

SHAPIRO QUESTIONS/CITY RESPONSES

On Wednesday, September 29, 2021, Legal counsel for certain objectors, Dan Shapiro, submitted a letter to the City with questions regarding the ICN development. Although many if not most of the questions in his letter have been addressed over the last 9 months of the PZC hearing, the following are City responses (in italics):

Mosque

ICN has indicated that no other use can operate during prayer services. It is not clear whether prayer is allowed in any area of the ICN property other than the prayer hall. What ICN has not explained is if overflow worshipers will be accommodated in the lower level multi-purpose area of the mosque? Or in the school, gym, etc.? The parking requirements and traffic study do not address what will happen when there will be worshipers in excess of the prayer hall area.

-The maximum occupancy of the mosque at 457 is a proposed Condition.

At the Ogden and 75th St. facilities, the Prayer Halls are used for non-prayer activities when worship services are not taking place. Could the same be done at the 248th Ave facility? If so, this use has not been identified in the Parking or Traffic study.

-As with other religious facilities, it is possible that worship space may be used for other purposes when worship is not occurring (i.e. many churches have prayer groups or Bible studies that may meet in worship spaces.) The City does not require operational approval.

The availability of space in a facility this large goes to the root of the residents' concerns regarding traffic and the number of concurrent activities that could be held on a daily basis. The full potential of the operations activity and traffic impacts are unknown because the occupancy numbers and usage have not been verified. For instance, the traffic study in the Phase I section indicates that the Eid prayer service will have a maximum attendance of 1,000 people. ICN has yet to explain how this is possible since it will exceed the maximum occupancy of the prayer hall and exceed the required parking provided in Phase I.

-The proposed Conditions, if approved, provides a maximum worshiper occupancy of 457.

The floor plans for the mosque show Gross Square Feet (GSF) and Net Square Feet (NSF) for the prayer hall. GSF was used to calculate worshiper occupancy per Mr. Monson's presentation to PZC, ICN's website and ICN's fundraising activity. The smaller NSF number was used to calculate worshiper occupancy for the Conditional Use application, parking study and traffic study. This discrepancy has not been addressed.

-Petitioner has agreed that the design capacity of the worship space in the mosque for Phase I shall not exceed 457 occupants. Occupancy is based on net square footage. Based on 3200 SF, 457 is a correct number. If, at building permit, a significantly higher occupancy number is proposed, that would trigger a major or minor change to the conditional use.

ICN has indicated that once the Phase 3 multipurpose hall is built, this lower level mosque space will be turned into storage, but there is no way to ensure this will actually happen, given the fact that there is a kitchen and full restrooms. While the City has included this space in the required parking calculation, the traffic implications from the possible uses of this space must be considered. In short, it remains unclear what type of activities ICN will use in the 8,000 square foot multi-purpose space. The use of this space been excluded in the Parking or Traffic study.

-The City won't prohibit use of the basement of the mosque if the multi-purpose facility is built. Adequate parking will still be provided. Both spaces will be accounted for in parking requirements.

School

There are still numerous unknowns regarding the school and the concern and risk that a school of this size could accommodate more students than the anticipated 250 daily and 500 weekend students.

- 1) Mr. Monson indicated the City should refer to the "School Building plan" yet this floor plan has not been made available to the City nor my clients.
 - a) There is a risk to the accuracy of the traffic study and school drop off plans by not knowing the actual maximum occupancy of the school. Plans cannot be adequately evaluated without this information.

-Petitioner has provided floor plans for the school ((posted on the City's website). More detailed floor plans will be submitted at time of building permit submittal.

- b) Mr. Monson has confirmed that the school will have a recreational area that meets the Physical Education requirement. ICN will operate the school for 20 years, per ICN's timeline, before the Phase 4 gym is built, indicating that the Phase 4 gym is independent from the school. ICN's documents also indicate that the Phase 4 gym will be used primarily by adults on nights and weekends. This has not been reconciled with other testimony and information provided by ICN.

-The petition does not indicate that the gymnasium will be used primarily for adults. It does indicate that it will be used primarily on nights and weekends for possible league play and open gym times. There is no requirement that the gym be affiliated with the school (for example the Compass church at 103rd & Route 59 has a gym but no school). Other religious facilities in the City have schools and gyms.

- c) A School is an allowed use in a R1 zone and typically there are gym or recreational areas in a school for Physical Education. ICN will have that space also in their Phase 2 School plans. But they are then proposing a separate 26,000 square foot Fitness Facility in Phase 4 for adults. It remains unclear how the City can determine that the Phase 4 Fitness Facility is an allowed use since it is not necessary for the school.

-The school plans include a dual-purpose area that can be used for cafeteria and

gym purposes for PE classes and activities. This is intended to satisfy State of Illinois physical education requirements.

- d) City engineers have incorrectly assumed that ICN's stacking area for school drop off is adequate to prevent cars from backing up onto 248th Ave. Yet ICN only provided a school drop off plan but not a pickup plan. A pickup plan must be thoroughly evaluated before a recommendation is made by the PZC.

-In order to address residents' concerns on this issue, staff has proposed a Condition which will require the Petitioner to submit a school pick-up plan to the City Engineer for review and approval prior to issuance of a building permit for Phase 2. Further, the school drop-off plan that has been submitted and approved will be further reviewed and approved in conjunction with the school pick-up plan.

If it is observed that a back-up on 248th is occurring due to school drop-offs or pick-ups, the City will work with ICN to provide an alternate drop-off and/or pick-up operational plan to reduce or eliminate any back-ups on 248th Avenue.

Assuming the stacking area is the same as the drop off plan, there is 1,470 feet stacking area. With an allowance of per car is 22 feet per car, 66 cars can stack in this area. There are 250 daily students and 500 weekend students. This has not been properly considered. In fact, per ICN's documents, all students are dismissed from the weekend school at the same time. Even with carpooling, using the 500 weekend students for an example there would need to be over 7 students per car to fit all students into 66 cars. At ICN's estimate of 2 students per car, that's 250 cars.

-See response above.

- e) If cars are waved past the entrance to prevent them from stacking onto 248th Ave, it is reasonable to assume they will park in the residential neighborhood streets until there is room for them to enter the stacking area. If cars are directed to park instead of stacking in the queue, how will the cars get past the stacking queue and into the parking? This has not been satisfactorily addressed and is problematic.

-The premise of this question is fairly speculative. Staff does not anticipate that this will be a problem.

Does ICN intend to operate a temporary weekend school in the Phase 1 mosque until Phase 2 is built?

Does ICN intend to operate any portion of the daily school in the Phase 1 mosque building until Phase 2 is built?

If not, there will be no youth school, daily or weekend, until Phase 2 is complete, even though this is a primary need of a new development? If they do, where can this be found in the Parking or Traffic studies?

-Staff has not been advised that this will occur. Petitioner would need to notify the City of the

proposed school use if that is desired to ensure that there is sufficient parking available. Traffic back-ups of short duration on roadways adjacent to schools are not uncommon (e.g. All Saints Catholic Academy, Naperville Central).

In the 8/4/21 PZC meeting, ICN indicated they will only build Phase 1 and Phase 2 before 248th Ave is improved. The City has indicated that the 248th Ave improvement timeline is 3-8 years. If the Phase 2 school is not expected to be built until 10 years after Phase 1, this would be after the 3-8 year timeline of the 248th Ave improvements. The information and timelines provided by ICN are inconsistent and confusing.

-Under objectors' hypothetical, 248th Avenue will be widened before Phase 2 begins. It is unclear what inconsistency is being identified.

Multi-purpose Hall

The proposed Multi-purpose Hall (MPH) is a 22,000 square foot Banquet Hall. There are concerns with the traffic generated from a facility of this size and the hours of operations due to the nature of events that will be held in a banquet hall facility. To this end, my clients still seek information as to the maximum occupancy of the multi-purpose hall. Per the Traffic study, maximum occupancy is 500. Yet, ICN ignored the other two occupant load factors in the same table.

-Per Petitioner's Petition, not more than 500 people will occupy the Multi-Purpose Hall.

- a) Chairs only (not fixed) at 7 net sq. ft. per person equals an occupancy of 1,072
- b) Standing space at 5 net sq. ft. per person equals an occupancy of 1,501

Unless ICN intends to permanently affix the tables to the floor of the multi-purpose hall, the Parking and Traffic studies have been misstated. City Code requires 178 parking spaces for the multi-purpose hall; 10 parking spaces per 1,000 SF for this use. However, ICN's estimate of 500 people result in 200-250 cars per the parking and traffic studies. Did the City take this into account when determining the Required Parking for the Multi-purpose hall?

-Code required parking has been provided for the Multi-Purpose space; however, the overall site includes additional parking spaces that can accommodate any parking demand in excess of Code required parking. Finally, the needs-based approach to parking will allow parking to be managed based on actual need.

Gym

The proposed Gym is an approximately 26,000 square foot Fitness Facility for adults to be used on nights and weekends. There are concerns with the occupancy potential and traffic generated from a facility of this size and the hours of operations. For example, the Ogden calendar of events shows a weeknight league starting at 11pm each week.

-As noted above, the petition does not indicate that the gymnasium will be used primarily for adults. It does indicate that it will be used primarily on nights and weekends for possible league

play and open gym times. There is no requirement that the gym be affiliated with the school (for example the Compass church at 103rd & Route 59 has a gym but no school). Other religious facilities in the City have schools and gyms.

Floor plans for the Gym have been requested by the City and by the Residents, but ICN did not provide them. Why not?

-Petitioner provided a general floor plan for the entire building which has been posted to the City website. This includes the Phase 4 gymnasium.

Is there an Occupancy Schedule for the gym based on the floor plans, use of each area and related square footage?

-Occupancy is determined upon submittal for a building permit. Parking for the gymnasium is based upon square footage and is unrelated to the rated occupancy limit established at the time of building permit submittal.

- Len Monson's email to Sara: *"The comment you reference was made by the ICN Architect, Jamshid Jahedi. He intended to say that Physical Education, not a Gym, is required by the State of Illinois. If you review our previous School Building plans, you will see that the School Building has a dual purpose area on the first floor. It will be used as a cafeteria and gym for Physical Education classes and activities. We believe this will minimally satisfy the PE requirements of the school prior to the construction of the Gym in Phase IV."*

The school will operate for 20 years, per ICN's timeline, before the Phase 4 gym is built, indicating that the Phase 4 gym is independent from the school. ICN's documents also indicate that the Phase 4 gym will be used primarily by adults on nights and weekends. Nowhere in ICN's application does it indicate how the Phase 4 Gym will be used. How can an application that does not request specific relief be properly vetted by the PZC, and the public?

-As noted above, there is no requirement that the gym be connected to the school (e.g. the Compass church at 103rd & Route 59). Moreover, the conclusion drawn by objectors, that the Phase 4 gym is independent of the school, is unsubstantiated. Just as an addition built on a home is still part of the home, the later addition of a gym doesn't infer independence from the prior uses.

A School is an allowed use and typically there are gym or recreational areas in a school for Physical Education. ICN will have that space in their Phase 2 School plans. But they are then proposing a separate approximately 26,000 square foot facility in Phase 4 for adults. It is not clear whether the City had any comps of other gyms at religious institutions when evaluating ICN's Phase 4 request.

General Building Phase/Design and Operations

The realities of operations for the multi-use facilities with concurrent use has not been properly evaluated. There is a lack of data that has limited the community input and expert analyses.

- 1) The City requested floor plans from ICN for all phases. ICN only provided floor plans for Phases 1, 3 and 5. Why?

-These were requested and provided in response to residents' requests. The City would not normally request them. The general floor plan includes a general lay out of the school at Phase 2 and the gym at Phase 4. Detailed building plans don't exist yet.

- a. Does the City have the ability to require a developer to provide information/data upon request, even if it's not a standard requirement? If yes, why didn't the City require it from ICN?

-We don't request detailed floor plans at preliminary engineering. We won't treat this Petitioner differently than others.

- b. At the 8/18/21 PZC meeting, the suggestion that events could last until midnight or 1am was scoffed at. However, during Ramadan the time given is 8pm to 12 am for 30 days of Ramadan. We still have not heard any explanation as to whether the times will change throughout the year or will they be fixed.

-The City Code doesn't mandate hours of operation or require pre-approved worship schedules.

