

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

ADDRESS:
5S241 AND 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 AUTHORIZING THE EXECUTION OF AN
ANNEXATION AGREEMENT FOR THE PROPERTY LOCATED AT
5S241 AND 5S255 TUTHILL ROAD (AKA KLA SCHOOLS)**

WHEREAS, SAR Estate, Inc., 3644 White Eagle Drive, Naperville, Illinois, 60564 (“Petitioner”) has petitioned the City of Naperville (“City”) for annexation of real property located at 5S241 and 5S255 Tuthill Road, legally described on **Exhibit A** and depicted on **Exhibit B** (“Subject Property”); and

WHEREAS, Petitioner has also filed a petition to rezone the Subject Property to OCI (Office, Commercial, and Institutional District) upon annexation, and consolidate two lots into one parcel in order to develop a daycare center in the City of Naperville; 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 to OCI, approving a preliminary/final plat of subdivision and a platted setback deviation, and approving a variance to Section 6-9-2:4 (Off Street Parking

Facilities) of the Naperville Municipal Code (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 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, upon acquisition of the Subject Property, the Petitioner is ready, willing, and able to enter into enter into the Annexation Agreement attached hereto as **Exhibit C** and to perform the obligations required therein 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 from the City Attorney that the terms and conditions set forth or referenced herein have been fulfilled, 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 KLA Schools Ordinances, including their Exhibits, with the DuPage County Recorder.

SECTION 3: If recordation of the KLA Schools Ordinances does not occur within twelve (12) months after their passage and approval, 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 the 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 or resolution.

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