



**NAPERVILLE PLANNING AND ZONING COMMISSION
MINUTES OF OCTOBER 5, 2011**

Call to Order

7:00 p.m.

A. Roll Call

Present: Bruno, Coyne, Messer, Gustin, Herzog, Williams
Absent: Edmonds, Trowbridge, Meyer
Staff Present: Planning Team – Emery, Liu, Thorsen

B. Minutes

Approve the minutes of the September 7, 2011 Planning and Zoning Commission meeting.

Motion by: Williams
Second by: Messer

Approved
(5 to 0)

Approve the minutes of September 21, 2011 Planning and Zoning Commission meeting.

Motion by: Williams
Second by: Messer

Approved
(5 to 0)

C. Old Business

D. Public Hearings

**D1. Case #11-1-128
Islamic Center of
Naperville**

The petitioner requests annexation, zoning upon annexation to R1 (Low Density Single Family Residential) and preliminary/final plat of subdivision to dedicate right-of-way and establish a legal lot-of-record.

Amy Emery, Planning Services Team, gave an overview of the request.

- Request for annexation and zoning upon annexation for 14 acres located on 248th between 95th and 103rd. Purpose of the request is to become part of the City of Naperville jurisdiction.
- Southwest Sector Plan identifies the land for annexation and use as a community facility. R1 (Low Density Residential) is the default zoning upon annexation.
- The petitioner only intends to occupy the property as-is and in the same manner as Hope Church (current owner), to include limited administrative uses and some small meetings.
- Many comments have been received from the surrounding areas. Most express concerns about construction of a new religious facility; however, these concerns are not ripe for discussion as the petitioner has not

submitted plans to develop the site.

- If the annexation and zoning is approved, future construction of the site will require a conditional use and submittal of detailed site and development plans, available for public review and a public hearing before the Planning and Zoning Commission. Annexation and zoning does not grant entitlements for a religious facility.
- Information provided to neighborhood residents included incorrect information regarding the nature of the proposal. Future construction of facility will require compliance with city zoning standards. The petitioner is not affiliated with a separate project on 75th Street that was reviewed by DuPage County.
- Current Will County zoning of the property allows construction of a church or religious facility by right. Additional uses that are permitted under Will County zoning include single-family, group home, public, quasi-public, governmental buildings and religious facilities.
- Planning and Zoning Commission is not being asked to consider a change to the existing use of the property, construction of a new religious facility, or a conditional use at this time.

Len Monson, Kuhn, Heap and Monson, 552 S. Washington Street, Suite 100,
attorney on behalf of the petitioner

- Islamic Center of Naperville (ICN) is contract purchaser of the property.
- The petitioner does not propose any physical changes to the property.
- For the past 11 years the property has been zoned R1 with a religious use in the Will County jurisdiction. The previous owner fully intended to build a religious facility on the site.
- Existing home will be used as administrative office or building. The adjacent outbuilding will be a meeting area for about 3 to 20 people.
- Islamic Center has been in the City of Naperville for over 20 years and has been a great neighbor.
- Reason for annexation request is to accommodate future growth, which includes sewer and water utilities, and to be a part of Naperville.
- Petitioner is the contract purchaser, subjecting itself to more stringent requirements of City of Naperville Zoning and Building codes.
- Future plans for the site are to build a religious facility. The timeframe is 5 to 20 years from now. The intended use is consistent with the city's master plan.
- Petition includes subdivision into a single lot-of-record. Any future subdivision will require city approval.
- Majority of members are City of Naperville residents.
- Annexation of the property is financially neutral to the City of Naperville.
- In accordance with city requirements, proper notice was sent to property owners and were mailed within 15-30 days in advance of the public hearing.

Planning and Zoning Commission inquired about

- What is permitted under current Will County zoning, specifically if a religious facility is currently permitted on the property.
- The reasons why a PUD was not proposed with the annexation request.
- Location of existing Islamic Center locations in the community.
- The basis for the annexation request, given that the requirements of the county are less stringent than the City of Naperville.
- The size of a future structure in relation to the size of the site.
- Compliance of the public notice with the requirements of the zoning ordinance.

