



**NAPERVILLE PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 15, 2016**

**UNOFFICIAL PRIOR TO PZC APPROVAL
APPROVED BY THE PZC ON JULY 6, 2016**

Call to Order

7:00 p.m.

A. Roll Call

Present: Bansal, Crawford, Fessler, Hansen, Martinez, Williams
Absent: Hajek, Hastings, Peterson
Student Members: Butler
Staff Present: Planning Team – Allison Laff, Kasey Evans, Erin Venard
Engineering Team – Kelly Dunne

B. Minutes

Approve the minutes of the June 1, 2016 Planning and Zoning
Commission meeting
Motion by: Williams
Second by: Bansal

Approved
(6 to 0)

C. Old Business

D. Public Hearings

**D1.
PZC 16-1-061
Charleston Reserve**

The petitioner requests approval of rezoning upon annexation to R1A (Low Density Single-Family Residence District) of 8s180 Olesen Drive.

Kasey Evans, Planning Services Team, gave an overview of the request.

Planning and Zoning Commission inquired about:

- Williams – What size are the proposed lots? Evans – The smallest lot is 27,600 square feet and the largest lot is just over 34,300 square feet.

Vince Rosanova, Attorney with Rosanova and Whitaker, spoke on behalf of the petitioner:

- Available to answer any questions.

Planning and Zoning Commission inquired about:

- Williams – The Commission received some objections from neighbors regarding the removal of trees and the footprint of the houses. Have you and your client met with the neighbors to work out the objections? Rosanova – This is an optimal situation for the neighbors. Our average

lot size in excess of 30,000 square feet. The existing lots that we abut to the north are between 16,000 and 20,000 square feet in size. This is a low density, low impact use. The R1A zoning district, which is the most restrictive residential district, permits one house per 10,000 square feet. Additionally, the trees attracted us to the site. In any instance where we can preserve the trees on the site, we will do that. There will also be a significant landscape buffer around the property.

Public Testimony:

Mike Mulvie

- Lives on Hobson Mill Drive.
- Argues that all of the trees have been removed on the subject property and the privacy on Hobson Mill Drive has been destroyed.
- Martinez – What would prevent you from putting trees or shrubs on your property along the property line? Mulvie – The green space has been limited. I would argue that there would be no ability to add additional trees to that area.
- Williams – Was the green space limited by this development? Mulvie – There was a considerable amount of trees removed last September. I am not sure who removed the trees.
- Williams – So the petitioner is not responsible for the removal of trees to which you are testifying? Mulvie – Ok.
- Williams – Also, do you realize that the proposed lots are larger than the lot on which you presently live? Mulvie – Yes, I do.
- Williams – The Planning and Zoning Commission is insistent that developers and neighbors be good neighbors. You need to be in touch with the attorney and the developer to work out your concerns. We are very tree friendly. We do not like removal of trees any more than the neighbors do. Let's have a successful development here.
- Martinez – The trees that were removed are on the developer's property; the neighbors have the right to place trees on their property to regain privacy, correct? Rosanova – There is nothing that would prevent the neighbor from adding trees to his property to buffer it from our property.

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Williams – For it; it will be an improvement to the neighborhood. Lovely area; rivals Lake Forest, Glencoe. To the neighbors, approach the staff and the developers and put your concerns forward. You will be met with full cooperation. No one wants to change this part of town.
- Hansen – Agrees with Commissioner Williams and staff. Proposal is compatible with the development around it. Will enhance the area; supporting.
- Fessler – For the development. Still a heavily wooded and beautiful area. Nice piece of property. Developer will do a nice job.
- Crawford – Agrees with the preceding comments; supporting.

- Bansal – Agrees with fellow Commissioners. In line with developments in the area; supporting.
- Martinez – Supporting.
- Butler – No problems with the plan. Good addition to the area.

Planning and Zoning Commission moved to recommend approval of PZC 16-1-061, rezoning upon annexation to R1A (Low Density Single-Family Residence District) of 8s180 Olesen Drive.

Motion by: Williams
Seconded by: Bansal

Approved
(6 to 0)

Ayes: Bansal, Crawford, Fessler, Hansen, Martinez, Williams
Nays: None
Absent: Hajek, Hastings, Peterson

D2.
PZC 16-1-083
The Joint
Corporation – River
Square

The petitioner requests approval of a variance from Section 6-7D-4:1 (B4: Required Conditions) of the Naperville Municipal Code to allow a chiropractic clinic to be located on the first floor of the River Square shopping center located at 22 East Chicago Avenue, Suite 117, Naperville, Illinois.

Allison Laff, Deputy Director, Planning & Development, TED Business Group gave an overview of the request.

Planning and Zoning Commission inquired about:

- Bansal – The same shopping center has a SportsClips. Does that fall under a general service? Laff – That is a commercial service, which is permitted on the first floor. General services are more closely aligned to office uses or non-retail uses. They are permitted on the second floor or above.
- Crawford – Since the restriction has been in place, have you had confusion about implementation? Laff – We have not. We did process a variance for Pure Barre approximately 2 years ago. That was approved based on its adjacency to the library and its location at the fringe of the downtown.
- Martinez – Do we have any other doctors or dentists offices on the first floor downtown? Laff – I don't believe there are any other similar first floor uses downtown.

Kathleen West, Attorney with Dommermuth, Cobine, West, Gensler, Philipchuck, Corrigan, and Bernhard, Ltd., spoke on behalf of the petitioner:

- The Joint Corporation provides accessible, walk-in chiropractic services in over 350 facilities across the U.S.
- The Joint did obtain a building permit to allow a build out. The permit was revoked by the City when it was determined that the use was not permitted in B4.

- Not a typical chiropractic office; service model is to provide accessible chiropractic care. No appointment is needed.
- The business model is based on a retail use, not an office use.
- Typical visit is between 5 and 8 minutes.
- The Joint is working to provide the stores with wellness products.
- Similar to personal care businesses, like barbershops and beauty salons; relying on walk-in customers for short visits.
- Other non-retail uses in downtown Naperville include Pinot's Palette, Traveling Tots, Pure Barre. All of those uses are located on the periphery of downtown; add vitality and diversity to downtown; compatible and complimentary to downtown.
- The Joint is agreeable to the conditions in the staff report and submits that it meets the standards for a variance.

Planning and Zoning Commission inquired about:

- Martinez – Are all of your 350 facilities walk-in facilities? Mike Weaver, The Joint Corporation – The Joint takes no appointments. A person buys a membership that entitles them to a certain amount of adjustments per month. A good day is 60 to 75 customers.
- Martinez – What is your retail to service blend? Weaver – Currently none of the facilities offer retail sales. We are seriously considering retail sales, which would become part of this facility.
- Hansen – Are all of the facilities first floor typically? Weaver – Yes.
- Crawford – I think extended hours are important. What are the hours here? Weaver – Monday through Friday from 10am to 7pm and Saturdays 10am to 4pm. Clinics can also be open on Sundays if they are busy.
- Crawford – These locations can also become a destination. Weaver – Yes, but we typically find that patients gravitate towards doctors.
- Bansal – How many other clinics are in downtowns? Weaver – Some. One is on State Street in Chicago. Some are in similar centers to River Square. We do not drive our own traffic, so we locate next to certain traffic drivers like grocers, Starbucks, and Chipotle.
- Martinez – Where in downtown Chicago? Weaver – Across from the Chicago Theatre and down the street from Channel 7.
- Hansen – Is it solely membership based? Weaver – No, walk-ins are permitted.

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Hansen – Traditionalist when it comes to downtown business uses. Naperville has been committed to that with the way the ordinance has been written. Typically I do not like office and service type uses on the first floor because I think the first floor should be left for more intensive, retail uses. The issue for me on this case is that the permit was issued.

If that were not the case, this would be a no-brainer. I feel a little bit better based on the presentation because this is not a typical health/service type of use. Leaning toward supporting the request in a very guarded manner. Appreciate the petitioner's presentation.

- Williams – Commissioner Hansen said it all. From my perspective, if it were not for the fact that the City had made a mistake, I would vote against this. I think we are magnificent in that we will not tolerate running away from an error we made. The developer has a large investment in this, not only financially, but emotionally, and from a business strategy point of view. I cannot run away from us making a mistake and then trying pretend it is the other guy's fault. I am not wild about this, but I am going to vote for it.
- Fessler – Agree with fellow Commissioners. People make mistakes. I do not think it is a great first floor use and I do not think it draws a clear line on where we go from here for other first floor uses; against it. The space will be rented and there can be some amicable decisions about any costs. There are no retail sales and that disturbs me; I am not for the project.
- Butler – Agree with previous comments, supporting. Not appointment based, so that softens it. Pretty good use of the space.
- Crawford – Was actually leaning against it because this is an important restriction in the B4 zoning district. Having said that, I think it could be compatible with the surrounding businesses and there was also the mistake in the issuance of the permit. Supporting.
- Bansal – In my opinion there are two different issues. The permit was issued in error and was withdrawn. Now the case is in front of us. I look at them separately. Looking at the nature of the business and the zoning, for me, it does not make sense. The business closes at 4pm on Saturday when other retail operations are still open. It could work somewhere out of the downtown or on Ogden. In this location, it does not gel. I will be voting against it.
- Martinez – The hours will be an issue. Restaurants and bars in the area stay open later. I think it is a great business model and I hope the business does come to Naperville. I am going to be voting no because of the area that it is in.

Planning and Zoning Commission moved to recommend approval of PZC 16-1-083, a variance from Section 6-7D-4:1 (B4: Required Conditions) of the Naperville Municipal Code to allow a chiropractic clinic to be located on the first floor of the River Square shopping center located at 22 East Chicago Avenue, Suite 117, Naperville, Illinois.

Motion by: Williams
Seconded by: Bansal

No
Recommendation
(3-3)

Ayes: Williams, Hansen, Crawford
Nays: Martinez, Fessler, Bansal
Absent: Hajek, Hastings, Peterson

**D3.
PZC 16-1-069
Raising Cane's**

The petitioner requests approval of a variance to Municipal Code Section 6-9-2:4.6 (Off Street Parking Facilities) to reduce the required major arterial setback; a variance to Municipal Code Section 6-9-3:4 (Schedule of Off Street Parking Requirements) to reduce the number of required off street parking spaces; and a variance to Municipal Code Section 5-4-5:2.6 (Commercial Monument Signs) to reduce the minimum 40' interior side yard setback, in order to construct a fast food restaurant on the subject property located at 698 S Route 59, Naperville, IL.

Kasey Evans, Planning Services Team, gave an overview of the request.

Kristen Roberts, Raising Cane's, spoke on behalf of the petitioner:

- Todd Graves, founder, fry cook, and cashier, has instilled in the company that every single employee be certified as a fry cook and cashier.
- All employees are ready to lock the office at any time and drop bird to help the community.
- The concept came about in New Orleans during Hurricane Katrina. The company has also helped out during the recent flooding in Texas.
- Our vision is quality chicken finger meals, a great crew, cool culture, and active community involvement.
- Our concept is simple; we have one love which is quality chicken finger meals.

Thomas Murphy, CSR architects, spoke on behalf of the petitioner:

- Unique site, slightly under an acre.
- Tried to maximize the site plan and parking and minimize the variances.
- Reviewed the proposed variances.
- Parking study shows the site only needs 30 spaces; providing 37 spaces.

Planning and Zoning Commission inquired about:

- Bansal – The total number of parking spaces includes the employee parking. How many employees are there? Murphy – There will be 8 to 10 employees with 12 employees at peak time.
- Bansal – The employees will take a large number of the parking spaces. Are the remaining spaces enough for the customers? Roberts – We have found that the majority of the employees either ride share, take public transit, or get dropped off. I am comfortable in saying that not all 12 employees working at one time will have vehicles. There is also parking directly east that we can use if needed. We have not found that employee parking causes a conflict.
- Bansal – My concern is that the employees will use parking and other spaces outside the subject property and what impact that will have on other businesses. Jason Cooper, Kimley Horn Associates – The traffic study that we submitted on the project was done on three existing Raising Cane's that are currently open in Texas. The study showed that none of those locations used the maximum projected parking. For this location, the peak parking would be 30 cars. 50% of the business comes through the drive-through. We do not see an issue with the parking.

- Martinez – Are the communities in Texas comparable to Naperville?
Murphy – Yes, one of the sites has a similar amount of traffic and population to Naperville.
- Hansen – The 30 spaces reference would include the employees working at the time? Cooper – Yes.
- Williams – Is this a national operation? Roberts – Yes.
- Williams – How many stores? Roberts – 265. Our 2020 goal is to open 365 new restaurants and be worldwide.
- Williams – Are you located in major metropolitan areas, similar to Route 59? Roberts – Yes.
- Williams – I am skeptical of the parking. How much traffic are you going to get? If people want to sit and eat in your wonderful restaurant, will there be parking? Roberts – 50 to 60% of the customers are drive-through traffic. We are located on several highways in California. I would say 100% of our restaurants are on similar, if not busier, roads.
- Hansen – Do you have a cross access agreement for parking? Scott Enbinder, landowner of the subject property and landowner of Naper West shopping center to the east – Raising Cane’s has an easement to use the 11 spaces east of their lot. It is a perpetual easement.
- Bansal – How many of these 11 spaces are currently used and how frequently? Enbinder – I do not believe they are ever used.
- Williams – By what legal right do these spaces exist? Enbinder – A perpetual easement.
- Williams – It would be helpful to me if that were a legal part of this presentation. Can we get that done? Evans – If the petitioner can provide it to us, we can include it in the package that goes to City Council.
- Williams – I would suggest including it as a condition of approval.

