

PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE

THE UNDERSIGNED Petitioner, Heinen's, Inc., an Illinois corporation (hereinafter the "Petitioner") respectfully petitions the City of Naperville (the "City") to: (i) grant a map amendment (rezoning) pursuant to Section 6-3-7:1 of the City's Municipal Code (the "Code") to zone the Property (defined below) to OCI for the property located at 1244 E. Chicago Avenue, Naperville, Illinois, which is legally described on Exhibit A (the "Property") and (ii) grant a conditional use in the OCI zoning district for a general retail use to operate on the Property pursuant to Section 6-7F-3 of the Code.

In support of this Petition, the Petitioner represents to the City as follows:

1. The Petitioner is Heinen's, Inc., an Illinois corporation, which is the owner and operator of four grocery stores in the Chicago area and sixteen stores in the Cleveland area and is the owner the Property;
2. The Property consists of approximately seven and three hundredths (7.30) acres located at 1244 E. Chicago Avenue, Naperville, Illinois;
3. The Property is zoned B1 within the City of Naperville's Neighborhood Convenience Shopping Center district classification;
4. The surrounding uses are:
 - a. North: DuPage County – Zoning "R-4 Single Family" in unincorporated DuPage County: Naperville Country Club;
 - b. East: City of Naperville – Zoning "OCI": McAlister's Deli restaurant;
 - c. South: City of Naperville – Zoning "R3": Multi-Family units and Pembroke Park; and
 - d. West: City of Naperville – Zoning "R1A": Single-Family residences.
5. Code Section 6-3-7:1 regulates a map amendment (rezoning), and Petitioner seeks a rezoning of the Property to the OCI Office, Commercial and Institutional zoning designation and in association with the zoning amendment, termination of the existing covenants associated with this property.
6. Code Section 6-7F-3 regulates conditional uses within the OCI zoning district and Petitioner seeks a conditional use within the OCI zoning district to permit the operation of a general retail use (Heinen's Grocery Store) on the Property.

Petitioner's requests meet the requirements for entitlements under the Naperville Municipal Code and is appropriate based on the following:

EXHIBIT 1: Section 6-3-8:2: Standards for Granting or Amending a Conditional Use for a General Retail Use

- a. The establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the public health, safety and general welfare;

The establishment, maintenance or operation of the conditional grocery store use will not be detrimental to, or endanger the public health, safety, and general welfare. Granting the conditional grocery store use for the Property will promote the public health, safety, and general welfare because the Property will be redeveloped and occupied by an operating business, which will not only create jobs but also increase the City's sales and real estate tax base. Furthermore, the Property will be occupied by a new and thriving grocery store that will serve the surrounding neighborhood as it replaces a grocery store that recently closed on the same site. Additionally, without the grant of the conditional use for a general retail establishment, the B1 zoning designation conditioned by the Zoning Restrictions reduces the size of the proposed grocery store, thus compromising the validity of the entire project. Granting the OCI zoning designation with the grocery store conditional use will not be detrimental to, or endanger public health and safety, but will permit the development of an additional and unique grocery store offering in this neighborhood.

- 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;

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. The conditional grocery store use will not be detrimental to adjacent property because such redevelopment will improve the aesthetics of the neighborhood and increase adjacent property values due to the significant investment the Petitioner intends to make in the Property. Furthermore, this area of Naperville does not have easy access to a grocery store and Heinen's will fill that need. The OCI District is specifically intended as a "transitional zone" between intensive business areas and residential neighborhoods, so the district standards specifically contemplate residential adjacency and accommodate for appropriate uses and bulk regulations.

- 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 establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent properties. The Property was developed under the B-1 zoning for intensive commercial uses in the early to mid-1970's. The general pattern of development in this area of the City requires significant commercial uses along the arterial corridors of Chicago Avenue and Olesen Drive. The Property, being located close to the corner of this corridor, requires a transitional use that serves the neighborhood while not being a "big box" combined grocery store / retail establishment. Because of its very nature and size, the proposed Heinen's Grocery Store is considered small enough to serve the adjacent residential properties while providing a wide selection of goods.

- d. The establishment of the conditional use is not in conflict with the adopted comprehensive master plan.

The establishment of the conditional use is not in conflict with the adopted comprehensive master plan. Petitioner is seeking to develop the Property for the use and operation of a Heinen's Grocery Store, which is consistent with the City's Land Use Master Plan dated March 1, 2022. The Master Plan designates the use of this property as a neighborhood center within which shopping areas that primarily serve residents in the immediate vicinity would exist. This would be fulfilled by the grocery store.

EXHIBIT 4: Section 6-3-7:1: Standards for Granting a Map Amendment (Rezoning) from B1 to OCI

- a. The amendment promotes the public health, safety, comfort, convenience and general welfare and complies with the policies and official land use plan and other official plans of the City; and

The amendment promotes public health, safety, comfort, convenience, and general welfare and complies with the policies and official land use plan and other official plans of the City. The Property is currently zoned B1, subject to the Zoning Restrictions. The B1 zoning and associated Zoning Restrictions place unusual constraints on the Property and are generally inconsistent with the City's current zoning ordinance and standards. The proposed rezoning to the OCI zoning designation with the conditional use requested above will align the zoning of the Property with the City's current policy and zoning expectations. As such, the proposed zoning promotes public health, safety, comfort, convenience, and general welfare. The proposed zoning will facilitate significant reinvestment in the Property for the improvement or redevelopment thereof. Additionally, pursuant to the City's Land Use Master Plan dated March 1, 2022, the existing use of the Property is for commercial retail/service/entertainment. The future land use plan

designates the Property as a neighborhood center which is consistent with the rezoning request for the proposed OCI zoning designation for the Property. It should also be noted that the character of this area of the City is now substantially different from when the Property was rezoned to B1 and the Zoning Restrictions were imposed in the 1970's. Today, there is no fundamental purpose served by the extremely restrictive nature of the Zoning Restrictions.

- b. The trend of development in the area of the subject property is consistent with the requested amendment; and

The trend of development around the subject property is consistent with the requested amendment. The historical trend of development in this area of the City has been neighborhood uses consistent with the OCI zoning designation. Neighborhood Centers consist of a variety of land uses that contribute to their role as a local focal point and hub of activity. Examples of primary uses within Neighborhood Centers are restaurants and cafés, coffee shops, small grocery stores, banks, convenience stores, dry cleaners, salons, or fitness centers. Supporting uses in Neighborhood Centers include institutional or office-based uses, such as schools, community facilities, small offices, or medical clinics. Residential uses in the form of mixed-use, multi-unit, or townhomes, can exist in these areas where housing will complement the primary function of the Neighborhood Center. The former use of the Property was small shops and a grocery store and the proposed use is for a Heinen's Grocery Store, which is consistent with the historical trend of development in the area.

- c. The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification; and

The requested OCI zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification, which is further restricted by the Zoning Restrictions. The Zoning Restrictions improperly restrict uses which are permissible under the B1 and OCI zoning designation and to correct this issue, the City should grant the amended zoning classification to the OCI zoning designation. This situation is clearly unique and the Zoning Restrictions would not be imposed or enacted under the current zoning regulations and processes. As such, the requested zoning change to the OCI zoning designation for the Property permits uses which are more flexible and parallel with modern Neighborhood Centers.

- d. The subject property has not been utilized under the existing zoning classification for a substantial period of time; and

The subject Property has been utilized under the existing B1 zoning classification for a substantial period, however, there were numerous vacancies recently that have caused the shopping center to fall into disrepair. As stated previously, Petitioner is requesting the rezoning from B1 to the OCI designation to construct a 45,000 s.f. state-of-the-art grocery store that will continue the sale of food in this area of town. Should the zoning amendment not be granted, there will be a lack of convenient access to food for this neighborhood. The proposed zoning will remove barriers to investment associated with the Historic Ordinances and help reinvigorate the Property.

- e. The amendment, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

The amendment, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. To the contrary, the zoning designation to OCI will allow for the redevelopment of the Property for the operation of a unique grocery store experience from a company that is expanding its footprint the Chicago suburbs. The redevelopment of the Property to a grocery store will positively

impact the character of the neighborhood by improving the corner of Chicago Avenue and Olesen Drive from a rundown and tired strip center to a thriving grocery store full of fresh foods and ample selections, attracting the attention of the neighbors and increasing the City's tax base by providing additional jobs, sales and real estate taxes. The redevelopment of the Property will not be detrimental to adjacent property because such redevelopment will improve the aesthetics of the neighborhood and increase adjacent property values due to the significant investment the Petitioner intends to make in the Property in connection with its redevelopment plans. Furthermore, a substantial increase in traffic to the Property is unlikely, as the proposed grocery store use is like the closed Butera, which primarily serve residents in the local neighborhood. Also, the number of tenants on this property will be reduced to one.