

PINs:  
08-18-309-002  
08-18-422-001

ADDRESSES:  
126, 140 AND 148 N. WRIGHT STREET  
619 E. FRANKLIN AVENUE  
147 N. COLUMBIA STREET  
NAPERVILLE, IL 60540

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 #20-1-119

## ORDINANCE NO. 21 -

### AN ORDINANCE APPROVING THE FINAL PLAT OF SUBDIVISION FOR HERITAGE PLACE

#### RECITALS

1. **WHEREAS**, RAM West Capital LLC ("**Owner** and **Petitioner**"), is the owner of real property located at 126, 140 and 148 North Wright Street, 619 E. Franklin Avenue, and 147 N. Columbia Street, Naperville, Illinois, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, on October 20, 2020, the Naperville City Council passed: (i) Ordinance 20-108 authorizing COA #20-2321 to allow exterior façade changes to the Kroehler Mansion and to approve the exterior façade of new townhome unit buildings for Heritage Place; (ii) Ordinance 20-109 approving the Preliminary Plat of Subdivision and the Owner's Acknowledgement and Acceptance Agreement for Heritage Place; and (iii) Ordinance 20-110 approving a conditional use for single-family attached units

in the R2 Zoning District and variances for height and setback for the Subject Property to allow for the development of forty-one (41) single-family attached dwelling units on the Subject Property.

3. **WHEREAS**, the Owner and Petitioner has petitioned the City of Naperville for approval of a Final Plat of Subdivision for Heritage Place to allow for the development of forty-one (41) residential units on the Subject Property; and
4. **WHEREAS**, subsequent to approval of the Preliminary Plat of Subdivision approved by Ordinance 20-109, it was proposed by the Owner and Petitioner and agreed upon by the City and the Naperville Park District, that a pedestrian crossing sign ("**Pedestrian Crossing Sign**") shall be installed and maintained on Outlot C of the Heritage Place Subdivision, one of the park donation lots designated on the Final Plat of Subdivision. Said Pedestrian Crossing Sign and its location shall be subject to approval by the City Engineer and the Park District; and
5. **WHEREAS**, the Owner's Acknowledgement and Acceptance Agreement for Heritage Place Subdivision approved by Ordinance 20-109 shall remain in full force and effect and is incorporated herein in its entirety by reference; and
6. **WHEREAS**, the Final Plat of Subdivision for Heritage Place is in substantial conformance with the Preliminary Plat of Subdivision for Heritage Place Subdivision approved by Ordinance 20-109; and
7. **WHEREAS**, the City Council of the City of Naperville has determined that the Final Plat of Subdivision for Heritage Place should be approved 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:** The Final Plat of Subdivision for Heritage Place, attached to this Ordinance as **Exhibit B**, is hereby approved subject to the provisions set forth and referenced herein.

**SECTION 3:** The Owner's Acknowledgement and Acceptance Agreement for Heritage Place approved by Ordinance 20-109 shall remain in full force and effect and is incorporated herein in its entirety by reference, including but not limited to the provisions set forth in Section 4 (School Donation), Section 5 (Park Donation), and Section 12 (COA Requirements) thereof.

**SECTION 4:** The Owner and Petitioner shall install and perpetually maintain in good condition the Pedestrian Crossing Sign referenced in Recital 4 hereof as approved by the City Engineer and the Naperville Park District. Said obligations (the **"Pedestrian Crossing Sign Requirements"**) shall be binding upon the Owner and Petitioner and its successors and assigns and shall be enforceable by the City which shall be entitled to reimbursement from the Owner and Petitioner for all costs and attorney's fees associated with such enforcement. Notwithstanding the foregoing, the Owner and Petitioner may transfer the obligations to fulfill the Pedestrian Crossing Sign Requirements to a fully operational homeowner's association formed for the Heritage Place Subdivision (the **"Heritage Place Homeowner's Association"**) through Covenants, Conditions and Restrictions (**"CCRs"**) recorded with the DuPage County Recorder. Said CCRS shall include, but not be limited to, provisions which provide that the Pedestrian Crossing Sign and its location shall be

approved by the City Engineer and the Naperville Park District; shall be installed and perpetually maintained by the Heritage Place Homeowner's Association in good condition (or maintained only if installation has already occurred); that the City has the right to enforce the Pedestrian Sign Requirements and to be timely reimbursed for its costs and attorney's fees therefor; and that said CCR provisions may not be terminated or amended without the prior written approval of the Naperville City Council. The CCR provisions pertaining to the Pedestrian Crossing Sign Requirements shall be subject to the City Attorney's review and written approval prior to recordation of the CCRs. In addition, pursuant to the provisions set forth in Section 12 of the Owner's Acknowledgement and Acceptance Agreement for Heritage Place approved by Ordinance 20-109, notice shall also be included in the CCRs pertaining to requirements of the Historic District and Certificates of Appropriateness which notice shall also be subject to the written approval of the City Attorney prior to recordation of the CCRs.

**SECTION 5:** This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

**SECTION 6:** Upon notification that the City is in receipt of all required documentation and payments associated with this Ordinance, the City Clerk is authorized and directed to record this Ordinance with the DuPage County Recorder together with the exhibits attached hereto.

**SECTION 7:** If this Ordinance and final plat of subdivision it approves are not recorded with the DuPage County Recorder within one (1) year of their approval by the Naperville City Council, this Ordinance and the final plat of subdivision shall be null and void without any further action by the City unless this Ordinance is amended by the City

to extend such timeframe and said amended ordinance is recorded with the DuPage County Recorder. The Owner and Developer shall defend, indemnify, and hold the City and its officers, agents and employees harmless if recordation does not occur within the original, or any extended, timeframe.

**SECTION 8:** 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 9:** This Ordinance shall be in full force and effect upon its passage and approval by the City Council.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

ATTEST:

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