



Legislation Details (With Text)

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**File created:** 10/3/2019      **In control:** City Council  
**On agenda:** 11/5/2019      **Final action:** 11/5/2019  
**Title:** Receive the staff report for the 77th Street Project located at 24W560 77th Street, Naperville, PZC 19-1-070 (Item 2 of 6)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 10.2.19 PZC Minutes, 2. 90% Rule Calculation, 3. Application, 4. Landscape Plans, 5. Location Map, 6. Petition for Annexation, 7. Preliminary Engineering, 8. Public Comment

Date	Ver.	Action By	Action	Result
11/5/2019	1	City Council	received	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Receive the staff report for the 77<sup>th</sup> Street Project located at 24W560 77<sup>th</sup> Street, Naperville, PZC 19-1-070 (Item 2 of 6)

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Erin Venard

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered PZC 19-1-070 on October 2, 2019, and voted to recommend approval of the case (Approved, 8-0). Staff concurs.

**BACKGROUND:**

The subject property is approximately 3.4 acres, is zoned R2 in unincorporated DuPage County, and is currently vacant. It is located at the northeast corner of Wehrli Road and 77<sup>th</sup> Street with a common address of 24W560 77<sup>th</sup> Street. The East Sector Update (1998) of the Comprehensive Master Plan designates the future land use of the subject property as low density residential (2.5 lots per acre).

**DISCUSSION:**

***Proposed Use***

The petitioner, Oak Creek Capital Partners, LLC., requests annexation of the subject property into the City of Naperville, rezoning to R1A upon annexation, and a preliminary plat of subdivision. The petitioner intends to subdivide the property into 10 lots in order to construct single-family residences. The subject property is contiguous to property that is currently within the City of Naperville and is eligible for annexation.

### ***Rezoning***

The petitioner is seeking rezoning of the subject property to R1A (Low Density Single-Family Residence District). Per Section 6-6A-1 (R1A District: Intent), the R1A District is intended to provide single-family areas of a low-density character with lots containing a minimum of 10,000 square feet. The proposed lots average 12,188 square feet in size meeting the intent of the R1A District and the low-density residential designation of the Comprehensive Plan with 2.3 units per acre. The proposed rezoning is also compatible with the R1A zoning designation of the properties to the north and east of the subject property. The petitioner's responses to the standards for granting a rezoning are attached. Upon review, staff agrees with the petitioner's findings and recommends their adoption by the City Council.

### ***Preliminary Plat of Subdivision***

The petitioner also requests approval of a Preliminary Plat of Subdivision for the 77<sup>th</sup> Street Project in order to establish 10 buildable lots and one outlot. The 10 lots range in size from 11,187 square feet to 12,532 square feet. The outlot, which will be used for post construction best management practices for storm water, is approximately 2,734 square feet. The proposed lots comply with the R1A lot size minimum of 10,000 square feet and the 90% rule minimum of 10,303 square feet. Staff finds that the proposed Preliminary Plat of Subdivision for the 77<sup>th</sup> Street Project meets all technical requirements for approval.

### ***Planning and Zoning Commission***

The Planning and Zoning Commission opened the public hearing to consider PZC 19-1-070 on October 2, 2019. Len Monson, attorney with Kuhn, Heap, and Monson, spoke on behalf of the petitioner. Three members of the public provided testimony. Points raised during public testimony included traffic on Wehrli Road, construction noise, and the possibility of a pedestrian crosswalk on Wehrli. After limited discussion, the Planning and Zoning Commission closed the public hearing and voted to recommend approval of PZC 19-1-070 (Approved, 8-0). Staff concurs with the Planning and Zoning Commission's recommendation.

### ***Possible Recapture to Lizzadro Estates Developer***

In 2007 a development to the north of the Subject Property, Lizzadro Estates, annexed to the City. Although no recapture agreement was specifically provided for in the 2007 Lizzadro Estates Annexation Agreement, the developer installed water main, sanitary sewer, stormwater, and roadway improvements ("Improvements") that partially benefit the Subject Property. The Improvements were completed more than ten years ago.

After public notice was given of the proposed development of the Subject Property for the 77<sup>th</sup> Street Project, the Lizzadro Estates developer contacted the City to ask that the developer of the Subject Property be required to pay a share of the cost of the Improvements through a recapture agreement.

The City is not legally obligated to enter into a recapture agreement on behalf of Lizzadro Estates at this late date, but may do so at its discretion. While the developer expressed interest in the possibility of a recapture in 2013, no recapture agreement was finalized or recorded. The total share of the Improvements that the developer of the 77<sup>th</sup> Street Project could be obligated to pay is \$43,536.

If the City Council determines that a recapture payment should be made to the developer of Lizzadro Estates, it would be unnecessary to go through the process of recording a recapture agreement against the Subject Property at this point. Instead the annexation agreement for the Subject Property could be revised to include a requirement to pay a specified amount to the City for the Subject

Property's share of the Improvements, as follows (subject to agreement of the owner of the Subject Property):

**S17.0 RECAPTURE.**

OWNER AND DEVELOPER shall pay the CITY a total of \_\_\_\_\_ [\$43,536, or any lesser amount deemed appropriate by the City Council] for its share of the water main, sanitary sewer, stormwater, and roadway improvements installed pursuant to the development of Lizzadro Estates which Improvements benefit the Subject Property. Such payment shall be made by the OWNER AND DEVELOPER to the CITY prior to recordation of the final plat of subdivision for the Subject Property, and the CITY shall remit payment of same to the developer of Lizzadro Estates.

***Key Takeaways***

- The petitioner requests to annex into the City, rezone to R1A upon annexation, and subdivide the property into 10 lots.
- Staff supports the proposed rezoning as it is consistent with the intent of the R1A District and the City's Comprehensive Plan, as well as the zoning of the surrounding properties.

***Related Agenda Items***

The following agenda items are related to PZC 19-1-070:

- Conduct the public hearing for the 77<sup>th</sup> Street Project located at 24W560 77<sup>th</sup> Street - PZC 19-1-070 (Item 1 of 6);
- An ordinance authorizing the execution of an annexation agreement for the 77<sup>th</sup> Street Project located at 24W560 77<sup>th</sup> Street -PZC 19-1-070 (Item 3 of 6);
- An ordinance annexing certain property known as the 77<sup>th</sup> Street Project located at 24W560 77<sup>th</sup> Street - PZC 19-1-070 (Item 4 of 6);
- An ordinance rezoning the subject property known as the 77<sup>th</sup> Street Project located at 24W560 77<sup>th</sup> Street - PZC 19-1-070 (Item 5 of 6);
- An ordinance approving a preliminary plat of subdivision for the 77<sup>th</sup> Street Project located at 24W560 77<sup>th</sup> Street - PZC 19-1-070 (Item 6 of 6).

**FISCAL IMPACT:**

N/A