

CITY OF NAPERVILLE PETITION FOR DEVELOPMENT APPROVAL

175431/1

DEVELOPMENT NAME (should be consistent with plat): SAR Estate

ADDRESS OF SUBJECT PROPERTY: 5S241 and 5S255 Tuthill Road, Naperville, IL

PARCEL IDENTIFICATION NUMBER (P.I.N.) 08-08-202-028; 08-08-202-052

I. PETITIONER: SAR Estate, Inc., Pangayaselvei K. Rajkumar, Director

PETITIONER'S ADDRESS: 3644 White Eagle Drive

CITY: Naperville STATE: IL ZIP CODE: 60564

PHONE: 630-803-5768 EMAIL ADDRESS: selvei.rajkumar@gmail.com

II. OWNER(S): ROC/Plank Road, LLC by Dan Kopp, Attorney

OWNER'S ADDRESS: 300 S. Wacker Drive, Suite 2200

CITY: Chicago STATE: IL ZIP CODE: 60606

PHONE: (312)258-3774 EMAIL ADDRESS: dkopp@daspinaument.com

III. PRIMARY CONTACT (review comments sent to this contact): Patti A. Bernhard

RELATIONSHIP TO PETITIONER: Attorney

PHONE: 630-355-5800 EMAIL ADDRESS: pab@dbcw.com

IV. OTHER STAFF

NAME: Torch Architecture, Tory Hannan, Principal

RELATIONSHIP TO PETITIONER: Architect

PHONE: (630)420-1900 EMAIL ADDRESS: tory@torcharchitecture.com

NAME: Intech Consultants, Inc., Ed Seifert, Principal

RELATIONSHIP TO PETITIONER: Engineer

PHONE: (630)964-5656 EMAIL ADDRESS: seifert@intechconsultants.com

V. PROPOSED DEVELOPMENT

(check applicable and provide responses to corresponding exhibits on separate sheet)

- Amending or Granting a Conditional Use (Exhibit 1)*
- Landscape Variance (Exhibit 5)
- Amending or Granting a Planned Unit Development (Exhibit 2)
- Planned Unit Development Deviation (Exhibit 6)
- Annexation (Exhibit 3)
- Sign Variance (Exhibit 7)
- Plat of Easement/Vacation/Dedication
- Zoning Variance (Exhibit 7)
- Rezoning (Exhibit 4)
- Platted Setback Deviation (Exhibit 8)
- Subdivision Plat
- Subdivision Deviation/Waiver (Exhibit 8)
- Temporary Use
- Other (Please Specify: Plat of Consolidation)

**When requesting approval of a Small Wind and/or a Solar Renewable Energy System complete Exhibit 9 instead of Exhibit 1.*

ACREAGE OF PROPERTY: 1.2 acres

DESCRIPTION OF PROPOSAL/USE (use a separate sheet if necessary)

Requesting to annex the subject properties to the City of Naperville and the Naperville Park District, Preliminary and Final Plat approval, rezoning the subject properties from R-3 in DuPage County to OCI with a permitted use for a daycare center, a variance to allow parking in the front yard, a platted setback deviation to allow the parking lot to be located within the platted building line setback, and consolidating two lots into one lot.

VI. REQUIRED SCHOOL AND PARK DONATIONS (RESIDENTIAL DEVELOPMENT ONLY)

(per Section 7-3-5: Dedication of Park Lands and School Sites or for Payments or Fees in Lieu of)

Required School Donation will be met by:

- Cash Donation (paid prior to plat recordation)
- Cash Donation (paid per permit basis prior to issuance of each building permit)
- Land Dedication

Required Park Donation will be met by:

- Cash Donation (paid prior to plat recordation)
- Cash Donation (paid per permit basis prior to issuance of each building permit)
- Land Dedication

PETITIONER'S SIGNATURE

I, Pangayaselvei K. Rajkumar, Director (Petitioner's Printed Name and Title), being duly sworn, declare that I am duly authorized to make this Petition, and the above information, to the best of my knowledge, is true and accurate.

