

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 VARIANCES FROM SECTION 6-16-3:7 (PROHIBITED SIGNS) AND SECTION 5-10-3:3.2 (LANDSCAPING AND SCREENING) OF THE NAPERVILLE MUNICIPAL CODE FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF DIEHL ROAD AND MILL STREET COMMONLY KNOWN AS 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 and has authorized Petitioner’s requests as set forth herein.
3. **WHEREAS**, per Municipal Code Section 6-16-3:7 (Prohibited Signs), off-premises signage is prohibited.
4. **WHEREAS**, pursuant to Section 6-3-6:2 (Standards for Variances) of the Naperville Municipal Code, the Petitioner requests approval of a variance from Municipal Code Section 6-16-3:7 (Prohibited Signs) to allow an off-premises sign for the Orion STEM School to be located on The Prosperita property.
5. **WHEREAS**, per Municipal Code Section 5-10-3:3.2, parkway trees are required along Diehl Road and Mill Street.
6. **WHEREAS**, pursuant to Section 6-3-6:2 (Standards for Variances) of the Naperville Municipal Code, the Petitioner requests approval of a variance from Municipal Code Section 5-10-3:3.2 to allow for the elimination and/or relocation of parkway trees required along Diehl Road and Mill Street.
7. **WHEREAS**, the requested variances meet the Standards for Variances as provided in **Exhibit C** attached hereto.
8. **WHEREAS**, on March 15, 2023, the Planning and Zoning Commission considered the requested variances and recommended approval of Petitioner’s request.
9. **WHEREAS**, with the authorization of the Owner, Petitioner has requested the City to approve this ordinance (“**Ordinance**”), approving the variances described above 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 a variance to the exterior wall construction requirements on a portion of the Subject Property (hereinafter together referenced as the “**Orion Prosperita Ordinances**”).

10. **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.

11. **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.

12. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner’s request should be granted 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 in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

SECTION 2: If recordation of the Orion Prosperita Ordinances, as defined herein, 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, 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 3: Subject to approval, execution, and recordation of the Orion Prosperita Ordinances, a variance from Municipal Code Section 6-16-3:7 (Prohibited Signs) to allow an off-premises sign for the Orion STEM School to be located on The Prosperita property is hereby granted as illustrated on **Exhibit D** (“**Sign Plan**”).

SECTION 4: Subject to approval, execution, and recordation of the Orion Prosperita Ordinances, a variance from Municipal Code Section 5-10-3:3.2 to allow for the elimination and/or relocation of parkway trees required along Diehl Road and Mill Street is hereby granted as illustrated on **Exhibit E** (“**Landscape Plan**”).

SECTION 5: The variances approved herein shall be valid for two years from recordation of this Ordinance with the DuPage County Recorder subject to the provisions of Section 6-3-6:4 of the Naperville Municipal Code, as amended from time to time, and shall be subject to revocation for failure to comply with all other applicable provisions set forth in the Naperville Municipal Code and all other applicable laws.

SECTION 6: 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 this Ordinance, together with the exhibits attached hereto, along with the remaining Orion Prosperita Ordinances, with the DuPage County Recorder.

SECTION 7: 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 8: 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