

PIN: 07-01-10-101-018

ADDRESS:  
3320 S. IL ROUTE 59  
NAPERVILLE, IL 60564

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

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

PZC Case #24-1-077

**ORDINANCE NO. 24 -**

**AN ORDINANCE GRANTING A VARIANCE FROM SECTION 6-9-6:2.2  
(SUPPLEMENTAL STANDARDS FOR DRIVE-THROUGH STACKING LANES) OF  
THE NAPERVILLE MUNICIPAL CODE FOR THE PROPERTY LOCATED AT  
3320 S. IL ROUTE 59**

**[CHICK-FIL-A]**

**RECITALS**

1. **WHEREAS**, John R. Properties, LLC, 8703 Shaffer Drive, Powell, OH 43065 (“**Owner**”), is the owner of real property located at 3320 S. IL Route 59, Naperville, IL 60564, legally described on **Exhibit A** and depicted on **Exhibit B** (“**Subject Property**”).
2. **WHEREAS**, HR Green Development, LLC (c/o Joseph Vavrina), 1391 Corporate Drive, Suite 203, McHenry, IL 60050 (“**Petitioner**”), has petitioned the City of Naperville for approval of a variance to Section 6-9-6:2.2 of the Naperville Municipal Code to reduce the length of the required bypass lane to redevelop the Subject Property with a drive-through only Chick-fil-a restaurant.

3. **WHEREAS**, the Subject Property is zoned B2 (Community Shopping Center District) and drive-through only eating establishments are a permitted use in the B2 zoning district.
4. **WHEREAS**, the site plan for the drive-through eating establishment, attached hereto as **Exhibit C** (“**Site Plan**”), includes a dual lane drive-through which exceeds the City’s stacking requirements as outlined in Section 6-9-3:5 (Stacking Requirements For Use With Drive-Through Facilities).
5. **WHEREAS**, the Petitioner requests approval of a variance to Section 6-9-6:2.2 (Supplemental Standards For Drive-Through Stacking Lanes) of the Naperville Municipal Code to reduce the length of the required bypass lane and have the bypass lane end prior to order fulfillment as illustrated on **Exhibit C** (“**Site Plan**”).
6. **WHEREAS**, on October 16, 2024, the Planning and Zoning Commission considered the Petitioner’s variance request and recommended approval of Petitioner’s request.
7. **WHEREAS**, the City Council of the City of Naperville has determined that Petitioner’s requests meet the variance standards as provided in **Exhibit D** 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 6-9-6:2.2 (Supplemental Standards For Drive-Through Stacking Lanes) of the Naperville Municipal Code to eliminate the required

bypass lane as illustrated on **Exhibit C** (“**Site Plan**”) is hereby approved, subject to the following condition:

- i. Chick-fil-A will use commercially reasonable efforts to manage the drive-thru lane to prevent the circulation of traffic on the Subject Property from materially and adversely impacting Lacrosse Lane or access to adjacent commercial properties. In the event the City Engineer or his or her designee (“City Engineer”) determines that drive-thru operations on the Subject Property are materially and adversely impacting Lacrosse Lane or access to adjacent commercial properties (“Traffic Flow Problem”), the City Engineer may provide written notice to Chick-fil-A. Within three (3) business days after receipt of the notice, Chick-fil-A shall present a plan to the City Engineer to fix the Traffic Flow Problem. Such plan may include traffic control measures, including but not limited to placing, at Chick-fil-A’s sole cost and expense, a traffic control manager on the property during peak hours and implementing other temporary traffic control measures as may be deemed necessary by Chick-fil-A (e.g. temporary signage and traffic cones (“Plan”). Chick-fil-A will cooperate in good faith to review, modify and implement the initial Plan. If the City Engineer determines that the Traffic Flow Problem is not resolved within a five (5) business day period after the City Engineer’s completed review of the initial Plan, Chick-fil-A agrees, that after its receipt of a subsequent written notice from the City Engineer to diligently proceed to reassess the issue and design and implement an alternative Plan, also to be reviewed by the City Engineer, all at Chick-fil-A’s sole cost and expense. If the City Engineer determines the Traffic Flow Problem is not resolved within a five (5) business day period after the City Engineer’s completed review of the alternative Plan then the City Engineer shall provide Chick-fil-A with a final notice and Chick-fil-A shall have a five (5) business day period to implement a final cure Plan to resolve the Traffic Flow Problem. If the City Engineer determines that the Traffic Flow Problem is not resolved within a five (5) business day period after the City Engineer’s completed review of the final cure Plan, then the City may provide written notice to Chick-fil-A that the City is imposing a fine in the amount of two hundred fifty dollars (\$250.00) per day beginning on the date that the notice regarding the fine was provided to Chick-fil-A and continuing until such time as Chick-fil-A can reasonably resolve the Traffic Flow Problem.

**SECTION 3:** The Site Plan, attached to this Ordinance as **Exhibit C**, is hereby approved as the controlling site plan for the Subject Property.

**SECTION 4:** The Building Elevations, attached to this Ordinance as **Exhibit E**, are hereby approved as the controlling building elevations for the Subject Property.

**SECTION 5:** The variance approved by this Ordinance shall expire unless within two (2) years from the effective date of this Ordinance if: (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 6:** This variance shall be subject to revocation for 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.

**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. 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 Will County Recorder.

**SECTION 8:** The City Clerk is authorized and directed to record this Ordinance with the Will County Recorder.

**SECTION 9:** 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.

\_\_\_\_\_

Scott A. Wehrli  
Mayor

ATTEST:

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Dawn C. Portner  
City Clerk