Public Testimony:

Acting Chairman Herzog noted that the purview of the request is the annexation and zoning and does not include site development. Requested that speakers limit comments to the case in front of the commission.

David Prokop, 3727 Mistflower Lane: Inquired about the nature of ICN and noted the tax-exempt status of the petitioner. Notice of the meeting was inadequate. Would like to see a meeting between the homeowners associations and the petitioner. Would prefer to see annexation denied so that the petitioner does not purchase the property.

Beth Gulliver, 3335 Hollis Circle: Does not enjoy the location of her neighborhood and has lost approximately \$250,000 on her home. Was told that the subject property is agriculture/park district property.

David Hunt, 3903 Landsdown Ave.: Strongly opposes the request for annexation and zoning to R1. The petitioner has stated the intent for the property. Feels the religious facility will negatively impact the value of homes and does not wish to see this process go on.

Chuck Raucci, 3715 Mistflower Lane: Does not agree with the land use designated on the master plan. Referenced Mandalay Club (2006) which was a proposal to construct 33 homes on the subject property, and associated financial impact. Opposes annexation of the property. Would prefer to see single-family homes on the property. Noted financial impacts of school district, rail line, and recession on the Tall Grass neighborhood.

Tom Lawrence, 3603 Grassmere Road: Does not believe that the petitioner has no plans for the future and opposes the annexation. Takes issue with the vagueness of the proposal.

Laura Coppola, 3608 Landsdown Ave.: Agrees with previous speakers. The only reason for wanting water and sewer from Naperville is to build a large structure. Concerned for safety of children. Does not want to see any large structures in the area.

Renata Slive, 3608 Mistrflower Lane: Churches and houses of worship have traditionally been built around communities and is curious as to how many Muslims live in the area. They deserve to have a place of worship. Would prefer to see a smaller scale mosque as opposed to a regional facility.

William Paulson, 3708 Tall Grass Drive: Questioned the timing of the proposal and the implications of annexation to the community. Strongly opposes the request.

Brad Knell, 3552 Tall Grass: Notice was given to landowners in a limited area and the notice is vague. Residents should be afforded the opportunity to retain counsel. Williams noted that the right to a lawyer is not afforded in this case, but stated that he will support continuance of the case in order to evaluate the notice. Speaker conceded that he does not have the legal right to notice but requested continuance of the matter. The Hope Church pre-existed the neighborhood itself. Opposes annexation as he believes it is a Trojan horse for future construction of a large structure and will result in a waste of resources.

Sheri Holt, 3615 Mistflower: Strongly supports rights of religious freedoms but expressed concern about the nature of the process, which have been amplified during the course of hearing, particularly the importance of water and sewer utilities to support development of any type. Expressed concern about the vagueness of the proposal. Opposes the annexation and zoning request and would like to see continued agricultural use of the property.

Richard Wilye, 3443 Redwing: Inquired about traffic impact to 248th Avenue from any individual use. Opposes the annexation and zoning request. Would prefer a trailer park to a large structure due to the congestion and traffic that results from religious use.

Sheleigh Bishop, 3635 Mistflower: Opposes the annexation and would not like to see a large building of any sort in the area.

Mary Ann Geraci, 3411 Goldfinch: Opposes the petitioner's request. There should be a reason why the city would want to annex and the city has a right to deny the annexation. Expresses suspicion about the petitioner's intentions; however, the petitioner has stated that they intend to build a mosque. Does not see any benefit to annex property that will not contribute any revenue and potentially reduce home values.

Len Monson clarified the petitioner's intentions. The petitioner has not decided what options will be pursued if annexation is denied. The petition for annexation is presented for the following reasons:

- Due diligence period is short and the petitioner wants to get a sense of how the city will act on annexation.

Lara Brummell, 3431 Redwing: Inquired about the tax status of the property owner.

Vic Des Laurier, 3408 Breitwieser: Requests that the Planning and Zoning Commission allow the surrounding property owners time to consider the proposal.

