I, LYNN A. FAZEKAS, do hereby certify that I am the duly appointed City Clerk of the City of DeKalb, DeKalb County, Illinois, and as such officer, I am the keeper of the records and files of the City Council of said City.

I do further certify that the attached is a true and correct copy of:

ORDINANCE 2018-080

AUTHORIZING A SPECIAL USE PERMIT TO ALLOW THE RESUBDIVISION OF A "TFR" TWO-FAMILY RESIDENTIAL ZONED LOT INTO TWO SINGLE-FAMILY ATTACHED LOTS IN ACCORDANCE WITH ARTICLE 5.03.06 OF THE UNIFIED DEVELOPMENT ORDINANCE, AND APPROVAL OF THE FINAL PLAT OF FANT'S FIRST DIVISION (722-724 GROVE STREET, DEKALB, ILLINOIS).

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, on the 13th day of November 2018. The original will be kept on file at the City of DeKalb Municipal Building.

WITNESS my hand and the official seal of said City this 29th day of November 2018.

LYNN A. FAZEKAS, City Clerk

Prepared by and Return to:

City Clerk's Office
City of DeKalb
200 S. Fourth Street
DeKalb, Illinois 60115
AUTHORIZING A SPECIAL USE PERMIT TO ALLOW THE RESUBDIVISION OF A "TFR" TWO-FAMILY RESIDENTIAL ZONED LOT INTO TWO SINGLE-FAMILY ATTACHED LOTS IN ACCORDANCE WITH ARTICLE 5.03.06 OF THE UNIFIED DEVELOPMENT ORDINANCE, AND APPROVAL OF THE FINAL PLAT OF FANT'S FIRST DIVISION (722-724 GROVE STREET, DEKALB, ILLINOIS).

WHEREAS, the City of DeKalb is a home rule municipality with the power and authority conferred upon it by the Illinois Municipal Code and the Constitution of the State of Illinois; and

WHEREAS, Fant Family, LLC, represented by Gary Lothson, (herein referred to as "Petitioner") owner of property located at 722 – 724 Grove Street, DeKalb, Illinois, (herein referred to as "Subject Property"), has petitioned the City of DeKalb for approval of a special use permit to allow the resubdivision of a "TFR" Two-Family Residential zoned lot into two single-family attached lots; as well as approval of Final Plat of Fant's First Division; and

WHEREAS, pursuant to proper legal notice, a public hearing was conducted by the Planning and Zoning Commission on October 17, 2018; and

WHEREAS, the City and Petitioner have conducted all required public hearings before the Planning and Zoning Commission of the City of DeKalb for the special use permit for the Subject Property, and have otherwise satisfied all conditions precedent to the adoption of this Ordinance; and

WHEREAS, the City Council has reviewed and adopts the following findings of fact of the Planning and Zoning Commission of the City of DeKalb, finds that the proposed special use permit is in conformance with the applicable factors contained therein, and finds that approval of the special use permit for the Subject Property is in the public interest and promotes the public health, safety and welfare;

STANDARDS OF A SPECIAL USE – ARTICLE 14.03.05 (2) OF THE UNIFIED DEVELOPMENT ORDINANCE

1. The proposed special use complies with all provisions of the applicable district regulations.

The proposed resubdivision conforms to the applicable district regulations. The proposed resubdivision would create two lots that will meet the 25-foot minimum lot width and the 3,500 square-foot minimum lot size requirements in the TFR District. Only one dwelling unit will be located on each lot, and the structures comply with the setback requirements for TFR-zoned properties.

2. The proposed special use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or to the public welfare at large.

The proposed use is compatible with the residential uses found in the surrounding neighboring. The proposed special use permit would allow the resubdivision of the
property into two lots, each of which can be owned or sold individually. The applicant has indicated that once these lots are subdivided, they will be sold. It is intended that the generally agreed that homeownership is preferable to a rental arrangement. The proposed resubdivision would not be expected to have a negative impact on the adjacent properties' values.

3. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.

The special use will not dominate the immediate area and will not prevent development on the neighboring properties. The existing structure is in scale with the surrounding neighborhood, which includes a mix of single-family, two-family and multi-family residential structures with some commercial. No changes to the existing structure will result from the approval of the special use permit or the accompanying final plat.

4. Adequate utility, drainage and other such necessary facilities have been or will be provided.

The UDO requires that each dwelling unit must be serviced with its own water line, sanitary sewer line, sump pump line and all other utility lines and extensions. The two-family unit is served by separate water services extending from the water main located along Grove St. and by separate sanitary services extending from the sewer main also along Grove St.

5. The proposed use, where such developments and uses are deemed consistent with good planning practice, or can be operated in a manner that is not detrimental to the permitted developments and uses in the district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; shall in all other respects conform to the applicable regulations of the district in which it is located; and is deemed essential or desirable to preserve and promote the public health, safety and general welfare of the City of DeKalb.

It is in the public's interest to provide a variety of housing types to meet the needs of DeKalb's citizens. The approval of the special use permit would positively affect the health, safety and welfare of the citizens of DeKalb as it would allow the ownership and occupancy of each separate unit, which is generally accepted as having a positive influence on the community and the surrounding neighborhood.

NOW, THEREFORE, BE IT ORDAIN BY THE CITY COUNCIL of the City of DeKalb, Illinois as follows:

SECTION 1. The recitals set forth in the preamble are hereby incorporated herein by reference and made a part of this Ordinance.
SECTION 2. This Ordinance is limited and restricted to the Subject Property described as follows:

The property is commonly described as 722 – 724 Grove Street, DeKalb, Illinois 60115, and encompasses Parcel Identification Number ("PIN") 08-23-338-004 and is legally described as follows:

Lot 4 in Block 44 in Jones Addition to DeKalb according to the Plat thereof recorded in Book “A” of Plats, Page 8 in January 24, 1856, in DeKalb County, Illinois; situated in the County of DeKalb and the State of Illinois.

SECTION 3. A special use permit to allow the resubdivision of a “TFR” Two-Family Residential zoned lot into two single-family attached lots is hereby approved for the Subject Property as well as approval of the Final Plat of Fant's First Division dated June 6, 2018 attached as Exhibit A and approval of the Declaration of Cross Easements attached as Exhibit B subject to the following condition:

1. No sales of the dwelling units shall occur on the property until all conditions are met and all documents, including the Final Plat of Fant's First Division and the Declaration of Cross Easements are received, reviewed and recorded and on file with the City Clerk's Office.

SECTION 4. All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed.

SECTION 5. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

SECTION 6. That all provisions of the UDO shall remain in full force and effect and this Ordinance shall take effect upon its passage and approval according to Law. The City Clerk or designee shall record a copy of this Ordinance included herein after execution of this Ordinance.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 13th day of November 2018 and approved by me as Mayor on the same day. Passed on First Reading by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: None. Second Reading waived by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: None.

ATTEST:

LYNN A. FAZEKAS, City Clerk

JERRY SMITH, Mayor
DECLARATION OF CROSS EASEMENTS
DECLARATION OF CROSS EASEMENTS

Fant Family LLC, is the owner of certain premises located at 722 and 724 Grove Street, City of DeKalb, DeKalb County, State of Illinois, described as Lots No. 1 and 2, and hereby declares in respect to the aforesaid premises as follows:

SECTION ONE

DEFINITION OF "PREMISES"

The term the "premises" as used herein means the entire lot or piece of ground, or lots or pieces of ground as the case may be consisting of Lots No. 1 and 2 of Fant's First Division a subdivision of Lot 4 in Block 44 in Jones Addition to the original village (now city) of DeKalb, DeKalb County, Illinois.

