

PIN: 07-27-300-016

ADDRESS:
1440 S ROUTE 59
NAPERVILLE, IL 60564

PREPARED BY:
CITY OF NAPERVILLE
LEGAL DEPARTMENT
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540
630/420-4170

RETURN TO:
CITY OF NAPERVILLE
CITY CLERK/COMMUNITY SERVICES DEPT.
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540

PZC Case #23-1-061

ORDINANCE NO. 23 - ____

**AN ORDINANCE GRANTING A MAJOR CHANGE TO
A PLANNED UNIT DEVELOPMENT, A PRELIMINARY PLANNED UNIT
DEVELOPMENT PLAT, A USE DEVIATION FOR A CAR WASH FACILITY, AND
VARIOUS PUD DEVIATIONS FOR THE PROPERTY LOCATED AT 1440 S ROUTE 59
(TOMMY'S EXPRESS CAR WASH)**

RECITALS

1. **WHEREAS**, Wash Holdings 23, LLC, 4609 33rd Avenue, Suite 400, Fargo, North Dakota, 58104 ("**Petitioner**"), has petitioned the City of Naperville for approval of a major change to the Brach/Brodie Planned Unit Development (PUD), a preliminary PUD plat, and various PUD deviations to allow for the development of a car wash, known as Tommy's Express, to be located at 1440 S Route 59, Naperville, Illinois, 60564, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**").
2. **WHEREAS**, Lowe's Home Centers, LLC, 1000 Lowe's Boulevard, Mooresville, North Carolina, 28117 is the owner of the Subject Property ("**Owner**").

3. **WHEREAS**, on September 17, 2002, the City Council of the City of Naperville passed Ordinance 02-191 approving the Final Planned Unit Development Plat, the Final Plat of Subdivision, and the development plans for the property known as the Brach Brodie Farm.
4. **WHEREAS**, on March 19, 2003, the City Council of the City of Naperville passed Ordinance 03-079 approving a final PUD plat to allow for the development of lot 8 of the Brach/Brodie property with a retail store (Lowe's).
5. **WHEREAS**, the Subject Property is currently zoned B2 (Community Shopping Center District) with a Conditional Use for a Planned Unit Development.
6. **WHEREAS**, with the authorization of the Owner, the Petitioner has requested the City approve this Ordinance seeking a major change to the Brach/Brodie Lot 8 PUD, a preliminary PUD plat for the Subject Property, a land use deviation to permit a car wash in a PUD zoned B2 , and deviations to decrease the required parking for the existing Lowe's store and for the proposed car wash, reduce the amount of parking lot perimeter landscaping, reduce the frontage required for two ground signs, and to reduce the required distance between the ground signs for the Subject Property as described herein ("**Ordinance**"), along with an ordinance approving an preliminary plat of subdivision for the Subject Property (hereinafter together referenced as the "**Tommy's Express Ordinances**").
7. **WHEREAS**, the Petitioner requests approval of a preliminary PUD plat of Lot 8 of the Brach/Brodie property reflecting the proposed subdivision and new land use, as illustrated on **Exhibit B** ("**Preliminary PUD Plat**").

8. **WHEREAS**, neither Section 6-7B-2 (B2/Permitted Uses) nor Section 6-7B-3 (B2/Conditional Uses) of the Naperville Municipal Code classify a car wash as a permitted or conditional use in the B2 (Community Shopping Center) District.
9. **WHEREAS**, pursuant to Section 6-4-3:12.2 of the Naperville Municipal Code, a land use deviation in a PUD may be allowed by the City if specific criteria have been met, including: the presence of unique and unusual circumstances in the PUD; the proposed use will not have an adverse impact on other users in the PUD; and, the proposed use will be incidental to the principal use of the PUD.
10. **WHEREAS**, the Petitioner requests a use deviation per Section 6-4-3:12.2 (Design Standards and Criteria) of the Naperville Municipal Code to allow a car wash in a B2 zoned PUD.
11. **WHEREAS**, the requested use deviation meets the standards for use deviations as provided on **Exhibit C** (“**Response to Standards**”) attached hereto.
12. **WHEREAS**, the Petitioner requests approval of a deviation to Section 6-9-3 (Schedule of Off Street Parking Requirements) of the Naperville Municipal Code to reduce the required parking for the Lowe’s store from 538 spaces to 507 spaces. The requested deviation meets the standards for PUD deviations as provided on **Exhibit C** (“**Response to Standards**”) attached hereto.
13. **WHEREAS**, the Petitioner requests approval of a deviation to Section 6-9-3 (Schedule of Off Street Parking Requirements) of the Naperville Municipal Code to reduce the required parking for the proposed car wash from 24 parking spaces to 21 parking spaces at the subject property. The requested deviation meets the standards

for granting PUD deviations as provided on **Exhibit C** (“**Response to Standards**”) attached hereto.

