

ORDINANCE NO. 22- _____

**AN ORDINANCE
DESIGNATING A BUSINESS DISTRICT,
APPROVING THE BUSINESS DISTRICT PLAN,
AND MAKING A BLIGHTED AREA FINDING IN RELATION TO
THE HEINEN BUSINESS DISTRICT**

RECITALS

1. **WHEREAS**, The City of Naperville (“City”), is a home rule municipality in accordance with Article VII Section 6(a) of the Constitution of the State of Illinois of 1970, and is enacting this Ordinance pursuant to its home rule authority and the Illinois Business District Redevelopment Act 65 ILCS 5/11-74.3-1, *et seq.* (the “Act”); and
2. **WHEREAS**, Section 11-74.3-1(1) of the Act allows a municipality to determine that it is essential to the economic and social welfare of the municipality that business districts be developed, redeveloped, improved, maintained, and revitalized, that jobs and opportunity for employment be created within the municipality, and that, if blighting conditions are present, blighting conditions be eradicated by assuring opportunities for development or redevelopment, encouraging private investment, and attracting sound and stable business and commercial growth; and
3. **WHEREAS**, on August 16, 2022 the Mayor and City Council of the City (the “Corporate Authorities”) approved Resolution No. 22-22 entitled “A Resolution Expressing the City of Naperville’s Intent to Consider Designation of a Business District on Property Within the City, To Impose Business District Sales Taxes, and to Induce Development Interest Within Such District Proposed at 1256 Through 1290 East Chicago Avenue of Naperville, Illinois”; and
4. **WHEREAS**, on September 20, 2022 the Corporate Authorities approved Ordinance 22-115 proposing the designation of a Business District in the City of Naperville, DuPage County, Illinois, and scheduled a public hearing (the “Public Hearing”) for October 4, 2022 for a proposed business district (to wit: the “Heinen Business District” or “District”). The purpose of such Public Hearing was to examine the Business District Plan for the Proposed Business District (now known as the “Heinen Business District”) and determine whether it should later be approved, whether the proposed business district should be designated as a business district pursuant to the Act, as required by 65 ILCS 5/11-74.3-2(a), and whether a “blighted area” finding, and determination should be made with regard to the proposed business district; and
5. **WHEREAS**, the Corporate Authorities authorized Kane, McKenna & Associates, Inc. (the “Consultant”) to prepare a “Business District Plan” pursuant to the Act for

the Heinen Business District area legally described and depicted on **Exhibit A-1** and **Exhibit A-2**, respectively, attached hereto and made a part hereof; and

6. **WHEREAS**, Ordinance 22-115 further provided that the public notice required by the Act (“Notice”) would be published twice, on September 21, 2022 and September 23, 2022, and said Notice provided that the Public Hearing would be held to consider the Business District Plan on October 4, 2022; and
7. **WHEREAS**, the Notice was duly published on September 21, 2022 and September 23, 2022 in a newspaper of general circulation within the City, as required by 65 ILCS 5/11-74.3-2(b) and copy of the Publisher’s Certificate relative to said Notice being attached hereto as **Exhibit B** and made part hereof; and
8. **WHEREAS**, the Consultant prepared the Business District Plan pursuant to the Act for the proposed Heinen Business District and the BD Plan is attached hereto as **Exhibit C** and made a part hereof; and
9. **WHEREAS**, on October 4, 2022, pursuant to the Notice, the Public Hearing was held as required by 65 ILCS 5/11-74.3-2(c) and:
 - (i) there were no submissions of alternate proposals or bids for any proposed conveyance, lease, mortgage or other disposition by the City of land or rights in land owned by the City and located within the proposed Heinen Business District; and
 - (ii) City staff and the Consultant presented the proposed Business District Plan for designation of the proposed Heinen Business District as a business district as contemplated by the Act, with a “blighted area” finding, and presented the BD Plan in relation thereto; and
 - (iii) all interested persons were given an opportunity to be heard in relation to the designation of the Heinen Business District as a business district, the approval of the BD Plan in relation thereto, and the “blighted area” finding and determination in relation thereto, and no interested persons sought to be heard in relation thereto; and
 - (iv) all persons desiring to submit written objections were given an opportunity to do so and to be heard on said objections; and
 - (v) the Corporate Authorities heard all protests and objections; and
10. **WHEREAS**, on October 4, 2022 the Public Hearing was concluded and adjourned by the Corporate Authorities upon motion, second and unanimous roll call vote; and