Pangayaselvei K. Rajkumar
(Signature of Petitioner or authorized agent)

10/29/2019
(Date)

SUBSCRIBED AND SWORN TO before me this 29th day of October, 2018

Cristiana V. Cardwell

(Notary Public and Seal)



OWNER'S AUTHORIZATION LETTER*

I/we hereby certify that I/we am/are the owner(s) of the above described Subject Property. I/we am/are respectfully requesting processing and approval of the request(s) referenced in this Petition. I/we hereby authorize the Petitioner listed on this Petition to act on my/our behalf during the processing and presentation of this request(s).

[Handwritten Signature]
(Signature of 1st Owner or authorized agent)

(Signature of 2nd Owner or authorized agent)

10/29/18
(Date)

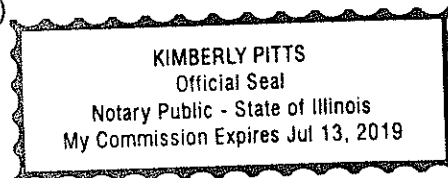
(Date)

Michael Siodak, Manager
1st Owner's Printed Name and Title

2nd Owner Printed Name and Title

SUBSCRIBED AND SWORN TO before me this 29th day of October, 2018

Kimberly Pitts
(Notary Public and Seal)



* Please include additional pages if there are more than two owners.

PETITION FOR ANNEXATION, ZONING AND VARIANCE

The undersigned Petitioner, SAR Estate, Inc., being the contract purchaser, respectfully petitions the City of Naperville (a) to cause the real property legally described in **Exhibit A** and depicted on the Plat of Annexation, marked **Exhibit B**, both exhibits being attached hereto and made a part hereof, (hereinafter referred to as the "Subject Property"), to be annexed to the City of Naperville, Counties of DuPage and Will, State of Illinois, subject to the Petitioner and the City entering into a mutually agreeable delayed Annexation Agreement, (b) upon annexation, to zone the Subject Property OCI (Office, Commercial and Institutional District) pursuant to Section 6-7F-1 of the Zoning Regulations of the Naperville Municipal Code, (c) to grant a variance to allow parking in the front yard, (d) to grant a platted setback deviation to allow the parking lot to be located within the platted building line setback, and (e) to grant any requisite zoning and/or subdivision deviations and/or variances associated with the requested annexation and zoning.

In support of this Petition, the Petitioner represents to the City of Naperville as follows:

- A. That the legal title holder of the Subject Property is ROC/Plank Road, LLC, whose address is 5514 Lincoln Avenue, Suite 200, Lisle, Illinois 60532.
- B. That there are no electors residing on the Subject Property.
- C. That the Subject Property is not within the corporate limits of any municipality but is contiguous to the City of Naperville, DuPage County, Illinois.
- D. That the Subject Property consists of two (2) lots which will need to be consolidated into one (1) lot, is 1.2 acres in size, and is located on the east side of Tuthill Road, south of Ogden Avenue, north of Plank Road and west of Naper Boulevard, County of DuPage, Illinois, with addresses of 5S241 and 5S255 Tuthill Road.
- E. That the Subject Property is presently zoned R-3 (Single Family Residence District) in the County of DuPage.
- F. That the Subject Property is vacant.
- G. That the existing land uses surrounding the Subject Property are as follows:

- North: commercial
- East: single-family residential
- South: single-family residential
- West: commercial.

H. That upon annexation of the Subject Property to the City of Naperville, the Petitioner requests that the City amend the City of Naperville Zoning Regulations to reclassify and zone the Subject Property OCI (Office, Commercial and Institutional District) pursuant to Section 6-7F-1 *et seq* of the Zoning Regulations of the Naperville Municipal Code.

I. That the requested OCI zoning would allow the uses as described in the OCI zoning classification so as to allow the Subject Property to be developed and used as a daycare center. In fact, the OCI zoning classification would allow the Petitioner to utilize the Subject Property to an extent which would be compatible with surrounding uses. This zoning classification would enable the Petitioner to expand the Subject Property's use to the highest and best use of the real estate for the benefit of both the Petitioner, the City of Naperville, and the neighboring community.

