

PIN: 08-07-403-008, 08-07-403-009

ADDRESS:  
1019 E OGDEN AVENUE  
NAPERVILLE, IL 60563

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

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

PZC Case #23-1-126

ORDINANCE NO. 24 - \_\_\_\_

**AN ORDINANCE GRANTING VARIANCES TO SECTION 6-9-3:5 (SCHEDULE OF OFF-STREET PARKING REQUIREMENTS), SECTION 6-9-3 (SCHEDULE OF OFF-STREET PARKING REQUIREMENTS), SECTION 5-10-3:5.2 (LANDSCAPING AND SCREENING), SECTION 6-9-6:2.1.1 (SUPPLEMENTAL STANDARDS FOR DRIVE-THROUGH STACKING LANES), AND SECTION 6-2-10:1 (ACCESSORY BUILDINGS, STRUCTURES, AND USES OF LAND) FOR THE PROPERTY LOCATED AT 1019 E OGDEN AVENUE (TACO BELL)**

**RECITALS**

1. **WHEREAS**, Daniel McGue, 15 Spinning Wheel Court, Suite 110, Hinsdale, Illinois, 60521 ("**Owner and Petitioner**" or "**Petitioner**"), is the owner of real property located at 1019 E Ogden Avenue Naperville, Illinois, 60563, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**").
2. **WHEREAS**, Petitioner has petitioned the City of Naperville for approval of variances to the Naperville Municipal Code to allow for the development of Taco Bell restaurant at the property.

3. **WHEREAS**, the Subject Property is currently zoned B3 (General Commercial District).
4. **WHEREAS**, the Petitioner requests a variance to Section 6-9-3:5 (Schedule of Off Street Parking Requirements) of the Municipal Code to reduce the required total drive through stacking spaces from 12 to nine and to reduce the required spaces between the order and pick up points from five to three, as illustrated on **Exhibit C** (“**Site Plan**”). The requested variance meets the standard for granting a variance as provided on **Exhibit D** (“**Response to Standards**”).
5. **WHEREAS**, the Petitioner requests approval of a variance to Section 6-9-3 (Schedule of Off Street Parking Requirements) of the Municipal Code to reduce the required parking for the proposed fast food restaurant from 29 spaces to 14 spaces. The requested variance meets the standards for granting a variance as provided on **Exhibit D** (“**Response to Standards**”) attached hereto.
6. **WHEREAS**, the Petitioner requests a variance to Section 5-10-3:5.2 (Landscaping and Screening) of the Municipal Code to reduce the required amount of parking lot perimeter landscaping from five feet to approximately three feet nine inches along the western property line, approximately three feet one inch along the north property line, and zero feet along the east property line at the subject property, as depicted on **Exhibit E** (“**Landscape Plans**”). The requested variance meets the standard for granting a variance as provided on **Exhibit D** (“**Response to Standards**”).
7. **WHEREAS**, the Petitioner requests approval of a variance to Section 6-9-6:2.1.1 of the Municipal Code (Supplemental Standards for Drive-Through Stacking Lanes) to reduce the required setback of a drive through from residential property from 40 feet

to approximately four feet six inches as depicted on **EXHIBIT C** (“**Site Plan**”) The requested variance meets the standards for granting a variance as provided on **Exhibit D** (“**Response to Standards**”) attached hereto.

8. **WHEREAS**, the Petitioner requests approval of a variance to Section 6-2-10:1 (Accessory Buildings, Structures, and Uses of Land) to reduce the required setback of an accessory structure from five feet to two feet as depicted on **EXHIBIT C** (“**Site Plan**”) The requested variance meets the standards for granting a variance as provided on **Exhibit D** (“**Response to Standards**”) attached hereto.
9. **WHEREAS**, on April 17, 2024, the Planning and Zoning Commission conducted a public hearing to consider the requested variances for the Subject Property and recommended approval of the Petitioner’s requests.
10. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner’s requests 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. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

**SECTION 2:** A variance to Section 6-9-3:5 (Schedule of Off-Street Parking Requirements) to allow a reduction in required total drive-through stacking spaces from 12 spaces to nine spaces and a reduction in required drive-through stacking spaces between the order and pick up points from five to three, and a reduction in the setback required for a drive-through from residential property per Section 6-9-6:2.1.1 (Supplemental Standards for

Drive-Through Stacking Lanes) from 40 feet to approximately four feet six inches A deviation to Section 6-9-6:2.1.1 as depicted on **EXHIBIT C** (“**Site Plan**”) and provided on **Exhibit D** (“**Response to Standards**”), is hereby approved subject to the following condition:

- a) If complaints are submitted to the City of Naperville regarding drive through operations, including complaints regarding the volume of the drive through speaker, cars backing up onto the adjacent property or onto Ogden Avenue, the owner of the Subject Property (or Owner’s successors, transferees, and assigns) shall promptly take adequate measures to adjust drive-through operations, including but not limited to restricting the hours of operation the drive-through may be used, and/or formally assigning/reserving parking spaces for pick-up orders, as necessary. All measures shall be subject to the review and approval of the Zoning Administrator. Failure to timely take adequate measures to adequately accommodate the drive-through needs on the Subject Property to the satisfaction of the City’s Zoning Administrator may result in the City’s revocation of one or more of the variances approved herein.

**SECTION 3:** A variance to Section 6-9-3 (Schedule of Off Street Parking Requirements) to allow a reduction in required parking spaces for the proposed Taco Bell restaurant from 29 spaces to 14 spaces, as depicted on **EXHIBIT C** (“**Site Plan**”) and provided on **Exhibit D** (“**Response to Standards**”), is hereby approved subject to the following condition:

- a) Following approval of the parking and stacking variances set forth herein, if the City’s Zoning Administrator determines that the current and/or future tenant’s parking needs cannot be accommodated within the parking on the Subject Property, the Owner of the Subject Property shall promptly take adequate measures to meet the parking needs of said tenant. The proposed measures shall be subject to the review and approval of the Zoning Administrator. Failure to timely take adequate measures to adequately accommodate tenant parking needs on the Subject Property to the satisfaction of the City’s Zoning Administrator may result in the City’s revocation of one or more of the variances approved herein.

**SECTION 4:** A variance to Section 5-10-3:5.2 (Landscaping and Screening) to allow a reduction in required parking lot perimeter landscaping from five feet to approximately three feet nine inches along the western property line, approximately three feet one inch

along the north property line, and zero feet along the east property line as depicted on **Exhibit E** (“Landscape Plans”) and provided on **Exhibit D** (“Response to Standards”), is hereby approved.

**SECTION 5:** A variance to Section 6-2-10:1 (Accessory Buildings, Structures, and Uses of Land) to allow a reduction in the required parking setback for an accessory structure from five feet to two feet as depicted on **Exhibit C** (“Site Plan”) and provided on **Exhibit D** (“Response to Standards”), is hereby approved.

**SECTION 6:** The Petitioner and Owner shall pay the Northeast Water Works boosted pressure zone fee of \$788.93 (\$1,761.00 per acre) prior to recordation of the Preliminary-Final Plat of Subdivision of the McGue Family, LLC Subdivision.

**SECTION 8:** This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

**SECTION 9:** The City Clerk is authorized and directed to record this Ordinance with the DuPage County Recorder following recordation of the Preliminary-Final Plat of Subdivision of the McGue Family, LLC Subdivision.

**SECTION 10:** 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 11:** This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Scott A. Wehrli  
Mayor

ATTEST:

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Dawn C. Portner  
City Clerk