

PIN: 08-08-100-029

ADDRESS:
1291-1295 E OGDEN AVENUE
NAPERVILLE, IL 60563

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 #21-1-126

ORDINANCE NO. 22 -

AN ORDINANCE GRANTING VARIANCES FROM SECTION 6-9-6:2 (SUPPLEMENTAL STANDARDS FOR DRIVE-THROUGH STACKING LANES), SECTION 6-9-3:5 (STACKING REQUIREMENTS FOR USE WITH DRIVE-THROUGH FACILITIES), SECTION 6-16-5:2.2.2 (GROUND SIGNS/SIGN AREA), SECTION 6-16-5:2.2.4 (GROUND SIGNS/HEIGHT), AND SECTION 6-16-3:7 (PROHIBITED SIGNS) FOR OF THE NAPERVILLE MUNICIPAL CODE FOR THE PROPERTY LOCATED AT 1291-1295 E OGDEN AVENUE (EASTGATE OUTLOT)

RECITALS

1. **WHEREAS**, James Sean Devine (Norcor Naperville Associates), 1030 W. Higgins Road Ste. 360, Park Ridge, Illinois 60068 ("**Owner and Petitioner**"), is the owner of real property located at 1291-1295 E Ogden Avenue, Naperville, IL 60563, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, the Subject Property is zoned B2 (Community Shopping Center District) and the Petitioner plans to construct a new commercial outlot on the Subject Property, within the Eastgate Crossing Shopping Center; and

3. **WHEREAS**, the Petitioner requests approval of two drive-through variances, including: (a) Section 6-9-6:2 (Supplemental Standards For Drive-Through Stacking Lanes) to eliminate the required bypass lane for a drive-through, as illustrated on **Exhibit C** (“**Site Plan**”); and, (b) Section 6-9-3:5 (Stacking Requirements For Use With Drive-Through Facilities) to reduce the number of required stacking spaces for a drive-through from twelve (12) spaces to three (3) spaces, as illustrated on **Exhibit C** (“**Site Plan**”); and
4. **WHEREAS**, the Petitioner has confirmed that the drive-through variances requested are specific to the restaurant tenant, Kura Sushi; and
5. **WHEREAS**, the petitioner submitted a parking and traffic evaluation, included as **Exhibit D**, which evaluated the parking demand of the projected development as well as addressed the amount of traffic that will be generated and the use of the pick-up lane; and
6. **WHEREAS**, the parking and traffic evaluation, included as **Exhibit D**, supported the petitioner’s proposed site plan and associated drive-through variances; and
7. **WHEREAS**, the Petitioner also requests approval of three signage variances, including: (a) Section 6-16-5:2.2.2 (Ground Signs/Sign Area) to allow an increase in sign area from 45 square feet to 50.2 square feet for the main shopping center entrance sign, as illustrated on **Exhibit E** (“**Sign Plan**”); (b) Section 6-16-5:2.2.4 (Ground Signs/Height) to allow an increase in sign height from 10 feet to 15 feet for the main shopping center entrance sign, as illustrated on **Exhibit E** (“**Sign Plan**”); and, (c) Section 6-16-3:7 (Prohibited Signs) to allow ground signage within the

Eastgate Crossing shopping center to display off-premises signage for all tenants within Eastgate Crossing, regardless of which lot they are located on; and

8. **WHEREAS**, the ground signs depicted on **Exhibit E** (“**Sign Plan**”) have been designed consistent with the East Ogden Avenue Monument Sign Standards; and
9. **WHEREAS**, on June 15, 2022, the Planning and Zoning Commission considered the Petitioner’s variance requests and recommended approval of Petitioner’s requests, subject to conditions; and
10. **WHEREAS**, the City Council of the City of Naperville has determined that Petitioner’s requests meet the variance standards as provided in **Exhibit F** 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: Variances to Section 6-9-6:2 (Supplemental Standards For Drive-Through Stacking Lanes) to eliminate the required bypass lane for a drive-through and Section 6-9-3:5 (Stacking Requirements For Use With Drive-Through Facilities) to reduce the number of required stacking spaces for a drive-through from twelve (12) spaces to three (3) spaces, as illustrated on **Exhibit C** (“**Site Plan**”), are hereby approved, subject to the following conditions:

- a) The drive-through variances approved shall be specific to the restaurant tenant, Kura Sushi, and any tenant change will require the owner of the Subject Property (or Owner’s successors, transferees, and assigns) to request and receive approval of

additional drive-through variances prior to continued use of the drive-through window.

- b) If complaints are submitted to the City of Naperville regarding drive-through operations and cars backing up onto the Eastgate Crossing shopping center drive aisles, 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 6-16-5:2.2.2 (Ground Signs/Sign Area) to allow an increase in sign area from 45 square feet to 50.2 square feet for the main shopping center entrance sign, as illustrated on **Exhibit E** ("**Sign Plan**"), is hereby approved.

SECTION 4: A variance to Section 6-16-5:2.2.4 (Ground Signs/Height) to allow an increase in sign height from 10 feet to 15 feet for the main shopping center entrance sign, as illustrated on **Exhibit E** ("**Sign Plan**"), is hereby approved.

SECTION 5: A variance to Section 6-16-3:7 (Prohibited Signs) to allow ground signage within the Eastgate Crossing shopping center to display off-premises signage for all tenants within Eastgate Crossing, regardless of which lot they are located on, is hereby approved.

SECTION 6: The Site Plan, attached to this Ordinance as **Exhibit C**, is hereby approved as the controlling site plan for the Subject Property.

SECTION 7: The variances 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 8: 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 9: 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 10:The City Clerk is authorized and directed to record this Ordinance with the DuPage County Recorder.

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

PASSED this _____ day of _____, 2022.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2022.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk