAS**, Vrutthi LLC and V Estate LLC, with offices at 3644 White Eagle Drive, Naperville, IL 60564 (together referenced herein as "**Petitioner**") have petitioned the City of Naperville ("**City**") for annexation of an approximately 12.35 acre parcel of real property located at the southwest corner of Diehl Road and Mill Street in unincorporated DuPage County, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**") for a development comprised of seventy-six (76) single family attached dwelling units and an approximately 44,000 square foot STEM school together to be known as the Orion Prosperita Development ("**Orion Prosperita Development**").
2. **WHEREAS**, B.C.T. LLC, 101 Kenmare Drive, Burr Ridge, IL 60527, is the current owner ("**Owner**") of the Subject Property.

3. **WHEREAS**, with the authorization of the Owner, Petitioner has requested the City approve this Ordinance seeking a conditional use on a portion of the Subject Property as described herein (“**Ordinance**”), along with ordinances approving an annexation agreement for the Subject Property, annexation of the Subject Property, rezoning of the Subject Property, a preliminary plat of subdivision, a variance to the exterior wall construction requirements on a portion of the Subject Property, and variances for signage and landscaping (hereinafter together referenced as the “**Orion Prosperita Ordinances**”).
4. **WHEREAS**, with the authorization of the Owner, Petitioner is proposing to subdivide the Subject Property in order to construct seventy-six (76) single-family attached dwelling units (townhomes) and an approximately 44,000 square foot STEM school.
5. **WHEREAS**, with authorization of the Owners, by separate ordinance, Petitioner is requesting rezoning the Subject Property to OCI (Office, Commercial and Institutional) upon annexation.
6. **WHEREAS**, Petitioner requests approval of a conditional use to permit single-family attached dwelling units in the OCI zoning district on a portion of the Subject Property for the Orion Prosperita Development pursuant to Section 6-7f-3 (OCI District: Conditional Uses).
7. **WHEREAS**, on March 15, 2023 the Planning and Zoning Commission conducted a public hearing to consider Petitioner’s rezoning and conditional use requests and recommended approval thereof.

8. **WHEREAS**, the requested conditional use meets the standards for conditional uses as set forth on **Exhibit C**.
9. **WHEREAS**, Petitioner has requested that the City delay recordation of the Orion Prosperita Ordinances with the DuPage County Recorder for a period of time not to exceed nine (9) months after their passage (hereinafter the “**Recording Timeframe**”) in order to allow Petitioner to obtain title to the Subject Property.
10. **WHEREAS**, subject to approval of the Orion Prosperita Ordinances, the City has agreed to the proposed timeframe for their recordation with the DuPage County Recorder as set forth herein. If all of the Orion Prosperita Ordinances are not recorded within the Recording Timeframe, the City, Petitioner, and Owner agree that the Orion Prosperita 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, Owner, or the Petitioner.
11. **WHEREAS**, the City Council of the City of Naperville has determined that, subject to the provisions and conditions set forth and referenced herein, Petitioner’s request for a conditional use on a portion of the Subject Property 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:** If recordation of the Orion Prosperita Ordinances, including but not limited to this Ordinance, does not occur within the Recording Timeframe, then said Ordinances shall be deemed to be automatically void without any further action being required by the City, Owner, or the Petitioner. Petitioner and Owner have acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if the Naperville Orion Prosperita Ordinances are not recorded within the Recording Timeframe.

**SECTION 3:** Subject to approval, execution, and recordation of the Orion Prosperita Ordinances, a conditional use pursuant to Section 6-7f-3 (OCI District: Conditional Uses) of Title 6 (Zoning Regulations) of the Naperville Municipal Code in order to construct seventy-six (76) single-family attached dwelling units on a portion of the Subject Property is hereby granted.

**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 Orion Prosperita Ordinances, together with their exhibits, with the DuPage County Recorder.

**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. 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 DuPage County Recorder.

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

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Scott A. Wehrli  
Mayor

ATTEST:

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