14. **WHEREAS**, the Petitioner requests a deviation to Section 5-10-3:5.2.1 (Landscaping and Screening) of the Naperville Municipal Code to reduce the required amount of parking lot perimeter landscaping from five (5) feet to three (3) feet at the subject property, as depicted on **Exhibit D** (“**Landscape Plans**”). The requested deviation meets the standards for granting PUD deviations as provided on **Exhibit C** (“**Response to Standards**”).

15. **WHEREAS**, the Petitioner requests approval of deviations to Section 6-16-5:2.2.1 (Signs on Commercial and Institutional Property) of the Naperville Municipal Code to reduce the required lot frontage for a property to have two ground signs from 500 feet to 200 feet and to reduce the required distance between two ground signs from 200 feet to approximately 130 feet, as depicted on **EXHIBIT E** (“**Sign Plan**”). The requested sign deviations do not meet the standards for granting PUD deviations as provided on **Exhibit C** (“**Response to Standards**”) attached hereto and should be denied.

16. **WHEREAS**, on November 15, 2023, the Planning and Zoning Commission conducted a public hearing to consider the major change to the PUD and preliminary PUD plat for the Subject Property, and the requested deviations, and recommended approval of the Petitioner’s requests.

17. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner’s requests for a Major Change to the Planned Unit Development; Preliminary Planned Unit Development Plat; a use deviation for a car wash facility;

and PUD deviations for parking and landscaping should be granted as provided herein.

18. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner's request for PUD deviations to permit the requested ground signage for Tommy's Car Wash should be denied.

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 major change to the Brach/Brodie Lot 8 PUD to create a new lot, establish controlling plans for the proposed car wash facility, and facilitate the approval of a preliminary PUD plat and requested deviations is hereby approved.

SECTION 3: The Preliminary Planned Unit Development Plat for Lot 8 of the Brach/Brodie Property Unit 1, attached to this Ordinance as **Exhibit B** ("**Preliminary PUD Plat**"), is hereby approved.

SECTION 4: A use deviation per Section 6-4-3:12.2 (Design Standards and Criteria) to allow a car wash in a PUD zoned B2, is hereby approved.

SECTION 5: A deviation to Section 6-9-3 (Schedule of Off Street Parking Requirements) to allow a reduction in required parking spaces for the Lowe's store from 538 spaces to 507 spaces, is hereby approved.

SECTION 6: A deviation to Section 6-9-3 (Schedule of Off Street Parking Requirements) to allow a reduction in required parking spaces for the proposed car wash

from 24 to 21 spaces, as depicted on **Exhibit B** (“**Preliminary PUD Plat**”), is hereby approved.

SECTION 7: A deviation to Section 5-10-3:5.2.1 (Landscaping and Screening) to allow a reduction in required parking lot perimeter landscaping from five feet to three feet, as depicted on **Exhibit D** (“**Landscape Plans**”), is hereby approved.

SECTION 8: Deviations to Section 6-16-5:2.2.1 (Signs on Commercial and Institutional Property) to allow two ground signs that are approximately 130 feet apart on a property with 200 feet of frontage, as depicted on **EXHIBIT E** (“**Sign Plan**”), are hereby denied.

SECTION 9: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 10:The City Clerk is authorized and directed to record this Ordinance and the Preliminary Planned Unit Development Plat for Lot 8 of the Brach/Brodie Property Unit 1 with the DuPage County Recorder.

SECTION 11: Per Section 6-4-8 (Effective Period of a Planned Unit Development), the Final Planned Unit Development Plat for Lot 8 of the Brach/Brodie Property Unit 1 shall be recorded no later than two (2) years from the date of approval of this Ordinance.

SECTION 12: 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. Technical and minor substantive revisions as deemed acceptable to the City Attorney

may be made to this Ordinance and to the exhibits hereto prior to recordation with the office of the Recorder in which the Subject Property is located within.

SECTION 13: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2023.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2023.

Scott A. Wehrli
Mayor

ATTEST:

Dawn C. Portner
City Clerk