

PINS:
08-08-106-009
08-08-106-010

ADDRESS:
5S275 AND 5S311 NAPERVILLE-WHEATON ROAD
NAPERVILLE, IL 60563

PREPARED BY:
CITY OF NAPERVILLE
LEGAL DEPARTMENT
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540
630/420-4170

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

PZC Case #23-1-002

ORDINANCE NO. 23 - ____

AN ORDINANCE GRANTING A VARIANCE FROM SECTION 5-2C-3 (EXTERIOR WALL CONSTRUCTION) OF TITLE 5 (BUILDING REGULATIONS) OF THE NAPERVILLE MUNICIPAL CODE FOR NAPERVILLE-WHEATON TOWNHOMES

RECITALS

1. **WHEREAS**, Naperville Wheaton LLC, 127 Aurora Avenue, Naperville, IL 60540 are the Owners and Petitioners ("**Owners**" and "**Petitioners**") of real property located at 5S275 and 5S311 Naperville-Wheaton Road, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, Petitioner has requested that the City approve this ordinance ("**Ordinance**"), along with an ordinance revoking ordinance No. 19-019 and ordinance No. 19-094, an ordinance amending the Leigh Subdivision annexation agreement, and an ordinance approving variances to allow for construction of

nineteen (19) single family attached dwelling units and an associated surface parking lot (hereinafter cumulatively referenced as the “**Naperville-Wheaton Townhome Ordinances**”); and

3. **WHEREAS**, Section 5-2C-3 (Exterior Wall Construction) of Title 5 (Building Regulations) of the Municipal Code requires that a minimum of fifty percent (50%) of the exterior wall construction for all single-family attached dwelling units shall be constructed of solid masonry, face brick, manufactured concrete stone veneer (1½” inch thickness) set individually into mortar bed, or other masonry products as approved by the City Council; and
4. **WHEREAS**, Petitioner requests a variance to Section 5-2C-3 (Exterior Wall Construction) in order to eliminate the requirement for exterior masonry on the nineteen (19) single-family attached dwelling units to be constructed on the Subject Property; and
5. **WHEREAS**, Petitioner proposes that the nineteen (19) single-family attached dwelling units be constructed primarily of LP smart siding (“**Proposed Building Materials**”); and
6. **WHEREAS**, the Proposed Building Materials satisfy the intent of Section 5-2C-3 (Exterior Wall Construction) to provide durable materials on single-family attached dwelling units on the Subject Property; and
7. **WHEREAS**, on March 15, 2023 the Planning and Zoning Commission conducted a public hearing to consider PZC 23-1-002 and recommended approval of the Petitioner’s request; and

8. **WHEREAS**, the requested variance meets the Standards for Variances as provided in **Exhibit C** attached hereto; and
9. **WHEREAS**, the City Council of the City of Naperville has determined, subject to the provisions and conditions set forth and referenced herein, that the variance to the Naperville Municipal Code described herein should be approved 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 here in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

SECTION 2: Subject to approval, execution, and recordation of the Naperville-Wheaton Townhome Ordinances, a variance to Section 5-2C-3 (Exterior Wall Construction) of Title 5 (Building Regulations) of the Naperville Municipal Code to reduce the required masonry materials on the single-family attached dwelling units from fifty percent (50%) to zero (0%) in order to construct nineteen (19) single-family attached dwelling units on the Subject Property, as depicted on the Building Elevations attached as **Exhibit D**, is hereby granted.

SECTION 3: The variance approved by this Ordinance shall expire unless within two (2) years from the effective date of this Ordinance if: (1) a building permit has been obtained and the construction or alteration of the structure as specified in this Ordinance has been started, or (2) the use specified in this Ordinance has commenced.

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: The City Clerk is authorized and directed to record the Naperville-Wheaton Townhome Ordinances, including their Exhibits, with the DuPage County Recorder.

SECTION 6: If this Ordinance is not recorded with the office of the Recorder in which the Subject Property is located within one (1) year of their approval and passage by the Naperville City Council, this Ordinance shall be null and void without any further action by the City unless this Ordinance is amended by the City to extend such timeframe. The Petitioner shall defend, indemnify, and hold the City and its officers, agents and employees harmless if recordation does not occur within the original, or any extended, timeframe.

SECTION 7: 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 office of the Recorder in which the Subject Property is located within.

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

PASSED this _____ day of _____, 2023.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2023.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk