

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 GRANTING A VARIANCE FROM SECTION 5-2C-3 (EXTERIOR
WALL CONSTRUCTION) OF TITLE 5 (BUILDING REGULATIONS) OF
THE NAPERVILLE MUNICIPAL CODE FOR
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**, Petitioner has requested that the City approve this ordinance approving a variance to the exterior wall construction requirements to a portion of the Subject Property as provided herein (“**Ordinance**”), along with ordinances approving an annexation agreement for the Subject Property, 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, and variances for signage and landscaping (hereinafter together referenced as the (“**Orion Prosperita Ordinances**”).
4. **WHEREAS**, Section 5-2C-3 (Exterior Wall Construction) of Title 5 (Building Regulations) of the Municipal Code requires that a minimum of fifty percent (50%) of the exterior wall construction for all single-family attached dwelling units shall be constructed of solid masonry, face brick, manufactured concrete stone veneer (1½” inch thickness) set individually into mortar bed, or other masonry products as approved by the City Council.
5. **WHEREAS**, Petitioner requests a variance to Section 5-2C-3 (Exterior Wall Construction) in order to reduce the requirement for exterior masonry on the seventy-six (76) single-family attached dwelling units to be constructed on the Subject Property.
6. **WHEREAS**, Petitioner proposes that the seventy-six (76) single-family attached dwelling units to be constructed on the Subject Property be constructed with 25% of the exterior wall construction to be constructed out of masonry and 75% of the

exterior wall construction to be constructed out of composite siding (“**Proposed Building Materials**”).

7. **WHEREAS**, the Proposed Building Materials satisfy the intent of Section 5-2C-3 (Exterior Wall Construction) to provide durable materials on single-family attached dwelling units and also provide a consistent aesthetic with the proposed single-family detached dwelling units on the Subject Property.
8. **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; and
9. **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.
10. **WHEREAS**, on March 15, 2023 the Planning and Zoning Commission conducted a public hearing to consider the variance and recommended approval of the Petitioner’s request.
11. **WHEREAS**, the requested variance meets the Standards for Variances as provided in **Exhibit C** attached hereto.

12. **WHEREAS**, the City Council of the City of Naperville has determined, subject to the provisions and conditions set forth and referenced herein, that the variance to the Naperville Municipal Code described herein should be approved 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 in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

SECTION 2: 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 the Orion Prosperita Ordinances, together with their exhibits, with the DuPage County Recorder.

SECTION 3: 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, the 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 4: Subject to approval, execution, and recordation of the Orion Prosperita Ordinances, a variance to Section 5-2C-3 (Exterior Wall Construction) of Title 5 (Building Regulations) of the Naperville Municipal Code to reduce the required masonry materials on the single-family attached dwelling units from fifty percent (50%) to twenty-five (25%) in

order to construct seventy-six (76) single-family attached dwelling units on the Subject Property, as depicted on the Building Elevations attached as **Exhibit D**, is hereby granted.

SECTION 5: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

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, 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 7: 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

