

PIN:
See "Exhibit A"

ADDRESS:
9S065, 9S080 AND 9S081 ROUTE 59
NAPERVILLE, IL 60564

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 #17-1-093

ORDINANCE NO. 18 - _____

**AN ORDINANCE GRANTING A VARIANCE TO
SECTION 6-9-6 (SUPPLEMENTAL STANDARDS FOR DRIVE-THROUGH STACKING
LANES) AND SECTION 6-9-5 (SCHEDULE OF OFF-STREET LOADING
REQUIREMENTS) OF THE NAPERVILLE MUNICIPAL CODE FOR
THE PROPERTY AT 9S065, 9S080 AND 9S081 ROUTE 59
(MARTINEZ PROPERTY)**

WHEREAS, Cristina Martinez ("Petitioner") is the owner of real property located on the east side of Route 59, south of 79th Street, commonly known as 9S065, 9S080 and 9S081 S Route 59, Naperville IL, which is legally described in **Exhibit A** and depicted on **Exhibit B** ("Subject Property"); and

WHEREAS, Petitioner has petitioned the City of Naperville ("City") for approval of variances to Section 6-9-6:2.1.1 (Supplemental Standards for Drive-through Stacking Lanes: Setbacks and Landscaping), Section 6-9-6:2.3.1 (Supplemental Standards for Drive-through Stacking Lanes: Stacking Lane Design), and Section 6-9-5:4 (Schedule of Off-

Street Loading Requirements: Loading Class No. 4—Retail And Wholesale Trade) on the Subject Property; and

WHEREAS, in addition to the variances described herein, Petitioner has also requested City approval of ordinances approving an annexation agreement, annexation, and rezoning (hereinafter cumulatively referenced as the “Martinez Ordinances”); and

WHEREAS, the Subject Property is currently zoned B2 (Community Shopping Center District) and is improved with three single-family residences that are intended to be demolished; and

WHEREAS, upon demolition of the single-family residences, the Petitioner intends to construct a new 15,100 square foot multi-tenant commercial building with a drive-through tenant on the Subject Property; and

WHEREAS, the Petitioner requests a variance to reduce the required drive-through setback from 40’ to 15’ pursuant to Section 6-9-6:2.1.1 (Supplemental Standards for Drive-through Stacking Lanes: Setbacks and Landscaping); and

WHEREAS, the Petitioner also requests a variance to allow the drive-through stacking lane to block access to parking spaces pursuant to Section 6-9-6:2.3.1 (Supplemental Standards for Drive-through Stacking Lanes: Stacking Lane Design); and

WHEREAS, the Petitioner also requests a variance to Section 6-9-5:4 (Schedule of Off-Street Loading Requirements: Loading Class No. 4—Retail And Wholesale Trade) to reduce the required number of off-street loading berths from 1 to 0; and

WHEREAS, on December 6, 2017, the Planning and Zoning Commission conducted a public hearing concerning PZC 17-1-093, and recommended denial of the Petitioner’s variance requests; and

WHEREAS, the City Council of the City of Naperville has determined that the Petitioner's requests meet the Standards for Granting a Variance as provided in **Exhibit C** attached hereto, and should be granted 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: A variance to Section 6-9-6:2.1.1 (Supplemental Standards for Drive-through Stacking Lanes: Setbacks and Landscaping) of the Naperville Municipal Code is hereby granted to reduce the required drive-through setback at the Subject Property from 40' to 15' as generally depicted in the Preliminary Engineering Plan attached as **Exhibit B** subject to the condition that said parking spaces are used for employee parking only and are signed accordingly by the Petitioner.

SECTION 3: A variance to Section 6-9-6:2.3.1 (Supplemental Standards for Drive-through Stacking Lanes: Stacking Lane Design) of the Naperville Municipal Code is hereby granted to permit a drive-through stacking lane that blocks access to parking spaces as generally depicted in the Preliminary Engineering Plan attached as **Exhibit B**.

SECTION 4: A variance to Section 6-9-5:4 (Schedule of Off-Street Loading Requirements: Loading Class No. 4—Retail And Wholesale Trade) of the Naperville Municipal Code is hereby granted to reduce the number of required off-street loading

facilities at the Subject Property from 1 to 0 as generally depicted in the Preliminary Engineering Plan attached as **Exhibit B**.

SECTION 5: The Building Elevations, attached to this Ordinance as **Exhibit C**, are hereby approved.

SECTION 6: The Landscape Plan, attached to this Ordinance as **Exhibit D**, are hereby approved.

SECTION 7: The Subject Property shall be constructed in accordance with the building elevations and landscaping plan approved in Section 5 and Section 6. Any deviations from the approved plans shall be permitted as established herein. Any minor modifications that do not alter the concept or intent of the approved plans shall be approved by the Zoning Administrator, as established in Title 6 of the Naperville Municipal Code. Any modifications that are determined major which alter the concept or intent of the plans approved in Section 5 and Section 6, as determined by the Zoning Administrator, shall be approved by the City Council without the review and recommendation of the Planning and Zoning Commission unless the City Council refers a request for a modification to the Planning and Zoning Commission for review and recommendation.

SECTION 8: The variances approved by this Ordinance shall expire unless within two (2) years from the effective date of this Ordinance if: (1) a building permit has been obtained and the construction or alteration of the structure as specified in this Ordinance has been started, or (2) the use specified in this Ordinance has commenced.

SECTION 9: The variances approved by this Ordinance shall be subject to revocation for failure to comply with all other applicable provisions set forth in the Naperville Municipal Code, as amended from time to time, and all other applicable laws.

SECTION 10:The City Clerk is directed to record this Ordinance, together with the exhibits attached hereto, and the remaining Martinez Ordinances, with the DuPage County Recorder.

SECTION 11: 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 12:This Ordinance shall be deemed passed upon approval of the City Council and shall be in full force and effect upon its recordation with the DuPage County Recorder.

PASSED this _____ day of _____, 2018.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2018.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk