

## Legislation Text

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File #: 20-392, Version: 1

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**BUILDING REVIEW BOARD AGENDA ITEM****ACTION REQUESTED:**

Consider a request by Project Naperville, LLC for a variance from Section 402.2 (Open Space) of the 2018 International Building Code to allow Group E or I occupancy for Tenant Space 123 in the building at 776 S. Route 59 (Mall of India) - BRB Case #103.

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Peter Zibble, TED Operations Manager

**BOARD/COMMISSION REVIEW:**

N/A

**BACKGROUND:**

The subject building at 776 S. Route 59 is a former Walmart that is currently being redeveloped as the Mall of India, a covered mall building. The applicant would like to use one of the tenant spaces (#123), which is an anchor building to the mall, as a daycare facility. Daycare facilities are defined by the International Building Code as either Group E or I occupancies, two uses which would not be permitted in the subject mall or anchor buildings due to reduced open space around the outside of the facility.

The distance from the subject mall and anchor buildings to the adjacent building to the south is less than 60' but greater than 40'. This open space reduction is allowable under the exception to Section 402.2 (Open Space) given that the four requirements are met. However, the daycare as proposed would conflict with requirement #4 of the exception and would thus not be allowed. Section 402.2 (Open Space) reads as follows:

***402.2 Open space.***

*A covered mall building and attached anchor buildings and parking garages shall be surrounded on all sides by a permanent open space or not less than 60 feet (18 288 mm). An open mall building and anchor buildings and parking garages adjoining the perimeter line shall be surrounded on all sides by a permanent open space of not less than 60 feet (18 288 mm).*

***Exception:*** *The permanent open space of 60 feet (18 288 mm) shall be permitted to be reduced to not less than 40 feet (12 192 mm), provided that the following requirements are met:*

- 1. The reduced open space shall not be allowed for more than 75 percent of the perimeter of the covered or open mall building and anchor buildings.*
- 2. The exterior wall facing the reduced open space shall have a fire-resistance rating of not less than 3 hours.*
- 3. Openings in the exterior wall facing the reduced open space shall have opening protectives with a fire protection rating of not less than 3 hours.*

*4. Group E, H, I or R occupancies are not located within the covered or open mall building or anchor buildings.*

**DISCUSSION:**

City building officials and the Naperville Fire Marshal have reviewed the request. Staff supports the request to allow a Group E or I occupancy contingent upon the following requirements:

1. The use is limited to the anchor building defined as Tenant #123 as shown on the attached exhibit.
2. A 2-hour fire barrier, including protected openings, must be provided between the daycare (anchor building) and the mall building. (Please note that under normal circumstances, the openings between the anchor and mall would not needed to be protected, however staff feels that this additional protection is necessary to permit a daycare in this location.)
3. The final design for the space must be reviewed and approved by staff demonstrating that it meets all the requirements of a group E occupancy for daycare, including but not limited to, doors to the exterior from all child care rooms including the activity studio, pool, or other accessory uses where children will be present.