

PIN: 08-08-100-025

ADDRESS:  
1187 E. OGDEN AVE.  
1255 E. OGDEN AVE.  
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 #20-1-047

**ORDINANCE NO. 20 - \_\_\_\_\_**

**AN ORDINANCE VACATING A PORTION OF THE  
DIEHL ROAD RIGHT-OF-WAY FOR THE KIRKLAND OGDEN SUBDIVISION  
(COSTCO WHOLESALE WAREHOUSE)**

**RECITALS**

1. **WHEREAS**, Norcor Naperville Associates, LLC with offices at 1030 West Higgins Road, Suite 360, Park Ridge, IL 60068 is the current owner (“**Owner**”) of real property located at 1255 E. Ogden Avenue, legally described on **Exhibit A** and depicted on **Exhibit B** (“**Subject Property**”), and Costco Wholesale Group”) with offices at 999 Lake Drive, Issaquah, WA 98027 (“**Petitioner**”), is the contract purchaser and future owner of Lot 1 of the Subject Property upon recordation of a Final Plat of Subdivision for the Kirkland Ogden Subdivision; and
2. **WHEREAS**, Petitioner has petitioned the City of Naperville for approval of a Final Plat of Subdivision for the Subject Property (the Kirkland Ogden Subdivision); and

3. **WHEREAS**, with the authorization of the Owner, Petitioner has also petitioned the City of Naperville for vacation of right-of-way located within the corporate limits of the City, namely a portion of the Diehl Road right-of-way abutting the Subject Property, which right-of-way consists of approximately 13,074± square feet, is legally described on **Exhibit C**, depicted on the Plat of Vacation attached as **Exhibit D**, and referenced herein as the “**Subject Right-of-Way**”; and
4. **WHEREAS**, the Subject Right-of-Way was originally platted as a utility easement in 1974 and was later dedicated as right of way for the future Diehl Road in 1976; and
5. **WHEREAS**, Diehl Road was later constructed further north of the Subject Property; and
6. **WHEREAS**, subject to a reservation of easement rights for City utilities and other utilities having facilities within the Subject Right-of-Way to continue public service by means of those facilities and for the maintenance, renewal and reconstruction thereof, the City has determined that it has no further use or need for the Subject Right-of-Way, and that the public interest will be served by its vacation as provided herein; and
7. **WHEREAS**, vacation of the Subject Right-of-Way will relieve the City of all responsibility for its maintenance, repair, and reconstruction, and for liability associated with said property; and
8. **WHEREAS**, the City has determined that upon vacation of the Subject Right-of-Way, title thereto shall vest in the Owner of the Subject Property, which Subject Property has a permanent index number of 08-08-100-025, subject to the reservation of easement rights for utilities as set forth in Recital 6 hereof; and

9. **WHEREAS**, the Petitioner will pay the City the sum of fifteen thousand dollars (\$15,000) for vacation of the Subject Right-of-Way as provided herein; and
10. **WHEREAS**, it is the judgment of the Mayor and City Council that the benefits that will accrue to the City as set forth in Recital 7 hereof, plus the compensation to be paid by the Petitioner as set forth in Recital 9 hereof, represent sufficient consideration for vacation and conveyance of the Subject Right-of-Way as provided herein; and
11. **WHEREAS**, as authorized by 65 ILCS 5/11-91-1, as well as by virtue of its home rule authority, the Mayor and City Council find and hereby declare that, subject to the terms and conditions set forth herein, vacation of the Subject Right-of-Way and conveyance thereof as provided herein is in the public interest; and
12. **WHEREAS**, in addition to compliance with all notice requirements of the Illinois Open Meetings Act, notice of the proposed vacation of the Subject Right-of-Way was provided pursuant to the provisions of 65 ILCS 5/11-91-1 by publication in a newspaper of general circulation at least fifteen (15) days prior to August 18, 2020 on which date a public hearing was opened and held by the Naperville City Council regarding the proposed vacation of the Subject Right-of-Way; and
13. **WHEREAS**, an ordinance vacating property pursuant to 65 ILCS 5/11-91-1 may only be passed upon a vote of three-fourths of the City Council members then holding office, which three-fourths vote constitutes seven (7) votes; and all steps necessary to lawfully vacate the Subject Right-of-Way as described and referenced herein have been taken; and

**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 in this Section 1. All exhibits referenced in this Ordinance are attached hereto and shall be deemed incorporated and made part hereof.

**SECTION 2:** Subject to the terms and conditions set forth and referenced herein, vacation of the Subject Right-of-Way legally described on **Exhibit C** and depicted on the Plat of Vacation attached hereto as **Exhibit D**, is hereby approved. Upon recordation of this Ordinance with the DuPage County Recorder, subject to the reservation of easement rights for utilities as set forth in Recital 6 hereof, title to said vacated Subject Right-of-Way shall vest in the Owner of the Subject Property, which Subject Property has a permanent index number of 08-08-100-025.

**SECTION 3:** Subject to the terms and conditions set forth and referenced herein, the Plat of Vacation attached to this Ordinance as **Exhibit D** is hereby approved.

**SECTION 4:** 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 a certified copy of this Ordinance and the exhibits attached hereto, including but not limited to the Plat of Vacation approved herein, with the DuPage County Recorder.

**SECTION 5:** Upon vacation thereof, the Subject Right-of-Way shall conform to the provisions of the Naperville Municipal Code, as amended from time to time, including but not limited to the permitted uses and all other regulations of the B2 (Community Shopping Center) zoning district.

**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.

**SECTION 7:** This Ordinance shall be in full force and effect upon its recordation with the DuPage County Recorder.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Steve Chirico  
Mayor

ATTEST:

\_\_\_\_\_  
Pam Gallahue, Ph. D.  
City Clerk