11. **WHEREAS**, the Corporate Authorities find that the Heinen Business District constitutes an economic liability and an underutilization of the area in its present condition and use, and on the whole has not been subject to growth and development through investment by private enterprises and would not reasonably be anticipated to be developed or redeveloped without the adoption of the BD Plan, as set forth in the BD Plan; and
12. **WHEREAS**, the Corporate Authorities find and determine that the BD Plan conforms to the Comprehensive Plan of the City; and
13. **WHEREAS**, the Corporate Authorities find and determine that the Heinen Business District is a “blighted area” as defined in the Act, due to the deterioration of site improvements and the existence of conditions which endanger property by flooding causes as set forth in the BD Plan; and
14. **WHEREAS**, the Corporate Authorities find and determine that it is in the best interests of the City that the Heinen Business District be designated as a business district pursuant to the terms of the Act.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL

OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in

exercise of its home rule authority that:

SECTION 1: Recitals incorporated. The foregoing Recitals are hereby incorporated in this Section 1 as though fully set forth herein.

SECTION 2: That the Corporate Authorities find and determine as follows, as further described in the BD Plan:

- (i) That the Heinen Business District has not been subject to growth and development through investment by private enterprises and would not reasonably be anticipated to be developed or redeveloped without the adoption of the BD Plan; and
- (i) That the Heinen Business District conforms to the Comprehensive Plan of the City; and
- (ii) That the Heinen Business District is a “blighted area” as defined in the Act.

SECTION 3: That the Heinen Business District is hereby designated as a business district pursuant to the Act, to be known as “Heinen Business District”.

SECTION 4: That the Heinen Business District is hereby approved and adopted as the Business District Plan for the City of Naperville.

SECTION 5: That in promoting development and redevelopment within the Heinen Business District, the Corporate Authorities may exercise those powers as set forth in the Act.

SECTION 6: That a one-half of one percent (0.5%) business district retailers’ occupation tax and a one-half of one percent (0.5%) business district service occupation tax (the “Business District Sales Taxes”), shall be imposed within the Heinen Business District due to the “blighted area” designation for the Heinen Business District as provided for in the Act, with a specific Ordinance imposing said Business District Sales Taxes to be approved by the Corporate Authorities, and filed with the Illinois Department of Revenue, as provided for by the Act.

SECTION 7: That all ordinances, orders and resolutions and parts thereof in conflict herewith shall be and the same are hereby repealed.

SECTION 8: If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance or their application if they can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision is severable, unless otherwise provided by this Ordinance.

SECTION 9: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED by the Mayor and City Council of the City of Naperville, DuPage and Will
Counties, Illinois, this 6th day of December 2022.

AYES:

NAYS:

ABSENT:

Pam Gallahue, Ph.D.
City Clerk

APPROVED this 7th day of December 2022.

Steve Chirico
Mayor

ATTESTED to and PUBLISHED by me this 7th
day of December 2022 in
pamphlet form.

Pam Gallahue, Ph.D.
City Clerk

Exhibit A-1

Legal Description, Permanent Tax Index Numbers and Street Location (Common Addresses) for the Heinen Business District

Legal Description of Proposed Area

Lot 1 in Eagle Crest Plaza Subdivision, being a Subdivision in the South 1/2 of Section 17, Township 38 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded July 16, 1974 as document R74-36120, in DuPage County, Illinois.

Common Address

1256 through 1290 East Chicago Avenue, Naperville, IL.

PINs of Proposed Area

08-17-303-022

Exhibit A-2

**Depiction (Map) of the
Heinen Business District
(attached)**

Exhibit B

**Publisher's Certificate
for the Public Hearing Notice**

(attached)

Exhibit C

**Business District Plan for the
Heinen Business District
(attached)**