



**NAPERVILLE PLANNING AND ZONING COMMISSION  
COUNCIL CHAMBERS – MUNICIPAL CENTER  
FINAL AGENDA  
12/07/2011 - 7:00 p.m.**

**CALL TO ORDER:**

**A. Roll Call**

**B. Approve Minutes**

1. Approve the minutes of the November 2, 2011 Planning and Zoning Commission

**C. Old Business**

**D. Public Hearings**

1. PC Case # PCS 11-1-149 CityGate Grille  
Petitioner: Calamos Real Estate LLC  
Location: CityGate Grille is located at 2020 Calamos Court, #100  
Monument sign is located at the intersection of Westings Avenue & Calamos Court

Request: Conduct the Public Hearing for a sign variance in order to increase the sign area to 74 square feet

Official Notice: Public Hearing Notice Published in the Naperville Sun on November 20, 2011

2. PC Case # PCZ 11-1-137 139 Water Street Donation Box  
Petitioner: Naperville Township  
Location: 139 Water Street (Naperville Township Building), which is generally at the northeast corner of Webster Street and Water Street

Request: Conduct the public hearing for donation box variances at 139 Water Street

Official Notice: Published in the Naperville Sun on Friday, October 7, 2011

**AGENDA**  
**NAPERVILLE PLANNING AND ZONING COMMISSION**  
**12/07/2011 - 7:00 p.m. - COUNCIL CHAMBERS**  
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3. PC Case # PC 11-1-122 Panda Express  
Petitioner: Panda Restaurant Group, LLC  
Location: 1125 E. Ogden Avenue

Request: Conduct the public hearing for a variance to reduce the required setback along Ogden Avenue from 20 feet to 4 feet to accommodate surface parking spaces

Official Notice: Published in the Naperville Sun on November 18, 2011

4. PC Case # PC 11-1-152 Phoenix Restaurant  
Petitioner: Robert C. Kenny, Atty, on behalf of Delaware Dearborn II, LLC  
Location: East side of IL Route 59, south of Brookdale Street in the Design Pointe PUD

Request: Conduct the public hearing for a deviation to reduce the required parking supply in order to accommodate Phoenix Restaurant

Official Notice: Published in the Naperville Sun on November 18, 2011

**E. Reports and Recommendations**

**F. Correspondence**

1. Multi-tenant Ground Signs Memorandum
2. PZC Bylaws Update/Training Memorandum

**G. New Business**

**H. Adjournment**

**Any individual with a disability requesting a reasonable accommodation in order to participate in a public meeting should contact the Accessibility Coordinator at least 48 hours in advance of the scheduled meeting. The Accessibility Coordinator can be reached in person at 400 S. Eagle Street, Naperville, IL., via telephone at 630-420-6725 or 630-305-5205 (TDD) or via e-mail at [manningm@naperville.il.us](mailto:manningm@naperville.il.us). Every effort will be made to allow for meeting participation.**



**NAPERVILLE PLANNING AND ZONING COMMISSION  
DRAFT MINUTES OF NOVEMBER 2, 2011**

<b>Call to Order</b>		<b>7:00 p.m.</b>
<b>A. Roll Call</b>		
Present:	Coyne, Messer, Gustin, Williams, Edmonds, Meyer, Bruno	
Absent:	Herzog, Trowbridge, Frost	
Student Members:	None.	
Staff Present:	Planning Team – Emery, Forystek Code Enforcement Team – Trude Terreberry	
<b>B. Minutes</b>	Approve the minutes of October 5, 2011 Planning & Zoning Commission	
		Approved (6 to 0)
	Approve the minutes of October 19, 2011 Planning & Zoning Commission	
		Approved (6 to 0)
<b>C. Old Business</b>		
<b>D. Public Hearings</b>		
<b>D1. PCS 11-1-140 Illinois Spinal &amp; Sports Rehabilitation</b>	The Petitioner requests approval of a variance from Section 5-4-5:3.2 (Commercial Signs; Awnings and Canopy Signs; Awning and Canopy Sign Area) of the Naperville Municipal Code to increase the allowed signage on an awning from 12 square feet to 22 square feet for the property located at 4015 Plainfield/Naperville Road, #105.	
	Trude Terreberry, Code Enforcement Team, gave an overview of the request.	
	Eric Luksous, Petitioner, 2243 Haider Avenue, Naperville, IL, Illinois Spinal & Sports Rehabilitation <ul style="list-style-type: none"> <li>• Requesting a variance for an increase in the square footage of awning signage.</li> <li>• Willing to forgo any wall signage on the east elevation if the request for variance is approved.</li> </ul>	
	Planning and Zoning Commission closed the public hearing.	

	<p><b>Plan Commission Discussion:</b></p> <ul style="list-style-type: none"> <li>• Meyer – Noted that a condition should be incorporated into the approval that no additional signage shall be permitted on the east elevation upon approval of the awning sign.</li> </ul>		
	<p>Planning and Zoning Commission moved to recommend approval of a variance from to increase the allowable text/logo on an awning from 12 square feet to 22 square feet for the east elevation of the property located at 4015 Plainfield/Naperville Road, #105, providing that the petitioner does not utilize any wall signage on the east elevation.</p>		
	<table border="1" style="width: 100%;"> <tr> <td data-bbox="446 617 1258 837"> <p>Motion by: Gustin                      Seconded by: Williams</p> <p>Ayes: Bruno, Coyne, Messer, Meyer Williams Gustin                      Nays: None.</p> </td> <td data-bbox="1258 617 1521 837" style="text-align: center; vertical-align: top;"> <p>Approved (6 to 0)</p> </td> </tr> </table>	<p>Motion by: Gustin                      Seconded by: Williams</p> <p>Ayes: Bruno, Coyne, Messer, Meyer Williams Gustin                      Nays: None.</p>	<p>Approved (6 to 0)</p>
<p>Motion by: Gustin                      Seconded by: Williams</p> <p>Ayes: Bruno, Coyne, Messer, Meyer Williams Gustin                      Nays: None.</p>	<p>Approved (6 to 0)</p>		
<p><b>D2. PCS 11-1-141                      Lover's Lane</b></p>	<p>The petitioner requests a variance from Section 5-4-5:1.2 (Commercial Signs; Wall Signs; Wall Sign Area) of the Naperville Municipal Code for the property located at 1001 W. Ogden Avenue.</p>		
	<p>Trude Terreberry, Code Enforcement Team, gave an overview of the request.</p>		
	<p>Cathleen Keating, 2215 York Road, Oak Brook, IL, Attorney on behalf of the petitioner</p> <ul style="list-style-type: none"> <li>• Building is setback over 250' setback from Ogden Avenue</li> <li>• Existing sign is 112 sf, the proposed sign is approximately 30% smaller</li> <li>• Proposing to reuse the sign from another location</li> <li>• If the variance is not granting, the existing sign and awning will remain</li> </ul>		
	<p>Planning and Zoning Commission inquired about</p> <ul style="list-style-type: none"> <li>• Bruno – Packet shows that the requested signage is 32% larger than other wall signs in the shopping center. How does the current sign compare to other signs in the center? If the variance is not approved, will a conforming sign be installed? Terreberry responded that the proposed sign is 32% larger than the permitted amount of signage for the tenant. The petitioner stated that if the variance is not granted, only repairs will be made to the existing awning sigange.</li> <li>• Meyers – Does not think that the proposed sign is that different in size from the existing signs on the rest of the multi-tenant shopping center.</li> </ul> <p>Planning and Zoning Commission closed the public hearing.</p>		
	<p><b>Plan Commission Discussion:</b></p> <ul style="list-style-type: none"> <li>• Bruno – The proposed wall sign is an improvement over the existing awning sign.</li> <li>• Gustin – While the request may be for an increase in square footage, the proposed sign will be an improvement both visually and architecturally.</li> <li>• Coyne – The proposed sign is a dramatic aesthetic improvement over the</li> </ul>		

	existing.	
	Planning and Zoning Commission moved to recommend approval of the petitioner's request to increase the permitted amount of wall signage from 60 sf to 79 sf on the south building elevation for Lover's Lane located at 1001 W. Ogden Avenue.	
	Motion by: Gustin Seconded by: Messer  Ayes: Bruno, Coyne, Messer, Meyer, Gustin Nays: Williams	Approved (5 to 1)
<b>D3. PCZ 11-1-136 504 &amp; 508 N. Main</b>	The petitioner requests variances from Section 6-6B-7 (R1B, Yard Requirements) of the Naperville Municipal Code to allow for the construction of two single-family residences that encroach 8' into the required thirty-foot (30') rear yard setback.	
	Katie Forystek, Planning Services Team, gave an overview of the request	
	Vince Rosanova, 23 W. Jefferson Avenue, Attorney on behalf of the petitioner <ul style="list-style-type: none"> <li>• Proposing to preserve the streetscape along main street by maintaining the existing 40' platted setback</li> <li>• The single-family residences will be in compliance with the R1B District requirements</li> <li>• The proposed residences are in character with the neighborhood and will enhance the adjacent property values once completed</li> </ul>	
	Planning and Zoning Commission closed the public hearing.	
	Planning and Zoning Commission moved to recommend approval in accordance with staff's recommendation to allow for the construction of two single-family residences that encroach 8' into the required thirty-foot (30') rear yard setback for the properties located at 504 and 508 N. Main Street.	
	Motion by: Gustin Seconded by: Williams  Ayes: Bruno, Coyne, Messer, Meyer, Williams, Gustin Nays: None.	Approved (6 to 0)
<b>D4. PCZ 11-1-137 139 Water Street</b>	The petitioner requests approval of variances from Section 6-2-22:2 (Donation Boxes) to include: a variance from Section 6-2-22:2.1 in order to locate the donation box in the B5 (Secondary Commercial) District Variance; a variance from Section 6-2-22:2.3 in order to locate the donation box in the required front yard; variances from 6-2-22:2.7 and 6-2-22:2.8, which require signage on the box indicating the not-for-profit status of the operator and contact information, respectively.	

	<p>Motion to continued PZC 11-1-137, 139 Water Street, to the December 7, 2011 Planning and Zoning Commission meeting.</p> <p>Motion by: Gustin                  Seconded by: Williams</p> <p>Ayes: Bruno, Coyne, Messer, Meyer, Williams, Gustin                  Nays: None.</p>	<p>Approved                  (6 to 0)</p>
<p><b>D5. PC 11-1-143                  Victory Martial Arts</b></p>	<p>The petitioner requests approval of a conditional use for a training studio in the B1 District per section 6-7A-3 of the Municipal Code.</p>	
	<p>Katie Forystek, Planning Services Team, gave an overview of the request</p>	
	<p>Adam Grisko, Petitioner, 5800 Forest View Road, Lisle, IL, Victory Martial Arts Academy</p> <ul style="list-style-type: none"> <li>• Provides a variety of kickboxing and fitness classes for both adults and children</li> <li>• Provided an overview of operations</li> </ul>	
	<p>Planning and Zoning Commission inquired about</p> <ul style="list-style-type: none"> <li>• Bruno – Inquired when belt testing took place and whether or not large numbers of people were brought in together at once. The petitioner provided an overview of operations, stating that testing took place generally on the last Saturday each month for different groups.</li> </ul>	
	<p>Planning and Zoning Commission closed the public hearing.</p>	
	<p>Planning and Zoning Commission moved to recommend approval of a conditional use for a training studio in the B1 District.</p>	
	<p>Motion by: Messer                  Seconded by: Williams</p> <p>Ayes: Bruno, Coyne, Messer, Meyer, Williams, Gustin                  Nays: None.</p>	<p>Approved                  (6 to 0)</p>
<p><b>D6. PC 11-1-128                  Islamic Center of                  Naperville</b></p>	<p>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.</p>	
	<p>Amy Emery, Planning Services Team, gave an overview of the request</p> <ul style="list-style-type: none"> <li>• Continuation of the October 5th public hearing which included 29 speakers</li> <li>• The petitioner proposes to acquire the subject property and use it in accordance with the R1 District zoning requirements</li> <li>• Since October 5<sup>th</sup>, the petitioner has attended the Penncross Knolls Subdivision Homeowners Association and Tall Grass Subdivision</li> </ul>	

	<p>Homeowners Association meetings.</p> <ul style="list-style-type: none"> <li>• The Commission is considering rezoning to R1 and a plat of subdivision to establish a legal lot of record. Annexation is considered by the City Council, not the Planning and Zoning Commission.</li> <li>• The subject property is designated as a community facility in the city's Master Plan which encompasses religious facilities</li> <li>• Annexation is considered by CC not the PZC</li> <li>• Any construction on the property for a religious facility in the future will require a public process</li> </ul>
	<p>Len Monson, Kuhn, Heap and Monson, 552 S. Washington Street, Suite 100, attorney on behalf of the petitioner</p> <ul style="list-style-type: none"> <li>• The petitioner has attended Homeowners Association meetings for Penncross Knolls and the Tall Grass subdivision, and believes that the meetings were productive in clarifying any miscommunications on the proposed rezoning and annexation.</li> <li>• Clarified that someone will be living in the house on the subject property.</li> </ul>
	<p>Planning and Zoning Commission inquired about</p> <ul style="list-style-type: none"> <li>• Gustin sought clarification on the Commission's vote this evening as it relates to the annexation. Emery clarified that the Commission is being asked to vote on the zoning classification of the property and a plat of subdivision. The City Council will conduct the public hearing for annexation</li> </ul>
	<p><b>Public Testimony:</b></p> <p>Michael Boland, 1423 Jefferson Avenue - Referenced the Islamic Center of Naperville (ICN) location on Ogden Avenue and the large expansion of that facility. The subject property is much larger at 14 acres compared to the 4 acre site on Ogden Avenue. Believes that the petitioner has a plan, access to money to build whatever they want, and has concerns about the facility fitting within the neighborhood. Opposes the request this evening.</p> <p>Michael Crockett, 3144 Kewanse Lane, Naperville, IL – Noted that he was submitting a letter for the record.</p> <p>Tom Cordano, 2326 Reflections Drive, Aurora, IL – Has worked in Naperville and has belonged to a Catholic Parish in Naperville for 15 years. The citizens of Naperville have respect for the Islamic community in Naperville. Requested that the Commission carefully consider the request for rezoning, make a decision based on the rules and the laws and be fair.</p> <p>Kathy Aguayo, 3428 Lapp Lane, Naperville, IL – The subject property is surrounded by single-family homes, understands that the city's Master Plan shows the subject property as a religious facility, but feels that a religious facility is not the highest and best use. The parking lot will be large, with large parking lot lightings and services will last until 10:30 in the evening. Suggested that single-family is an appropriate use of the subject property.</p>

MaryAnn Juransky, 3411 Boltuns Drive, Naperville, IL – Stated that the petitioner is not in compliance with the notification requirements because the date on the sign was not modified as a result of the public hearing being continued from October 5<sup>th</sup> to November 2<sup>nd</sup>. Emery clarified that the city is obligated to follow the state statutory requirements related to notice and Petitioner is in compliance with the notification requirements. Per the City Attorney, Emery noted that the date on the sign must be updated in the event the hearing date is reschedule, for example if a meeting is cancelled due to lack of a quorum. This is not the case as this application is a continuance of an existing public hearing. The date for the annexation hearing has not yet been set; the city will complete the notification requirements to districts and provide notice in the newspaper.

Charles Pierce 2484 Acorn Hill Court, Lisle, IL – A founder of Hope Church. The existing home was occupied for farming and to raise a family. The existing home is suitable and habitable. The Commission is being tasked with determining rezoning the property to R1. Any other issues would be addressed at another time.

Renee Majors, 2827 Breckenridge Lane, Naperville, IL – Sought clarification on the purpose of the plat of subdivision. Surrounding zoning is R1 and feels that the proposed zoning is compatible. Hopes the PZC will look at the request and move forward with the recommendation for land use contained in the master plan that was in place before the houses were built. Emery clarified that the plat of subdivision is for the purpose of establishing a legal lot of record, and to dedicate right-of-way for future expansion of 248<sup>th</sup> in accordance with city plans.

Dave Prokop, 3727 Mistflower Lane, Naperville, IL – How can you rezone a property if it is not in Naperville? Emery clarified that the PZC is a recommending body and charged with making a recommendation on the zoning request. The City Council has the final decision making authority.

Augusto Aguio, 2834 Black Lane, Penncross Knoll Subdivision – Requested clarification on the Commission's roll. Gustin clarified that the Commission will make a recommendation only, and the City Council will review and consider the request and make a final determination on the annexation, rezoning and plat of subdivision.

Timothy Silva, 484 Enly Court, Boilingbrook, IL, Pastor of Hope United Church – Fully supports the request for rezoning of the property and the plat of subdivision.

Nizam Khatib, 2851 Breckenridge Lane, Naperville, IL – Supports the request for R1 zoning and encourages a positive recommendation from the Commission.

	<p>Mark Winters 1489 Cortland Drive, Naperville, IL – Supports the Islamic Center request.</p> <p>Chuck Raucci, 3715 Mistflower Lane, Naperville, IL – Stated that he has a petition signed by 43 out of 61 homeowners that received notification, which demonstrates that over 80% of those people oppose the request for annexation. Emery stated that petition has been included as part of the Commission’s packet and will be forwarded to the City Council.</p>
	<p>Petitioner’s Attorney responded to testimony</p> <ul style="list-style-type: none"> <li>• Confirmed that the petitioner does want to grow their congregation and sometime in the future hope to build a new facility on the subject property.</li> <li>• All improvements to other ICN facilities have gone through the appropriate city processes despite those who said otherwise during testimony.</li> <li>• Clarified that the petitioner is requesting default zoning and that the Commission is being asked to determine if the R1 zoning designation is appropriate.</li> </ul>
	<p>Planning and Zoning Commission inquired about</p> <ul style="list-style-type: none"> <li>• Coyne – If the City Council approves annexation of the property does it become R1? How does the Commission vote on zoning if the Commission does not vote on annexation? Emery clarified that default zoning upon annexation is R1. The PZC provides a zoning recommendation upon annexation to be either approved or denied by the City Council.</li> <li>• Williams – In support of the petitioner’s request for R1 zoning. Feels that this is a jurisdictional issue, how can the Commission consider the request without the property being annexed yet? Emery clarified that the Commission is a recommending body, the property is eligible for annexation, the city has received a petition for a request and that the property is within the city’s planning boundary.</li> </ul> <p>Planning and Zoning Commission closed the public hearing.          Motion by - Meyer          Second by - Williams</p>
	<p><b>Plan Commission Discussion:</b></p> <ul style="list-style-type: none"> <li>• Bruno – In favor of the request for rezoning and subdivision plat</li> <li>• Messer – Generally concurs with Meyer and does not feel that it is right hold up the request to wait for single-family homes on the property. The petitioner has made the intent of the long term use of the property clear, but the request for a religious facility is not for consideration this evening.</li> <li>• Meyer – In favor of R1 zoning designation and noted that other uses are permitted in R1. The Commission provides an opportunity for public input to provide the City Council an idea of resident input as well as the</li> </ul>

