

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 AUTHORIZING THE EXECUTION OF
AN ANNEXATION AGREEMENT FOR THE 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**, with the authorization of the Owner, Petitioner has requested the City approve this ordinance approving an annexation agreement for the Subject Property (“**Ordinance**”) along with ordinances approving annexation of 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**”).
4. **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.
5. **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, Owner, or the Petitioner.

6. **WHEREAS**, the Petitioner is ready, willing, and able to enter into an annexation agreement and to perform the obligations required herein and as set forth in the Naperville Municipal Code ("**Code**"), as amended from time to time.
7. **WHEREAS**, the Petitioner and the City of Naperville have fully complied with the statutory and Code provisions required for the approval and execution of an annexation agreement.
8. **WHEREAS**, subject to the terms and conditions set forth and referenced herein, the City Council of the City of Naperville has determined that it is in the best interests of the City of Naperville to enter into the Annexation Agreement attached hereto as **Exhibit C**.

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 authority, 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: Prior to recordation of the Orion Prosperita Ordinances, Petitioner shall provide evidence of ownership of the Subject Property to the satisfaction of the City Attorney and submit a properly executed Annexation Agreement to the City.

SECTION 3: Upon direction of the City Attorney, the Mayor is then authorized and directed to execute, and the City Clerk is authorized and directed to attest, the Annexation Agreement for the Subject Property on behalf of the City. Upon confirmation that all required fees have been paid, and properly executed documents have been submitted, and subject to the provisions of Section 3 below, the City Clerk is then authorized and directed to record

the Orion Prosperita Ordinances, including their Exhibits, with the DuPage County Recorder in the following order: (1) an Ordinance Approving an Annexation Agreement for the Subject Property; (2) an Ordinance approving Annexation of the Subject Property; (3) an Ordinance approving Rezoning of the Subject Property; (4) an Ordinance approving a Preliminary Plat of Subdivision for the Subject Property; (5) an Ordinance Approving a Conditional Use to permit single-family attached units on a portion of the Subject Property; (6) an Ordinance approving a Variance to exterior wall construction requirements for a portion of the Subject Property; and (7) an Ordinance approving Variances for signage and landscaping.

SECTION 4: 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 5: 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 6: 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