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Title: Pass the ordinance approving a conditional use for a religious facility in the R1 District and an Owner’s Acknowledgement and Acceptance Agreement for the Islamic Center of Naperville located at 3540 248th Avenue (ICN) - PZC 20-1-052 - Report Updated 11/12/21

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance, 2. Exhibit A - Legal, 3. Exhibit B - Plat, 4. Exhibit C - OAA with Attachments, 5. Exhibit D - CU Findings, 6. Exhibit E - Phasing Plan, 7. Letter to Withdraw Variance Requests, 8. Development Petition, 9. Disclosure of Beneficiaries, 10. Site Plan Phase 1, 11. Site Plan Overall, 12. Prelim Engineering Overall, 13. Phase I Parking Breakdown, 14. Public Comment

Date	Ver.	Action By	Action	Result
11/16/2021	1	City Council	passed	Pass

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Pass the ordinance approving a conditional use for a religious facility in the R1 District and an Owner’s Acknowledgement and Acceptance Agreement for the Islamic Center of Naperville located at 3540 248th Avenue (ICN) - PZC 20-1-052 - **Report Updated 11/12/21**

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Sara Kopinski, AICP

ENTITLEMENTS REQUESTED:

1. A conditional use to develop a religious facility (ICN Development) including a mosque, school, multi-purpose hall, and gymnasium uses to be built in 5 phases, potentially over the next 40 years.

Note: the front-yard setback and fence variance requests originally sought by petitioner were eliminated as noted in the Request to Withdraw Variances Request attached to this agenda item.

BOARD/COMMISSION REVIEW:

The Planning and Zoning Commission considered the ICN development proposal over the course of several meetings. On October 6, 2021, the PZC voted to recommend approval of the petitioner’s conditional use request (Approved 6-1). Commissioner Fessler cast the dissenting vote. Staff concurs with PZC’s recommendation of approval. *Note: On October 6, 2021, the Planning and Zoning Commission voted to recommend denial of the petitioner’s fence variance request (Denied 0-7). Since the October 6, 2021 PZC meeting, the petitioner has withdrawn the fence variance request.*

BACKGROUND:

*****The staff report for the Islamic Center of Naperville was updated on November 12, 2021. New information can be found under "New Condition 6.1.1" below; all other information in the report remains consistent with that published on November 10, 2021.***

The subject property consists of 13.36 acres on the east side of 248th Avenue at the intersection with Honey Locust Drive. The property is zoned R1 (Low Density Single-Family Residence District) and is owned by the Islamic Center of Naperville (ICN). ICN proposes developing the property with a religious facility comprised of a mosque, school, multi-purpose hall, and gymnasium to be built in 5 phases over the next 40 years. To do so, the petitioner has requested approval of a conditional use for a religious institution in the R1 zoning district.

DISCUSSION:

Public Input Summary

The Public Hearing for the ICN Development spanned fifteen Planning and Zoning Commission meetings over the past nine months. The Public Hearing began in January 2021, when PZC meetings were being held remotely. During the remote PZC meetings, more than 500 individuals signed up to speak; approximately 2,400 emails and written comments were submitted; and, approximately 13,250 individuals submitted positions of support or opposition.

The ICN Public Hearing returned to in-person meetings on August 4, 2021. During in-person meetings, several members of the public provided testimony on the case, and legal counsel for certain objectors, Dan Shapiro, presented expert witnesses and cross-examined city staff on the ICN Development.

On October 6, 2021, public testimony concluded, the petitioner provided closing remarks, and the Planning and Zoning Commission closed the public hearing. All public testimony, including speakers, written comments, and positions of support or opposition received throughout the duration of the public hearing can be viewed on the [City website <https://www.naperville.il.us/government/board-and-commissions/planning-and-zoning-commission/islamic-center-of-naperville-pzc-case-20-1-052/>](https://www.naperville.il.us/government/board-and-commissions/planning-and-zoning-commission/islamic-center-of-naperville-pzc-case-20-1-052/).

History of the Subject Property

The subject property was owned and operated by Hope Church until 2006. The 2002 Southwest Community Area Plan designated the future land use of the property as community facility, which reflected the church's ownership of the site.

In 2011, ICN submitted a petition for annexation and rezoning the property to R1. At the time, the petitioner intended to use an existing structure on the property for administrative offices and limited worship purposes. The temporary, limited use of the existing structure was regulated by the provisions of the annexation agreement approved by City Council. The nature and extent of ICN's use was similar to that of Hope Church, a previous property owner that used the structure for religious purposes for many years.