- c. The Parking and Traffic study indicate that the Phase I mosque building will be used for weddings, funerals, special observances, meetings, etc. yet this activity has not been specifically reflected in the Operations Plan. Why not?

- The owner of the property controls its usage unless usage violates the Code or a condition of the conditional use. Further, required parking has been evaluated and provided for each component of the proposed religious facility per standards set forth in the City Code.

ICN indicated 3 hours of use on average at the multi-purpose hall, but the Parking study shows a 6 hour window of usage. Gym time given is "different times" and Duration of use "depends". Despite our questions at the hearing, we still do not know the hours the gym will operate nor the maximum occupancy of the gym.

-The owner of the property controls its usage unless usage violates the City Code or a condition of the conditional use.

Phase 5 mosque - no data is given for operations, only a description of "same as mosque usage of Phase 1 with additional capacity". Considering Phase 5 will be the maximum capacity at full build out, residents were trying to get an idea of what the occupancy schedule at this point would look like. There is a lack of transparency with operations.

-See responses above. This will also be addressed by the recommended Condition that Phase 5 of the development be subject to approval of a major change to the conditional use.

Traffic/Roadway

A facility of this size has huge traffic generating potential with the full calendar of events and concurrent uses of facilities. Impacts are unknown as these activities have not been fully captured in the KLOA Traffic study. Ray Fano provided traffic related guidance to PZC commissioners at the PZC meetings yet he is not a traffic engineer.

-Petitioner provided a traffic study prepared by a traffic engineer from KLOA. City civil engineers are familiar with traffic issues and took KLOA's report, as well as their own training and experience, into consideration in their evaluation of the project.

1) Comments from Mr. Fano included:

- a) Regarding traffic concerns from residents, he said ICN will figure it out without providing facts or data to support this claim. The PCZ should not accept this.

-If there are neighborhood traffic concerns, the City has tools to address such issues, including a Neighborhood Traffic Calming Toolkit.

- b) Regarding concerns with safety at the Tall Grass Greenway Trail, he said that it would be better if the trail wasn't there, but it is.

-Based on the ICN's traffic study, the ICN proposal does not add any additional risk to the Tall Grass Greenway Trail crossing. Further, there are similar trails and crossings in other parts of the City which have operated safely for years (e.g. Illinois Prairie Path and Diehl Road; the Ashbury Greenway Crossing Book Road; 83rd by Aero Estates).

- c) He indicated that lots of areas operate at LOS F and there's nothing we can do about it. This is unacceptable.

-It is fair to say that it is not uncommon for certain movements, where local side streets intersect a minor arterial roadway under two-way stop control, to experience more delay (i.e. lower levels of service) during peak traffic hours. The overall intersection delay will be lower (i.e. a better LOS) when the majority of traffic on the main route is not stopped and there is no delay. LOS for the side street/driveway movements at the ICN site will be improved by traffic management offered by ICN when necessitated by traffic conditions. Furthermore, the widening of 248th Avenue will improve traffic flow and create more gaps for side street traffic to access the arterial roadway.

Is it the practice of the City to recommend projects that generate large volumes of traffic and rely on developers to "figure out" how to manage the traffic?

-For large and/or complex developments, the City requires that a petitioner provided a traffic study prepared by a professional traffic engineering firm. In this case, a traffic report was prepared by KLOA for the Petitioner and submitted to the City. City project engineers are familiar

with traffic issues and reviewed KLOA's report using their training and experience in their evaluation of the project.

The inadequate design and inability of all fire trucks to navigate through this property is detrimental to the public health, safety and general welfare. Where is the fire department's review letter for the plans in their current form confirming that the plans are adequate to accommodate the City's largest trucks?

-The Fire Marshall has reviewed Petitioner's plans and has found them to be acceptable. In addition, as each Phase of the development progresses, the Fire Chief will be able to require modifications if necessary to ensure public safety. A condition has also been recommended that clarifies this, mainly to assure the residents that the City will ensure compliance with all safety Code requirements

248th Ave Improvements

This development depends on the City's 248th Ave road improvements to make it feasible, but developments should stand on their own merits. This one does not. Critical questions remain unanswered.

-City staff disagrees with the premise set forth above that the ICN development depends on the City's 248th Avenue road improvements.

ICN will be required to make temporary road improvements for turn lanes prior to the 248th Ave improvements. If the City's 248th Ave improvements are expected to begin in as early as 3 years, when are ICN's improvements expected to be completed?

-That will be up to ICN except that ICN has committed not to construct any Phase after Phase 2 until the 248th roadway improvements have been completed.

ICN has waited 10 years since annexation. Why does ICN want to or the City recommend proceeding with the ICN project before the 248th Ave road improvements are complete? Wouldn't this create further detrimental impacts to the area residents that could be avoided if the ICN development waited until after the 248th Ave improvements?

-The City will not respond to this question as it is within the property owner's purview.

Why would ICN want to build the school before the 248th Ave improvements and subject the daily school attendees to over a year of construction traffic and backups? It's hard to understand why ICN would want to do this and why the City would recommend adding significant daily school traffic volumes to an area that would be undergoing significant roadway construction lasting an extended period of time.

-The City will not respond to this question as it is within the property owner's purview.

What is the City's plan to fund the road improvements? What programs are they applying for?

-The City will apply for federal funding and/or may consider other funding sources such as motor fuel tax and the Federal Surface Transportation Program.

Parking

The City indicated at the 9/1/21 meeting that 1.4 persons per car was used for Phases 1 and 5, so their recommended calculations contain an error. Required parking should be 136 more for Phase 5 for a total of 256 spaces, not 120. Is the City aware of this error?

-The 1.4 formula was originally discussed at the 8/18/21 PZC hearing. The Phase 5 calculation was based on the 3 to 1 ratio. It was determined not to be necessary to update that number since staff's recommendation at Phase 5 is to require a major change to a conditional use which will require a full parking evaluation.

There is also an error in the Preschool parking calculation. Text states 4 spaces per 1000 SF should be used, but the required parking of 5 was not updated to 12.

-Staff previously notified the Petitioner that they will need to revise the Phasing Plan to reflect corrected parking requirements to reflect Code requirements. While 7 additional spaces are needed at Phase 2, 26 fewer spaces will be required at Phase 4/gym (net fewer 19 spaces required.) See revised Parking Table attached to the October 1, 2021 staff report.

The Intech Parking study counts were done in the morning and ended at 4pm. However, there is a full calendar of evening events at the Ogden facility. Why weren't counts done after 4pm at any of the ICN facilities?

-The City requested that additional parking counts be conducted at peak worship times at the Ogden facility since this represents the largest ongoing known parking demand.

The Parking study does not address all of the uses that ICN has identified. Why not?
The parking study submitted to the City by Intech evaluated parking for all proposed Phases of the development.

Code Variance- North Fence

ICN has requested a variance from the requirement for a solid wood fence where a parking lot abuts a property zoned for residential use along the northerly property line of the subject property. ICN has indicated that a large utility easement abuts the north property line providing an approximately 175 foot wide buffer between the ICN property and the PK homes. This is not accurate. PK owns the land under the power lines. This land is not owned by the City or ComEd.

-Staff's recommendation to approve the fence variance is based on fact that the land to the north of the ICN site is owned by the Park District and includes a public trail. A fence would cut off access to the public trail. We have confirmed that the land immediately north of the ICN site is owned by the Naperville Park District.

A fence would discourage attendees from parking on Lapp Ln, cutting between PK homes, and going directly to the ICN site with easy access without a fence. The PK HOA is concerned with easy access and the possibility of ICN using the green space under the power lines for outdoor activities due to the lack of green space in the ICN site plans. This creates liability for the PK HOA since they own this land.

-The assumptions included in this question are very speculative. If such trespass occurs, of course the Penncross Knolls HOA may notify trespassers to cease such conduct which will be legally enforceable by the HOA.

What practical difficulties or exceptional hardships did the City identify when recommending approval of this variance request?

-In staff's opinion the fence is impractical because it cuts off access to public land.

Criteria #3 is that the variance, if granted, will not alter the essential character of the neighborhood, would not be a substantial detriment to adjacent property, and will not increase congestion or traffic hazard in the public streets, or otherwise impair the public health, comfort and general welfare. The PK HOA and adjacent PK homeowners do think this will be a substantial detriment to their adjacent property.

