

PIN:
07-22-102-022

ADDRESS:
404 S. ROUTE 59
NAPERVILLE, IL 60564

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 #22-1-038

ORDINANCE NO. 23 - _____

**AN ORDINANCE APPROVING A CONDITIONAL USE FOR A PLANNED
UNIT DEVELOPMENT, A PRELIMINARY PUD PLAT, AND
VARIOUS DEVIATIONS FOR BLOCK 59**

RECITALS

1. **WHEREAS**, Brixmor Heritage Square LLC, 8700 West Bryn Mawr Avenue, Suite 1000-S, Chicago, IL 60631, is the owner (“**Owner**” and “**Petitioner**”) of real property located at 404 South Route 59, Naperville, Illinois, legally described on **Exhibit A** and depicted on **Exhibit B** (“**Subject Property**”) and commonly known as Block 59; and
2. **WHEREAS**, Brixmor Holdings SPE 6, LLC, 8700 West Bryn Mawr Avenue, Suite 1000-S, Chicago, Illinois 60631, is the owner of Westridge Court Shopping Center (“**Adjacent Owner**”); and

3. **WHEREAS**, Owner and Adjacent Owner are both wholly owned subsidiaries of the publicly traded company, Brixmor Property Group, 8700 West Bryn Mawr Avenue, Suite 1000-S, Chicago, Illinois 60631; and
4. **WHEREAS**, the Subject Property is zoned B2 (Community Shopping Center District) and consists of approximately 16.48 acres at the northeast corner of Route 59 and Aurora Avenue; and
5. **WHEREAS**, the Petitioner has petitioned the City of Naperville for approval of a conditional use for a Planned Unit Development (PUD) and Preliminary PUD Plat, attached hereto as **Exhibit C** (“**Preliminary PUD Plat**”), for Block 59; and
6. **WHEREAS**, the Petitioner has petitioned the City of Naperville for approval of deviations to the following sections of the Naperville Municipal Code: Section 6-9-3 (Schedule of Off-Street Parking Requirements) to reduce the required parking from 3,796 parking spaces to 3,358 parking spaces (“**Parking Deviation**”); Section 6-14-4:3.2.5 (Performance Standards) to increase the height of light poles from 25 feet to 30 feet; Section 6-9-6:2.2 (Drive Through Stacking Lanes) to shorten the required drive-through bypass lane for building L on the Preliminary PUD Plat; Section 6-16-5 (Signs on Commercial and Institutional Property) to allow for modifications to permissible sign height, area, setbacks, orientation, quantity, and changeable copy regulations; and, Section 1.3.2 of the Design Manual for Public Improvements to modify the required parking lot design. These deviations are further detailed in Owner’s Response to Standards attached hereto as **Exhibit D**, and shall collectively be referred to as the Block 59 PUD Entitlements (“**Block 59 PUD Entitlements**”); and

7. **WHEREAS**, to support the requested Parking Deviation, Petitioner has submitted a Parking Study, attached hereto as **Exhibit E** (“**Parking Study**”). Said Parking Study outlines that parking for Block 59 and the Westridge Court Shopping Center will be shared and is approved subject to the conditions included herein; and
8. **WHEREAS**, Owner has requested that the City approve this ordinance (“**Ordinance**”) along with ordinances approving the following: revocation of the Heritage Square planned unit development (PUD); and, a preliminary plat of subdivision for Block 59 (hereinafter cumulatively referenced herein as the “**The Block 59 Ordinances**”);
9. **WHEREAS**, on February 15, 2023, the City’s Planning and Zoning Commission conducted a public hearing regarding the Block 59 PUD Entitlements and recommended approval of the Petitioner’s requests subject to additional modifications to the drive-through design for building L on the Preliminary PUD Plat; and
10. **WHEREAS**, following the February 15, 2023, PZC public hearing, the Owner made the requested modifications to the drive-through design for building L on the Preliminary PUD Plat; and
11. **WHEREAS**, notwithstanding the foregoing, the City Council finds that, subject to the terms and conditions set forth and referenced herein, the Block 59 PUD Entitlements meet the standards for approval as provided in **Exhibit D** attached hereto and should be approved for the Subject Property 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 approval, execution, and recordation of The Block 59 Ordinances, the Preliminary PUD Plat for Block 59, attached to this Ordinance as **Exhibit C**, is hereby approved.

SECTION 3: A deviation to Section 6-9-3 (Schedule of Off-Street Parking Requirements) of the Municipal Code to reduce the required shared parking from 3,796 parking spaces to 3,358 parking spaces for Block 59 and Westridge Court, as illustrated on **Exhibit F** (“**Site Plan**”), is hereby approved, subject to the following conditions:

1. Owner shall amend the Declaration of Easements dated July 16, 2020 and currently recorded as Document No. R2020-075500, to reflect the parking changes proposed for Westridge Court, as well as to expand the applicability of the agreement to Block 59. Said amendment shall be subject to review and approval by the City Attorney and shall be recorded concurrent with the first Final PUD Plat for Block 59.
2. Owner shall submit an autoturn exhibit for the overflow and event parking areas, utilizing a 34.25 foot fire pumper truck, which exhibit shall be subject to review and approval by the City Engineer, prior to City Council consideration of the first final PUD plat for Block 59.
3. Owner shall submit details pertaining to the utilization and functionality of the overflow and event parking area, including options such as wayfinding signage, lot striping, hours of operation, and usage of parking lot attendants, subject to review and approval by the City Zoning Administrator, prior to City Council consideration of the first final PUD plat for Block 59.
4. If it is determined by the City Zoning Administrator that the parking demands of Block 59 and Westridge Court are not being accommodated within the available parking supply on the Subject Property, or if designated valet areas serving the Subject Property are consistently operating over capacity, the City Zoning Administrator shall notify the Owner and work with the Owner to identify the parameters of the parking shortage and determine how said parking shortage may be resolved. Options which may be required by the City Zoning Administrator to resolve a parking shortage may include some or all of the following:
 - a. Utilization of alternative parking solutions by the Owner such as shared

parking agreements with surrounding property owners or providing off-site parking locations.

- b. Prioritization of tenants with reduced parking requirements/demand over restaurant/entertainment tenants.
- c. Pre-approval by the City Zoning Administrator of temporary events planned to take place within Block 59 or Westridge Court parking areas.
- d. Modifications of designated valet parking areas and overflow event parking (either by elimination of and/or addition thereto) shall be made if said areas do not operate as anticipated.
- e. Any other options proposed by the Owner subject to review and approval by the City Zoning Administrator.

The Zoning Administrator, with input from the Owner, will determine which of the above option(s) will most efficiently address the parking shortage on the Subject Property. The Owner shall promptly comply therewith. If the Owner disagrees with the determination of the Zoning Administrator, the Owner may submit a request for review to the City Council which shall be transmitted through the Zoning Administrator. Further, if the City Zoning Administrator does not grant approval of a Special Event, the Owner may seek approval from the City Council of a Temporary Use subject to Section 6-2-11 of the Naperville Municipal Code as amended from time to time.

SECTION 4: A deviation to Section 6-14-4:3.2.5 (Performance Standards) to increase the height of light poles from 25 feet to 30 feet in limited areas of the development including the event plaza surrounded by Buildings A through D on the Preliminary PUD Plat and the parking fields immediately northeast of these buildings is hereby approved.

SECTION 5: A deviation to Section 6-9-6:2.2 (Drive Through Stacking Lanes) to shorten the required drive-through bypass lane for building L on the Preliminary PUD Plat is hereby approved.

SECTION 6: The following deviations to permit the corner sign, also identified as Sign A1 in the Signage Entitlement Package attached hereto as **Exhibit G** (“**Sign Package**”), are hereby approved:

- a. Section 6-16-5:2.2.1 to allow a sign to be oriented 45 degrees at the corner of IL Route 59 and Aurora Avenue;
- b. Section 6-16-5:2.4.2 to allow the sign to measure 318.35 sq. ft. instead of the permissible 32 sq. ft.; and,
- c. Section 6-16-5:2.4.4 to allow the sign to measure 14 ft. in height instead of the 10 ft. maximum.

SECTION 7: The following deviations to permit two monument signs, also identified as Sign A2 in the Signage Entitlement Package attached hereto as **Exhibit G** (“**Sign Package**”), are hereby approved:

- a. Section 6-16-5:2.2 (Area) to allow the sign area to be 400 sq. ft. (instead of 90 sq. ft. along Route 59). 224 sq. ft. of the sign will be comprised of an electronic message board; (*Route 59 Monument only*)
- b. Section 6-16-5:2.2 (Area) to allow the sign area to be 400 sq. ft. (instead of 45 sq. ft. along Aurora Avenue). 224 sq. ft. of the sign will be comprised of an electronic message board; (*Aurora Avenue Monument only*)
- c. Section 6-16-5:2.2 (Changeable Signage) to allow changeable signage areas to display fluid movements and not be restricted to static displays that change once every 10 seconds. No scrolling, flashing, or attention getting movements will be permitted. (*Both signs*)
- d. Section 6-16-5:2.2 (Height) to allow the sign to exceed the 10-foot maximum height and measure 34 feet in height. (*Both signs*)

SECTION 8: A deviation to Section 1.3.2 of the Design Manual for Public Improvements to modify the required parking lot design, as illustrated on **Exhibit F** (“**Site Plan**”), is hereby approved.

SECTION 9: The Preliminary Landscape Plan for Block 59, attached to this Ordinance as **Exhibit H**, is hereby approved.

SECTION 10: The Open Space Plan for Block 59, attached to this Ordinance as **Exhibit I**, is hereby approved.

SECTION 11: The Building Elevations, attached to this Ordinance as **Exhibit J**, are preliminary. Final building elevations in general conformity with **Exhibit J** and in

compliance with the Citywide Building Design Guidelines then in effect shall be processed for approval with the Final PUD Plat for each Phase.

SECTION 12: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 13: 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. Technical and minor substantive revisions as deemed acceptable to the City Attorney may be made to this Ordinance and to the exhibits hereto prior to recordation with the office of the Recorder in which the Subject Property is located within.

SECTION 14: If this Ordinance is not recorded with the office of the Recorder in which the Subject Property is located within one (1) year of their approval and passage by the Naperville City Council, this Ordinance shall be null and void without any further action by the City unless this Ordinance is amended by the City to extend such timeframe. The Petitioner shall defend, indemnify, and hold the City and its officers, agents and employees harmless if recordation does not occur within the original, or any extended, timeframe.

SECTION 15: The City Clerk is authorized and directed to record this Ordinance, along with The Block 59 Ordinances, with the DuPage County Recorder.

PASSED this _____ day of _____, 2023.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2023.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk