

ORDINANCE NO. 23- _____

**AN ORDINANCE
DESIGNATING A BUSINESS DISTRICT,
APPROVING THE BUSINESS DISTRICT PLAN,
AND MAKING A BLIGHTED AREA FINDING IN RELATION TO
THE BLOCK 59 BUSINESS DISTRICT**

RECITALS

1. **WHEREAS**, The City of Naperville (“City”), is a home rule municipality in accordance with Article VII Section 6(a) of the Constitution of the State of Illinois of 1970, and is enacting this Ordinance pursuant to its home rule authority and the Illinois Business District Redevelopment Act 65 ILCS 5/11-74.3-1, *et seq.* (the “Act”); and
2. **WHEREAS**, Section 11-74.3-1(1) of the Act allows a municipality to determine that it is essential to the economic and social welfare of the municipality that business districts be developed, redeveloped, improved, maintained, and revitalized, that jobs and opportunity for employment be created within the municipality, and that, if blighting conditions are present, blighting conditions be eradicated by assuring opportunities for development or redevelopment, encouraging private investment, and attracting sound and stable business and commercial growth; and
3. **WHEREAS**, on September 20, 2022 the Mayor and City Council of the City (the “Corporate Authorities”) approved Resolution No. 22-28 entitled “A Resolution Expressing the City of Naperville’s Intent to Consider Designation of a Business District on Property Within the City, To Impose Business District Sales Taxes, and to Induce Development Interest within Such District; and
4. **WHEREAS**, on December 20, 2022 the Corporate Authorities approved Ordinance 22-131 proposing the designation of a Business District in the City of Naperville, DuPage County, Illinois, and scheduled a public hearing (the “Public Hearing”) for January 17, 2023 for a proposed business district (to wit: the “Block 59 Business District” or “District”). The purpose of such Public Hearing was to examine the Business District Plan for the Proposed Business District (now known as the “Block 59 Business District”) and determine whether it should later be approved, whether the proposed business district should be designated as a business district pursuant to the Act, as required by 65 ILCS 5/11-74.3-2(a), and whether a “blighted area” finding, and determination should be made with regard to the proposed business district; and
5. **WHEREAS**, the Corporate Authorities authorized Kane, McKenna & Associates, Inc. (the “Consultant”) to prepare a “Business District Plan” pursuant to the Act for the Block 59 Business District; and

6. **WHEREAS**, Ordinance 22-131 further provided that the public notice required by the Act (“Notice”) would be published twice, on January 1, 2023 and January 4, 2023, and said Notice provided that the Public Hearing would be held to consider the Business District Plan on January 17, 2023; and
7. **WHEREAS**, the Notice was duly published on January 1, 2023 and January 4, 2023 in a newspaper of general circulation within the City, as required by 65 ILCS 5/11-74.3-2(b); and
8. **WHEREAS**, the Consultant prepared the Business District Plan pursuant to the Act for the proposed Block 59 Business District; and
9. **WHEREAS**, on January 17, 2023, pursuant to the Notice, the Public Hearing was held as required by 65 ILCS 5/11-74.3-2(c) and:
 - (i) there was discussion of if the entire Westridge Court shopping center should be included in the proposed business district; and
 - (ii) City Council inquired if the petitioner would consider reducing the business district by approximately twenty acres by removing the three northern parcels from the proposed business district; and
 - (iii) The petitioner indicated they could remove the three parcels; and
 - (iv) The change in the boundary of the proposed business district would require approval and notice of another public hearing which would occur at subsequent City Council meetings; and
10. **WHEREAS**, on January 17, 2023 the Public Hearing was concluded and adjourned by the Corporate Authorities upon motion, second and unanimous roll call vote; and
11. **WHEREAS**, on February 7, 2023 the Corporate Authorities approved Ordinance 23-010 proposing the designation of a Business District in the City of Naperville, DuPage County, Illinois, and scheduled a public hearing (the “Public Hearing”) for February 21, 2023 for a proposed business district (to wit: the “Block 59 Business District” or “District”). The purpose of such Public Hearing was to examine the Business District Plan for the Revised Proposed Business District (now known as the “Block 59 Business District”) and determine whether it should later be approved, whether the proposed business district should be designated as a business district pursuant to the Act, as required by 65 ILCS 5/11-74.3-2(a), and whether a “blighted area” finding, and determination should be made with regard to the proposed business district; and