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Fessler – For the project, as long as it can meet the requirements for parking.
- Williams – Like the project, except for the parking. Want to put this in legalese. Would be in favor of the application and all its variances if the easement is presented to City Council. In the event that it is not, the City Council will take our recommendation as a denial.
- Hansen – Excited about the proposal with the caveat about parking. I was not familiar with your company but you hit on three important things to me: community involvement, dogs, and chicken. Share my fellow Commissioner’s concerns about the parking. Parking is substantially lower than what is required. I think the 11 spaces are important. In favor of the proposal with Commissioner Williams’s condition.
- Butler – In favor. As long as parking is sorted out, it will be an excellent addition to the community.

- Bansal – Good company; welcome to a great City. With the parking condition, I am in favor.
- Crawford – Agree with the Commission. Great thing for the location. I am familiar with McKinney and I think it is a reasonable comparison. In favor.
- Martinez – Supporting. Excited to try.

Planning and Zoning Commission moved to recommend approval of PZC 16-1-069, a variance to Municipal Code Section 6-9-2:4.6 (Off Street Parking Facilities) to reduce the required major arterial setback; a variance to Municipal Code Section 6-9-3:4 (Schedule of Off Street Parking Requirements) to reduce the number of required off street parking spaces; and a variance to Municipal Code Section 5-4-5:2.6 (Commercial Monument Signs) to reduce the minimum 40' interior side yard setback conditioned on the inclusion of the easement of 11 parking spaces adjacent to subject property in order to construct a fast food restaurant on the subject property located at 698 S Route 59, Naperville, IL.

Motion by: Williams
Seconded by: Bansal

Approved
(6 to 0)

Ayes: Bansal, Crawford, Fessler, Hansen, Martinez, Williams
Nays: None
Absent: Hajek, Hastings, Peterson

**D4.
PZC 16-1-070
Iskcon Temple
Rezoning**

The petitioner requests approval of rezoning to OCI (Office, Commercial, and Institutional District) for the subject property located at 1505 McDowell Road, Naperville, Illinois.

Erin Venard, Planning Services Team, gave an overview of the request.

Parvathy M. Russell, President of Iskcon Temple of Greater Chicago, spoke as the petitioner:

- Available for questions.

Planning and Zoning Commission inquired about:

- Martinez – Is the space currently being used as a church? Russell – Yes.
- Hansen – What prompted the request as this time? Russell – We see a lot of potential in the site.

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission moved to recommend approval of PZC 16-1-070, rezoning to OCI (Office, Commercial, and Institutional District) for the subject property located at 1505 McDowell Road, Naperville, Illinois.

Motion by: Williams
Seconded by: Bansal

Approved
(6 to 0)

Ayes: Bansal, Crawford, Fessler, Hansen, Martinez,
Williams
Nays: None
Absent: Hajek, Hastings, Peterson

**D5.
PZC 16-1-081
B3 Amendments**

Staff requests approval of amendments to Section 6-7-2 (B3: Permitted Uses) and 6-7-3 (B3: Conditional Uses), as recommended by the Ogden Avenue Corridor Enhancement Initiative.

Allison Laff, Deputy Director, Planning & Development, TED Business Group gave an overview of the request.

Planning and Zoning Commission inquired about:

- Hansen – Would automobile services stations be permitted by right in any zoning district? Laff – No.
- Martinez – Would a store such as The Home Depot, with an attached nursery, be prohibited? Laff – Seasonal sales would still be permitted. This amendment is addressing non-retail based nurseries.
- Bansal – What about the case of a total demolition and rebuild? Laff – If the use is a now a proposed conditional use and the petitioner is completely demolishing and rebuilding, they would have to request a conditional use. If the use becomes prohibited, it would no longer be permitted.
- Martinez – If a rundown gas station is purchased by a new owner and demolished, would a conditional use be required. Laff – Yes. Hopefully it should not be a deterrent because staff can talk to the petitioner earlier in the development process.