Jeremy Sentman, 3512 Redwing: The predominant concern is that residents don't know what is going on. On a straight annexation, the city is better served by having the property in its jurisdiction; however, there is no certainty as to the future of the property. Requests that the annexation agreement allow for approval of any future conditional uses by both adjacent HOA's.

Kirsten Mullinax, 3419 Sunnyside: Opposes the petitioner's request but understands the controls provided by annexation. Stated that the absence of sewer and water facilities controls what can be placed on the subject property. Religious use of the site would pre-empt future residential use of the site, due to concerns about traffic associated with a large religious use.

Tim Dever, 3804 Tallgrass: Annexation of the property without knowledge of the true intent is a mistake and a disservice to the city residents. Does not believe that the petitioner is sincere in their true intent for the property. Property should be developed with homes. City is under no obligation to annex the site. Opposes annexation. The city should take into consideration the wishes of the majority, who would like to see homes constructed on this site.

Delaura Sayeed, 23365 Pelham Ct: Purchased in Naperville due to the school district. Supports annexation of the property because it gives citizens a chance to ask question. Feels that Naperville's zoning laws are strict and clear and will help to guide development of the property in the future. Supports annexation of the property.

Paula Strick, 3827 Looking Post Ct: Believes that the case should be continued so that neighbors have a chance to meet with the petitioner. The attorney should clarify the petitioner's intentions for how many people will use the existing home and garage. Believes there is a strong likelihood that the three locations could consolidate on the subject property and requests clarification from the petitioner. Opposes the annexation as she believes a religious use should be in a different location, on a corner with a larger property and better road access.

Herzog clarified that the petitioner is not obligated to discuss future plans due to the nature of the petition, and it is not a factor in the PZC's recommendation.

Catherine Strahan, 3439 Redwing: Is not averse to change, but questions

what benefit would be provided to the community through annexation. Opposes the annexation as there has been no compelling reason given for approval.

Mike Strick, 3827 Looking Post Ct: Noted that the Planning and Zoning Commission's actions are a recommendation only. Does not want the city to be deterred from making land use decisions on the threat of litigation. This matter should be tabled to allow for wider notification and community organization. Annexation of the property will generate revenue for the city through various fees. Opposes annexation.

Mike Valek, 3228 Lapp Lane: Requested a continuance of the matter in order to learn more about the proposal and potential impacts.

Peter Jameson, 3911 Mistflower Lane: Inquired about the current membership of ICN. Would be supportive of an attractive facility for religious purposes but would like to know more prior to annexation. Believes that denial of annexation will end the petitioner's interest in the subject property. The annexation request should be accompanied by site development plans. Would like to hear from neighbors of other ICN facilities. Opposes annexation due to the absence of detailed information about site intentions.

Tim Rhodes, 1918 Coach Drive: Served as Hope United Church of Christ Pastor until 2007. The land was owned and designated for religious use prior to the homes that surround it; however, when it was purchased there were no specific. Hope Church had intended to build a large facility on the site to meet intended needs, but did not encourage the neighbors to design the property for them. During the previous eleven years it was never suggested that the religious use was inappropriate. The sewer and water is in great need of support and the site should be brought onto city utilities. Naperville has responded to emergency requests for the site in the past. People came from many close and far communities to attend Hope Church services. The property was initially acquired as an investment and was sold in 2006 but the deal fell through when the economy collapsed. Some of the initial land purchase was sold to Tall Grass developers and they knew that a church would be developed in the location of the subject property. All neighbors had the opportunity to know that a church would be constructed on the site. ICN has always been a good neighbor and a cooperative agent in the community. Supports the annexation.

Larry Cross, 3819 Sunburst Lane: Disagrees with annexing the land. Knew that a church was located on the subject property and subsequent single-family plans. Does not want a two-story garage or a two-story building in the back yard due to impact on property values. Questions the timing of the annexation request and would like to know more information prior to approval of the annexation.

Gluri Parulekar, 3416 Lapp Lane: requested a continuance in order to better understand the proposal, as the subject property directly abuts her lot.

