



Legislation Text

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File #: 21-0091O, Version: 1

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**PLANNING AND ZONING COMMISSION AGENDA ITEM**

**ACTION REQUESTED:**

Reconvene the public hearing for the Islamic Center of Naperville located at 3540 248<sup>th</sup> Avenue (ICN) - PZC 20-1-052

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Sara Kopinski, AICP

**ENTITLEMENTS REQUESTED:**

1. A conditional use to develop a religious institution (ICN 248<sup>th</sup> mosque) including a mosque, school, multi-purpose hall, and gymnasium uses to be built in 5 phases over the next 40 years; and,
2. A variance to Section 5-10-3:5.2.4.1 to eliminate the fencing requirements on the north property line.

\*Note: the front-yard setback variance request originally sought by petitioner was eliminated in the revised plans submitted by the Petitioner prior to the August 4, 2021 Public Hearing.

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission reconvened the public hearing for PZC 20-1-052 on September 1, 2021, and continued it to October 6, 2021.

**BACKGROUND:**

The subject property consists of 13.36 acres on the east side of 248<sup>th</sup> 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 institution comprised of a mosque, school, multi-purpose hall, and gymnasium 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 and a variance to eliminate the fencing requirement along the north property line.

**DISCUSSION:**

**Findings of Fact**

Throughout the ICN 248<sup>th</sup> 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 (attached), in support of the Petitioner's conditional use and landscape variance request. These findings further highlight how the specific standards for approval of each entitlement have been met, as provided below:

### **Conditional Use**

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

The Subject Property is zoned R1 and has been owned by, and designated as, a religious institution 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 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 5<sup>th</sup> 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.

The location of the proposed religious facility at the center of the site maximizes its distance from adjacent properties.

Stormwater detention will provide green space and buffering between the development and homes to the east.

In response to comments heard during the public hearing, the petitioner has:

- modified the site plan to increase the landscape buffer along the south property line from the 5 feet required by City Code to approximately 27.5 feet.
- eliminated the previously requested setback variance along 248<sup>th</sup> Avenue, resulting in a front yard setback of approximately 30 feet; and
- agreed to install landscaping at the north perimeter of the parking lot to block headlights from homes that are at least 200 feet away from the north end of the site.

Two access points are provided directly onto 248<sup>th</sup> 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, 248<sup>th</sup> Avenue and 95<sup>th</sup> Street were designated as arterial roadways several years ago 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.

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. Conditions recommended by staff are set forth in October 1, 2021 staff report.

Based on all of the above, staff recommends a finding that development of the ICN property, subject

to the Conditions proposed, will not be detrimental to, or endanger, the public health, safety and general welfare.

**2. 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 surrounding neighborhood is zoned, and is being used as, a low density single family neighborhood that is nearly built-out.

It is common for religious facilities to be located in residential districts in the City of Naperville. There are also a variety of non-residential uses in the vicinity of the Subject Property, including Crone middle school and the Wolf Crossing community park site; these non-residential uses also abut existing residential properties.

The two major concerns raised by objectors pertain to traffic and impairment of property values. Much of objectors' traffic concerns are based upon speculative uses of the facility which have no basis in the petition submitted by the petitioner.

City staff evaluated the traffic study submitted by the Petitioner as well as the report submitted by the objectors' expert witness and the objectors' traffic simulation. City staff concluded that 248<sup>th</sup> Avenue and the proposed access points to the ICN site will be sufficient to support the conditional use requested and are acceptable from a traffic perspective.

In addition, several conditions have been proposed by staff and/or the Petitioner which, if approved, will serve to mitigate traffic related issues and issues related to ICN parking so as to reduce the impact of the development on other property in the area.

Further, evidence presented by the objectors regarding claimed diminishment or impairment of property values was extremely limited. Testimony was provided by an expert witness to the effect that the value of 18 nearby homes might be diminished by up to 5% of their value. It is staff's opinion that this does not constitute a substantial impact. Further, the objectors' witness acknowledged that the opinion was somewhat speculative in nature given the context in which it had to be rendered (i.e. the development is on paper only). PZC members pointed out that the development might also increase property values of nearby homes for individuals who would prefer to live nearby. In addition, several of the homes in question are already located in close proximity to 248<sup>th</sup>, which is a minor arterial roadway with a projected increase in traffic volumes, regardless of whether or not the proposed religious facility is constructed.

For these reasons, the conditional use is found not to be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor to substantially diminish and impair property values within the neighborhood.

**3. 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.**

The property adjacent to the Subject Property is already developed; and there are already other non-residential uses in the vicinity including Crone Middle School and the Wolf Crossing community park site. Additionally, 248<sup>th</sup> Avenue and 95<sup>th</sup> Street were designated as arterial roadways several years ago in anticipation of increasing traffic volumes in the area. Accordingly, the proposed Conditional Use would not impede the normal and orderly development and improvement of the adjacent

property.

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

As noted in the 2011 Annexation Agreement for the Subject Property, the 2002 Southwest Community Area Plan designates the future land use of the Subject Property as community facility, which includes, but is not limited to, religious uses. This is consistent with future land use designations of other religious facilities in the Southwest Community area as well, including Alleluia Lutheran, Zion Lutheran, and Holy Spirit.

Furthermore, a religious institution, as a conditional use in a residential zoning district, is allowed subject to compliance with the other conditional use and zoning criteria. Therefore, the proposed religious facility is within the framework of the City's current and proposed comprehensive plan for a residential zoning district.

***Fence Variance***

**1. The strict enforcement of this chapter would result in practical difficulties or impose exceptional hardships;**

The City's Landscaping and Screening Ordinance requires fencing when a parking lot abuts a residentially zoned property. The general purpose and intent of the fencing requirement in the City's Landscaping and Screening Ordinance is to discourage foot traffic from utilizing neighboring properties for access to the subject property, and to shield adjacent residences from vehicle headlights in parking lots.

The petitioner's fence variance request is applicable only to the Subject Property's north property line, which directly abuts the Tall Grass Greenway. The Tall Grass Greenway is zoned residential, but will not be used for residential purposes due to the existing public trail. Requiring installation of a fence in this location would prohibit access to public land and is impractical since the adjacent property is not used for residential purposes, thereby eliminating the need for buffering, and the nearest residential neighbors are located approximately 200 feet north of the Subject Property.

For these reasons, strict enforcement of this chapter would be impractical.

**2. The principal reason for the variance is other than an increased income or revenue from the property;**

The principal reason for the variance is function and aesthetics, and thus is not monetarily based and will not result in increased income or revenue from the property.

**3. 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 fence variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to the adjacent property. To the contrary, approval of the variance will maintain pedestrian access to a public trail/land, as well as preserve the visual openness in the area. The proposed fence variance is not found to increase congestion or traffic hazard in the public streets, or otherwise impair the public health, comfort and general welfare.

***Recommended Conditions***

As noted in the standards above, staff has identified several recommended conditions of approval for consideration by the PZC. 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 following conditions, in abbreviated form, are integral to staff's recommendation to support Petitioner's request for a conditional use for a religious institution at the Subject Property.

**1. Interim Left Turn Lane on 248<sup>th</sup> Avenue.** Petitioner will, at its cost, design and construct an interim/temporary left turn lane for south-bound traffic on 248th Avenue to enter into the south entrance of the ICN Property prior to

issuance of a final occupancy permit for Phase 1.

**2. Traffic Management.**

The City may require the OWNER AND DEVELOPER to provide traffic management in the form of police personnel and/or signage approved by the City Engineer to direct traffic on 248th Avenue into the two entrances of the SUBJECT PROPERTY and to assist pedestrians utilizing the 248<sup>th</sup> Avenue pedestrian crossing for large events, school use, and services (including but not limited to Friday services), if the volume of cars exceeds the capacity of the turn lanes into the SUBJECT PROPERTY such that back-ups consistently occur in the through lanes of 248<sup>th</sup> Avenue. This provision shall apply prior to and after expansion of 248<sup>th</sup> avenue.

**3. Worship Space and Occupancy.** In order to ensure the sufficiency of on-site parking for Phase 1 of the ICN development, the number of worshipers in Phases 1 through 4 shall not exceed 457 occupants unless otherwise approved through a change to the conditional use processed in accordance with Section 6-3-8 of the Naperville Municipal Code then in effect

**4. Submission of Plans and Studies for Future Phases.** The following plans and/or studies shall be submitted for City review and approval with final engineering for each phase of the ICN development after Phase I: (i) a parking study; (ii) a traffic study; (iii) building elevations; (iv) a stormwater management report; (v) a photometric plan; (vi) landscaping plan; and (vii) other plans or studies reasonably requested by the City. The City will not issue a building or site permit for any phase until the Petitioner has addressed the shortcomings identified by the plans and/or studies in a manner approved by the City.

**5. Expansion of Worship Space.** Any expansion of the mosque for worship purposes beyond the 457 worshipers provided for at Phase 1 shall proceed only upon future approval of a major change to the conditional use granted for the ICN Property.

The reasons for this recommendation are as follows:

-Petitioner's plans show a proposed expansion of the worship space in the mosque as the final phase of the development (Phase 5).

-It is only at Phase 5 that it is unclear that there will be adequate space for adequate on-site parking.

-If staff recommended Condition #7 is approved, a minimum of 422 parking spaces will be constructed for the uses proposed in Phase 1. Then, depending on the outcome of the Needs Based Parking evaluations throughout Phases 2, 3, and 4 of the development, an additional 323 parking spaces may be required to be constructed.

-Staff is confident that parking spaces for Phases 1 through 4 (a maximum of 745) can be accommodated on the ICN site.

-At proposed Phase 5, depending on the number of parking spaces that have been required to be constructed to that point, an additional 256 parking spaces may be required to support 359 additional worshipers (consistent with the need identified in the petitioner's parking studies).

-At this time, it is unclear that at Phase 5 an additional 256 parking spaces will be able to be accommodated on the ICN site.

-The major change process will require Petitioner to demonstrate that the proposed expansion of the mosque will satisfy the conditions for a major change to a conditional use.

**6. 248<sup>th</sup> Expansion.** Petitioner has agreed that any phase of the ICN development subsequent to Phase 2 shall only be constructed after the 248th Avenue expansion has been completed.

**7. Parking Requirements.**

**Needs Based Parking.** 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), in addition to providing code required parking for the other portions of the building.

A needs-based parking approach will be used for Phases 2 through 4 which shall require administrative review and approval of parking demand and occupancy prior to the construction of each Phase in order to ensure adequate onsite parking is provided throughout the development. In no event shall the number of parking spaces provided for Phases 2 through 4 fall below Code required parking for all uses. On-site parking may only occur in legal, striped parking spaces.

8. **Fire Department Requirements.** The Fire Department shall review the proposed site and building design for each phase of the ICN development to ensure compliance with all applicable fire and building codes and polices in effect at that time, and may require design modifications to accommodate circulation, emergency vehicle access, location of fire lanes, and location of fire equipment/connection points.
9. **Phase 2 School Pick-Up Plan.** A school pick-up plan shall be submitted for City review and approval with final engineering for Phase 2 of the ICN development. The school drop-off plan that has been submitted and approved shall be further reviewed and modified as determined necessary by the City Engineer in conjunction with the school pick-up plan.
10. **Administrative Approval of Changes to Building Materials.** Changes to building materials depicted on approved building elevations may be administratively approved by the City's Zoning Administrator if she determines that such changes comply with Citywide Building Design Guidelines.
11. **Traffic Signal.** Petitioner will design and install (subject to City Engineer approval), or will reimburse the City for design and installation, of a traffic signal and associated improvements at the intersection of Honey Locust Drive and 248th Avenue within a specified timeframe of notice from the City Engineer that a traffic signal is warranted. Petitioner and City will each pay 50% of approved costs.
12. **Amplification.** No external speaker systems or amplifiers shall be used at the ICN property.

It should be noted that the petitioner has indicated agreement to some (but not all) of the conditions noted above in their development petition and/or during testimony provided during the public hearing, including: design and construct an interim/temporary left turn lane for south-bound traffic on 248th Avenue; any phase of the ICN development subsequent to Phase 2 shall only be constructed after the 248th Avenue expansion has been completed; and, no use of external speaker systems or amplifiers.

### **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, we have provided responses in the attachment labeled "Shapiro Questions/City Responses".

### **RELATED FILES**

N/A