

**PIN: [BLOCK 59 SHOPPING CENTER]
07-22-102-022**

**COMMON ADDRESS:
404 S. ROUTE 59
NAPERVILLE, IL 60540**

**PIN: [WESTRIDGE COURT SHOPPING CENTER]
07-22-102-033**

**COMMON ADDRESS:
204 S. ROUTE 59
NAPERVILLE, IL 60540**

**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 #23-1-059

ORDINANCE NO. 23 - _____

**AN ORDINANCE APPROVING THE FINAL PLAT OF SUBDIVISION
FOR BLOCK 59 SHOPPING CENTER AND AN OWNERS' ACKNOWLEDGEMENT
AND ACCEPTANCE AGREEMENT FOR BLOCK 59 SHOPPING CENTER AND THE
WESTRIDGE COURT SHOPPING CENTER**

RECITALS

1. **WHEREAS**, Brixmor Heritage Square LLC, 8700 West Bryn Mawr Avenue, Suite 1000-S, Chicago, IL 60631 ("**Block 59 Owner**") is, or will be, the owner of 16.75 acres of real property located at the northeast corner of IL Route 59 and Aurora

Avenue, legally described on **Exhibit A** and depicted on **Exhibit B**, to be known as the Block 59 Shopping Center (“**Block 59 Shopping Center**”).

2. **WHEREAS**, Brixmor Holdings 6 SPE, LLC, a Delaware limited liability company, having an address at c/o Brixmor Property Group Inc., 450 Lexington Avenue, 13th Floor, New York, New York 10017 (“**Westridge Court Owner**”) is, or will be, the owner of 49.02 acres of real property located at the northeast corner of IL Route 59 and Aurora Avenue, legally described on **Exhibit C** and depicted on **Exhibit B** which is known as the Westridge Court Shopping Center (“**Westridge Court Shopping Center**”).
3. **WHEREAS**, the real properties which comprise the Block 59 Shopping Center and the Westridge Court Shopping Center are located adjacent to each other.
4. **WHEREAS**, on March 22, 2023, the City Council of the City of Naperville approved the following ordinances relating to the Block 59 Shopping Center which is intended to be developed for restaurant, entertainment, and experiential uses: (i) Ordinance 23-036, revoking Ordinance 91-205 which established the Heritage Square Planned Unit Development (PUD) recorded as Doc. No R2023-021673 with the DuPage County Recorder; (ii) Ordinance 23-037 approving the Preliminary Plat of Subdivision for the Block 59 Shopping Center recorded as Doc. No R2023-021674 with the DuPage County Recorder; and (iii) Ordinance 23-038 approving a conditional use for a PUD, a Preliminary PUD Plat and various deviations for the Block 59 Shopping Center recorded as Doc. No R2023-021675 with the DuPage County Recorder.

5. **WHEREAS**, the Final Plat of Subdivision for Block 59 attached hereto as **Exhibit D** is in substantial conformance with the Preliminary Plat of Subdivision for Block 59 approved by Ordinance 23-037.
6. **WHEREAS**, Petitioner has requested that the City approve this ordinance ("**Ordinance**"), including but not limited to the Owners' Acknowledgement and Acceptance Agreement for Block 59 Shopping Center and the Westridge Court Shopping Center (hereinafter "**OAA**" or "**Owners' Acceptance and Acknowledgement Agreement**"), and an ordinance approving the Final Plat of Planned Unit Development for Block 59 ("**Final PUD Plat**") (hereinafter together referenced herein as the "**Block 59 Ordinances**").
7. **WHEREAS**, Petitioner has requested that the City delay recordation of the Block 59 Ordinances, including but not limited to the Owners' Acknowledgement and Acceptance Agreement, with the DuPage County Recorder for a period of up to (2) years from the date of approval of the Block 59 Ordinances (the "**Recording Timeframe**"). Delayed recordation will allow Petitioner time to obtain title to a portion of the real property which is the subject of this Ordinance and the ordinance approving the Final PUD Plat, and to obtain approval of the Final Plat of Subdivision from the Illinois Department of Transportation.
8. **WHEREAS**, subject to approval of this Ordinance and the ordinance approving the Final PUD Plat for Block 59 Shopping Center, the City has agreed to the proposed Recording Timeframe for recordation of the Block 59 Ordinances and fully executed Final PUD Plat, the Final Plat of Subdivision, and the Owner's Acknowledgement and Acceptance Agreement. If the Block 59 Ordinances, including all exhibits thereto,

and a fully executed Owners' Acknowledgement and Acceptance Agreement, Final Plat of PUD, and Final Plat of Subdivision, which are to be recorded separately, are not recorded with the DuPage County Recorder within the Recording Timeframe, the City and Petitioner agree that they shall not be recorded and shall be deemed to be automatically null and void and of no force or effect with no further action being taken by the City and or the Petitioner. Petitioner has acknowledged that in no event shall the City be liable or responsible in any manner or for any claim or loss if the documents referenced above are not recorded within the Recording Timeframe.

9. **WHEREAS**, the City Council of the City of Naperville has determined that the Final Plat of Subdivision for Block 59 Shopping Center, including but not limited to the Owners' Acknowledgement and Acceptance Agreement for Block 59 Shopping Center and the Westridge Court Shopping Center, should be approved 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: Subject to execution and recordation of the Block 59 Ordinances and the fully executed Final PUD Plat, Final Plat of Subdivision, and Owners' Acknowledgement and Acceptance Agreement within the Recording Timeframe, the Final Plat of Subdivision for the Block 59 Shopping Center attached to this Ordinance as **Exhibit D** and the Owners' Acknowledgement and Acceptance Agreement for Block 59 Shopping Center and the

Westridge Court Shopping Center attached to this Ordinance as **Exhibit E** are hereby approved. The City Manager and the City Clerk are hereby authorized and directed to execute said Final Plat of Subdivision and Owners' Acknowledgement and Acceptance Agreement subject to such technical and minor substantive revisions thereto as may be deemed acceptable to the City Attorney.

SECTION 3: If the Block 59 Ordinances, including all exhibits thereto, and a fully executed Owners' Acknowledgement and Acceptance Agreement, Final Plat of PUD, and Final Plat of Subdivision, which are to be recorded separately, are not recorded with the DuPage County Recorder within the Recording Timeframe, then they shall not be recorded and shall be deemed to be automatically null and void and of no force or effect with no further action being taken by the City and or the Petitioner. Petitioner has acknowledged that in no event shall the City be liable or responsible in any manner or for any claim or loss if the documents referenced above are not recorded within the Recording Timeframe.

SECTION 4: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 5: Subject to receipt of direction from the City Attorney to do so, and subject to such technical and minor substantive revisions as may be deemed acceptable to the City Attorney, the City Clerk is authorized and directed to record the Block 59 Ordinances, with all exhibits attached thereto, and the fully executed Final PUD Plat, Final Plat of Subdivision, and Owners' Acknowledgement and Acceptance Agreement with the DuPage County Recorder so long as such recordation occurs within the Recording Timeframe.

SECTION 6: 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 7: This Ordinance shall take effect and be in full force and effect upon its recordation with the DuPage County Recorder as provided herein.

PASSED this _____ day of _____,
2023.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2023.

Scott A. Wehri
Mayor

ATTEST:

Dawn Portner
City Clerk

Exhibit A

Legal Description of Block 59 Shopping Center

Metes and Bounds Legal Description of the Subject Property Prior to Recordation of the Plat of Subdivision:

LOT 1 IN HERITAGE SQUARE, NAPERVILLE, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 28, 1992 AS DOCUMENT R92-143318, IN DUPAGE COUNTY, ILLINOIS;

EXCEPT THAT PART TAKEN FOR ROADWAY PURPOSES IN CASE NUMBER 12ED22 AND AS RECORDED BY COURT ORDER VESTING TITLE AS DOCUMENT R2016-90221, DESCRIBED AS FOLLOWS:

PARCEL A: BEGINNING AT THE MOST WESTERLY SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 21 MINUTES 00 SECONDS EAST, BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, EAST ZONE, N.A.D. 83 (2007), ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 12.65 FEET; THENCE SOUTH 74 DEGREES 51 MINUTES 32 SECONDS EAST 122.80 FEET TO THE SOUTHERLY LINE OF SAID LOT 1; THENCE SOUTH 83 DEGREES 14 MINUTES 39 SECONDS WEST ALONG SAID SOUTHERLY LINE 4.86 FEET TO AN ANGLE POINT; THENCE NORTH 89 DEGREES 08 MINUTES 32 SECONDS WEST ALONG SAID SOUTHERLY LINE 76.04 FEET TO AN ANGLE POINT; THENCE NORTH 63 DEGREES 27 MINUTES 32 SECONDS WEST ALONG THE SOUTHWESTERLY LINE OF SAID LOT 1; A DISTANCE OF 42.21 FEET TO THE POINT OF BEGINNING;

AND

PARCEL B: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 89 DEGREES 12 MINUTES 24 SECONDS EAST, BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, EAST ZONE, N.A.D. 83 (2007), ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 18.00 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 00 SECONDS WEST 187.88 FEET; THENCE SOUTH 01 DEGREES 13 MINUTES 43 SECONDS WEST 326.05 FEET; THENCE SOUTH 89 DEGREES 12 MINUTES 38 SECONDS EAST 5.00 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 00 SECONDS WEST 188.54 FEET TO AN EAST-WEST LINE IN THE WEST LINE OF SAID LOT 1; THENCE NORTH 89 DEGREES 39 MINUTES 00 SECONDS WEST ALONG SAID EAST-WEST LINE 18.00 FEET TO AN ANGLE POINT IN SAID WEST LINE; THENCE NORTH 00 DEGREES 21 MINUTES 00 SECONDS EAST ALONG SAID WEST LINE 702.11 FEET TO THE POINT OF BEGINNING

TOGETHER WITH

THAT PART OF LOT 5 IN GLACIER PARK RESUBDIVISION NO. 10, BEING A SUBDIVISION IN SECTION 15 AND SECTION 22, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 16, 2020 AS DOCUMENT R2020-075498 DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 5 AFORESAID, BEING ALSO A POINT ON THE NORTHERLY LINE OF AURORA AVENUE; THENCE NORTH 00 DEGREES 23 MINUTES 04 EAST ALONG THE WEST LINE OF LOT 5 AFORESAID 490.58 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES 23 MINUTES 04 SECONDS EAST ALONG SAID WEST LINE 421.35 FEET; THENCE NORTH 45 DEGREES 05 MINUTES 59 SECONDS EAST 47.89 FEET; THENCE SOUTH 44 DEGREES 54 MINUTES 01 SECONDS EAST 171.37 FEET; THENCE SOUTH 45 DEGREES 05 MINUTES 59 SECONDS WEST 93.02 FEET; THENCE SOUTH 44 DEGREES 49 MINUTES 41 SECONDS EAST 67.60 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 59 SECONDS WEST 220.39 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 01 SECONDS WEST 139.10 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS

LESS AND EXCEPTING

THAT PART OF LOT 1 IN HERITAGE SQUARE, NAPERVILLE, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 28, 1992 AS DOCUMENT R92-143318, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 89 DEGREES 11 MINUTES 58 SECONDS EAST ALONG THE NORTH LINE OF LOT 1 AFORESAID, 436.24 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89 DEGREES 11 MINUTES 58 SECONDS EAST ALONG SAID NORTH LINE 288.83 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 00 DEGREES 23 MINUTES 04 SECONDS WEST ALONG THE EAST LINE OF LOT 1 AFORESAID 50.88 FEET; THENCE SOUTH 45 DEGREES 05 MINUTES 59 SECONDS WEST 74.03 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 01 SECONDS WEST 236.20 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 59 SECONDS EAST 98.68 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

Address: 352 to 476 S. Illinois Rte 59 and 2835 Aurora Ave, Naperville, IL 60540

Exhibit B

Depiction of Block 59 Shopping Center and Westridge Shopping Center

Exhibit C

Legal Description of Westridge Shopping Center

Exhibit D

Final Plat of Subdivision for Block 59 Shopping Center

Exhibit E

Form of Owners' Acknowledgement and Acceptance Agreement ("OAA")