J. That the requested OCI zoning of the Subject Property satisfies the requirements for zoning and is appropriate based on the following factors:

1. *The amendment promotes the health, safety, comfort, convenience and general welfare and complies with the policies and official land use plan and other official plans of the City; and*

Petitioner is the contract purchaser of 1.2 acres of property located on Tuthill Road near Ogden Avenue and Naper Boulevard. In order for the Subject Property to be re-developed in the City, it must be served with public utilities, which will require annexation. Petitioner is requesting annexation of the Subject Property to the City of Naperville and rezoning of the Subject Property from R-3 in DuPage County to OCI in the City of Naperville. The parcel is currently vacant land adjacent to several commercial properties and some residential properties. The requested annexation and rezoning of the subject property will promote the health, safety, comfort, convenience and general welfare of the neighborhood by eliminating a vacant property and constructing a daycare center on the property. The OCI zoning requested for the Subject Property is in harmony with the other commercial, residential, and institutional uses in the area and will provide a buffer between the commercial properties on the North and West and the residential properties on the South and East. The Plank Road Study for this area calls for Medium Density Residential, but also calls for institutional and office/research sub-areas. The proposed daycare center will serve as a buffer between Ogden Avenue's commercial corridor and heavily traveled roads to the residential neighborhoods. The proposed daycare center will provide a direct connection to commercial uses and benefit the community with a nearby service use. The proposed use complies with the City's policies and plans by providing an institutional-type

use to complement surrounding residential and commercial areas. Therefore, the requested zoning complies with the policies and plans of the City.

2. *The trend of development in the area of the subject property is consistent with the requested amendment; and*

The trend of development in the area of the subject property is a mix of commercial and single-family residential uses. The subject property, as a daycare facility, will help to buffer the residential properties from the commercial properties along the Ogden Avenue/Naper Boulevard corridor.

3. *The requested zoning classification permits uses which are more suitable than those permitted under the existing zoning classification; and*

The requested zoning classification of OCI is consistent with the commercial and residential zoning in the area. Providing low-impact, institutional uses near residential uses provides a buffer from the commercial uses to the residential properties. These low-impact, institutional uses are beneficial to the residents in that they are very near the services that aid in their daily activities. The existing zoning classification is R-3, Single Family Residential, in DuPage County. The requested zoning classification of OCI provides for office and institutional uses which will buffer residential properties from the Ogden Avenue commercial corridor and is more suitable than R-3 zoning in DuPage County.

4. *The subject property has not been utilized under the existing zoning classification for a substantial period of time; and*

While the Subject Property is currently zoned R-3, Single Family Residential, in DuPage County, it remains vacant and has not been used as residential property in DuPage County for a substantial period of time. The zoning of OCI will enable the Petitioner to develop the vacant property into a functional daycare facility which will be useful to the residents in the area in need of such a facility and eliminate a vacant parcel.

5. *The amendment, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to the adjacent property.*

This portion of the City has developed with predominantly commercial uses and the essential character of the neighborhood is commercial in close proximity to residences. The OCI zoning classification would be consistent with the existing uses in the area, would provide a buffer to the residential uses, would not alter the essential character of the neighborhood, and would not be a detriment to the adjacent properties. In fact, the proposed use as a daycare center will be in harmony with the existing character of the neighborhood with a mix of commercial and residential uses and will be an improvement over a vacant lot which provides no benefit to the neighbors or the community.

K. That the requested variance of the Subject Property satisfies the requirements for zoning variances and is appropriate based on the following factors:

1. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

When the property was platted as a residential subdivision in DuPage County in the 1950's,

a thirty foot (30') building line on Tuthill Road was platted. In order to meet the 30' building line requirement, the daycare center building has to be pushed to the East on the Subject Property. In order to accommodate the required number of parking spaces for the daycare center pursuant to the Naperville Code, parking is necessary in the platted 30' front yard. Therefore, the variances to allow parking in the front yard will be in harmony with the general purpose and intent of the Code and the comprehensive plan.

