

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PROPERTY ANNEXED TO THE CITY OF CREST HILL BY ORDINANCE _____ DATED SEPTEMBER 3, 2024 FROM WILL COUNTY R-3 TO CREST HILL SINGLE FAMILY RESIDENCE DISTRICT R-1B AND APPROVING THE FRONT YARD SETBACK VARIANCE FROM 30 FEET TO 20 FEET WITH RESPECT TO THE REAL PROPERTY LOCATED AT PLUM STREET AND CATON FARM ROAD (APPLICATION OF RAPHAEL PRADO) IN THE CITY OF CREST HILL

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/11-13-14 (the “Code”) authorizes the corporate authorities of any municipality to amend its zoning classifications from time to time; and

WHEREAS, the City of Crest Hill (“City”) has detailed the requirements for said amendments via Section 12.8 of the Crest Hill Zoning Ordinance; and

WHEREAS, Raphael Prado (“Applicant”), has properly filed and prosecuted before the Crest Hill Plan Commission an application to annex and to rezone certain property (“Application”) which was in unincorporated Will County located at the northwest corner Caton Farm Road and Plum Street, consisting of 2 parcels with PIN numbers of 06-03-25-421-028-0000 and 06-03-25-421-029-0000 (the “Property”), legally described in Exhibit A, and with proper notice thereof given; and

WHEREAS, the Property was heretofore zoned R-3 in Unincorporated Will County, and would, under existing zoning laws, receive Crest Hill’s most restrictive zoning classification (R-1A) upon annexation of the property to the City of Crest Hill; and

WHEREAS, the Property is less than 20,000 square feet and would be non-conforming and unbuildable if it remained zoned R-1A; and

WHEREAS, the Applicant has requested that the Property be rezoned to Crest Hill R-1B upon annexation to the City of Crest Hill; and

WHEREAS, the Crest Hill Plan Commission, by formal vote taken on August 8, 2024 recommended approval of the Application to Rezone the Property from R-1A to R-1B upon its annexation to the City of Crest Hill; and

WHEREAS, the City Council has examined the Plan Commission’s August 8, 2024 Findings and Decision, attached hereto as “Exhibit B,” and has considered the presentations and arguments of the Applicant in an open meeting regularly scheduled; and

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/11-13-5 (the “Code”) authorizes the corporate authorities to “vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained in cases where there are practical difficulties or particular hardship in the way of carrying out the strict letter of any of those

regulations relating to the use, construction, or alteration of buildings or structures or the use of land;” and

WHEREAS, the Code states that a variation shall be permitted only upon the finding of certain requirements listed in the Code; and

WHEREAS, the City of Crest Hill (“City”) has enacted said requirements in Section 12.6-2 of the Crest Hill Zoning Ordinance; and

WHEREAS, Raphael Prado (“Owner”) has filed an Application requesting approval of a variation from the Crest Hill Zoning Ordinance, specifically the front yard setback requirement of Section 6.6-1(B), Table 1 from 30 feet to 20 feet for the construction of a single family home at the property located at the northwest corner Caton Farm Road and Plum Street, consisting of 2 parcels with PIN numbers of 06-03-25-421-028-0000 and 06-03-25-421-029-0000 (the “Property”), legally described in Exhibit A, and with proper notice thereof given; and

WHEREAS; the Crest Hill Plan Commission, by a formal vote taken on August 8, 2024 recommended approval of the Application for the front yard setback variance, upon making the following findings, and after holding a public hearing on August 8, 2024, with proper notice thereof given, as more fully detailed in the attached Findings and Decision “Exhibit B,” based upon the evidence presented:

- A. The variation is in harmony with the general purpose and intent of the Zoning Ordinance; and
- B. The plight of the owner is due to unique circumstances and thus strict enforcement of the Zoning Ordinance would result in practical difficulties or impose exceptional hardships due to the special and unusual conditions that are not generally found on other properties in the same zoning district; and
- C. The Property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the Zoning Ordinance; and
- D. The variation, if granted, will not alter the essential character of the locality and will not be a substantial detriment to adjacent Property; and

WHEREAS, the City Council has examined the August 8, 2024 Findings and Decision of the Plan Commission and has considered the presentations and arguments of the Applicant in an open meeting regularly scheduled; and

WHEREAS, the City Council finds that it is in the best interests of the City that the recommendation of the Plan Commission be adopted and that the Application for Rezoning and Variance be granted.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Crest Hill, Will County, Illinois, as follows:

SECTION 1: The Preambles of this Ordinance are incorporated herein by reference.

