

PINS:

07-13-443-009

07-13-443-005

07-13-443-010

ADDRESSES:

419-423 S. WASHINGTON STREET

NAPERVILLE, IL 60540

AND

400 S. MAIN STREET

NAPERVILLE, IL 60540

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

RESOLUTION NO. 22 -

**A RESOLUTION AFFIRMING THE APPLICABILITY OF
SECTION 6-2-19 (EXISTING BUILDINGS AND STRUCTURES) AND
SECTION 6-9-1:1.6 (OFF STREET PARKING/SCOPE AND APPLICATION) TO THE
PROPERTY LOCATED AT 419-423 S. WASHINGTON STREET AND 400 S. MAIN
STREET FOLLOWING ACQUISITION OF ADDITIONAL RIGHT-OF-WAY
FOR THE DOWNTOWN WASHINGTON STREET BRIDGE REPLACEMENT PROJECT**

RECITALS

1. **WHEREAS**, the properties located at 400 S. Main Street (identified as Parcel A on **Exhibit A**) and 419-423 S. Washington Street (identified as Parcel B on **Exhibit A**) in the City of Naperville, legally described on **Exhibit A** and depicted on **Exhibit B** (hereinafter "**Subject Property**"), are owned by and Willoway LLC Series 4-419

South Washington and Willoway LLC Series 2-400 S. Main, respectively (“**Owners**”); and

2. **WHEREAS**, Petitioner, Willoway LLC, the master limited liability company for the series Owners, has separately petitioned the City of Naperville for approval of a map amendment rezoning the Subject Property from B5 (Secondary Downtown District) to B4 (Downtown Core District); and
3. **WHEREAS**, the City Zoning Administrator has determined that upon rezoning the Subject Property to B4 (Downtown Core District), the commercial uses located on the Subject Property will be permitted uses; and
4. **WHEREAS**, Petitioner has separately petitioned the City of Naperville for approval of a variance to Section 6-16-3 (Prohibited Signs) of the Naperville Municipal Code to allow for the relocation of an existing, nonconforming ground sign utilized by the tenants of Owner Willoway LLC Series 4-419 South Washington, which are currently J. C. Licht and AT&T; and
5. **WHEREAS**, the Petitioner has also requested that the City pass this resolution (“**Resolution**”) regarding certain Nonconforming Conditions on the Subject Property as Nonconforming Conditions are defined in Recital 9 and Recital 10 hereof; and
6. **WHEREAS**, the Subject Property abuts Washington Street along its eastern property line and Washington Street is a major arterial roadway; and
7. **WHEREAS**, the City of Naperville will commence construction of the Downtown Washington Street Bridge Replacement Project (hereinafter “**CIP# BR031**”) in 2022

or 2023 to replace the Washington Street Bridge and improve the roadway segments that approach the bridge; and

8. **WHEREAS**, CIP# BR031 will include construction of a right-turn lane from Washington Street to Aurora which necessitates the acquisition of 0.014 acres of Washington Street right-of-way along the Washington Street frontage of the Subject Property (hereinafter “**Acquisition**”) as depicted on **Exhibit C**; and
9. **WHEREAS**, there are several existing, nonconforming conditions on the Subject Property as set forth below:

9.1 The portion of the parking lot on the Subject Property adjacent to the building currently occupied by J.C. Licht and AT&T encroaches into the required major arterial setback along Washington Street is nonconforming with Section 6-2-14 (Major Arterial Setback Requirements) of the Naperville Municipal Code.

9.2 Parking is located in the front and on the side of the buildings currently occupied by Walgreens and J. C. Licht which parking does not conform with Section 6-7D-4:5 (B4/Required Conditions) of the Naperville Municipal Code.

9.3 There is an existing drive-through on the Walgreens property which is nonconforming with Section 6-7D-4:6 (B4/Required Conditions) and 6-9-3:5 (Stacking Requirements for Use with Drive-Through Facilities) of the Naperville Municipal Code.

9.4 Building setbacks are greater than six (6) feet from the property lines which is nonconforming with Section 6-7D-7 (B4/Yard Requirements) of the Naperville Municipal Code.

9.5 Walgreens has two existing ground signs in the Downtown Central Business District, located at the northwest and southwest corners of 400 South Main Street which are nonconforming with Section 6-16-3:12 (Prohibited Signs) of the Naperville Municipal Code.

