



Legislation Details (With Text)

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**Title:** Pass the ordinance approving the requested variances for the property located at 1019 E Ogden Avenue (Taco Bell) PZC 23-1-126  
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Date	Ver.	Action By	Action	Result
5/7/2024	1	City Council	approved	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Pass the ordinance approving the requested variances for the property located at 1019 E Ogden Avenue (Taco Bell) PZC 23-1-126

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Adam Beaver, AICP Candidate, Community Planner

**ENTITLEMENTS REQUESTED:**

1. A variance to Section 6-9-3:5 (Schedule of Off-Street Parking Requirements) of the Naperville Municipal Code to reduce the number of required drive through stacking spaces from 12 spaces to 9 spaces and to reduce the required number of spaces between order and pick up from five to three.
2. A variance to Section 6-9-3 (Schedule of Off-Street Parking Requirements) of the Naperville Municipal Code to reduce the number of required parking spaces from 29 to 14.
3. A variance to Section 5-10-3:5.2 (Landscaping and Screening) to reduce the required parking lot perimeter landscaping.
4. A variance to Section 6-9-6:2.1.1 (Supplemental Standards for Drive-Through Stacking Lanes) of the Naperville Municipal Code to reduce the required drive through setback from 40 feet to approximately four feet six inches.
5. A variance to Section 6-2-10:1 (Accessory Buildings, Structures, and Uses of Land) of the Naperville Municipal Code to reduce the required setback for an accessory structure from five feet to two feet.

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered 23-1-126 on April 17, 2024, and recommended approval of the requests (approved 7-0). Staff concurs.

**BACKGROUND:**

The subject property is located on the north side of E Ogden Avenue between Charles Avenue and Vest Avenue and is zoned B3 (General Commercial District). The City's Land Use Master Plan identifies the future land use for the subject property as City Corridor. The existing B3 zoning and the proposed fast food restaurant use are consistent with the City Corridor designation in the Land Use Master Plan. The 0.448 acre property is currently improved with three structures and an associated parking lot. The petitioner, Daniel McGue, is proposing to demolish the existing structures and construct a Taco Bell restaurant on the subject property.

The petitioner requests approval of a variance to reduce the required number of total drive through stacking spaces and the number of spaces between order and pick up, a variance to reduce the total number of required of parking spaces, a variance to reduce the required parking lot perimeter landscaping, a variance to reduce the required setback for a drive through when adjacent to residential property, and a variance to reduce the required setback for an accessory structure.

**DISCUSSION:**

**Drive Through Stacking Variance**

Section 6-9-3:5 of the Naperville Municipal Code requires 12 total drive-through stacking spaces with five spaces between the order and pick up points. The petitioner is proposing to provide nine total drive-through stacking spaces with three spaces between the order and pick up points. The petitioner conducted a traffic and drive-through analysis to project the demand at the site based off demand at several other Taco Bell locations owned by the petitioner. The study identified projected peak queues of two to three cars during the week and on the weekends. The petitioner also states that providing the code required stacking spaces would be difficult given the size and orientation of the lot and would make it difficult to meet other code requirements. Given the site constraints and the results from the traffic and drive-through analysis, staff finds that the number provided stacking spaces is adequate.

*Findings of Fact*

The petitioner's responses to the Standards for Approving a zoning variance can be found in the attachments. Upon review, staff agrees with the petitioner's Findings and recommends their adoption by the Planning and Zoning Commission.

**Parking Variance**

Section 6-9-3 of the Naperville Municipal Code requires fast food establishments to have 17 parking spaces per 1,000 square feet of gross floor area. The proposed building is approximately 1,719 square feet, which requires 29 parking spaces. The petitioner is proposing to provide 14 parking spaces on the site, stating that the size of the lot restricts the number of parking spaces that can be provided.

The petitioner conducted a parking study which concluded that during peak times, the maximum parking demand would be 10 spaces. The petitioner states that this figure is consistent with other Taco Bell locations of a similar size as well as Taco Bell brand standards. The petitioner has a shared parking agreement with the neighboring property which would provide them with additional parking spaces if needed. Given the projection that the provided parking on site will exceed projected demand and the availability of the shared parking agreement with the adjacent lot, staff supports this request.

*Findings of Fact*

The petitioner's responses to the Standards for Approving a zoning variance can be found in the attachments. Upon review, staff agrees with the petitioner's Findings and recommends their adoption by the Planning and Zoning Commission.

**Landscaping Variance**

Section 5-10-3:5.2 (Landscaping and Screening) of the Naperville Municipal Code requires that five feet of landscaping be provided around the perimeter of the parking lot in order to provide screening for adjacent properties. The petitioner states that in order to include the Code required drive-through bypass lane, they are not able to provide the full five feet of landscaping along the west and north property lines. Due to the east property line bisecting a shared drive aisle with the neighboring property's parking lot, the petitioner is unable to provide any landscaping along that property line.

The petitioner is proposing to provide a landscaped area approximately three feet nine inches wide along the west property line according to the provided landscape plan. The neighboring property to the west maintains a parking lot the entire length of the property line which minimizes the impact of the reduced landscaping. The petitioner is proposing to provide approximately three feet one inch of landscaping along the north property line along with a 6-foot-tall privacy fence. Staff acknowledges that the petitioner is installing landscaping where possible which will provide a level of screening. As both properties along the east and west property lines have parking lots running their length, the impact to those property owners will be minimal.

*Findings of Fact*

The petitioner's responses to the Standards for Approving a zoning variance can be found in the attachments. Upon review, staff agrees with the petitioner's Findings and recommends their adoption by the Planning and Zoning Commission.

**Drive-Through Setback Variance**

Section 6-9-6:2.1.1 (Supplemental Standards for Drive-Through Stacking Lanes) of the Naperville Municipal Code requires that the setback of a drive through from any residential area shall be 40 feet. The 40-foot setback requirement is measured from the nearest point of the property line to the edge of the bypass lane. The petitioner is proposing to locate the bypass lane approximately four feet six inches from the property line according to their Final Engineering plans. The petitioner states that the size of the lot restricts their ability to provide both the required bypass lane and the 40-foot setback.

The petitioner will be providing a 6-foot-tall privacy fence along the north property line as well as providing more than the required evergreen plantings per Naperville Municipal Code Section 5-10-35.2.4.1. The petitioner has designed the site to have minimal impact on the neighboring residential property by positioning the menu board and speaker post with setback of 70 feet and facing away from the north property line. It is also noted that they will have the ability to adjust the speaker volume to not disrupt the neighboring properties. Staff finds that the request is acceptable due to the setback of the menu board and speaker post and that the petitioner is exceeding the code required landscaping and screening for a drive through adjacent to residential property.

*Findings of Fact*

The petitioner's responses to the Standards for Approving a zoning variance can be found in the attachments. Upon review, staff agrees with the petitioner's Findings and recommends their adoption by the Planning and Zoning Commission.

## Trash Enclosure Setback Variance

Section 6-2-10:1 of the Naperville Municipal Code requires that accessory structures must be located at least five feet from any rear or interior side property line. The petitioner is proposing to locate their trash enclosure approximately two feet from both the north and west property lines. The petitioner states that the trash enclosure is not able to be located elsewhere in order to provide the required drive through bypass lane and to provide as much parking as possible. The proposed trash enclosure will be screened to the north by the proposed privacy fence and the parking lot of the property to the west abuts the property line. Currently a one-story building exists in the northwest corner of the subject property less than two feet from the west property line which is to be demolished by the petitioner. Staff notes that the proposed trash enclosure would have a reduced perception of bulk adjacent to the property lines compared to the existing building. Due to the demolition of the existing building and the site constraints, staff finds the request to be acceptable.

### *Findings of Fact*

The petitioner's responses to the Standards for Approving a zoning variance can be found in the attachments. Upon review, staff agrees with the petitioner's Findings and recommends their adoption by the Planning and Zoning Commission.