Robert Strahan, 3439 Redwing: Proposal should be tabled in order to allow time for the residents to become more educated.

Beth Gulliver, 3335 Hollis: Understands that the petitioner completed statutory notice but more people should have been informed about the proposal. Feels that the rights of the neighbor should be considered in forming a recommendation on the annexation and zoning proposal.

Petitioner responded to testimony

- Petitioner has completed all required notification and attended the Tall Grass board meeting on September 12. A meeting is scheduled with Penncross Knoll HOA on Sunday October 9.
- In the future the petitioner would like to build a religious facility on the property. No other details are known.
- Petitioner agrees to continue the public hearing to November 2, but would prefer not to extend deliberations any longer than that.
- The petitioner has no financing in place for construction on the site.
- Litigation is not relevant to the conversation at hand.
- ICN has about 400 registered families in their membership who are accommodated in existing facilities, with intentions to grow.
- There are no intentions to consolidate facilities due to proximity of existing facilities to current membership.
- Property was converted from agricultural to R1 in Will County in 2000, which required three public hearings at the time. At that time there were no objections to the religious use.
- In 2002 the Southwest Community Area Plan was completed. There were no objections to the religious use/community facility at that time.
- January 2006-March 2007, there were eight public hearings on a petition to convert the property to residential use. Stiff resistance from the neighbors who wanted it to remain in religious use.
- People have consistently wanted the property used for religious purposes in the past.

Planning and Zoning Commission inquired about

- The petitioner's intentions to develop the site in the future.
- Petitioner is trying to respect the neighbors that are there, but the site has been in religious use for a very long period of time.
- The size of the ICN facility on Ogden Avenue (4 acres).
- The reason for annexing at this time, without plans or financing.

Plan Commission Discussion:

- Bruno – noted that the development of the property will be constrained

by parking, landscaping and other factors and opportunities for input that would be provided by future conditional use process.

- Williams – the present owner is a religious organization that has contractually obligated to sell to a religious organization. The PZC empathizes with the residents of Tall Grass; however, if the contract purchaser chooses to develop in Will County the outcome may be less desirable than developing in the city. The petitioner has the right to petition for annexation and is not required to have a plan in order to purchase the property.
- Gustin – residents have been very vocal and the petitioner understands the concerns expressed. The parcel is controversial and everyone is not likely to agree. The petitioner and residents should work together prior to the next public hearing.
- Herzog – landowner has the right to petition the city of annexation or development. The request for annexation fits with zoning of surrounding property and gives the community control over how it is developed. Recommended that the petitioner reach out again to the neighboring residential groups.

Planning and Zoning Commission continued the matter to November 2, 2011.

**D1. Case #11-1-115
712 Mulberry Court**

The petitioner requests a variance from Section 6-6A-7:1 (R1A Low Density Single-Family Residence District: Yard Requirements) of the Naperville Municipal Code to reduce the 30' front yard setback requirement in order to construct a portico at a distance of approximately 25' from the front lot line of the property located at 712 Mulberry Court.

Ying Liu, Planning Services Team, gave an overview of the request

- Petitioner wishes to construct a portico in order to provide weather protection for the front entry, necessitating a variance.

Doug Hitchcock, 712 Mulberry Court, the petitioner noted:

- The stoop and walkway will stay as they currently exist.

Planning and Zoning Commission inquired about

- The extent of the proposed improvement as compared to the existing stoop.

Public Testimony:

None.

Planning and Zoning Commission closed the public hearing.

Plan Commission Discussion:

- Trowbridge – case is straightforward and should be approved.
- Gustin – the portico will be a nice addition to the home, and a hardship

exists due to the shape of the cul-de-sac lot.

Planning and Zoning Commission moved to recommend approval of PC 11-1-115, 712 Mulberry Court.

Motion by: Trowbridge
Seconded by: Messer

Approved
(5 to 0)

E. Reports and Recommendations

None

F. Correspondence

None

G. New Business

H. Adjournment

10:54 p.m.