

**PIN:
08-28-301-009**

**ADDRESS:
24W560 77TH STREET
NAPERVILLE, IL 60565**

**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 #19-1-070

ORDINANCE NO. 19 -

**AN ORDINANCE AUTHORIZING THE EXECUTION OF AN
ANNEXATION AGREEMENT FOR THE PROPERTY LOCATED AT
24W560 77TH STREET (77TH STREET PROJECT)**

WHEREAS, the Marion Rowley Smith Trust dated June 6, 2008 is the owner (“**Owner**”) of real property located at 24W560 77th Street, Naperville as legally described on **Exhibit A** and depicted on **Exhibit B** (“**Subject Property**”), and Oak Creek Capital Partners, LLC (“**Petitioner**”) has petitioned the City of Naperville (“**City**”) for annexation of the Subject Property with the Owner’s approval; and

WHEREAS, the Petitioner has also filed a petition to rezone the Subject Property to R1A (Low Density Single-Family Residence District) upon annexation and to subdivide the property into 10 lots and 1 outlot in order to develop ten (10) single-family residences in the City; and

WHEREAS, Petitioner has requested that the City approve this ordinance (“**Ordinance**”) along with ordinances annexing the Subject Property, approving rezoning of the Subject Property, and approving a preliminary plat of subdivision (hereinafter cumulatively referenced herein as the (“**77th Street Project Ordinances**”)); and

WHEREAS, Petitioner has requested that the City delay recordation of the 77th Street Project Ordinances with the DuPage County Recorder for a period of time not to exceed three hundred and sixty-five (365) calendar days after their passage in order to allow the Petitioner to finalize the purchase and sale agreement and to transfer ownership of the Subject Property from the Owner to the Petitioner; and

WHEREAS, subject to approval of the 77th Street Project 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 77th Street Project Ordinances are not recorded within the timeframe described above, the City and Petitioner agree that the 77th Street Project 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.

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; and

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; and

WHEREAS, 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: 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. 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 77th Street Project Ordinances, including their Exhibits, with the DuPage County Recorder, which ordinances shall be recorded in the following order: (1) Annexation; (2) Annexation Agreement; (3) Rezoning; and (4) Preliminary Plat of Subdivision.

SECTION 3: If recordation of the 77th Street Project Ordinances does not occur within three hundred and sixty-five (365) calendar days after their passage and approval by the City, then said Ordinances shall not be recorded and shall be deemed to be automatically null and void without any further action being required by the Petitioner or the City. Petitioner has acknowledged that in no event shall the City be liable or responsible in

any manner or for any claim if this Ordinance, including the Exhibits attached hereto, is not recorded within three hundred and sixty-five (365) calendar day timeframe described herein.

SECTION 4: 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 5: 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.

ATTEST:

Steve Chirico
Mayor

Pam Gallahue, Ph.D.
City Clerk