12. **WHEREAS**, the Corporate Authorities authorized Kane, McKenna & Associates, Inc. (the “Consultant”) to revise the “Business District Plan” pursuant to the Act for the Block 59 Business District area legally described and depicted on **Exhibit A-1** and **Exhibit A-2**, respectively, attached hereto and made a part hereof; and
13. **WHEREAS**, Ordinance 23-010 further provided that the public notice required by the Act (“Notice”) would be published twice, on February 8, 2023 and February 10, 2023, and said Notice provided that the Public Hearing would be held to consider the Business District Plan on February 21, 2023; and
14. **WHEREAS**, the Notice was duly published on February 8, 2023 and February 10, 2023 in a newspaper of general circulation within the City, as required by 65 ILCS 5/11-74.3-2(b) and copy of the Publisher’s Certificate relative to said Notice being attached hereto as **Exhibit B** and made part hereof; and
15. **WHEREAS**, the Consultant prepared the revised Business District Plan pursuant to the Act for the proposed Block 59 Business District and the BD Plan is attached hereto as **Exhibit C** and made a part hereof; and
16. **WHEREAS**, on February 21, 2023, pursuant to the Notice, the Public Hearing was held as required by 65 ILCS 5/11-74.3-2(c) and:
 - (v) there were no submissions of alternate proposals or bids for any proposed conveyance, lease, mortgage or other disposition by the City of land or rights in land owned by the City and located within the proposed Block 59 Business District; and
 - (vi) City staff and the Consultant presented the proposed Business District Plan for designation of the proposed Block 59 Business District as a business district as contemplated by the Act, with a “blighted area” finding, and presented the BD Plan in relation thereto; and
 - (vii) all interested persons were given an opportunity to be heard in relation to the designation of the Block 59 Business District as a business district, the approval of the BD Plan in relation thereto, and the “blighted area” finding and determination in relation thereto, and no interested persons sought to be heard in relation thereto; and
 - (viii) all persons desiring to submit written objections were given an opportunity to do so and to be heard on said objections; and
 - (ix) the Corporate Authorities heard all protests and objections; and
17. **WHEREAS**, on February 21, 2023 the Public Hearing was concluded and adjourned by the Corporate Authorities upon motion, second and unanimous roll call vote; and

18. **WHEREAS**, the Corporate Authorities find that the Block 59 Business District constitutes an economic liability and an underutilization of the area in its present condition and use, and on the whole has not been subject to growth and development through investment by private enterprises and would not reasonably be anticipated to be developed or redeveloped without the adoption of the BD Plan, as set forth in the BD Plan; and

19. **WHEREAS**, the Corporate Authorities find and determine that the BD Plan conforms to the Comprehensive Plan of the City; and

20. **WHEREAS**, the Corporate Authorities find and determine that the Block 59 Business District is a “blighted area” as defined in the Act as set forth in the BD Plan; and

21. **WHEREAS**, the Corporate Authorities find and determine that it is in the best interests of the City that the Block 59 Business District be designated as a business district pursuant to the terms of the Act.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority that:

SECTION 1: Recitals incorporated. The foregoing Recitals are hereby incorporated in this Section 1 as though fully set forth herein.

SECTION 2: That the Corporate Authorities find and determine as follows, as further described in the BD Plan:

- (i) That the Block 59 Business District has not been subject to growth and development through investment by private enterprises and would not reasonably be anticipated to be developed or redeveloped without the adoption of the BD Plan; and
- (i) That the Block 59 Business District conforms to the Comprehensive Plan of the City; and
- (ii) That the Block 59 Business District is a “blighted area” as defined in the Act.

SECTION 3: That the Block 59 Business District is hereby designated as a business district pursuant to the Act, to be known as “Block 59 Business District”.

SECTION 4: That the Block 59 Business District is hereby approved and adopted as the Business District Plan for the City of Naperville.

SECTION 5: That in promoting development and redevelopment within the Block 59 Business District, the Corporate Authorities may exercise those powers as set forth in the Act.