	<p>Commission’s input as it relates to the request at hand.</p> <ul style="list-style-type: none"> <li>• Gustin – Agrees with the points that the other Commissioner’s have made.</li> <li>• Coyne – Clarified that the Commission is being asked to vote on the default zoning upon annexation.</li> <li>• Williams – Concurs with Messer.</li> </ul>				
	<p>Planning and Zoning Commission moved to recommend approval of 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.</p>				
	<table border="1"> <tr> <td data-bbox="446 655 1258 877"> <p>Motion by: Gustin                      Seconded by: Williams</p> <p>Ayes: Bruno, Coyne, Messer, Meyer, Williams, Gustin                      Nays: None</p> </td> <td data-bbox="1258 655 1515 877"> <p>Approved                      (6 to0)</p> </td> </tr> </table>	<p>Motion by: Gustin                      Seconded by: Williams</p> <p>Ayes: Bruno, Coyne, Messer, Meyer, Williams, Gustin                      Nays: None</p>	<p>Approved                      (6 to0)</p>		
<p>Motion by: Gustin                      Seconded by: Williams</p> <p>Ayes: Bruno, Coyne, Messer, Meyer, Williams, Gustin                      Nays: None</p>	<p>Approved                      (6 to0)</p>				
<p><b>E. Reports and Recommendations</b></p>					
<p><b>F. Correspondence</b></p>					
<p><b>F1. Multi-Tenant Ground Signs</b></p>	<p>The Commission requested that this item be placed on the December 7, 2011 Planning and Zoning Commission meeting as Commissioner Herzog requested the information and was absent. Commissioner Coyne inquired whether or not the business owners along Ogden Avenue were notified of the code modifications when the text amendment was being processed.</p> <p>Staff responded that the item would be placed on the December 7, 2011 meeting and that staff will provide a response to Commissioner Coyne’s notification question at that meeting.</p>				
<p><b>F2. Accessory Structures Request</b></p>	<table border="1"> <tr> <td data-bbox="446 1453 1258 1654"> <p>Direct staff to initiate an amendment to Zoning Ordinance pertaining to accessory structures.</p> </td> <td data-bbox="1258 1453 1515 1654"></td> </tr> <tr> <td data-bbox="446 1654 1258 1944"> <p>Planning and Zoning Commission made a motion directing staff to initiate an amendment to the Zoning Ordinance pertaining to accessory structures.</p> <p>Motion by: Williams                      Second by: Messer</p> <p>Ayes: Bruno, Coyne, Messer, Meyer, Williams, Gustin</p> </td> <td data-bbox="1258 1654 1515 1944"> <p>Approved                      (6 to0)</p> </td> </tr> </table>	<p>Direct staff to initiate an amendment to Zoning Ordinance pertaining to accessory structures.</p>		<p>Planning and Zoning Commission made a motion directing staff to initiate an amendment to the Zoning Ordinance pertaining to accessory structures.</p> <p>Motion by: Williams                      Second by: Messer</p> <p>Ayes: Bruno, Coyne, Messer, Meyer, Williams, Gustin</p>	<p>Approved                      (6 to0)</p>
<p>Direct staff to initiate an amendment to Zoning Ordinance pertaining to accessory structures.</p>					
<p>Planning and Zoning Commission made a motion directing staff to initiate an amendment to the Zoning Ordinance pertaining to accessory structures.</p> <p>Motion by: Williams                      Second by: Messer</p> <p>Ayes: Bruno, Coyne, Messer, Meyer, Williams, Gustin</p>	<p>Approved                      (6 to0)</p>				

Naperville Planning and Zoning Commission  
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	Nays: None	
<b>G. New Business</b>		
<b>H. Adjournment</b>		8:42 p.m.



# Naperville

## PLANNING & ZONING COMMISSION AGENDA ITEM

**PCS CASE:** 11-1-149 **AGENDA DATE:** 12/7/11

**SUBJECT:** Case Name: CityGate Grille  
Petitioner: Calamos Real Estate LLC

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**LOCATION:** CityGate Grille is located at 2020 Calamos Court, #100  
Monument sign is located at the intersection of Westings Avenue & Calamos Court

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Correspondence      New Business      Old Business      Public Hearing

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**SYNOPSIS:**

The petitioner proposes to add a new 18-square-foot tenant panel to an existing 56-square-foot multi-tenant monument sign. In order to install the tenant panel, the petitioner requests approval of a variance from Section 5-4-5:2.2 (Commercial Signs; Monument Signs; Monument Sign Area) of the Naperville Municipal Code in order to increase the sign area to 74 square feet for the monument sign located at the intersection of Westings Avenue & Calamos Court.

**PLANNING & ZONING COMMISSION ACTION PREVIOUSLY TAKEN:**

Date	Item No.	Action
N/A		

**ACTION REQUESTED/RECOMMENDED THIS MEETING:**

Conduct the public hearing.

**PREPARED BY:** Trude B. Terreberry, Code Enforcement Officer

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**EXISTING ZONING, LAND USE, AND LOCATION:**

Located at 2020 Calamos Court and zoned ORI PUD (Office, Research and Light Industry District, Planned Unit Development), the subject property encompasses approximately 5.3 acres and is improved with an office building and parking garage. Please note that the monument sign is located directly north of 2020 Calamos Court at the intersection of Westings Avenue & Calamos Court.

The surrounding properties are zoned as follows:

- North – ORI PUD – improved with an office building and is part of the CityGate Centre Development
- East – ORI – an undeveloped lot (retention basin)

CityGate Grille – Staff PZC Memo – PCS 11-1-149

December 7, 2011

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- South – I-88
- West – Industrial – vacant / pending development

**REQUEST:**

The petitioner, Calamos Real Estate LLC (Calamos), proposes to add an 18 square foot (SF) tenant panel for CityGate Grille to the 56-SF multi-tenant monument sign that is located at the intersection of Westings Avenue and Calamos Court. In order to install the tenant panel, the petitioner requests approval of a variance from Section 5-4-5:2.2 (Commercial Signs; Monument Signs; Monument Sign Area) of the Naperville Municipal Code in order to increase the sign area to 74 square feet.

**CONTROLLING AGREEMENTS AND ORDINANCES:**

Resolution 08-049 – Comprehensive Sign Package for the CityGate Centre Development

**STAFF REVIEW:**

Section 5-4-5:2.2 (Commercial Signs; Monument Signs; Monument Sign Area) of the Naperville Municipal Code limits the sign area of a monument sign to 45 SF when the monument sign is located along a public roadway with a posted speed limit of 40 mph or less. The existing monument sign was approved at 56 SF as a part of the comprehensive sign package that was approved by City Council through Resolution 08-049. In order to increase the size of the sign that was previously approved by City Council the petitioner must now obtain another variance.

The petitioner believes that the existing monument sign does not sufficiently distinguish the CityGate Grille tenant panel as separate and distinct from the larger Calamos tenant panel and believes a more visible tenant panel for CityGate Grille will attract a larger customer base. In addition, the petitioner believes that the larger tenant panel will enhance public awareness of the restaurant to motorists and pedestrians that are traveling east and west along Westings Avenue.

