

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 REZONING CERTAIN PROPERTY
LOCATED AT THE SOUTHWEST CORNER OF DIEHL ROAD AND MILL STREET
TO OCI (OFFICE, COMMERCIAL AND INSTITUTIONAL DISTRICT)

RECITALS

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**, the Subject Property is presently zoned R-3 (Single Family Residence District) in unincorporated DuPage County.
4. **WHEREAS**, with the authorization of the Owner, Petitioner has requested the City approve this ordinance (“**Ordinance**”) rezoning the Subject Property to OCI (Office, Commercial and Institutional District) upon annexation, along with ordinances approving an annexation agreement for the Subject Property, annexing the Subject Property, a preliminary plat of subdivision, a conditional use to permit single-family attached units on a portion of the Subject Property, 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**”).
5. **WHEREAS**, on March 15, 2023 the Planning and Zoning Commission conducted a public hearing to consider the rezoning request and recommended approval of the Petitioner’s request.
6. **WHEREAS**, the requested rezoning of the Subject Property meets the Standards for Rezoning as provided in **Exhibit C** attached hereto.
7. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner’s rezoning request should be granted as provided herein.
8. **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 the Subject Property.

9. **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, the Owner, or the Petitioner.
10. **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 rezoning request 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 Orion Prosperita Ordinances are not recorded within the Recording Timeframe.

SECTION 3: Subject to approval, execution, and recordation of the Orion Prosperita Ordinances, the Subject Property, legally described on **Exhibit A** and depicted on **Exhibit B**, is hereby rezoned to OCI (Office, Commercial and Institutional District) in the City of Naperville.

SECTION 4: Upon recordation of Orion Prosperita Ordinances, the Zoning Map of the City of Naperville is hereby amended in accordance with this Ordinance.

SECTION 5: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 6: 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 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 DuPage County Recorder.

SECTION 8: 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