

STATE OF ILLINOIS)
)
COUNTY OF DUPAGE)
)
CITY OF NAPERVILLE)

PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR DEVELOPMENT APPROVAL

THE UNDERSIGNED Petitioner, TRG Acquisitions, LLC, an Illinois limited liability company (hereinafter “the Petitioner”) respectfully petitions the City of Naperville (the “City”) to: (i) approve a plat of subdivision to re-subdivide two lots located at 1519 N. Naper Boulevard (“Subject Property”) to provide for redevelopment of the Subject Property as a Culver’s restaurant (“Culver’s”) and a Circle K gas station (“Circle K”); (ii) approve a conditional use to permit the Circle K in the City’s B-3 zoning district; (iii) grant a parking variance allowing for a parking ratio of 13 spaces per 1,000 square feet for Culver’s (iv) grant a variance to eliminate the bypass lane for the Circle K carwash (v) grant a front yard parking setback variance along Naper Boulevard to reduce the front yard parking setback from 70 feet to 60 feet from the roadway centerline and from 20 feet to 10 feet from the right-of-way line; (vi) grant a variance to permit off-site monument signage for Culver’s on Lot #3 of the Tartan Point Subdivision; (vii) grant variances to permit monument signage within 40 feet of an interior setback line; and (viii) grant such other variances, departures or deviations as may be necessary to develop the Subject Property legally described on **Exhibit A** as depicted on the plans submitted herewith pursuant to the appropriate provisions of the Naperville Municipal Code, as amended (hereinafter the “Code”).

BACKGROUND INFORMATION

1. The Petitioner, TRG Acquisitions, LLC, an Illinois limited liability company, with a

registered office at 350 W. Hubbard Street, Suite 640, Chicago, Illinois 60654, is the Petitioner and contract purchaser of the Subject Property.

2. The Owner of the Subject Property is Great Lakes Credit Union as the surviving corporation by merger with Hawthorne Credit Union.

3. The Subject Property consists of two lots totaling approximately 3.2 acres located south of the former Fair Oaks Ford dealership west of Naper Boulevard and east of Naperville-Wheaton Road, in Naperville, Illinois.

4. The Subject Property has full access points from both Naperville-Wheaton Road and Naper Boulevard including signalized access from Naper Boulevard making the Subject Property ideal for commercial uses.

5. The existing land uses surrounding the Subject Property are as follows:

- a. North: "B-3" Buona Beef Restaurant
- b. East: "B-3" Tower Crossings Shopping Center
- c. South: "B-3" Vacant Fair Oaks Ford Car Dealership
- d. West: "B-3" Ogden Mall

SUMMARY OF DEVELOPMENT

The Subject Property consists of 3.2 acres which is zoned B-3 (General Commercial District) and occupied by the Great Lakes Credit Union. The location of the Subject Property makes it ideal for redevelopment for commercial purposes. The Subject Property is in close proximity to major roadways as well as Interstate 88. The areas surrounding uses are predominantly commercial in nature including retail, office, service retail, restaurants, fast food, an international grocery store, and a movie theater in close proximity. Consistent with the City's objective to revitalize the Ogden Avenue corridor, the Petitioner's redevelopment will replace a

credit union with a Culver's and a Circle K both improving and enhancing upon the City's appearance and retail sales tax base. The proposed development provides for a significant investment within this Ogden Avenue corridor with sales tax generating uses, which will hopefully encourage further investment to improve this underperforming corridor.

The proposed development features modern and upscale buildings as well as innovative site design which will not only provide for an enhanced visual impression, but will also improve upon the overall property values in the corridor. Both the Culver's and Circle K have been designed with extensive architectural detail as well as quality materials including masonry materials. The proposed Culver's and Circle K architecture also provides a unique but complementary design by incorporating modern styling. Significant features include masonry walls, decorative cornices, traditional storefronts, large windows and complementary trim work and moldings. These features have been carried through on all four sides of the buildings and are utilized in ways that fit within the context of the development.

Consistent with the City's Ogden Avenue Corridor Enhancement initiative and the B-3 Zoning District, landscape enhancements will include a consistent theme of parkway trees, ornamental plantings, and shrubs. To avoid unsightly dumpsters throughout the development, the trash enclosures will be hidden from sight, fully enclosed and landscaped. Additionally, all signage has been designed in accordance with the City's unified Ogden Avenue signage initiative to further enhance the corridor through consistent messaging. The end result is a development allowing the Subject Property to be utilized in a manner that is compatible with the surrounding environment and to its highest and best use while enhancing the City's real estate and sales tax base and greatly improving the aesthetics of the Ogden Avenue Corridor.