At the time of annexation, ICN identified their intention to develop the site with a religious facility, consistent with the comprehensive plan's community facility land use designation. ICN also noted that they would submit their application for a conditional use for a religious institution at a future date when construction was nearer term.

Conditional Use

The Subject Property is zoned R1 and has been designated as a community facility, which includes but is not limited to a religious facility, for many years as noted in the 2002 Southwest Community Area Plan and the 2011 Annexation Agreement for the Subject Property. The requested Conditional Use for a religious institution in the R1 zoning district does not change the current or future land use designation, and it is common for religious facilities to be located in residential districts in the City of Naperville. The petitioner has provided plans for a phased buildout of the site, potentially over a period of 40 years. The planned phases include the following building components:

PHASE		SQUARE FOOTAGE
Phase I	Mosque	28,400 sq. ft.
Phase II	School	41,749 sq. ft.
Phase III	Multi-purpose Hall	22,226 sq. ft.
Phase IV	Gymnasium	25,595 sq. ft.
Phase V	Mosque expansion	3,265 sq. ft.
TOTAL		121,235 sq. ft.

The Subject Property is found to be adequate in size to accommodate the proposed religious facility which includes space for worship, a school, a multi-purpose facility, a gymnasium, and ancillary purposes such as office space, kitchens, and storage. The Petitioner has also proposed a 5th phase for expansion of the worship space; however, if staff’s recommended condition for approval of the conditional use is approved, that phase will proceed subject to approval of a major change to the conditional use.

As long as a proposed structure meets all Zoning Code requirements, the Zoning Code does not limit building size or impose a maximum number of occupants (though maximum occupancy is governed by the Building Code.) The Subject Property will be in compliance with the Naperville Municipal Code standards for required yards, building height, and provision of stormwater/open space and parking.

Two access points are provided directly onto 248th Avenue to provide for flow of traffic onto and off the site, enabling worshipers and visitors to access the site without driving through surrounding neighborhoods. Additionally, 248th Avenue and 95th Street are designated as arterial roadways and can accommodate increasing traffic volumes in the area, including the proposed mosque. The petitioner also has agreed to utilize traffic control personnel during peak usage times to further improve traffic conditions in the area and has agreed to not proceed past the construction of Phase II until planned improvements to 248th Avenue are completed

Finally, if approved, the conditional use will be subject to conditions, some of which include concessions agreed to or offered by the Petitioner, to ensure that the site functions in a manner that will not be detrimental to or endanger the public health, safety and general welfare.

Findings of Fact

Throughout the ICN 248th mosque public hearing, surrounding residents and witnesses raised several topics that were explored at length. Based on the record generated at the Public Hearing, staff has made findings, in addition to the Petitioner’s Findings of Fact (both of which are attached), in support of the Petitioner’s conditional use request. Upon review, the Planning and Zoning Commission agreed with staff’s and the petitioner’s Findings and recommended their adoption by City Council.

Needs Based Parking Approach

ICN's proposed parking exceeds the parking requirements identified in Section 6-9-3 of the Naperville Municipal Code; however, staff has recommended (and the PZC concurred) that a minimum of 422 parking spaces shall be constructed with Phase I to provide parking for the mosque worship space at a ratio of 1.4 occupants per vehicle (consistent with the need identified in the petitioner's parking studies, and detailed in the Phase I Parking Attachment), and for the other uses within the remainder of the building based on Code requirements (e.g., offices, kitchen, basement multi-purpose space).

Concurrent with the submittal of final engineering plans for each subsequent phase after Phase 1, ICN shall submit a parking study for the review and approval of the City. If the parking study indicates insufficient onsite parking is available at the time of submittal, the ICN shall construct additional parking spaces to the satisfaction of the City Engineer and Zoning Administrator prior to issuance of a building permit for each subsequent phase; note, per a condition added to the agreement, additional parking shall be prohibited from being constructed in the 27.5' open space buffer provided along the southern property line of the subject property unless ICN seeks approval of a major change to the conditional use. Said parking spaces shall be compliant with the applicable zoning requirements set forth and referenced in the Naperville Municipal Code then in effect.

This approach is defined as a needs based parking approach which will enable the City to ensure adequate onsite parking is provided for each phase of the project. Following completion of Phase 1, additional parking spaces shall be built only to meet the existing demand plus the demand expected from the next phase. If some or all of the parking spaces projected at any of those Phases are determined to be unnecessary, staff will administratively permit the land-banking of excess spaces. In contrast, if the Zoning Administrator determines insufficient onsite parking is available, ICN shall construct parking designated for a future phase with an earlier phase. This approach provides maximum flexibility in the future to ensure that constructed parking spaces on the site match demand.