ICN's response "...the variance will be appealing, tasteful and will have a positive effect to the character of the neighborhood. Allowing the variance, and not constructing the fence would achieve both balance and harmony with the neighborhood and blends in a visually unobtrusive manner with the surrounding area". This is the opinion of a developer, and the surrounding residents overwhelmingly disagree and want this fence to be constructed. The concerns of the PK residents remain:

- a) Undesirable sight lines of looking directly into a large development with so much impervious area if not blocked by a fence
- b) A fence would help block headlights from shining at the PK homes

-What is aesthetically pleasing is a matter of opinion. Further, there will be landscaping along the northern perimeter of the parking lot. Also, that landscaping will be designed to block headlights.

Miscellaneous

We requested a meeting with City Staff to address the residents' open questions. Why did the City deny this request?

-The PZC has conducted a public hearing that has extended for 15 meetings since January of this year so that anyone interested could ask questions. In the interest of having all interested persons hear the same information and have the same opportunity to ask questions, private meetings were not appropriate.

Did City Staff consider the following items when recommending ICN's building plans?

- a. Intensity of these plans vs. the intensity allowed for R1 single family low density homes?

-This is not a standard by which conditional uses are evaluated. Moreover, we evaluate each petition on its own merits in the context of the facts and circumstances affecting that property. We recommend approval of a petition where Code requirements are met (unless a variance is necessary in which case that is dealt with separately.)

Density of the plans and the amount of impervious area?

-Impervious area must meet stormwater management requirements.

b. Did staff look at comps of similarly situated religious institutions?

-Yes, staff reviewed other religious facilities throughout the City. Each facility is unique.

Did staff look at comps specifically with only one road to access and the size of those facilities vs. facilities located on corners?

-Staff reviewed other religious facilities throughout the City. Each facility is unique.

c. Does staff assess whether the development is the right fit for the location?

-Yes. we evaluate each petition on its own merits in the context of the facts and circumstances affecting that property.

d. Do the PZC Commissioners ever request a developer make revisions to a project that technically meets the minimum code requirements?

-In this case, Petitioner has voluntarily agreed to certain conditions not required by the City's Code. In addition, several conditions are being recommended as a result of issues raised during the last 9 months.

i. Do they ever ask developers to reduce the square footage of a development?

-Not to staff's recollection.

ii. Do they ever ask developers to increase the buffering between the development and adjacent homes?

-PZC has likely accepted staff's recommendation on occasion to increase landscaping to offset a setback variance being requested and/or a landscaping variance.

iii. Do they ever ask developers to incorporate more green space?

-Green space is typically relevant in the context of planned unit developments or a required land donation for a residential development. In this case Petitioner has

maximized the setback from adjacent residential property by situating the building in the center of the site. They have increased the setback on the south end of the Subject Property to 27.5' (from the 5' required by Code) and increased the setback along 248th to 30' (giving up a 10' variance originally sought). Detention is located on east side of the property which increases the setback to the homes located to the east of the site.

Bike path safety: ICN agreed to add a crossing guard on Fridays thus recognizing there are safety issues. But the issues are not tied to volume, they are tied to proximity, speed and the merge (and potential for vehicles moving across two lanes of traffic to make a left on Trumpet) - a Friday crossing guard does not mitigate the risk. How is the City going to mitigate the unsafe situation at the Tall Grass Greenway Trail?

-The existing trail crossing on 248th Avenue meets the standards of the Manual on Uniform Traffic Control Devices. If drivers and pedestrians both follow the Illinois Rules of the Road at this trail crossing and numerous others within the City, both users can successfully navigate the crossing. The Petitioner's traffic study does not indicate that the southbound queue will extend to the trail crossing. If traffic management is present, the officer will be able to make adjustments to further help avoid additional conflict for trail users. ICN's offer to add a crossing guard at the trail crossing has been proposed as a supplemental measure to help address concerns received during the public comment process.

When 248th Avenue is widened, a pedestrian refuge island and rectangular rapid flashing beacon are planned that will further enhance safety of the trail crossing. The refuge island will simplify the crossing by allowing trail users to cross each direction separately. The rectangular rapid flashing beacon will bring additional visual awareness of the presence of a trail user as they approach the crossing.