OGDEN AVENUE CORRIDOR ENHANCEMENT INITIATIVE

In 2008, the City of Naperville completed its comprehensive plan supplement relative to this specific area of the community which plan is known as the “Ogden Avenue Corridor Enhancement Initiative” (“Ogden Avenue Study”). The Ogden Avenue Study strives to enhance the character and sense of place, while increasing economic viability and improving the sustainability of the businesses and retail corridor. The Ogden Avenue Study depicts the Subject Property within the eastern zone. In conformance with the City’s Ogden Avenue Study, the development has been designed with the following objectives in mind:

- **Navigation & Business Viability:** The Subject Property has optimum visibility being located adjacent to both Naper Boulevard as well as Naperville-Wheaton Road. Additionally, the Subject Property is less than a mile from I-88 as well as the intersection of Ogden Avenue and Naper Boulevard.
- **Traffic Circulation & Business Accessibility:** The Subject Property has full access to Naperville-Wheaton Road, as well as full signalized access to Naper Boulevard.
- **Corridor Appearance:** Both the Culver’s and Circle K buildings have been designed to enhance the appearance of the Ogden Avenue Corridor.
- **Maintaining/Increasing Economic Viability:** The current credit union use does not generate retail sales tax or contribute to the economic viability of the retail corridor. The proposed Culver’s and Circle K will generate considerable sales tax, create additional spending and will increase the economic viability of the Corridor.
- **Mix and Service Nature of Business:** The development of the Subject Property will provide for additional commercial uses and enhance the mix and retail opportunities.
- **Increase Pedestrian/Cyclist friendliness of the Corridor:** Continuous sidewalks will be maintained along both Naperville-Wheaton Road and Naper Boulevard. Additionally,

there is a cross walk at the entrance and Naper Boulevard to provide access to the Tower Crossing retail development on the east side of Naper Boulevard. Cross access will also be established to the future development of the Fair Oaks Ford property. Lastly, bicycle parking will be provided on site.

- **Protect Nearby Residential Neighborhoods:** There are no nearby residential neighborhoods in the vicinity which will be affected by redevelopment of the Subject Property.
- **Architectural Enhancements:** The use of quality materials and design as recommended by the City's Building Design Guidelines will add visual interest.
- **Landscape Enhancements:** Parkway, building and foundation plantings will be incorporated into the development to enhance the aesthetics of the Subject Property.

REQUIRED DEVELOPMENT ENTITLEMENTS – B3 ZONING DISTRICT

1. The Petitioner seeks approval of a plat of subdivision to re-subdivide the two lots for the development of Culvers and Circle K.
2. The Petitioner seeks a conditional use to allow a Circle K in the B-3 zoning district.
3. The Petitioner seeks a parking variance allowing for a parking ratio of 13 spaces per 1,000 square feet for Culver's.
4. The Petitioner seeks a variance to reduce the front yard parking setback along Naper Boulevard from 70 feet to 60 feet from the centerline and from 20 feet to 10 feet from the right-of-way line.
5. The Petitioner seeks a variance to eliminate the bypass land for the Circle K carwash.
6. The Petitioner seeks a variance to allow an off-site monument for Culver's on Lot #3 and variances to allow monument signs within 40 feet of interior setback lines.

7. The proposed entitlement requests meet all City and State requirements for the development of the Subject Property and will facilitate the beneficial use of the Subject Property as stated below.

VARIANCE TO REDUCE THE REQUIRED OFF-STREET PARKING FOR CULVER'S

a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and

The purpose of the off-street parking requirement is to ensure that adequate parking is provided to meet the demand. Accordingly, the Code provides that each property must provide on-site parking to meet the anticipated parking demand, based on the use of the individual property. The proposed variance to reduce the required off-street parking for Culvers is consistent with the purpose and intent of the zoning regulations. The Petitioner has hired Eriksson Engineering to prepare a comprehensive parking analysis which is attached as **Exhibit B** ("Eriksson Report"). The Eriksson Report illustrates that the proposed parking allocation of 13 spaces per 1,000 square feet exceeds all Institute of Transportation Engineer's recommendations (10 spaces per 1,000) as well all peak hour demands of Culver's restaurants in the Chicagoland area. The proposed variance is also consistent with sustainable development practices and the City's policy to facilitate efficient use of property by not requiring additional paved parking areas which will not be utilized. The proposed variance will not alter the essential character of the area, undermine the intent of and purpose of the underlying zoning district, or have any impact on the larger neighborhood. As a result, the requested variance contributes to a development which offers a superior level of design, while providing an efficient use of the Subject Property.

b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and

Great care was taken in the site and building design. Strict enforcement of the 17 spaces per 1,000 square feet parking requirement would require the Petitioner to install and maintain excess parking areas that will not be used. Additionally, adding unnecessary parking would likely cause the elimination of the cross-access easement to the south which would adversely affect both developments.

c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

This variance would be virtually undetectable and will actually provide for the enhancement of the character and appearance of the area. In addition, the parking study evidences that the Culver's will be adequately parked.

VARIANCE TO REDUCE THE MAJOR ARTERIAL PARKING SETBACK

a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and

The Subject Property is adjacent to Naper Boulevard to the East and Naperville-Wheaton Road to the West. The Circle K and Culver's buildings will actually be setback considerable distances of between 43 feet to over 100 feet from Naper Boulevard and Naperville-Wheaton Road, thereby significantly exceeding the City's B-3 zoning district requirements. However, Code Section 6-9-2-4.6 requires that with respect to major arterial roadways, parking lots be setback 20 feet from the right of way line or 70 feet from the centerline, whichever is greater. Naper Boulevard is a major arterial roadway. Approximately 8 parking spaces will be setback +/- 10 feet from the Naper Boulevard right-of-way line and +/- 60 feet from the Naper Boulevard centerline. The parking setback variance will allow for enhanced vehicular circulation including necessary drive aisles, drive through lanes as well as parking space depth. Additionally, the

proposed parking setbacks are similar to the location of the existing pavement on the Subject property which is currently closer to the roadways and will be an improvement.

b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and

The requested parking setback variance is consistent with the trend of development along Naperville-Wheaton Road and Naper Boulevard whereby the existing business uses and new business uses have parking lots that are within the setback area. Strict enforcement of this requirement would cause the Subject Property to not be developed in conformance with the Ogden Avenue Study, the existing uses along this corridor, or in conformance with the highest and best use of the land. Additionally, compliance with the parking setback requirement would have a detrimental effect on the parking lot circulation, layout and function.

c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

The variance, if granted, will help pave the way for a significant investment in the Ogden Avenue corridor which is in conformance with the City's Ogden Avenue Study and the highest and best use of the property, so there will be no detriment to the adjacent properties. Additionally, the areas adjacent to the parking areas will include landscape enhancements further improving upon the appearance of the area. By constructing the proposed improvements, the Petitioner will enhance the overall essential character with a compatible sales tax producing retail use and enhance the area and larger community.

CONDITIONAL USE TO ALLOW A GASOLINE SERVICE STATION IN THE B-3 ZONING DISTRICT

a. The establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the public health, safety and general welfare; and

The proposed conditional use will not be detrimental to or endanger public health, safety

or the general welfare. The proposed conditional use will provide for the development of underperforming land to be utilized for its highest and best use, which will in turn support the adjacent commercial development, enhance the City's workforce, and also enhance retail and property tax bases. The proposed amendment is in conformance with the City's comprehensive plan and underlying B-3 zoning district. Additionally, the proposed Circle K is located in a commercial area adjacent to other retail uses, and there are no residential areas adjacent to the Subject Property which would be impacted by the conditional use. Thousands of motorists travel along Naperville-Wheaton Road, Naper Boulevard, and Ogden Avenue each day making this location ideal for the proposed use. Moreover, the Subject Property's close proximity to interstate I-88 makes this conditional use extremely valuable and convenient to motorists entering and leaving the highway.

b. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood; and*

The Subject Property is zoned B-3 "General Commercial Business District" and is surrounded by other B-3 zoned properties. There are no residential properties in the immediate vicinity. Literally, tens of thousands of motorists pass the Subject Property on a daily basis. Prior to 2017, a conditional use was not even required for a service station in the B-3 district as it was permitted by right. The proposed conditional use will provide for the improvement of the Subject Property consistent with the City's comprehensive plan and B-3 zoning district. As a result, the property values in the area will increase, and the sales tax base of the city will be enhanced. Additionally, the proposed conditional use will bring more economic activity to the immediate area which will in turn support the adjacent commercial uses. Lastly, the Circle K will provide a convenience for the motorists that pass by this property on a daily basis.

c. The establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the district; and

The proposed conditional use is consistent with the City's Comprehensive Plan, Ogden Avenue Study, and the existing B-3 zoning which will then help insure the normal, orderly and desirable development of the Subject Property and adjacent areas. The proposed development will create the highest and best use of the Subject Property, allow for the Subject Property to generate retail sales tax, and eliminate the existing credit union use. Additionally, redevelopment of the Subject Property will facilitate future development in this quadrant of the City consistent with the City's land use objectives.

d. The establishment of the conditional use is not in conflict with the adopted comprehensive master plan.