Staff does not believe that a hardship exists and believes that the request is not reasonable for the following reasons:

- CityGate Grille already has a tenant panel on the existing 56-SF sign
  - The existing 56-SF sign as configured also allows for a larger CityGate Grille tenant panel to be located on it without increasing the overall size of the sign
- There are two existing directionals on Westings Avenue, one for eastbound traffic and one for westbound traffic, that include directional information for CityGate Grille
- There are two existing directionals on Calamos Court that include directional information for CityGate Grille
- In the near future, the petitioner intends to install another directional just for CityGate Grille along Westings Avenue
  - The petitioner has stated that this new directional will be removed if the variance for the tenant panel is granted

**STAFF SUMMARY:**

The purpose of the Street Graphics Ordinance is to create the framework for a comprehensive balanced system of signage, to promote communication between people and their environment and to

*CityGate Grille – Staff PZC Memo – PCS 11-1-149  
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avoid the usual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance.

Staff believes that the proposed sign is not in harmony with the intent of the street graphics ordinance because the proposed tenant panel will increase the size of the existing sign by 32%. The current monument sign is already 24% larger than what is allowed by code and by adding the 18 SF tenant panel it will be 64% larger than what is allowed by code. In addition, staff believes that CityGate Grille already has ample signage along Westings Avenue; therefore, the additional signage for CityGate Grille adds clutter.

Staff has reviewed the requested street graphics variance and finds that the petitioner does not meet the standards for granting a variance to the Street Graphics Control Ordinance. As a result, staff does not recommend approval of a variance from Section 5-4-5:2.2 (Commercial Signs; Monument Signs; Monument Sign Area) of the Naperville Municipal Code to add an 18-SF tenant panel for CityGate Grille to the existing monument sign located at the intersection of Westings Avenue & Calamos Court.

**ACTION REQUESTED:**

Conduct the public hearing.

**ATTACHMENTS:**

1. CityGate Grille – Petitioner’s Application – PCS 11-1-149
2. CityGate Grille – Legal Description – PCS 11-1-149
3. CityGate Grille – Location Map – PCS 11-1-149
4. CityGate Grille – Site Plan – PCS 11-1-149
5. CityGate Grille – Sign Rendering – PCS 11-1-149
6. CityGate Grille – Sign Rendering/Night View – PCS 11-1-149
7. CityGate Grille – Photographs of Existing Signs – PCS 11-1-149

# CITY OF NAPERVILLE APPLICATION FOR A SIGN VARIANCE

ADDRESS OF SUBJECT PROPERTY: 2040 Calamos Court, Naperville, IL 60563 and 2075 Calamos Court, Naperville, IL 60563

PARCEL IDENTIFICATION NUMBER (PIN) 2040 - 07-03-105-008; 2075 - 07-03-105-005

APPLICANT'S NAME: Calamos Real Estate LLC c/o David Michelsen

APPLICANT'S ADDRESS: 2020 Calamos Court

CITY: Naperville STATE: IL ZIP CODE: 60563

DAYTIME PHONE: 630-955-4896

E-MAIL ADDRESS: dmichelsen@calamos.com

OWNER OF PROPERTY: 2040 Calamos Court LLC and 2075 Calamos Court LLC

OWNER'S ADDRESS: 2020 Calamos Court

CITY: Naperville STATE: IL ZIP CODE: 60563

OWNER'S DAYTIME PHONE: 630-955-4896

ZONING OF PROPERTY: ORI PUD

AREA OF PROPERTY (Acres or sq ft): 2040 - 213,937sf; 2075 - 74,934sf

List Improvements on property (buildings, fences, pools, decks, etc.):

Retail building, surface parking, roadway, site lighting, and landscaping

DETAILED DESCRIPTION OF VARIANCE (include relevant Section numbers of Municipal Code; attached additional pages if needed):

Municipal Code Title S, Chapter , Section 5-4-5

The above information, to the best of my knowledge, is true and accurate:

David Newell                      November 2, 2011  
(signature of applicant)                      (date)

SUBSCRIBED AND SWORN TO before me this 2<sup>nd</sup> day of November, 2011



Emmanuela C Hilty  
(Signature of Notary Public and Seal)

## FINDINGS OF FACT FOR SIGN VARIANCES

The city will consider the reasonableness of a sign variance request as well as the extent to which it complies with the standards contained in Section 5-14-4:11 of the Naperville Municipal Code, which are listed below. Self-inflicted hardships or increased profit or property value are not sufficient justifications to warrant a variance. The recommendations prepared by staff and the Planning and Zoning Commission are prepared based upon the following standards. *You should review the standards and, if necessary, prepare written findings or other evidence to support your request.*

Standards For Variations: The Planning and Zoning Commission shall not recommend or grant a variation unless it shall make findings of fact based upon evidence presented at the hearing in any given case that:

1. **The plight of the owner is due to unique circumstances and the proposed variation will not merely serve as a convenience to the petitioner, but will alleviate some demonstrable and unusual hardship which will result if the strict letter of the regulations of this Chapter were carried out and which particular hardship or practical difficulty is not generally applicable to other comparable signs or properties.**
2. **The alleged hardship has not been created by any person presently having a proprietary interest in the subject sign (or property).**
3. **The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood.**
4. **The proposed variation will not impair visibility to the adjacent property, increase the danger of traffic problems or endanger the public safety.**
5. **The proposed variation will not alter the essential character of the neighborhood.**
6. **The proposed variation is in harmony with the spirit and intent of this Chapter.**

I have reviewed the Standards for a Sign Variation and understand and acknowledge that my request will be considered based upon the extent to which it fulfills these standards. Further, I understand and acknowledge that I may be required to provide a written explanation detailing how my request fulfills these standards.

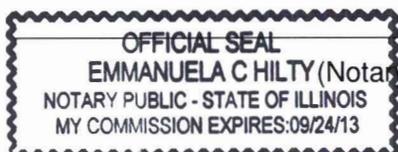


(signature of applicant)

November 2, 2011

(date)

SUBSCRIBED AND SWORN TO before me this 2<sup>nd</sup> day of November, 2011





Public and Seal)

EXHIBIT A (continued)

**CITY OF NAPERVILLE  
ZONING BOARD OF APPEALS  
FINDINGS OF FACT FOR VARIANCES TO THE STREET GRAPHICS CODE  
(SIGN VARIANCE)**

Justification for a sign variance is based on reasonableness. The full burden of proof in determining reasonableness rests with the applicant. Certain criteria are not sufficient justification for a variance, specifically:

- Self-inflicted hardships are not eligible for a variance.
- Greater profit or increased property value is not sufficient cause to warrant a variance.

