

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 A venue 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 A venue 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-plate 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-plat 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,