### **Summary**

The proposed building will meet the requirements of the Citywide Building Design Guidelines including the materials and colors being utilized. The petitioner will be providing improved sidewalks along Ogden Avenue and pedestrian access to the building with sidewalks and a crosswalk internal to the site. The petitioner will be installing a bike rack on the site to accommodate the Code required bike parking.

Staff recognizes that the overall number of variances being requested is high, while noting that the number of requested variances is largely due to the size and shape of the lot. The requested variances for the reduction of drive-through stacking spaces and parking spaces are supported by the data from the petitioner's traffic and drive-through analysis, and when paired with the shared parking agreement with the property to the east, staff believes that the parking demand should be accommodated by the petitioner's proposal. The six-foot-tall privacy fence and evergreen landscaping in excess of Code requirements along the property line shared with residential property to the north minimize the potential impacts of the drive through.

In the case that problems arise regarding parking and/or drive through operations, staff proposes the following conditions:

- Following approval of the parking and stacking variances set forth herein, if the City's Zoning Administrator determines that the current and/or future tenant's parking needs cannot be accommodated within the parking on the Subject Property, the Owner of the Subject Property shall promptly take adequate measures to meet the parking needs of said tenant. The proposed measures shall be subject to the review and approval of the Zoning Administrator. Failure to timely take adequate measures to adequately accommodate tenant parking needs on the Subject Property to the satisfaction of the City's Zoning Administrator may result in the City's revocation of one or more of the variances approved herein.
- If complaints are submitted to the City of Naperville regarding drive through operations, including complaints regarding the volume of the drive through speaker, cars backing up onto the adjacent property or onto Ogden Avenue, the owner of the Subject Property (or Owner's successors, transferees, and assigns) shall promptly take adequate measures to adjust drive-through operations, including but not limited to restricting the hours of operation the drive-

through may be used, and/or formally assigning/reserving parking spaces for pick-up orders, as necessary. All measures shall be subject to the review and approval of the Zoning Administrator. Failure to timely take adequate measures to adequately accommodate the drive-through needs on the Subject Property to the satisfaction of the City's Zoning Administrator may result in the City's revocation of one or more of the variances approved herein.

***Planning and Zoning Commission Action***

The Planning and Zoning Commission conducted the public hearing to consider PZC 23-1-126 on April 17, 2024. No members of the public provided testimony on the request. Commissioner Athanikar asked the petitioner's engineer how the comparable Taco Bell locations were selected for the parking study with the petitioner's engineer responding that they were other locations owned by the petitioner and located on roads with similar traffic levels. Commissioner Wright asked the petitioner if they will have do-not-enter signs at the west exit onto Ogden Ave, the petitioner responded that they will have do-not-enter signs at that exit facing Ogden Ave as well as pavement markings. Commissioner McDaniel confirmed the petitioner will be installing a six-foot-tall privacy fence along the north property line. Commissioner VanSomeren asked the petitioner what the hours of operation would be, with the petitioner responding the hours would be from 7am to 12am and could be extended as traffic dictates. Commissioner VanSomeren asked staff to confirm how enforcement of the conditions would operate. Staff stated that any complaints would come through the Code Enforcement department and staff would work with the petitioner directly to address any issues promptly. After the discussion the Commission closed the public hearing and voted to recommend approval of the petitioner's request (7-0). Staff concurs with the Planning and Zoning Commission's recommendation.

***Key Takeaways***

- The petitioner requests approval of a drive through stacking variance for the total number of spaces as well as the number of spaces between order and pick up. Staff is supportive of the request.
- The petitioner requests approval of a parking variance. Staff is supportive of the request.
- The petitioner requests approval of a parking lot perimeter landscaping variance. Staff is supportive of the request.
- The petitioner requests approval of a drive through setback variance for a drive through that is adjacent to a residential area. Staff is supportive of the request.
- The petitioner requests approval of a variance to allow a trash enclosure to be closer than five feet to a property line. Staff is supportive of the request.

***Related Files***

N/A

**FISCAL IMPACT:**

N/A