9.6 A portion of the parking on the northern perimeter of the Subject Property encroaches into Riverwalk property owned by the City as

depicted on the plat of survey dated August 25, 2021 attached hereto as **Exhibit E**.

10. **WHEREAS**, in addition to the existing nonconforming uses described in Recital 9 above, the Parking Reconfiguration for the eastern portion of the Subject Property, described in Recitals 15 and 16 hereof, will be nonconforming with the Naperville Design Manual for Public Improvements and with Section 6-2-14 (Major Arterial Setback Requirements) of the Naperville Municipal Code since said parking will encroach into the required major arterial setback along Washington Street.

11. **WHEREAS**, the existing nonconforming conditions described in Recital 9 above and the Parking Reconfiguration nonconforming condition described in Recital 10 above shall hereinafter together be referenced as “**Nonconforming Conditions**”.

12. **WHEREAS**, the Subject Property is wholly located within the original boundaries of Special Service Area Number Five, and is exempt from the requirement to provide off street parking pursuant to the provisions of Section 6-9-1:1.6 (Off Street Parking/Scope and Application) of the Naperville Municipal Code; and

14. **WHEREAS**, any new structures or redevelopment of the Subject Property, including but not limited to parking (other than the Parking Reconfiguration approved herein), will be required to comply with the Naperville Design Manual for Public Improvements then in effect and the Naperville Municipal Code then in effect, including but not limited to Title 6 (Zoning Regulations) while acknowledging the parking exemption provided by virtue of participation in Special Service Area Number 5 noted in Recital 13 and Section 3 hereof; and

15. **WHEREAS**, since the Acquisition will impact up to nine (9) parking spaces in the parking lot on the eastern portion of the existing parking lot on the Subject Property which may result in the elimination of up to five (5) parking spaces, the parking lot will be redesigned with one of two options by which up to five (5) of the parking spaces lost following Acquisition will be regained as those options are depicted on **Exhibit D** (hereinafter “**Parking Reconfiguration**”). Said options will enable the Petitioner to either: (i) install angled parking spaces along Washington Street with a zero foot setback and allow a one-way drive aisle of 14.7 feet in width; or (ii) install parallel parking spaces along Washington Street with a zero foot setback and allow a two-way drive aisle of 20.5 feet in width; and

16. **WHEREAS**, the Parking Reconfiguration described above constitutes one of the Nonconforming Conditions as defined herein since the requirements of the "Naperville Design Manual for Public Improvements", as amended from time to time, on file at the office of the City Engineer, cannot be met due to the lot size of the Subject Property. Construction of the Parking Reconfiguration shall occur within the timeframe set forth in the Washington Street Project Reimbursement Agreement [419-423 S. Washington Street] approved by the Naperville City Council on the same date as this Resolution.

NOW, THEREFORE, BE IT RESOLVED 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 Resolution shall be deemed incorporated and made part hereof.

SECTION 2: The City hereby affirms that following Acquisition, the Nonconforming Conditions on the Subject Property, as defined above, may continue to exist as non-conforming structures and conditions, subject to compliance with the provisions of Section 6-2-19 (Existing Buildings and Structures) of the Naperville Municipal Code, as amended from time to time.

SECTION 3: Following Acquisition, the City Council affirms that because the Subject Property is wholly located within the original boundaries of Special Service Area Number Five, it is exempt from providing off-street parking pursuant to the provisions of Section 6-9-1:1.6 (Off Street Parking/Scope and Application) of the Naperville Municipal Code. Notwithstanding the foregoing, any off-street parking which is provided on the Subject Property, other than the Parking Reconfiguration described herein, shall comply with all applicable Naperville Municipal Code provisions then in effect and with the Naperville Design Manual for Public Improvements then in effect. Further, all off street loading for the Subject Property shall comply with Section 6-9-4 of the Naperville Municipal Code, as amended from time to time.

SECTION 4: Following Acquisition, the City Council hereby approves both Parking Reconfiguration options depicted on **Exhibit D** in order for the Subject Property to regain up to five (5) parking spaces lost as a result of Acquisition so long as construction of the selected option occurs within the timeframe referenced in Recital 16 hereof.

SECTION 5: The City Clerk is authorized and directed to record this Resolution and its exhibits with the DuPage County Recorder.

SECTION 6: If any section, paragraph, or provision of this Resolution 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 Resolution or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

SECTION 7: This Resolution 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