

PIN:
07-13-216-011
07-13-216-021
07-13-216-022
07-13-216-013
07-13-216-014

ADDRESS:
433-435 SPRING AVENUE
NAPERVILLE, IL 60540

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 17-1-013

ORDINANCE NO. 17 -

AN ORDINANCE GRANTING A TEMPORARY USE AND APPROVING AN OWNER'S ACKNOWLEDGEMENT AND ACCEPTANCE AGREEMENT, LANDSCAPING PLAN AND BUILDING ELEVATION FOR REAL PROPERTY LOCATED AT 433-435 SPRING AVENUE, NAPERVILLE

WHEREAS, DuPage Precision Products Co. is the owner of real property located at 433-435 Spring Avenue, Naperville, Illinois, legally described on **Exhibit A** and depicted on **Exhibit B** ("Subject Property"); and

WHEREAS, DuPage Precision Products Co. currently operates a product assembly facility on the Subject Property; and

WHEREAS, in 2008 the Subject Property was rezoned from I (Industrial District) to R2 (Single-family and Low Density Multiple-family District) in accordance with the recommendations of the Spring Avenue Study; and

WHEREAS, as a result of the rezoning to R2 in 2008, the product assembly facility operated by DuPage Precision Products Co. on the Subject Property became a nonconforming use, permitted to continue in accordance with Municipal Code Section 6-10 (Nonconforming Uses); and

WHEREAS, DuPage Precision Products Co. now desires to sell the Subject Property to Kramer Restoration of DuPage County, LLC, which also goes by the name of Paul Davis Restoration Services of DuPage County, which acts as an insurance contractor specializing in remediation and reparation of water and fire damages in residential and commercial structures; and

WHEREAS, the proposed use of the Subject Property does not comply with the applicable City of Naperville R2 zoning regulations; and

WHEREAS, compliance with the City of Naperville R2 zoning regulations on the Subject Property is currently impractical due to operation of a concrete plant on property directly adjacent to the Subject Property; and

WHEREAS, the sale of the Subject Property to Kramer Restoration of DuPage County, LLC is contingent upon approval by the City Council of a temporary use to allow Paul Davis Restoration Services of DuPage County to use the Subject Property as described above and as further described in the Owner's Acknowledgement and Acceptance Agreement attached hereto as **Exhibit C**; and

WHEREAS, pursuant to Naperville Municipal Code Section 6-2-11, temporary uses which do not conform to the regulations prescribed elsewhere in Title 6 may be approved if the use does not have an adverse impact on the surrounding properties, public health, safety and general welfare; and

WHEREAS, the requested temporary use provides an appropriate transition for the Subject Property while the concrete plant adjacent to the Subject Property continues to operate; and

WHEREAS, on April 3, 2017, the Planning and Zoning Commission held a public hearing, to consider the Owner's request and recommended approval of the temporary use; and

WHEREAS, the City Council of the City of Naperville has determined that a temporary use to allow the Subject Property to be used for remediation and reparation of water and fire damages in residential and commercial structures should be granted subject to the terms and conditions set forth in this Ordinance and in the Owner's Acknowledgement and Acceptance Agreement attached hereto

as **Exhibit C** and subject to **Exhibit D** (Landscape Plan) and **Exhibit E** (Elevation) attached hereto; and

WHEREAS, this Ordinance shall not become effective, nor shall it be recorded, unless and until Kramer Restoration of DuPage County, LLC acquires title to the Subject Property and provides evidence of such ownership to the satisfaction of the City Attorney;

WHEREAS, if Kramer Restoration of DuPage County, LLC does not become owner of the Subject Property within three (3) months of approval of this Ordinance, this Ordinance shall be automatically null and void without further action required by the City Council.

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 herein 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: The Owner's Acknowledgement and Acceptance, attached to this Ordinance as **Exhibit C**, is hereby approved.

SECTION 3: The Landscape Plan, attached to this Ordinance as **Exhibit D**, is hereby approved.

SECTION 4: The Building Elevation, attached to this Ordinance as **Exhibit E**, is hereby approved.

SECTION 5: A temporary use pursuant to Naperville Municipal Code Section 6-2-11 is hereby granted to Kramer Restoration of DuPage County, LLC to allow operation of Paul Davis Restoration Services of DuPage County on the Subject Property as described herein subject to the terms and conditions of this Ordinance including each exhibit hereto. Said temporary use is granted solely for operation of Paul Davis Restoration Services of DuPage County and, in the absence of an

amendment of this Ordinance, including but not limited to the Owner's Acknowledgement and Acceptance Agreement attached hereto as **Exhibit C**, no other entity, owner, lessee or tenant of the Subject Property shall be eligible for said temporary use.

SECTION 6: This Ordinance shall be subject to unilateral termination by action of the City Council: (1) for the reasons set forth in Sections 3 and 7 of the Owner's Acknowledgement and Acceptance Agreement attached hereto as **Exhibit C**; (2) if all terms and conditions of this Ordinance, including but not limited to each exhibit attached hereto, are not strictly complied with; or (3) for failure of the temporary use granted herein to comply with the Naperville Municipal Code or other applicable laws, as amended from time to time.

SECTION 7: The City Manager is authorized and directed to execute, and the City Clerk is authorized and directed to attest, the Owner's Acknowledgement and Acceptance Agreement attached hereto as **Exhibit C** upon satisfaction of the requirement that the Subject Property is owned by Kramer Restoration of DuPage County, LLC as provided herein and upon execution of said Agreement by Kramer Restoration of DuPage County, LLC.

SECTION 8: Upon written direction of the City Attorney the City Clerk is authorized and directed to record this Ordinance and all exhibits attached hereto with the DuPage County Recorder.

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

PASSED this _____ day of _____, 2017.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2017.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk