

**PINS:**  
**08-08-202-028**  
**08-08-202-052**

**ADDRESS:**  
**5S241 TUTHILL Road**  
**5S255 TUTHILL ROAD**  
**NAPERVILLE, IL 60563**

**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**

**PZC Case #18-1-101**

**ORDINANCE NO. 19 - \_\_\_\_\_**

**AN ORDINANCE APPROVING A VARIANCE TO  
SECTION 6-9-2:4 (OFF STREET PARKING FACILITIES) OF THE  
NAPERVILLE MUNICIPAL CODE FOR KLA SCHOOLS**

**WHEREAS**, SAR Estate, Inc., 3644 White Eagle Drive, Naperville, Illinois, 60564 (“Petitioner”), has petitioned the City of Naperville for approval of a variance to Section 6-9-2:4 of the Naperville Municipal Code (Off Street Parking Facilities) for the property located at 5S241 Tuthill Road and 5S255 Tuthill Road, legally described on **Exhibit A** and depicted on **Exhibit B** (“Subject Property”); and

**WHEREAS**, the requested variance will allow eleven (11) parking spaces to be located in the Subject Property’s required front yard adjacent to Tuthill Road, as depicted on **Exhibit C** (“Site Plan”), in order to accommodate the development of a daycare facility on the Subject Property; and

**WHEREAS**, the City Council finds that the requested variance to Section 6-9-2:4 of the Naperville Municipal Code meets the Standards for Granting a Zoning Variance as provided in **Exhibit D** attached hereto; and

**WHEREAS**, Petitioner has requested that the City approve this ordinance (“Ordinance”) along with ordinances authorizing the execution of an annexation agreement for the Subject Property, annexing a portion of the Subject Property, rezoning the Subject Property to OCI, and approving a preliminary/final plat of subdivision and a platted setback deviation (hereinafter cumulatively referenced herein as the “KLA Schools Ordinances”); and

**WHEREAS**, Petitioner has requested that the City delay recordation of the KLA Schools Ordinances with the DuPage County Recorder for a period of time not to exceed twelve (12) months after their passage in order to allow the Petitioner to finalize the purchase and sale agreement for the Subject Property and to acquire ownership of the Subject Property; and

**WHEREAS**, subject to approval of the KLA Schools Ordinances, the City has agreed to the proposed timeframe for their recordation with the DuPage County Recorder as set forth herein. In the event that all of the KLA Schools Ordinances are not recorded within the timeframe described above, the City and Petitioner agree that the KLA Schools Ordinances shall not be recorded and shall be deemed to be automatically null and void with no further action being taken by the City or the Petitioner; and

**WHEREAS**, on December 19, 2018, the Planning and Zoning Commission conducted a public hearing to consider the Petitioner’s requests for the Subject Property, and recommended approval of the requests; and

**WHEREAS**, the City Council has determined that the Petitioner's requests 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 here. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

**SECTION 2:** If recordation of the KLA Schools Ordinances does not occur within twelve (12) months after passage of the KLA Schools Ordinances as provided herein, then said Ordinances shall be deemed to be automatically void without any further action being required by the City or Petitioner. Petitioner has acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if the KLA Schools Ordinances are not recorded within the timeframe described herein.

**SECTION 3:** A Variance to Section 6-9-2:4 (Off Street Parking Facilities) to allow eleven (11) parking spaces to be located in the Subject Property's required front yard, adjacent to Tuthill Road as depicted on the Site Plan attached to this Ordinance as **Exhibit C**, is hereby approved.

**SECTION 4:** The Landscape Plan for KLA Schools, attached to this Ordinance as **Exhibit E**, is hereby approved.

**SECTION 5:** The Building Elevations for KLA Schools, attached to this Ordinance as **Exhibit F**, are hereby approved.

**SECTION 6:** This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

**SECTION 7:** 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 the exhibits attached hereto, with the DuPage County Recorder.

**SECTION 8:** 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.

**SECTION 9:** This Ordinance shall be in full force and effect upon its recordation with the DuPage County Recorder.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Steve Chirico  
Mayor

ATTEST:

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