SECTION 2: That the City Council hereby adopts and ratifies the findings and decision of the Plan Commission, attached hereto as "Exhibit B" and incorporated by reference herein, as the finding and decision of the City Council in relation to the Application requesting Rezoning of the Property from City of Crest Hill Residential R-1A to City of Crest Hill Residential R-1-B and the Application requesting a variation of the front yard setback required in Section 6.6-1(B), Table 1 of the Crest Hill Zoning Ordinance from 30 feet to 20 feet for the construction of a single family residence per the submitted plans on the property located at the northwest corner of Caton Farm Road and Plum Street in Crest Hill, Illinois (PINs 06-03-25-421-028-0000 and 06-03-25-421-029-0000), as legally described in the attached Exhibit A.

SECTION 3: The Property, upon approval of an Ordinance Annexing same to the City of Crest Hill, shall be immediately rezoned to City of Crest Hill Residential District R-1B.

Upon approval of an Ordinance Annexing the Property to the City of Crest Hill, the requested front yard setback variance of Section 6.6-1(B) and Table 1 of the Crest Hill Zoning Code from 30 feet to 20 feet for construction of a single family residence is also granted.

SECTION 4: This Ordinance shall become effective only upon the attachment of a fully executed Exhibit "C" within 60 days of the passage of this Ordinance. In the event that Exhibit "C" is not executed within 60 days, this Ordinance shall have no force and effect, and shall be subject to repeal by the City Council without further notice or hearing due to the Owner.

SECTION 5: This Ordinance shall take effect upon its passage according to law subject only to the passage and approval of an Ordinance annexing the aforementioned Property to the City of Crest Hill.

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PASSED THIS 3rd DAY OF SEPTEMBER, 2024

	Aye	Nay	Absent	Abstain
Alderwoman Jennifer Methvin				
Alderman Scott Dyke				
Alderwoman Claudia Gazal				
Alderman Mark Cipiti				
Alderperson Tina Oberlin				
Alderman Darrell Jefferson				
Alderman Nate Albert				
Alderman Joe Kubal				
Mayor Ray Soliman				

Christine Vershay-Hall, City Clerk

APPROVED THIS 3rd DAY OF SEPTEMBER, 2024.

Raymond R Soliman, Mayor

ATTEST:

Christine Vershay-Hall, City Clerk

“Exhibit A”

PERMANENT INDEX NO: 06-03-25-421-028-0000 AND 06-03-25-421-029-0000

LEGAL DESCRIPTION

LOT 457 AND 458, IN SUNNYLAND, A SUBDIVISION OF THE EAST HALF OF THE EAST HALF OF SECTION 25, TOWNSHIP 36 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN WILL COUNTY, ILLINOIS, AS PER PLAT RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF SAID WILL COUNTY IN PLAT BOOK 21, PAGE 5 AS DOCUMENT NO. 378700 IN WILL COUNTY, ILLINOIS.

“Exhibit B”

BEFORE THE PLAN COMMISSION
OF THE CITY OF CREST HILL, ILLINOIS

IN RE:)
)
The application of Raphael Prado) No. RZ-24-2-8-1
)
For Rezoning and a Setback Variance)

**FINDINGS AND DECISION OF THE
PLAN COMMISSION AS TO CASE NO. RZ-24-2-8-1
THE APPLICATION OF RAPHAEL PRADO FOR REZONING AND A SETBACK
VARIATION ON PROPERTY LOCATED AT THE NORTHWEST CORNER OF CATON
FARM ROAD AND PLUM STREET**

THIS APPLICATION, coming before for a decision by the Plan Commission, and the Plan Commission having heard the evidence in support and opposition to the application at a regularly scheduled meeting held on August 8, 2024, being fully advised in the premises, THE COMMISSION DOES MAKE THE FOLLOWING FINDINGS:

A. That the applicant, Raphael Prado, is the owner of the real estate described in the Application;

B. That the Application seeks to rezone the Property, upon annexation to the City of Crest Hill, from the most restrictive Crest Hill zoning district, R-1A to Crest Hill Residential R-1B to be able to construct a single-family residence on the Property and a variation from the required front yard setback of 30 feet to 20 feet for the construction of a single family residence on the Property described in the Application, located at the northwest corner of Caton Farm Road and Plum Street, with PIN Nos 06-03-25-421-028-0000 and 06-03-25-421-029-0000

C. That the Property is currently zoned R-3 in Unincorporated Will County, but will, upon annexation to the City of Crest Hill, receive Crest Hill’s most restrictive zoning classification of R-1A;

D. That the Property is non-conforming and unbuildable as a Crest Hill R-1A parcel, as the Property is less than 20,000 square feet;

E. That the Applicant has submitted plans for the construction of a single-family residence with a front yard setback of 20 feet rather than 30 feet as required by Section 6.6-1(B), Table 1 of the Crest Hill Zoning Ordinance;

- F. That the proposed uses are not allowed on the property as currently zoned;
- G. That the application for the variation was properly submitted and notice of the Application and the Public Hearing were properly made;
- H. That no interested parties filed their appearances herein;
- I. That the Public Hearing was opened and called to order on August 8, 2024, the Applicant presented evidence and arguments in support of his Application on August 8, 2024. The Public Hearing was duly transcribed by a certified shorthand reporter of the State of Illinois;
- J. That the rules adopted by the Plan Commission for the conduct of Public Hearings by the Plan Commission were duly followed and observed;
- K. That the proposed variation, as considered under section 12.6 of the Zoning Ordinance, meets the standards for the granting of variations under section 12.6-2 as the proposed use meets all the criteria set forth in subsections 12.6-2(1)-(8).
- L. That the proposed zoning amendment, as considered under section 12.8 of the Zoning Ordinance, meets the standards for the granting of the requested map amendment used under section 12.8-5 as the proposed use satisfies all of the criteria set forth in subsections 12.8-6(1)-(13).