Applicant: Calamos Real Estate LLC c/o David Michelsen

Address: 2020 Calamos Court, Naperville, IL 60563

1. The plight of the owner is due to unique circumstances and the proposed variation will not merely serve as a convenience to the petitioner, but will alleviate some demonstrable and unusual hardship which will result if the strict letter of the regulations of this Chapter were carried out and which particular hardship or practical difficulty is not generally applicable to other comparable signs or properties.

The existing monument sign does not sufficiently distinguish the CityGate Grille restaurant as separate and distinct from the larger Calamos Investments sign. Amending the existing monument sign with a more visibly pronounced CityGate Grille identifier will attract a larger customer base.

2. The alleged hardship has not been created by any person presently having a proprietary interest in the subject sign (or property).

Parties having proprietary interest in proposed sign and property are not the cause of this hardship.

**EXHIBIT A (continued)**

3. The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

Propose a variation is intended to enhance public awareness to east and west bound Westings Avenue traffic.

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4. The proposed variation will not impair visibility to the adjacent property, increase the danger of traffic problems or endanger the public safety.

No driver visibility will be impaired by the retrofit of existing monument. Adjacent property is owned by one of applicant entities.

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5. The proposed variation will not alter the essential character of the neighborhood; and

Existing sign modification is intended to be compatible with surrounding land uses and enhance the visual environment. The 31 acre CityGate Centre campus is a Class A complex and variation requested herein will only serve to improve visibility of one of its tenants.

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6. The proposed variation is in harmony with the spirit and intent of this Chapter.

This sign variance supports and clarifies access to a crucial restaurant tenant. Moreover, it would support Naperville commerce and encourage awareness of CityGate Centre dining options.

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**EXHIBIT A (continued)**

LEGAL DESCRIPTION

2020 Calamos Court Annex – 07-03-303-011

LOT 2 OF THE RESUBDIVISION OF LOT 3 IN CALAMOS CORPORATE CENTER, BEING A RESUBDIVISION IN PART OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 27, 2006 AS DOCUMENT NO. R2006-055553 IN DUPAGE COUNTY, ILLINOIS

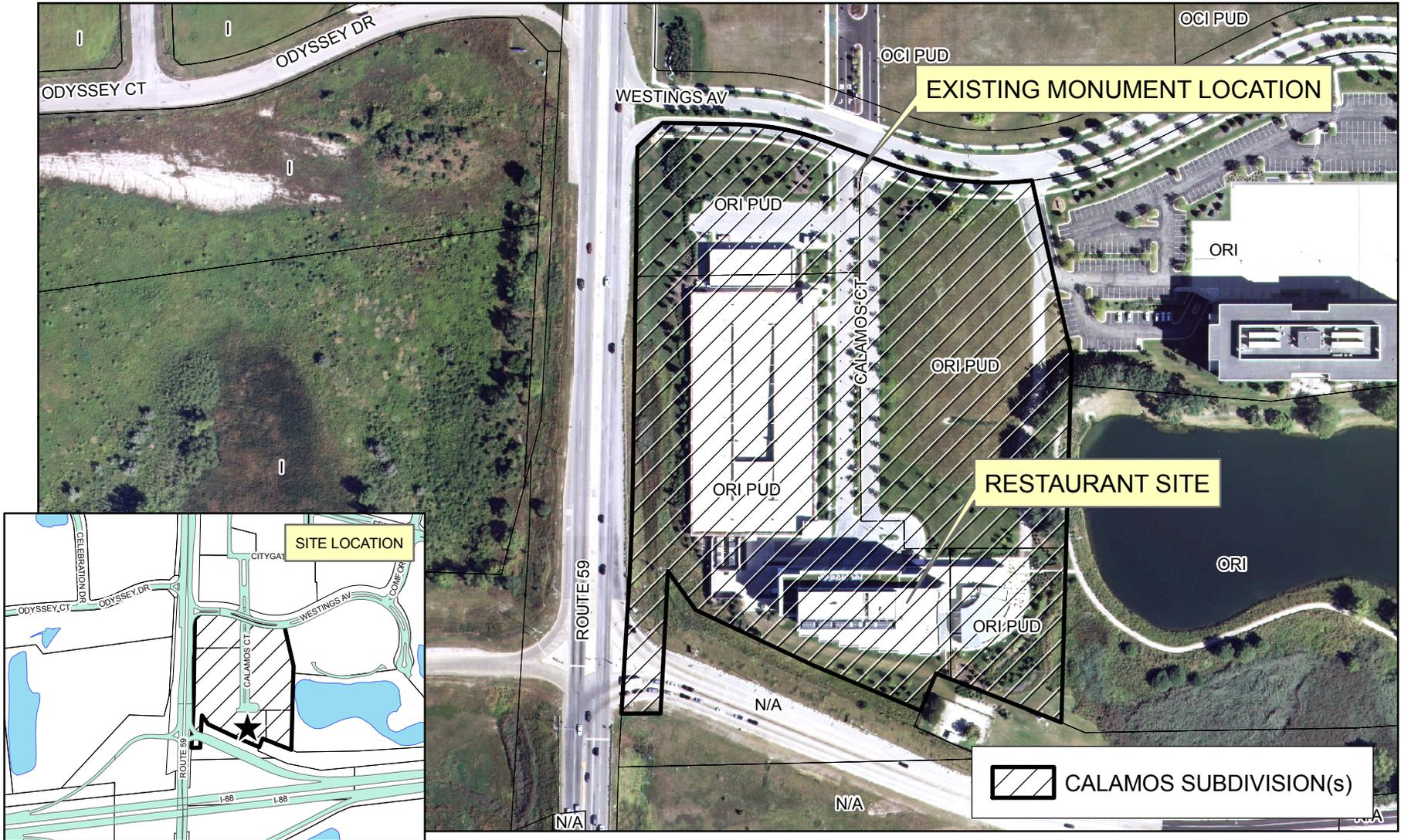
2040 Calamos Court– 07-03-105-008

LOT 1 OF THE RESUBDIVISION OF LOT 3 IN CALAMOS CORPORATE CENTER, BEING A RESUBDIVISION IN PART OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 27, 2006 AS DOCUMENT NO. R2006-055553 IN DUPAGE COUNTY, ILLINOIS

2075 Calamos Court – 07-03-105-005

LOT 1 IN CALAMOS CORPORATE CENTER, BEING A RESUBDIVISION OF LOT 4 IN WESTINGS CORPORATE COMMUNITY SUBDIVISION, ALL IN SECTION 3, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 7, 2005 AS DOCUMENT NO. R2005-118094 IN DUPAGE COUNTY, ILLINOIS

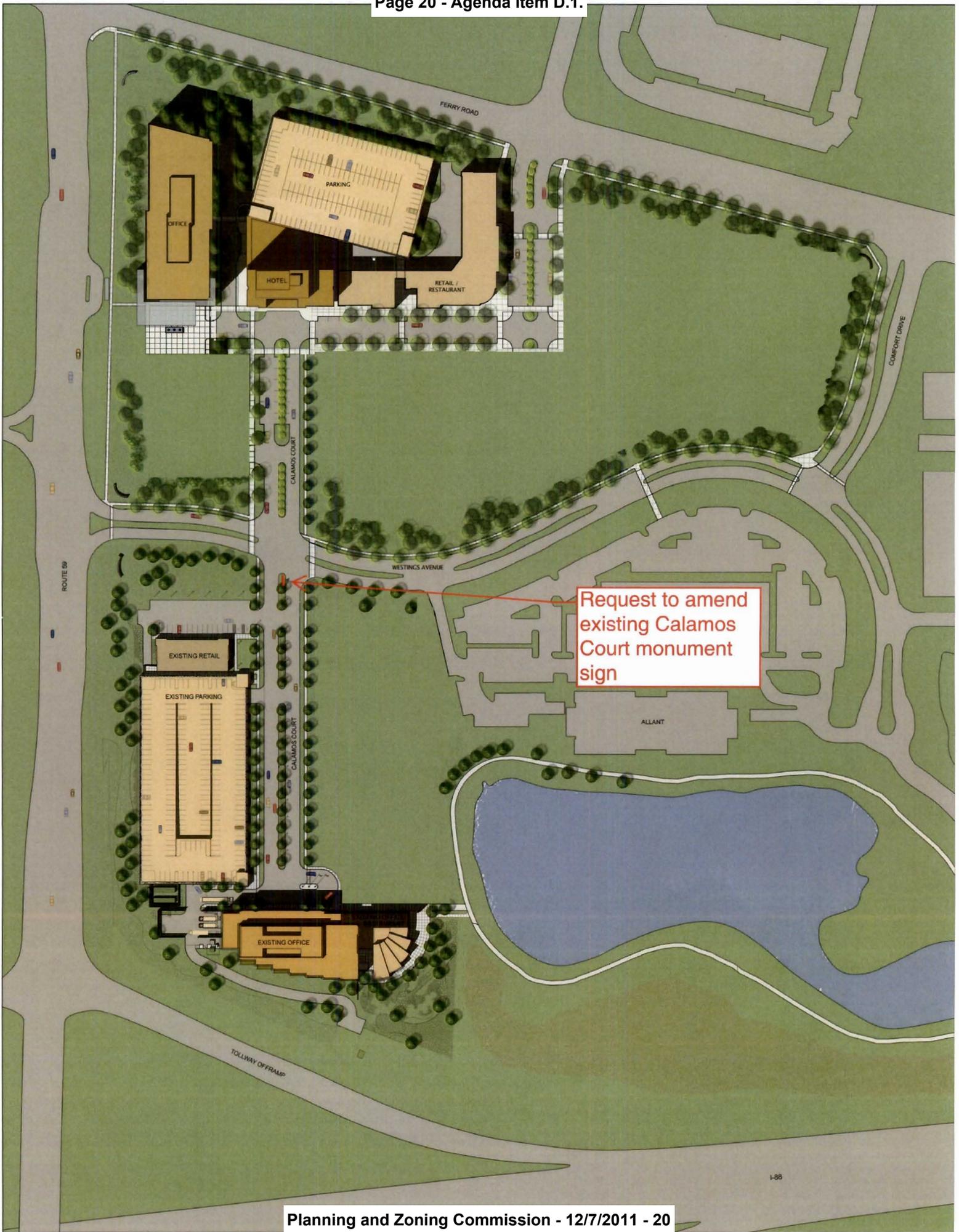
City of Naperville  
**CITYGATE GRILLE - 2020 CALAMOS COURT**



Transportation, Engineering and  
 Development Business Group  
 Questions Contact (630) 420-6719  
 www.naperville.il.us  
 November 2011



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 forbidden without expressed written consent from the City of Naperville.



Request to amend existing Calamos Court monument sign

**CABINET**

**QUANTITY**

■ 1 □ 2 □ 3 □ 4 □ Other

**SURVEY**

□ N/A □ Required □ Completed

**DECORATION**

□ S/F ■ D/F

**VOLTAGE**

□ 120v □ 277v □ Other

**LIGHTING**

□ Non-Lit □ LED □ Fluorescent

**INSTALLATION**

Flush mount to wall  
Between structures  
Pole mount  
Other

Material:  Aluminum  Lexan  Acrylic  Flexface

**CABINET**

Material:  Aluminum  Lexan  Acrylic  Flexface

Add cabinet to top of existing D/F sign  
Sign produced on E16799 (3/08) 37762\_01

**SIGN VARIANCE REQUEST**



Existing D/F Sign



Planning and Zoning Commission - 12/7/2011 - 21



**POBLOCKI**  
SIGN COMPANY

414.453.4810 fax 414.453.3878  
822 E. 78th St., West Allis WI 53214

POBLOCKI.COM

**PROJECT:**

**Calamos Investments  
Leaders Bank**

2020 Calamos Court  
Naperville, IL

This document represents only an approximation of material colors specified. Actual product color may vary from this print or digital image.

**CUSTOMER APPROVAL:**

AUTHORIZED SIGNATURE

DATE

WORK ORDER NO.

J

REVISION NO.

03 lah 10/17/11 float

**MISSING INFORMATION**

- Color (s)
- Copy
- Accurate size (s)
- Clean artwork
- Other

**REPRESENTATIVE**

Jim Maertz

**DRAWN BY**

LAH

**DATE**

09 / 19 / 11

**SCALE**

1/2" = 1'-0"