SECTION 6: That a one percent (1%) business district retailers’ occupation tax and a one percent (1%) business district service occupation tax (the “Business District Sales Taxes”), shall be imposed within the Block 59 Business District due to the “blighted area” designation for the Block 59 Business District as provided for in the Act, with a specific Ordinance imposing said Business District Sales Taxes to be approved by the Corporate Authorities, and filed with the Illinois Department of Revenue, as provided for by the Act.

SECTION 7: That all ordinances, orders and resolutions and parts thereof in conflict herewith shall be and the same are hereby repealed.

SECTION 8: If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance or their application if they can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision is severable, unless otherwise provided by this Ordinance.

SECTION 9: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED by the Mayor and City Council of the City of Naperville, DuPage and Will
Counties, Illinois, this 21st day of March 2023.

AYES:

NAYS:

ABSENT:

Pam Gallahue, Ph.D.
City Clerk

APPROVED this 22nd day of March 2023.

Steve Chirico
Mayor

ATTESTED to and PUBLISHED by me this 22nd
day of March 2023 in
pamphlet form.

Pam Gallahue, Ph.D.
City Clerk

Exhibit A-1

**Legal Description, Permanent Tax Index Numbers
and Street Location (Common Addresses) for the
Block 59 Business District**

Legal Description of Proposed Area

LOTS 4 TO 6, INCLUSIVE, IN GLACIER PARK RESUBDIVISION NO. 10, BEING A SUBDIVISION IN SECTION 15 AND SECTION 22, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 16, 2020 AS DOCUMENT R2020-075498 IN DUPAGE COUNTY, ILLINOIS;

TOGETHER WITH

LOT 1 IN HERITAGE SQUARE, NAPERVILLE, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 28, 1992 AS DOCUMENT R92-143318, IN DUPAGE COUNTY, ILLINOIS;

EXCEPT THAT PART TAKEN FOR ROADWAY PURPOSES IN CASE NUMBER 12ED22 AND AS RECORDED BY COURT ORDER VESTING TITLE AS DOCUMENT R2016-90221, DESCRIBED AS FOLLOWS:

PARCEL A: BEGINNING AT THE MOST WESTERLY SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 21 MINUTES 00 SECONDS EAST, BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, EAST ZONE, N.A.D. 83 (2007), ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 12.65 FEET; THENCE SOUTH 74 DEGREES 51 MINUTES 32 SECONDS EAST 122.80 FEET TO THE SOUTHERLY LINE OF SAID LOT 1; THENCE SOUTH 83 DEGREES 14 MINUTES 39 SECONDS WEST ALONG SAID SOUTHERLY LINE 4.86 FEET TO AN ANGLE POINT; THENCE NORTH 89 DEGREES 08 MINUTES 32 SECONDS WEST ALONG SAID SOUTHERLY LINE 76.04 FEET TO AN ANGLE POINT; THENCE NORTH 63 DEGREES 27 MINUTES 32 SECONDS WEST ALONG THE SOUTHWESTERLY LINE OF SAID LOT 1; A DISTANCE OF 42.21 FEET TO THE POINT OF BEGINNING;

AND

PARCEL B: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 89 DEGREES 12 MINUTES 24 SECONDS EAST, BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, EAST ZONE, N.A.D. 83 (2007), ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 18.00 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 00 SECONDS WEST 187.88 FEET; THENCE SOUTH 01 DEGREES 13 MINUTES 43 SECONDS WEST 326.05 FEET; THENCE SOUTH 89 DEGREES 12 MINUTES 38 SECONDS EAST 5.00 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 00 SECONDS WEST 188.54 FEET TO AN EAST-WEST LINE IN THE WEST LINE OF SAID LOT 1; THENCE NORTH 89 DEGREES 39 MINUTES 00 SECONDS WEST ALONG SAID EAST-WEST LINE 18.00 FEET TO AN ANGLE POINT IN SAID WEST LINE; THENCE NORTH 00 DEGREES 21 MINUTES 00 SECONDS EAST ALONG SAID WEST LINE 702.11 FEET TO THE POINT OF BEGINNING.

PINs of Proposed Area

07-22-102-022

07-22-102-032

07-22-102-033

07-22-102-034

Exhibit A-2

**Depiction (Map) of the
Block 59 Business District
(attached)**

Exhibit B

**Publisher's Certificate
for the Public Hearing Notice**

(attached)

Exhibit C

**Business District Plan for the
Block 59 Business District
(attached)**