THEREFORE, IT IS THE DECISION OF THE PLAN COMMISSION OF THE CITY OF CREST HILL, ILLINOIS, BASED UPON THE EVIDENCE HEARD BY SAME AND ARGUMENTS AND SUGGESTIONS HEARD AT THE PUBLIC HEARING, AND HAVING DULY CONSIDERED THE MANDATES AND STANDARDS AS SET FORTH IN THE CITY OF CREST HILL, ILLINOIS ZONING ORDINANCE FOR THE GRANTING OF MAP AMENDMENTS AND VARIANCES, AS FOLLOWS:

1. That the Application of Raphael Prado for a variance of the front yard setback requirement of Section 6.6-1(B) and Table 1 of the Zoning Code from 30 feet to 20 feet for construction of a single-family residence per the submitted plans is supported by the evidence adduced, subject to the approval of an Ordinance Annexing the Property into the City of Crest Hill; and
2. That the Application for a map amendment to Rezone the Property from Crest Hill R-1A to R-1B for the construction of a single-family residence is also supported by the evidence adduced, subject to the approval of an Ordinance annexing the Property into the City of Crest Hill.
3. It is therefore the recommendation of the City of Crest Hill Plan Commission that the Application for Rezoning and the Variation be granted.

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	Aye	Nay	Absent	Abstain
Commissioner Bill Thomas	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Commissioner Ken Carroll	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Commissioner Cheryl Slabozeski	<u> </u>	<u> </u>	<u> </u>	<u>X</u>
Commissioner Angelo Deserio	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Commissioner Jeff Peterson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Commissioner John Stanton	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Bill Thomas, Chairman

Christine Vershay-Hall, City Clerk

Exhibit "C"

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The City of Crest Hill, Illinois ("City"):

WHEREAS, RAPHAEL PRADO (the "**Owner**") is the owner of that certain real property located at the northwest corner of Caton Farm Road and Plum Street with PINs 06-03-25-421-028-0000 and 06-03-25-421-029-0000, which has been annexed to the City of Crest Hill by Ordinance _____, (the "**Property**"), and has sought a front yard setback variations for construction of a single-family residence on the Property; and

WHEREAS, Ordinance No. _____, approved and passed by the Crest Hill City Council on September 3, 2024, ("**the Ordinance**"), approved said Variation for the front yard setback; and

WHEREAS, Section 4 of the Ordinance provides, among other things, that the Ordinance shall not take effect, and subject to repeal unless and until the Owner has executed, within 60 days following the passage of the Ordinance, this Exhibit "C", his Unconditional Agreement and Consent to accept and abide by all of the terms, conditions, and limitations set forth in the Ordinance.

NOW, THEREFORE, the Owner does hereby agree, and covenant as follows:

1. The Owner hereby unconditionally agrees to, accepts, consents to, and will abide by all terms, conditions, limitations, restrictions, and provisions of the Ordinance.
2. The Owner acknowledges that all required public notices and hearings have been properly given and held with respect to the application process and passage of the Ordinance, understands and has considered the possibility of revocation of the Ordinance as a result of violation of its terms or failure to abide by the conditions set forth in the Ordinance, and agrees, covenants, and warrants that he will not challenge any such revocation on the basis of any procedural infirmity or a denial of any procedural right, provided that notice of the City's intent to Repeal or Revoke the Ordinance is provided to the Owner.
3. The Owner acknowledges and agrees that the City shall not be in any way liable for any damages or injuries that may be sustained as a result of the City's granting of the setback and encroachment variations or its passage of the Ordinance, and that the City's approvals do not, and will not, in any way be deemed to insure the Owner against damage or injury of any kind at any time.
4. The Owner hereby agrees to release, defend, indemnify and hold harmless the City of Crest Hill, its corporate authorities, elected and appointed officials, officers, employees, agents, representatives, and attorneys from any and all claims that may, at any time, be asserted against them in connection with (a) the City's review and approval of any plans and issuance of any permits, (b) the City's passage of the Ordinance, and (c) the maintenance and use of the Property as authorized by the Ordinance.

[Signature page to follow]

RAPHAEL PRADO

SUBSCRIBED and **SWORN** to before me
this _____ day of _____, 2024.

Notary Public