2. *Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

The unique requirements of the plat for the Subject Property of requiring a 30 foot building line on Tuthill Road and a roadway easement along Naper Boulevard impose practical difficulties on the site which are not caused by the Petitioner or Owner. The proposed daycare facility needs to allow for the roadway easement on the East and the building line on the West, creating practical difficulties in siting the facility with the required parking. With the 30 foot building line, the ability to allow parking in what is called the front yard, on the West side of the proposed building, will allow the facility to be sited on the Subject Property with the required number of parking spaces. The Petitioner will construct the landscape buffers requested by City Staff to provide a visual screen along the front of the property.

3. *The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

This variance of allowing parking in the front yard will not alter the essential character of the neighborhood. The parking lot will be shielded from public view by the daycare facility building to the East and landscaped buffers to the West. Therefore, the requested variance will not be a substantial detriment to adjacent property but will actually enhance the neighborhood by providing a low-impact daycare center to transition from commercial uses along Ogden Avenue to residential uses.

L. That the requested subdivision deviation satisfies the requirements for subdivision deviations and is appropriate based on the following factors:

1. *The Petitioner has shown that strict adherence to the provisions of this Title would cause unnecessary hardship due to conditions which are unique to the site and not caused by the Owner or Petitioner; and*

The subdivision was platted in DuPage County in 1938 with a thirty-foot (30') building line off of Tuthill Road, but the OCI district only has a twenty-foot (20') front yard setback. The building line requires that all building be constructed behind the building line. In this case, the day care center building will be located behind the building line. Petitioner is requesting a variance to allow the parking lot to be located in the twenty-foot (20') front yard setback, however, will also be placed within the 30' building line. Because the 30' building line is greater than the 20' setback line, the City code requires that Petitioner seek a deviation to allow the parking lot within the 30' building line. The building line was platted many years ago, and is unique to commercial properties in the City of Naperville. While petitioner is adhering to the building line, because the City's Code treats the building line as a setback line, Petitioner is required to seek a deviation to allow the parking lot within the building line

2. *The requested Subdivision Deviation is not contrary to the intent and purpose of the provisions of this Title.*

The City's Code does not require platted building lines for commercial properties, so Petitioner's request to deviate from the platted building line is not contrary to the intent or purpose of the City's Code. The Petitioner is not actually deviating from the intent of the building line that was platted eighty (80) years ago but is merely seeking a deviation to comply with the City's requirement that the building line be treated as a setback line for purposes of locating the parking lot in this case.

WHEREFORE, the Petitioner respectfully requests:

- i. That the Subject Property legally described in **Exhibit A** and depicted on **Exhibit B** be annexed to the City of Naperville in accordance with the provisions of Section 5/7-1-8 of Chapter 65 of the Municipal Code of the State of Illinois, as amended, subject to the execution and the City's adoption by appropriate ordinances of an Annexation Agreement mutually agreed upon by the Petitioner and the City prior to annexation.

- ii. That upon annexation of the Subject Property legally described in **Exhibit A** and depicted on **Exhibit B**, said property be zoned by amending the City of Naperville Zoning Regulations to reclassify and zone the Subject Property OCI (Office, Commercial and Institutional District) pursuant to Section 6-7F-1 *et seq* of the Zoning Regulations of the Naperville Municipal Code.

- iii. That upon annexation of the Subject Property legally described in Exhibit A and depicted on Exhibit B, said property be granted a variance to allow parking in the front yard setback.

- iv. That upon annexation of the Subject Property legally described in Exhibit A and depicted on Exhibit B, said property be granted a platted setback deviation to allow the parking lot to be located within the thirty-foot (30') building line.

- v. That any requisite zoning and/or subdivision deviations and/or variances associated with the requested annexation and zoning be granted.

- vi. That such other action be taken as is appropriate on the premises.

Respectfully Submitted this 29 day of October, 2018.

CONTRACT PURCHASER/PETITIONER:

SAR Estate, Inc., an Illinois Corporation,

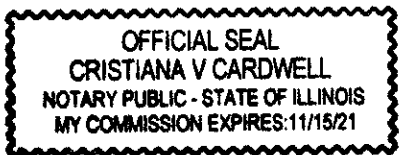
By: *Pangayaselvi K. Rajkumar*
Pangayaselvi K. Rajkumar, Director

STATE OF ILLINOIS)
) ss.
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Pangayaselvi K. Rajkumar, personally known to me to be the Director of SAR Estate, Inc., and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Director, she signed and delivered the said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 29th day of October, 2018.

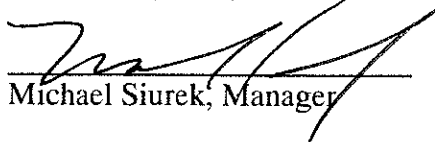
Cristiana V. Cardwell
Notary Public



OWNER:

ROC / Plank Road, LLC, an Illinois limited liability company

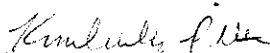
By:


Michael Siurek, Manager

STATE OF ILLINOIS)
) ss.
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Michael Siurek as Manager of ROC/Plank Road, LLC, an Illinois Limited Liability Company, whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Manager s/he signed, sealed and delivered the said instrument pursuant to the authority given by the Members of said Limited Liability Company as his/her free and voluntary act, and as the free and voluntary act and deed of said Limited Liability Company for the uses and purposes therein set forth.

Given under my hand and official seal this 29th day of October, 2018.


Notary Public



**EXHIBIT A
LEGAL DESCRIPTION**

PARCEL 1:

LOT 8 IN BLOCK 3 IN ARTHUR T. MCINTOSH AND COMPANY'S DUPAGE FARMS, BEING A SUBDIVISION OF PART OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT NUMBER 390671 IN DUPAGE COUNTY, ILLINOIS.

EXCEPTING THEREFROM THAT PART OF LOT 8 IN BLOCK 3 OF ARTHUR T. MCINTOSH AND COMPANY'S DUPAGE FARMS, BEING A SUBDIVISION OF PART OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DUPAGE COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 21, 1938 AS DOCUMENT NO. 390671 DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 8; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 8 A DISTANCE OF 246.29 FEET TO THE POINT OF BEGINNING; THENCE SOUTHEASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 87 DEGREES, 58 MINUTES, 39 SECONDS TO THE RIGHT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE A DISTANCE OF 100.03 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 8; THENCE EAST ALONG THE SAID SOUTH LINE WHICH FORMS AN ANGLE OF 87 DEGREES, 58 MINUTES, 39 SECONDS TO THE LEFT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE A DISTANCE OF 27.72 FEET TO THE SOUTHEAST CORNER OF LOT 8; THENCE NORTH ALONG THE EAST LINE OF LOT 8 A DISTANCE OF 100.0 FEET TO THE NORTHEAST CORNER OF LOT 8; THENCE WEST ALONG THE NORTH LINE OF LOT 8 A DISTANCE OF 33.71 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

LOT 9, (EXCEPT THE EAST 27.72 FEET AS MEASURED ON THE NORTH LINE AND 21.73 FEET AS MEASURED ON THE SOUTH LINE AS TAKEN FOR ROAD PURPOSES BY DOCUMENT R89-063681) IN BLOCK 3 IN ARTHUR T. MCINTOSH AND COMPANY'S DUPAGE FARMS, BEING A SUBDIVISION OF PART OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 21, 1938 AS DOCUMENT 390671, IN DUPAGE COUNTY, ILLINOIS.

PIN: 08-08-202-028; 08-08-202-052

ADDRESS: 5S241 TUTHILL ROAD
NAPERVILLE, ILLINOIS 60540
and
5S255 TUTHILL ROAD
NAPERVILLE, ILLINOIS 60563

**EXHIBIT B
PLAT OF ANNEXATION**