The proposed development is right on target with the City's comprehensive plan and Ogden Avenue Study as evidenced herein, which is the comprehensive master plan for this area.

VARIANCE TO PERMIT AN OFF-SITE MONUMENT SIGN FOR CULVERS ON LOT #3 OF THE TARTAN SUBDIVISION.

a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and

The off-site sign variance request is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. A stated purpose of the Sign Code is to "advance the economy of the City by recognizing the need for adequate site identification through promoting the reasonable and objective display of signage, and to encourage effective communication between signs and the public." The off-site monument sign variance arises only due to a technical platting matter. The Petitioner intends to create an open space lot at the southeast corner of the property where the detention area will be located (lot #3) which is adjacent to the Culver's. Lot #3 is being created for the purposes of conveying it to a business

owner's association that will be created to be responsible for all open space maintenance. As the petitioner will be creating a separate lot adjacent to Culver's where the monument sign will be located, City Code then considers the Culver's monument sign an off-site sign. If the Petitioner did not create a separate lot for the detention area, no variance would be required. For all practical matters the Culver's monument sign will be adjacent to the Culver's building and will appear to be a part of the Culver's property having no negative effect.

b. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. The proposed monument sign meets the criteria required for ground signs. The variance arises solely out of a platting parameters. If Culver's, instead of the Culver's business owner's association owned the land on which the monument sign is located, no variance would be required. Additionally, if the detention area were not platted as its own separate lot, no off-site signage variance would be required. Therefore, if granted, the variance will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. Strict enforcement of the Sign Code would result in the petitioner having to re-plat the Tartan Subdivision. In lieu of creating a separate out lot for the open space/detention, Petitioner would then have to record easements over this area for the association to maintain. This later approach is not the proper way to provide for ownership and maintenance of open space areas.

Lastly, the proposed variation will not be materially detrimental or injurious to other property or improvements in the neighborhood. In fact, approval of the variance will provide a substantial improvement to the Subject Property. Moreover, the proposed variation will have no

effect on the visibility to adjacent property, will not increase danger or traffic problems, and will not endanger the public safety. Allowing construction of the new monument sign will improve the overall aesthetic of the neighborhood. Additionally, approval of the variance will allow the Subject Property to be used as many other properties are utilized in the vicinity.

c. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardship due to special and unusual conditions which are not generally found on other properties in the same zoning district; and

The hardship has not been created by the Petitioner or any person having a proprietary interest in the monument sign. The platting of the site along with the surrounding neighborhood creates a unique set of circumstances.

**VARIANCE TO PERMIT MONUMENT SIGNS WITHIN 40’ OF AN INTERIOR
PROPERTY LINE**

a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and

The variance to locate monument signs within 40’ of an interior property line is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. A stated purpose of the Sign Code is to “advance the economy of the City by recognizing the need for adequate site identification through promoting the reasonable and objective display of signage, and to encourage effective communication between signs and the public.” The need for a variance in this case also arises due to a platting matter. Due to the Petitioner creating a separate lot for the east/west access road for maintenance and ownership purposes, the monuments signs located at the northeast corner, northwest corner and southwest corner are all considered within 40’ of the lot #3 interior setback. The intent of the 40’ interior setback requirement is to protect adjacent property owners from clutter and interference of sight lines. In this case, the 40’ setback in question is internal to the site and will have no effect on any adjacent

property. Additionally, monument signs should be placed in close proximity to access roads adequate site identification. Therefore, not only will this variance not have any detrimental effect on neighboring properties, but it will provide for the monument signs to be placed in the optimal locations. The Petitioner will also meet all other sign requirements, including lot width, required sight lines and dimensions. Additionally, through the use of landscape treatments the monument signs will provide substantial aesthetic improvement to the existing condition and provide an enhancement to the Ogden Avenue Corridor. Lastly, there will be no negative impact to the character of the neighborhood.

b. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

The variances, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. The proposed monument signs meet the design criteria required for ground signs. The variance arises solely out of a platting parameters. If the east/west access road were not platted as its own separate lot, no interior setback variance would be required. Therefore, if granted, the variance will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. Strict enforcement of the Sign Code would result in the petitioner having to re-plate the Tartan Subdivision. In lieu of creating a separate out lot for interior roadway, Petitioner would then have to record easements over this area for the association to maintain. This later approach is not the proper way to provide for ownership and maintenance of open space areas and a private drive.

