

RESOLUTION NO. 20 - ____

**A RESOLUTION AFFIRMING THE APPLICABILITY OF SECTION 6-2-19 (EXISTING BUILDINGS AND STRUCTURES) TO THE PROPERTY LOCATED AT 2404 NORTH AURORA ROAD FOLLOWING ACQUISITION OF ADDITIONAL RIGHT-OF-WAY
FOR NORTH AURORA ROAD**

RECITALS

1. **WHEREAS**, the property located at 2404 North Aurora Road in the City of Naperville, legally described on **Exhibit A** and depicted on **Exhibit B** (hereinafter “Subject Property”), is owned by Countryside Bank f/k/a State Bank of Countryside as Trustee under Trust Agreement dated February 14, 1992 known as Trust No. 92-1121, 999 Oakmont Plaza Drive, Westmont, IL 60559 (hereinafter “Property Owner”); and
2. **WHEREAS**, the Subject Property was annexed to the City in 1980 and is zoned I (Industrial), and at all times has been utilized for several industrial uses including as a construction equipment and material storage yard which uses the city acknowledges are all in conformance with the City's zoning code; and
3. **WHEREAS**, the Subject Property abuts North Aurora Road along its northern property line; and
4. **WHEREAS**, North Aurora Road is a minor arterial roadway and designated truck route with an average daily trip of 21,000 vehicles per day, serving both residents of Naperville and Aurora, as well as providing access to the Route 59 Metra Station; and
5. **WHEREAS**, in 2021, the City of Naperville, in conjunction with the Naperville Township Road District, will undertake CIP# SC033 to improve North Aurora Road between Weston Ridge Drive and Frontenac Road (hereinafter “CIP# SC033”); and

6. **WHEREAS**, the city represents to the Property Owner that CIP# SC033 will increase roadway capacity by adding one through lane in each direction, thereby reducing congestion; improve safety through the addition of roadway lighting and left turn channelization; add new pedestrian and bicycle facilities to provide access to the Route 59 Metra Station; and improve corridor drainage; and
7. **WHEREAS**, CIP# SC033 necessitates the acquisition of an additional twenty feet (20') of North Aurora Road right-of-way along the frontage of the Subject Property (hereinafter "Acquisition") as depicted in **Exhibit C** as well as temporary access easements; and
8. **WHEREAS**, per Section 6-8C-7 (Industrial District: Yard Requirements) of the current Naperville Municipal Code (hereinafter "Code"), there shall be a required yard adjacent to each existing or proposed roadway which bounds an individual tract. Such yard shall not be less than twenty feet (20') in depth; provided, however, that such yard located across a street from a residence district shall in no event be less than one hundred feet (100') in depth; and
9. **WHEREAS**, per Section 6-8C-7, the city has reviewed the Subject Property and confirms it has a required yard of 100' adjacent to North Aurora Road; and
10. **WHEREAS**, Section 6-9-2:4.3 of the Code (Off-Street Parking Facilities: Industrial), requires that parking facilities, including construction equipment and material storage yards, may not be located in the required front yard; and
11. **WHEREAS**, a portion of the existing parking lot on the Subject Property, including construction equipment and material storage, is located within the required 100' front yard and has been deemed by the City to be an existing legal non-conforming improvement; and

12. **WHEREAS**, following Acquisition, the construction equipment and material storage yard located on the Subject Property (hereinafter “Storage Yard”) will be located within the required 100’ yard, in conflict with the Code; and
13. **WHEREAS**, the City also affirms that the parking lot, including construction equipment and material storage, will continue to be a legal non-conforming improvement following Acquisition; and
14. **WHEREAS**, the Subject Property is also improved with a berm which is approximately 8-10’ in height and located along North Aurora Road, immediately south of the Acquisition area (hereinafter “Berm”); and
15. **WHEREAS**, the Illinois Department of Transportation (hereinafter “IDOT”) requires a certain setback between an improvement, such as a berm, and an IDOT roadway (hereinafter “IDOT Setback”); and
16. **WHEREAS**, the City represents to Property Owner that North Aurora Road is not an IDOT roadway; therefore the IDOT Setback is not applicable to the Berm and in no event shall any IDOT requirement or requirement of any other governmental body be applicable or require the berm to be located or modified in any way including should the Property Owner redevelop the Subject Property in the future; and
17. **WHEREAS**, the City hereby confirms to Property Owner that the location of the Berm now and after the taking complies with all Code requirements; and
18. **WHEREAS**, Section 6-2-19 (Existing Buildings and Structures) of the Code provides regulations pertaining to the continuance, repair and alteration, restoration, and relocation of existing buildings and structures which do not comply with Code requirements; and

19. WHEREAS, the City Council, through this Resolution, hereby affirms that that regulations provided in Section 6-2-19 of the Code shall be applicable to the Subject Property following Acquisition, as further described below.

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: Following Acquisition, the Storage Yard located on the Subject Property will not comply with the 100' front yard setback required along North Aurora Road. The City Council affirms that Section 6-2-19 (Existing Buildings and Structures) of the Code shall be applicable to the Subject Property following Acquisition, including:

- A. Any building or structure which existed at the time of the adoption of this Title, or any amendment hereto, and which does not comply with yard requirements of the zoning district in which said building or structure is located upon the adoption of this Title, or any amendments hereto, may be continued during the remainder of the normal life of the building or structure or until the building or structure has deteriorated to the extent that it is no longer safe. The continuance of such building or structure shall be subject to the regulations herein set forth.
- B. Repairs and alterations which increase the bulk of the building or structure and which increase the lot coverage may be made to a building or structure which does not comply with the yard requirements of the zoning district in which said building or structure is located, provided said repairs or alterations comply with the conditions, yard requirements, height limitations, and bulk regulations of the zoning district in which said building or structure is located.
- C. Nothing in this Title shall prevent the reconstruction, repairing or rebuilding of a building, structure or part thereof which does not comply with yard requirements of the zoning district in which said building or structure is

located and which exists at the effective date hereof, rendered necessary by wear and tear, or deterioration of which is required by the provisions of the building regulations of the City relative to the maintenance of said buildings or structures, provided the cost of such work, within a two-year time period, shall not exceed fifty percent (50%) of the replacement cost of such building or structure at the time such work is done.

- D. If a building or structure which does not comply with yard requirements of the zoning district in which said building or structure is located is damaged by fire, collapse, explosion, or other casualty or act of God to the extent that the cost of restoration to the condition in which it was before the occurrence shall exceed fifty percent (50%) of the replacement cost of the building or structure at the time of destruction or damage, then any new construction or reconstruction must comply with all regulations of the zoning district in which the building or structure is located

SECTION 3: The City Council affirms (i) that the IDOT Setback is not applicable to the Berm located on the Subject Property and that the location of the Berm complies with all other Naperville Municipal Code requirements as well as all other governmental bodies with current or future jurisdiction over the property; (ii) that upon redevelopment of the Subject Property no portion of the berm will have to be relocated; (iii) that the presently existing berm and landscaping thereon conforms to all city screening requirements applicable to the Subject Property; (iv) that at all time that the Property Owner or its successors are using the existing improvements on the Subject Property for its current purposes or for any uses permitted within the City's Industrial Zoning District that no modifications will be required to the Subject Property, including, but not limited to additional screening, landscaping, berming, relocation of access points or relocation of any improvements on the Subject Property; and (v) that should the Property Owner seek to redevelop the Subject Property in the future that it will be entitled to petition the City for reduced setbacks along North Aurora Road consistent with what exists today.

SECTION 4: If any section, paragraph, or provision of this Resolution 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 Resolution or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

SECTION 5: This Resolution shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2020.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2020.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk