

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 ANNEXING CERTAIN PROPERTY LOCATED AT THE
SOUTHWEST CORNER OF DIEHL ROAD AND MILL STREET
COMMONLY KNOWN AS THE ORION PROSPERITA DEVELOPMENT**

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 not within the corporate limits of any municipality, but is contiguous to the City of Naperville and eligible for annexation.
4. **WHEREAS**, all notices provided for by the Naperville Municipal Code, and all legal requirements for annexation pursuant to the provisions of 65 Illinois Compiled Statutes 5/7-1-1 *et seq.*, have been fully complied with.
5. **WHEREAS**, with the authorization of the Owner, Petitioner has requested the City approve this ordinance annexing the Subject Property ("**Ordinance**"), along with ordinances approving an annexation agreement for the Subject Property, rezoning of 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**").
6. **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.
7. **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

be recorded, and shall be deemed to be automatically void with no further action being taken by the City, Owner, or Petitioner.

8. **WHEREAS**, subject to the terms and conditions set forth and referenced herein, the City Council of the City of Naperville has determined that annexation of the Subject Property 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 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, including but not limited to an annexation agreement pertaining to the Subject Property, the Subject Property described on **Exhibit A** and depicted on **Exhibit B** is hereby annexed by the City of Naperville.

SECTION 4: The Plat of Annexation for the Orion Prosperita Development, attached to this Ordinance as **Exhibit B**, is hereby approved.

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 this Ordinance, together with an accurate map of the territory annexed as depicted on the Plat of Annexation for the Subject Property, attached to this Ordinance as **Exhibit B**, with the DuPage County Recorder and the DuPage County Clerk.

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

STATE OF ILLINOIS)
) SS
DUPAGE COUNTY)

The undersigned hereby certifies that she is the City Clerk of the City of Naperville, and that, as such, she is the custodian of the records of the municipality and keeper of the journal of proceedings of the City Council; and she further certifies that the foregoing is a true and correct copy of Ordinance No. 23 - _____, duly enacted by the City Council of the City of Naperville at a regular meeting thereof on the _____ day of _____, 2023, and passed on roll call vote as shown on the foregoing; that she further certifies that due notice, as provided by law, of the consideration of ordinance was given to the Naperville Fire Protection District Trustees; the Naperville Township Board of Trustees, Clerk, Supervisors, and Tax Assessor; the Naperville Township Highway Commissioner; the Naperville Library District Board of Trustees; and, IDOT on _____, and she further certifies that there is no other public library district to which any notice is required to be given under the provisions of Section 5/7-1-8 of Chapter 65 of the Illinois Compiled Statutes.

DATED this _____ day of _____, 2023.

City Clerk

The above and foregoing certificate was subscribed and sworn to before me this ____ day of _____, 2023.

Notary Public