Lastly, the proposed variations will not be materially detrimental or injurious to other property or improvements in the neighborhood. In fact, approval of the variances will provide a substantial improvement to the Subject Property. Moreover, the proposed variations will have no

effect on the visibility to adjacent property, will not increase danger or traffic problems, and will not endanger the public safety. Instead, allowing construction of the new monument signs will improve the overall aesthetic of the neighborhood. Additionally, approval of the variances will allow the Subject Property to be used as many other properties are utilized in the vicinity.

- c. *Strict enforcement of this Title would result in practical difficulties or impose exceptional hardship due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

The hardship has not been created by the Petitioner or any person having a proprietary interest in the monument sign. The platting of the site along with the surrounding neighborhood creates a unique set of circumstances.

VARIANCE TO ELIMINATE THE CIRLE K BYPASS LANE

- a. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The variance to eliminate the bypass lane is consistent with the intent of this title and the adopted comprehensive plan. Both the Ogden Avenue Corridor and existing commercial zoning envision the property with retail and commercial uses which are consistent with the Petitioner's proposed use of the Subject Property as a Circle K and Culvers. Granting the bypass lane variance will allow for the efficient utilization of the Subject Property and provide for the redevelopment of the Subject Property consistent with the City's comprehensive plan.

- b. *Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

Strict enforcement of this title would result in the need for a parallel pavement section which would serve little, if any, purpose. The additional paved area would create unnecessary

pavement to maintain, additional impervious area, less landscaped area and would have a negative effect on the parking and site layout.

c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

The variance to eliminate the bypass lane will have no negative effect on the essential character of the neighborhood and will not be a substantial detriment to the adjacent property.

Vehicles wishing to access the Circle K car wash will access the car wash from the access drive at the rear of the building. Once the visitor gets to the carwash entry, if the visitor changes their mind there is a north/south bypass available prior to entering the car wash. The north/south bypass lane will insure no one has to back out thereby fulfilling the intent of the Code. This condition is similar to many other carwash drives including the recently constructed Shell Station carwash at Rickert and 75th Street.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests the City Council and Plan Commission take the necessary steps to: (i) approve a plat of subdivision to re-subdivide two lots located at 1519 N. Naper Boulevard to allow for redevelopment of the Subject Property as a Culver's restaurant and a Circle K gas station; (ii) approve a conditional use to allow for the Circle K in the City's B-3 zoning district; (iii) grant a parking variance allowing for a parking ratio of 13 spaces per 1,000 square feet for Culver's Restaurant; (iv) grant a variance to eliminate the bypass lane for the Circle K car wash; (v) grant front yard parking setback variances along Naper Boulevard and Naperville-Wheaton Road to reduce the front yard parking setback from 70 feet to 60 feet from the roadway centerlines and from 20 feet to 10 feet from the right-of-way line; (vi) grant variances allowing for an off-site monument sign and monument signs to be located within 40 feet of an interior setback line; and (vii) such other variances,

departures or deviations as may be necessary to develop the Subject Property pursuant to the appropriate provisions of the Code.

RESPECTFULLY SUBMITTED this 8th day of November 2018.

PETITIONER:

TRG Acquisitions, LLC, an Illinois limited liability company



Rosanova & Whitaker, Ltd.
Attorneys for the Petitioner

LIST OF EXHIBITS

EXHIBIT A: LEGAL DESCRIPTION OF SUBJECT PROPERTY

EXHIBIT B: PARKING STUDY

**EXHIBIT A
LEGAL DESCRIPTION**

LOTS 1 AND 2 IN OLYMPIC FEDERAL RESUBDIVISION BEING A RESUBDIVISION OF PART OF LOTS 10 AND 11 IN ARTHUR T. MCINTOSH AND COMPANY'S BRUMMEL FARMS, BEING A SUBDIVISION OF PARTS OF SECTIONS 5 AND 8, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID RESUBDIVISION RECORDED APRIL 24, 1989, AS DOCUMENT R89-46655, IN DUPAGE COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 1519 N. Naper Boulevard, Naperville, IL 60563

PIN(s): 08-08-101-007
 08-08-101-008

EXHIBIT B
PARKING STUDY