SECTION TWO

CREATION OF CROSS EASEMENT

If at any time in the future any one or more of the separate lots constituting the aforesaid premises shall be served from the other lot, then, in such case, the owner shall, from time to time hereafter to each and every one of the parcels, have access to, and the right to use in common with the owners and occupants of each of the other lot, any common wall that may be now or at any time hereafter be constructed on Lots No. 1 and 2. This applies to the extent so authorized by the owner, and the occupants of any dwelling constructed at any time on any of said lots.

The aforesaid right is conditioned upon the owner of the lot or lots claiming this right paying that proportional part of the costs of maintenance, use and operation of said common wall.
SECTION THREE

RIGHTS CONCERNING THE COMMON WALL; MAINTENANCE AND UPKEEP

The owners of each of the lots described as Lots No. 1 and 2 shall have the right for all time hereafter to connect to and use any and all said common wall that may at any time be constructed on any one or more of said lots, to the extent that any such common wall to which such owner seeks to connect is designed for and intended to serve a building or the portion of premises sought to be connected. Each owner shall be responsible for a reasonable proportion of any costs of maintenance and/or upkeep, to the extent that same is not the responsibility of any public authority.

SECTION FOUR

SEPARATE UTILITY SERVICE

Each dwelling unit constructed upon the premises has a separate service location for the electrical service, a separate gas service, a separate sanitary sewer service, and a separate water service. The owner of each unit shall be responsible for that unit’s individual utility services and the payment of any charges associated therewith.

SECTION FIVE

LIEN FOR PAYMENT

Any owner of a legal or equitable interest in the premises receiving a bill for a shared expense under the provisions of Section Two, Three, or Four of this Declaration shall deliver a copy of it to all other owners of the Premises as soon after receipt as is practicable. Payment thereof shall be made within 15 days of the date the expense bill is presented to the owner(s) required to pay. If any owner of a legal or equitable interest is a dwelling located on the premises shall fail or refuse to pay the common expenses when due, the amount thereof shall constitute a lien on the interest of the non-payor in the premises, which lien shall be subject to enforcement in the same manner as a lien for unpaid condominium assessments under the provisions of the Illinois Condominium Property Act and the Code of Civil Procedure then in effect (which statues are incorporated herein by this reference). Notwithstanding anything to the contrary contained herein, encumbrances against the premises securing loans where proceeds therefrom were used to acquire, improve, or re-finance a loan originally used to acquire or improve any portion of the premises, which loan is owned or held by any bank, insurance company, savings and loan association, or other lender, shall be subject as to priority of the lien
for common expenses created in this Section Five only after written notice is given to said encumbrancer or unpaid common expenses, and then only with respect to any sum which becomes due and payable subsequent to the date the encumbrancer either takes possession of the unit, accepts a conveyance of any interest in the unit ownership, has a receiver appointed in suit to foreclose its lien, or is appointed mortgagee in possession.

SECTION SIX

ARCHITECTURAL CONTROL

The legal and equitable owners of all dwelling units constructed upon the premises shall cooperate to create and maintain a uniform scheme for decorating the exterior of any building located upon the premises. If all such owners cannot agree, they shall submit the matter to binding arbitration with the American Arbitration Association under its rules then in effect.

SECTION SEVEN

BINDING EFFECT

This declaration shall be binding upon and shall inure to the benefit of, FANT FAMILY LLC, their successors and assigns, and any person or other entity which at any time hereafter shall become the owner of any one or more of the lots or any portion thereof described in said premises.

In witness whereof, this declaration of cross easement has been executed on October 16, 2018, with the intent that it shall be recorded in the Recorder's of Deeds, of the County of DeKalb, State of Illinois.

FANT FAMILY LLC

By: ROBERT M. FANT, as Manager
STATE OF ILLINOIS )
) SS.
COUNTY OF DEAKALB )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT, ROBERT M. FANT, as Manager of the FANT FAMILY LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 11th day of October, 2018.

[Signature]
Notary Public

[Seal]

Prepared by and after recording return to:
GARY E. LOTHSON
Attorney at Law
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