Recommended Conditions / Owner's Acknowledgement and Acceptance

Staff and the PZC have identified several recommended conditions of approval for consideration by City Council. These conditions are the outcome of evaluation of plans submitted by the petitioner, as well as issues raised and explored at length during the ICN public hearing.

The conditions are integral to the recommendation to support the petitioner's requested conditional use for a religious institution at the Subject Property, and have been incorporated into an Owner's Acknowledgement and Acceptance Agreement (OAA) attached to the ordinance approving a conditional use for the ICN development. The OAA includes the conditions recommended by both staff and the PZC (in addition to new conditions described in the section below).

The petitioner has agreed to all the conditions included in the OAA.

Changes Made During/After the October 6th PZC Meeting

At the October 6th PZC meeting, staff recommended twelve (12) conditions for approval of ICN's requested conditional use. These conditions were the outcome of evaluation of plans submitted by the petitioner, consideration of other religious facilities within the allowances provided in the zoning code, and issues raised and explored at length during the ICN public hearing.

Prior to the October 6, 2021 meeting, the petitioner had already indicated agreement to many of the recommended conditions in their development petition and/or during testimony provided during the public hearing. The petitioner did not agree to the traffic management condition as written, and also raised concerns with the traffic signal requirements recommended. During the PZC meeting, the petitioner worked with the PZC to modify the proposed traffic management condition and agreed to pay 50% of the approved costs for a traffic signal and associated improvements at the intersection of Honey Locust Drive and 248th Avenue.

In response to and following the October 6th PZC meeting, the petitioner withdrew their fence variance request and additional conditions of approval were recommended by staff and agreed to by the petitioner request. These conditions have also been included in the OAA and are summarized as follows:

- **Parking demand.** If, during any Phase of the ICN Development, the City Zoning Administrator determines that the parking demands of the ICN Development cannot be accommodated within the available parking supply on the Subject Property, ICN shall promptly take adequate measures to address the identified parking issues, such as prohibiting concurrent use of spaces within the religious facility; adding additional worship services; increasing the gap of time between worship services; amending hours of operation; establishing an overflow parking location off-site; providing shuttling to the Subject Property; and/or other approaches. *(Note: This condition was referenced by city staff at the October 6th PZC meeting; however, was not included in the October 6th staff memo.)*
- **Multi-purpose Hall and Gymnasium.** The Multi-Purpose Hall and Gymnasium shall not be advertised for, nor be available for, public use or use by non-affiliated for profit organizations, or used for non-affiliated for-profit purposes. *(Note: ICN's attorney proposed this condition during the October 6th hearing).*
- **Landscape Buffer.** Parking shall not be located within the 27.5' buffer provided along the southern property line of the Subject Property unless all of or a portion of said 27.5' buffer has been approved by the City as a major change to the conditional use for the ICN Development *(Note: this condition was added by staff in response to concerns raised by the PZC and residents during the October 6th hearing).*

****New Condition 6.1.1****

Following discussions with Council members, ICN requested that the following additional conditions (underlined as 6.1.1 below) be added to the ICN approvals:

6. Submittals for Each Phase of the ICN Development. Prior to issuance of a building or site permit for each Phase of the ICN Development after Phase I, the following plans and/or studies ("**Future Submittals**") shall be submitted by the OWNER AND DEVELOPER for review and approval by the City.

- i. Final engineering plans;
- ii. Final landscaping plans
- iii. Updated Parking study;
- iv. Updated Traffic study;
- v. Building elevations;
- vi. Stormwater management report;
- vii. Photometric plan; and

viii. other plans or studies reasonably requested by the City.

6.1. The City will not issue a building or site permit for any Phase until OWNER AND DEVELOPER has addressed the shortcomings identified by the Future Submittals in a manner approved by the City.

6.1.1. In addition to the above requirements, prior to issuance of a building permit for Phase IV, City staff shall present the conditions that will be required to be satisfied in order for the building permit for Phase IV to be issued, if any, to City Council for approval.

ICN is agreeable to the addition of this condition; the OAA attached to this agenda item has been updated accordingly.

Key Takeaways

- The petitioner is requesting a conditional use to allow a religious facility in the R1 Zoning District. The Planning and Zoning Commission and staff are in support of the request, subject to conditions noted in the attached Owner's Acknowledgement and Acceptance agreement.

Related Files

N/A