

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

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

ORDINANCE NO. 19 - _____

**AN ORDINANCE PROPOSING THE ESTABLISHMENT OF
SPECIAL SERVICE AREA NO. 32 IN THE CITY OF NAPERVILLE FOR THE WAGNER
FARMS SHARED-USE PATHS AND
PROVIDING FOR A PUBLIC HEARING FOR ITS ESTABLISHMENT**

~RECITALS~

- A. The City of Naperville is a home rule unit of local government under the laws and Constitution of the State of Illinois.
- B. A home rule unit of local government may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare.
- C. The City of Naperville (or "**City**") has the authority under its home rule powers, pursuant to Article VII, Section 6(l) of the 1970 Constitution of the State of Illinois, and pursuant to the Special Service Area Tax Law, 35 ILCS 200/27-5 *et seq.*, to provide special services to contiguous areas within its corporate boundaries and to provide the manner of levying and imposing additional taxes to pay for the cost of such special services.
- D. On February 5, 2019 the City passed Ordinances 19-020 through 19-024 pertaining to a development known as the Wagner Farms Subdivision proposed by developer Pulte Home Corporation, (hereinafter "**Developer**").

E. The Wagner Farms Subdivision is a residential development located within the corporate boundaries of the City of Naperville generally located at the northeast corner of Route 59 and 103rd Street (referenced herein as the “**Wagner Farms Residential Property**”). The Wagner Farms Residential Property is legally described on Exhibit A, described by permanent index numbers, and addresses where possible, on Exhibit B, and depicted on Exhibit C. Exhibits A, B, and C are attached hereto and made part hereof.

F. A special service area, to be titled “**Special Service Area No. 32**”, is considered to be created for the Special Service Area Services described in Recital G below. Special Service Area No. 32 shall encompass the Wagner Farms Residential Property.

G. The purpose of Special Service Area No. 32 proposed herein is to provide special municipal services and improvements, if needed, in order to fully implement and carry out obligations and responsibilities pertaining to the operation, maintenance, repair and reconstruction of approximately 4,460 linear feet of shared use paths (hereinafter “**Shared-Use Paths**”) described in the Annexation Agreement for Wagner Farms authorized by City of Naperville Ordinance 19-020 in the event that those responsibilities are not otherwise timely and adequately performed, and to reimburse the City for administrative, legal, and other costs and expenses expended by the City in connection with Special Service Area No. 32 (hereinafter “**Special Service Area Services**”). Said Shared-Use Paths are generally depicted on the Final Landscape Development Plans dated March 22, 2019, and are also referenced in the Owner’s Acknowledgement and Acceptance Agreement between the City and the Developer recorded with the Ordinance approving the final plat of subdivision for Phase 1A of the Wagner Farms Subdivision, which shall also be recorded with City ordinances approving the final plats of subdivision

for every phase of the Wagner Farms Subdivision.

H. Proposed Special Service Area No. 32 will benefit specially from the Special Service Area Services described herein and is contiguous and consists entirely of territory located within the corporate limits of the City of Naperville in the County of Will, Illinois.

I. The Developer of the Wagner Farms Subdivision shall create a homeowners' association for the Wagner Farms Residential Property (referenced herein as the "**Wagner Farms Homeowners' Association**").

J. The Developer shall be responsible for the timely and adequate provision and funding of the Special Service Area Services described or referenced herein until the Developer establishes the Wagner Farms Homeowners' Association at which time the Wagner Farms Homeowners' Association, and/or the Wagner Farms Homeowners' Association's designee, shall be responsible for the timely and adequate provision and funding of the Special Service Area Services described or referenced herein.

K. It is in the public interest that the imposition and levy of a direct annual property tax upon the Wagner Farms Residential Property be considered for the purpose of paying the costs of providing the Special Service Area Services, said tax to be levied for an indefinite period of time commencing only as provided herein and to be levied in accord with the provisions of the Illinois Property Tax Code.

L. The taxes provided for herein shall not be levied and said Special Service Area No. 32 shall remain "dormant" unless activated as provided herein and in accord with the provisions of paragraph 3(b) of City of Naperville Ordinance 15-107.

M. The City of Naperville shall have the right, but not the obligation, to activate Special Service Area No. 32 and extend taxes as provided herein at its sole discretion in the

event that: (1) the City Manager determines that it is necessary and appropriate to do so; and/or (2) in the event that the City determines that the Developer or the Wagner Farms Homeowners' Association, as applicable, have failed to adequately provide and fund the Special Service Area Services described and referenced herein. Prior to activating Special Service Area No. 32, the City shall give written notice to the Developer, or to the Wagner Farms Homeowners' Association, if such entities then exist.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in the exercise of its home rule powers, as follows:

SECTION 1: The foregoing Recitals A through M are a material part of this Ordinance and are incorporated herein as though fully set forth in this Section 1.

SECTION 2: The City of Naperville has the authority under its home rule powers pursuant to Article VII, Section 6(1) of the 1970 Constitution of the State of Illinois, and pursuant to the Special Service Area Tax Law, 35 ILCS 200/27-5 *et seq.*, to provide special services to contiguous areas within its corporate boundaries and to provide the manner of levying and imposing additional taxes to pay for the cost of such special services.

SECTION 3: The City Council of the City of Naperville makes the following findings of fact:

(a) It is in the public interest that a special service area, titled "Special Service Area No. 32", be proposed and considered for the area and purposes described herein, and that the City Council conduct a public hearing as required by law to consider the establishment of Special Service Area No. 32 for the Wagner Farms Residential Property legally described on **Exhibit A**, as described by address and permanent index numbers on **Exhibit B**, and as shown on the map depicted on **Exhibit C**.

(b) Proposed Special Service Area No. 32 is compact and contiguous, and no part of the area lies within any incorporated municipality other than the City of Naperville, or within any unincorporated area.

(c) The property owners in proposed Special Service Area No. 32 will benefit specifically from the services proposed to be provided, and the proposed services are in addition to municipal services generally provided to the residents and businesses in the City of Naperville as a whole.

SECTION 4: A public hearing shall be held on January 21, 2020 at 7:00 p.m., or as soon thereafter as possible, in the City Council Chambers of the Naperville Municipal Center, 400 South Eagle Street, Naperville, Illinois, to consider the establishment of Special Service Area No. 32 described herein for the property legally described on **Exhibit A**, described by address and permanent index numbers on **Exhibit B**, and as shown on the map depicted on **Exhibit C**. At the public hearing, the City Council will consider the following:

(a) The establishment of Special Service Area No. 32 to provide Special Service Area Services as described herein, which special service area shall remain “dormant” unless activated as provided or referenced herein.

(b) A special tax to be levied at a rate not to exceed sixty (60) cents (\$0.60) per one hundred dollars (\$100.00) of equalized assessed value, as equalized against the property included in Special Service Area No. 32 for the Special Service Area Services described herein, except for the initial year for which taxes will be levied as set forth in Subsection (c) below.

(c) The proposed amount of the tax levy for Special Service Area Services for the initial year for which taxes will be levied within Special Service Area No. 32 is thirty (30) cents (\$0.30) per one hundred dollars (\$100) of equalized assessed valuation.

(d) Upon activation of Special Service Area No. 32, except as otherwise provided for the initial year of the levy in subsection (c) above, the City may annually levy hereunder up to the maximum rate set forth in Subsection (b) above for the cost of all or some part of the Special Service Area Services described herein, there being no limitation on the number of years said Special Service Area shall remain in effect.

SECTION 5: Notice of the public hearing for proposed establishment of Special Service Area No. 32 shall be published not less than fifteen (15) days prior to the public hearing to be held on January 21, 2020, in a newspaper of general circulation in the City of Naperville. In addition, notice by mailing shall be given by depositing the notice in the U.S. mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each property within the special service area. A list of the last known taxpayers is available for inspection and viewing at the office of the City Clerk. The notice shall be mailed not less than ten (10) days prior to the date set for the public hearing. In the event taxes for the last preceding year were not paid, the notice shall be sent to the person last listed on the tax rolls prior to that year as the owner of the property.

The notice shall include the following: the time and place of the public hearing; the boundaries of the area of proposed Special Service Area No. 32 by legal description, and by street location where possible; the permanent tax index number of each parcel located within the area; the nature of the proposed special services to be provided within the special service area, and a statement as to whether the proposed special services are for new

construction, maintenance, or other purposes; the proposed amount of the tax levy for special services for the initial year for which taxes will be levied within the special service area; a notification that all interested persons, including all persons owning taxable real property located within the special service area, will be given an opportunity to be heard at the hearing regarding the tax levy and an opportunity to file objections to the amount of the tax levied upon the property; and the maximum rate of taxes to be extended within the special service area in any year, the maximum number of years that taxes will be levied if a maximum number of years is to be established, and that funds received through the special service area will be used by the City, and/or its designees, to provide the Special Service Area Services described herein.

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 or resolution.

SECTION 7: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2019

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2019

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk