

**PINS:
01-14-300-005
01-14-300-013**

ADDRESS:

**3.8 ACRES OF VACANT PROPERTY LOCATED
NORTH OF 11007 S. BOOK ROAD
NAPERVILLE, IL 60564**

**.7 ACRES OF VACANT PROPERTY LOCATED
IMMEDIATELY ADJACENT TO AND NORTH OF
11007 S. BOOK ROAD
NAPERVILLE, IL 60564**

**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 #19-1-09

ORDINANCE NO. 19 -

**AN ORDINANCE AUTHORIZING THE EXECUTION OF AN
ANNEXATION AGREEMENT FOR REAL PROPERTY LOCATED
NORTH OF 11007 S. BOOK (THE ENCLAVE ON BOOK)**

WHEREAS, Zion Evangelical Lutheran Church, located at 11007 S. Book Road, is the owner of approximately 3.8 acres of vacant real property located on the east side of Book Road, north of Hassert Boulevard, legally described as Parcel A on **Exhibit A**, and having a parcel identification number of 01-14-300-005; and

WHEREAS, JHL Developments, LLC is the owner of approximately .7 acres of vacant real property located immediately adjacent to and south of Parcel A, legally described as Parcel B on **Exhibit A**, and having a parcel identification number of 01-14-300-013; and

WHEREAS, Parcel A and Parcel B are depicted on **Exhibit B** and are collectively referenced herein as “**Subject Property**”; and

WHEREAS, the owners of Parcel A and Parcel B are collectively referenced herein as “**Owners**”; and

WHEREAS, at the request of the Owners of the Subject Property, prior ordinances approving annexation and other entitlements for the Subject Property, brought pursuant to PZC 18-1-01 and approved by the City Council of the City of Naperville (“**City**”) on June 5, 2018, were revoked by the City Council on April 16, 2019; and

WHEREAS, with the approval and authorization of the Owners, McNaughton Development, Inc. (“**Petitioner**”), through PZC 19-1-09, has requested that the City of Naperville (“**City**”) approve this ordinance (“**Ordinance**”) approving the Annexation Agreement attached hereto as **Exhibit C**, along with ordinances annexing the Subject Property, rezoning the Subject Property to R1 (Low Density Single-Family Residence District) upon annexation, subdividing the Subject Property in order to develop the (10) age-restricted single-family lots, and approving variances for the Subject Property (hereinafter cumulatively referenced herein as the “**The Enclave on Book Ordinances**”); and

WHEREAS, the Annexation Agreement requires recordation of an age restriction covenant (“**Age Restriction Covenant**”) approved by School District #204 and the City Attorney which shall be recorded against the Subject Property prior to recordation of any final plat of subdivision for the Subject Property; and

WHEREAS, Petitioner has requested that the City delay recordation of The Enclave on Book Ordinances with the Will County Recorder until on or before July 31, 2019 in order to allow the Petitioner time to acquire fee simple ownership of the Subject Property; and

WHEREAS, subject to approval of The Enclave on Book Ordinances, the City has agreed to delay their recordation of The Enclave on Book Ordinances with the Will County Recorder as set forth above. If all of The Enclave on Book Ordinances are not recorded with the Will County Recorder on or before July 31, 2019, the City and Petitioner agree that The Enclave on Book Ordinances, including but not limited to this Ordinance, 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, subject to the provisions herein, the Petitioner is ready, willing, and able to enter into the Annexation Agreement attached hereto as **Exhibit C**, to perform the obligations set forth in The Enclave on Book Ordinances, and to comply with 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 within the timeframe described herein. 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 certified copies of The Enclave on Book Ordinances, including this Ordinance, together with their exhibits, with the Will County Recorder in the following order or in such other order as may be directed by the City Attorney: (1) Annexation; (2) Annexation Agreement; (3) Age Restriction Covenant; (4) Rezoning; (5) Preliminary/Final Plat of Subdivision; and (6) Variances.

SECTION 3: If recordation of The Enclave on Book Ordinances does not occur on or before July 31, 2019, then said Ordinances, shall not be recorded, and said Ordinances and all approvals contained therein 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 on or before July 31, 2019.

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 Will County Recorder.

PASSED this _____ day of _____, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2019.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph. D.
City Clerk