

PIN: 07-15-302-011  
07-15-302-019

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

PREPARED BY:  
CITY OF NAPERVILLE  
LEGAL DEPARTMENT  
630/420-4170

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

PZC Case #22-1-091

## 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. 13 (FREDDY'S)

#### RECITALS

1. **WHEREAS**, ABDH Partners, LLC ("**Petitioner**"), has petitioned the City of Naperville ("**City**") for approval of a variance to Section 6-9-3 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 Glacier Park Resubdivision No. 13, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, Nare High Gove III, LLC ("**Owner**") is the owner of the Subject Property and has authorized the Petitioner to submit the variance petition; and
3. **WHEREAS**, the Subject Property was previously known as Lot 1 and Lot 3 of the Glacier Park Resubdivision No. 9; and

4. **WHEREAS**, in conjunction with the above-referenced variance petition, the Petitioner submitted a new Final Plat of Subdivision for Glacier Park Resubdivision No. 13 which adjusted the lot lines of certain lots within Glacier Park Resubdivision No. 9; and
5. **WHEREAS**, the Subject Property is currently zoned B2 (Community Shopping Center District) and is improved with a vacant retail outlot on Lot 1 of Glacier Park Resubdivision No. 13 and a multi-tenant commercial building located on Lot 2 of Glacier Park Resubdivision No. 13; and
6. **WHEREAS**, the Petitioner is proposing to construct a new 3,200 square foot fast-food restaurant (Freddy's) on Lot 1 of the Glacier Park Resubdivision No. 13 as depicted on **Exhibit C**; and
7. **WHEREAS**, per the Petitioner, Glacier Park Resubdivision No. 13 is subject to a Reciprocal Easement Agreement recorded as R96-122605 which provides for shared parking across the Subject Property; and
8. **WHEREAS**, in accordance with Section 6-9-3 (Schedule of Off-Street Parking Requirements) of the Naperville Municipal Code, the proposed fast-food restaurant to be located on Lot 1 of the Subject Property and the existing multi-tenant commercial building located on Lot 2 of the Subject Property require a total of 409 code-required parking spaces; and
9. **WHEREAS**, following construction of the proposed fast-food establishment on Lot 1, 373 total parking spaces will be provided on the Subject Property, as depicted on page 22 of **Exhibit D**, resulting in a deficit of 36 code-required parking spaces;

10. **WHEREAS**, said parking deficit requires a variance to Section 6-9-3 (Schedule of Off-Street Parking Requirements); and
11. **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 261 parking spaces, which is well below the 373 parking spaces which will be provided on the Subject Property; and
12. **WHEREAS**, on February 1, 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; and
13. **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. 13 from 409 parking spaces to 373 parking spaces is hereby approved subject to the following conditions:

1. If the City's Zoning Administrator determines that the Petitioner's fast-food restaurant, or any successor restaurant or use on Lot 1, exceeds the peak parking demands set forth in the attached Parking Study, such that the parking needs for Lot 1 cannot be accommodated within the parking on the subject

property, the Petitioner and Owner shall take adequate measures to meet the parking needs for Lot 1, including but not limited to formally assigning/reserving parking spaces for each tenant space, altering the number of employees or other business operations, 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 Lot 1 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.

\_\_\_\_\_  
Steve Chirico  
Mayor

ATTEST:

\_\_\_\_\_  
Pam Gallahue, Ph. D.  
City Clerk