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Bansal – Supporting.
- Crawford – Great. Initially concerned because this is an automobile oriented corridor; however, the City has a streamlined process.
- Fessler – Agrees with fellow Commissioners. Great job staff.
- Williams – Had all my questions answered by the discussion. Praise to Allison for her work. Amendments are helpful professional tools to keep Naperville modern.
- Hansen – Concurs with Commissioner Williams. One minor concern is that Ogden Avenue is an auto oriented corridor. However, the City and staff process petitions efficiently. Supporting.
- Martinez – Concurs with fellow Commissioners.
- Butler – Supporting.

Planning and Zoning Commission moved to recommend approval of PZC 16-1-081, amendments to Section 6-7-2 (B3: Permitted Uses) and 6-7-3 (B3: Conditional Uses), as recommended by the Ogden Avenue Corridor Enhancement Initiative.

Motion by: Williams
Seconded by: Bansal

Approved
(6 to 0)

Ayes: Bansal, Crawford, Fessler, Hansen, Martinez, Williams
Nays: None
Absent: Hajek, Hastings, Peterson

**D6.
PZC 16-1-080
Written Lease Text
Amendment**

Staff requests approval of amendments to Section 6-2-15 (Boarding Facilities) of the Naperville Municipal Code, and other sections as necessary, in order to specify lease requirements for boarding facilities, shared homes, and related uses.

Allison Laff, Deputy Director, Planning & Development, TED Business Group gave an overview of the request.

Planning and Zoning Commission inquired about:

- Martinez – How will these changes affect North Central College (NCC) students? Laff – A large reason that shared homes were written into the Code in 2010 was to make sure we did not prevent NCC students from sharing homes. We work very well with NCC and they also monitor the rentals. With this amendment shared houses are still allowed, they just need a written lease. We have never had a problem with this as it relates to NCC students.
- Bansal – Same with any other college? Laff – Yes, this is not just a college provision. Anyone in the City can have a shared home.
- Bansal – How does this compare with other cities? Laff – From the Cities perspective, we have had issues with boarding houses versus shared houses. Boarding houses are different in the fact that the tenants do not know each other. They arrange their use of the facility through the landlord and do not interact with the other tenants. Often times they do not have access to shared facilities within the home. In a shared home, the tenants are unrelated, but they are entering into the lease because they want to live together.
- Bansal – My only concern is college students. Will it add complexity? Laff – No. There are existing shared homes in the City and we have not received any concerns. We have only once run into the problem of having an oral lease.
- Bansal – Will the lease be reviewed by the City? Laff – If the City goes to investigate a home and has concerns that is not a shared home, but a

boarding home, we will have the right to request to see the lease. They will not have to file the lease with the City.

- Williams – Other than for college students, how many boarding and shared homes do we have in Naperville? Laff – We no longer have any boarding homes. In 2010, we had 5 to 6 boarding homes. They had a 2 year amortization period and at the end of that period, there are no longer any in existence. I can't quantify the number of shared homes as there is no rental registration.
- Williams – In Naperville, are these mostly college students in shared homes? Laff - There are college students, but there are other rental situations that are unrelated adults.
- Williams – I am asking because, particularly in the City of Chicago, this has a lot to do with illegal aliens and vacant homes that dope dealers take over. There is nothing approaching that in Naperville, correct? Laff – Our bigger concern is preventing new boarding homes from coming into existence.
- Williams – A written lease can be one sheet of paper and one paragraph, correct. Laff – Yes. It is to the benefit of both parties to have the lease. It is very atypical not to have a written lease.
- Bansal – This is definitely a good move. I have noticed this being on the homeowner's board of my subdivision. There was a person without a lease and it was problematic.
- Williams – It also protects the leasee.

Planning and Zoning Commission closed the public hearing

Planning and Zoning Commission moved to recommend approval of PZC 16-1-080, amendments to Section 6-2-15 (Boarding Facilities) of the Naperville Municipal Code, and other sections as necessary, in order to specify lease requirements for boarding facilities, shared homes, and related uses.

Motion by: Williams
Seconded by: Bansal

Approved
(6 to 0)

Ayes: Bansal, Crawford, Fessler, Hansen, Martinez,
Williams
Nays: None
Absent: Hajek, Hastings, Peterson

E. Reports and Recommendations

F. Correspondence

H. Adjournment

8:37 p.m.