

PINS: 07-15-302-012
07-15-302-019

ADDRESSES:
1931, 1955 AND 1967 GLACIER PARK AVENUE
NAPERVILLE, IL 60540

PREPARED BY:
CITY OF NAPERVILLE
LEGAL DEPARTMENT
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540630/420-4170

RETURN TO:
CITY OF NAPERVILLE
CITY CLERK'S OFFICE
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540

PZC Case #23-1-017

ORDINANCE NO. 23 -

AN ORDINANCE GRANTING A VARIANCE FROM SECTION 6-9-3 (SCHEDULE OF OFF-STREET PARKING REQUIREMENTS) OF THE NAPERVILLE MUNICIPAL CODE TO REDUCE THE AMOUNT OF REQUIRED OFF-STREET PARKING FOR GLACIER PARK RESUBDIVISION NO. 14 (SCOOTER'S)

RECITALS

1. **WHEREAS**, Scorilo, LLC, 4288 Lacebark Lane, Naperville, IL 60564 ("**Petitioner**"), has petitioned the City of Naperville ("**City**") for approval of a variance to Section 6-9-3 of the Naperville Municipal Code to reduce the amount of required off-street parking for the real property located at 1931, 1955, and 1967 Glacier Park Avenue, Naperville, Illinois, commonly known as High Grove Plaza shopping center, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**").
2. **WHEREAS**, Nare High Gove II, LLC, 27 N. Green Street, Chicago, IL 60607 ("**Owner**") is the owner of the Subject Property and has authorized the Petitioner to submit the variance petition.

3. **WHEREAS**, in conjunction with the above-referenced variance petition, the Petitioner submitted a new Final Plat of Subdivision for Glacier Park Resubdivision No. 14 which adjusted the lot lines of certain lots within Glacier Park Resubdivision No. 9 and increased the size of Lot 2 of the Subject Property from 10,000 square feet to 13,916 square feet.
4. **WHEREAS**, Glacier Park Resubdivision No. 14 is subject to administrative approval pursuant to Section 7-2-5 of the Naperville Municipal Code.
5. **WHEREAS**, per the Petitioner, Glacier Park Resubdivision No. 14 is subject to a Reciprocal Easement Agreement (“**REA**”) recorded as R96-122605 which provides shared parking across the Subject Property.
6. **WHEREAS**, the Subject Property consists of three lots that are currently zoned B2 (Community Shopping Center District) and are improved with a multi-tenant commercial building, Freddy’s, and shared parking in accordance with the REA.
7. **WHEREAS**, the petitioner intends to construct a 677.13 square foot Scooter’s drive through coffee shop on Lot 2 of the Subject Property as depicted on **Exhibit C (“Site Plan”)**, which eliminates approximately 42 shared parking spaces from the Subject Property.
8. **WHEREAS**, in accordance with Section 6-9-3 (Schedule of Off-Street Parking Requirements) of the Naperville Municipal Code, the proposed drive through coffee shop to be located on Lot 2 of the Subject Property, the existing multi-tenant commercial building, and Freddy’s fast food restaurant located within the High Grove Plaza shopping center require a total of 412 parking spaces.

9. **WHEREAS**, following construction of the proposed drive through coffee shop on Lot 2, 331 total parking spaces will be provided on the Subject Property, resulting in a deficit of 81 code-required parking spaces, thus requiring a variance to Section 6-9-3 (Schedule of Off-Street Parking Requirements).

WHEREAS, the Petitioner has prepared a parking study, attached as **Exhibit D**, which demonstrates that the peak parking demand for Lots 1 and 2 of the Subject Property is 288 parking spaces, which is less than the 331 parking spaces available and signifies a parking surplus on the Subject Property.

10. **WHEREAS**, on October 18, 2023, the Planning and Zoning Commission considered the requested variance and recommended approval of the Petitioner's request, subject to the conditions outlined by staff.

11. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner's variance request meets the Standards for Variances as provided in **Exhibit E** 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 6-9-3 (Schedule of Off-Street Parking Requirements) to reduce the required parking for Glacier Park Resubdivision No. 14 from 412 parking spaces to 331 parking spaces is hereby approved subject to the following condition:

1. If the City's Zoning Administrator determines that the Petitioner's drive through coffee shop, or any successor coffee shop or use on Lot 2, exceeds the peak parking demands set forth in the attached Parking Study, such that the parking needs for the Subject Property cannot be accommodated within the parking available on the subject property, the Petitioner and Owner shall take adequate measures to meet the parking needs for the Subject Property, including but not limited to formally assigning/reserving parking spaces for each tenant space, constructing additional parking spaces and/or establishing an overflow parking location off-site as necessary, which shall be subject to the review and approval of the Zoning Administrator. Failure to timely take adequate measures to accommodate the parking needs for the use of the Subject Property may result in the City's revocation of the parking variance.

SECTION 3: The variance approved by this Ordinance shall expire within two (2) years from the effective date of this Ordinance unless: (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 4: This variance shall be subject to revocation by the City Council, upon notice to the owner of Lot 1 and an opportunity to be heard, for a material 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. The City Council shall not consider such revocation unless a prior notice of violation has been issued to the owner of Lot 1 which provides an opportunity to cure the violation.

SECTION 5: Upon confirmation that Petitioner's Final Plat of Subdivision for the Subject Property has been recorded, the City Clerk is authorized and directed to record this Ordinance with the DuPage County Recorder.

SECTION 6: If this Ordinance is not recorded with the office of the Recorder in which the Subject Property is located within one (1) year of their approval and passage by the Naperville City Council, this Ordinance shall be null and void without any further action by the City unless this Ordinance is amended by the City to extend such timeframe. The Owner

and Petitioner shall defend, indemnify, and hold the City and its officers, agents and employees harmless if recordation does not occur within the original, or any extended, timeframe.

SECTION 7: 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 8: 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