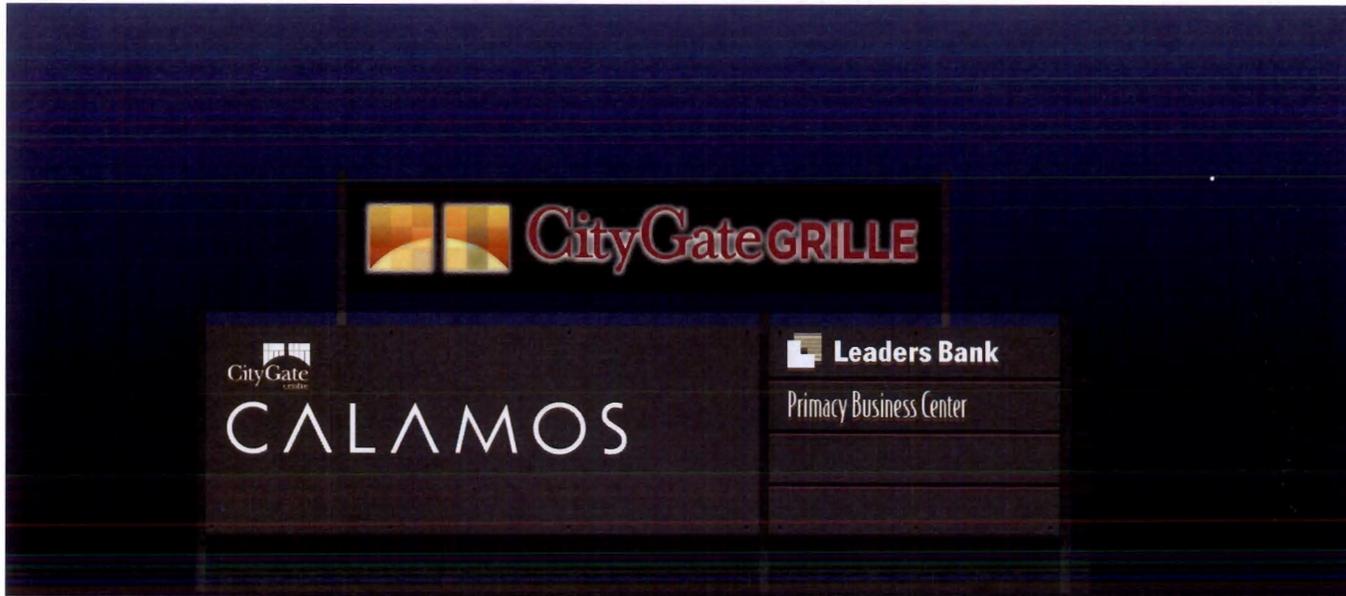
**SHEET**

06

**DRAWING NO.**

37762

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Simulated Night View



**POBLOCKI**  
SIGN COMPANY, LLC

414.453.4810 fax: 414.453.3870  
922 S. 70th St., West Allis WI 53214

POBLOCKI.COM

PROJECT:

**Calamos  
Investments  
Leaders Bank**

2020 Calamos Court  
Naperville, IL

This document represents only an approximation of material colors specified. Actual product color may vary from this print or digital image.

CUSTOMER APPROVAL:

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J

REVISION NO.

04 lah 10/17/11 float

MISSING INFORMATION

- Color (s)
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REPRESENTATIVE

Jim Maertz

DRAWN BY

LAH

DATE

09 / 19 / 11

SCALE

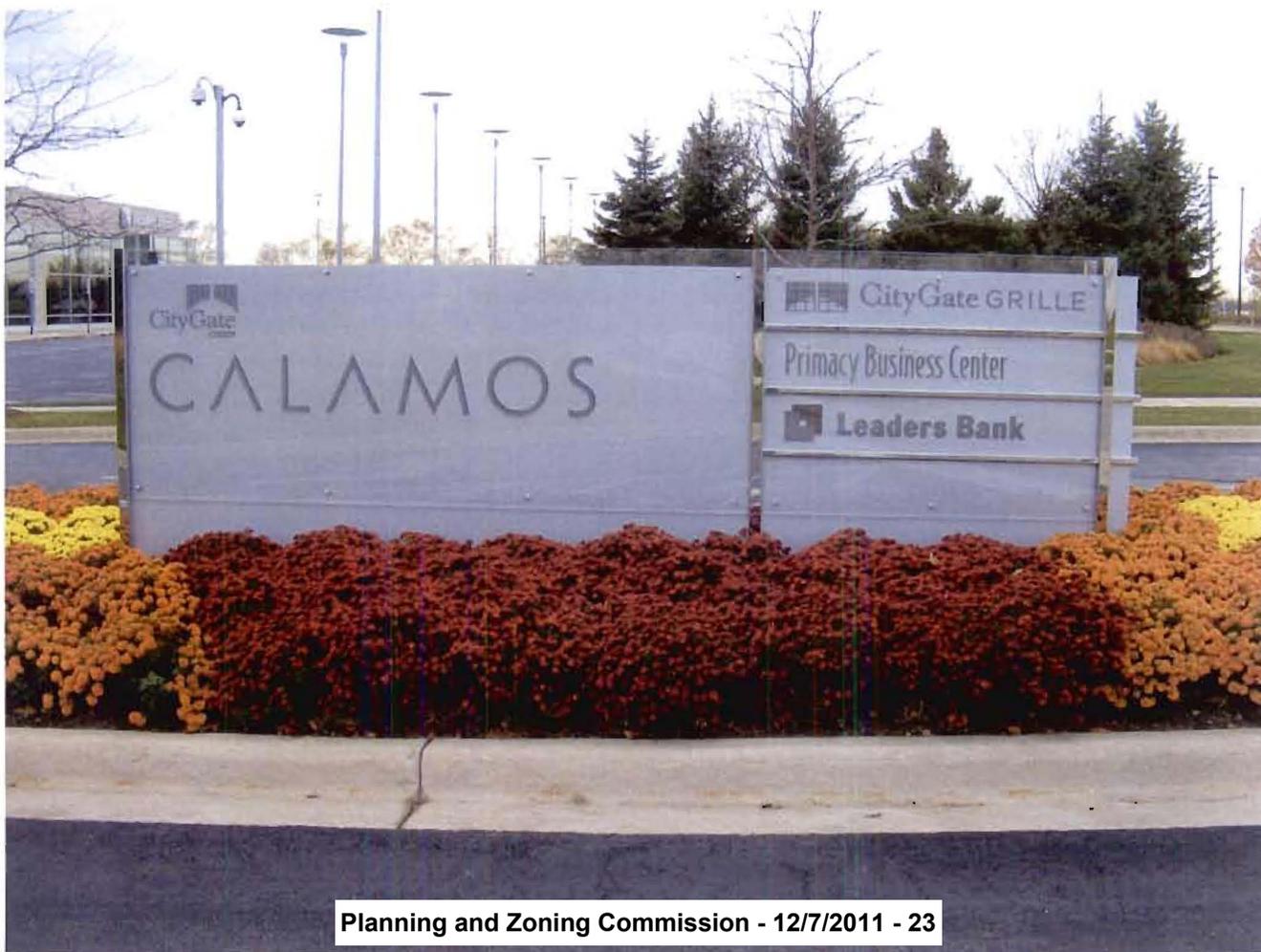
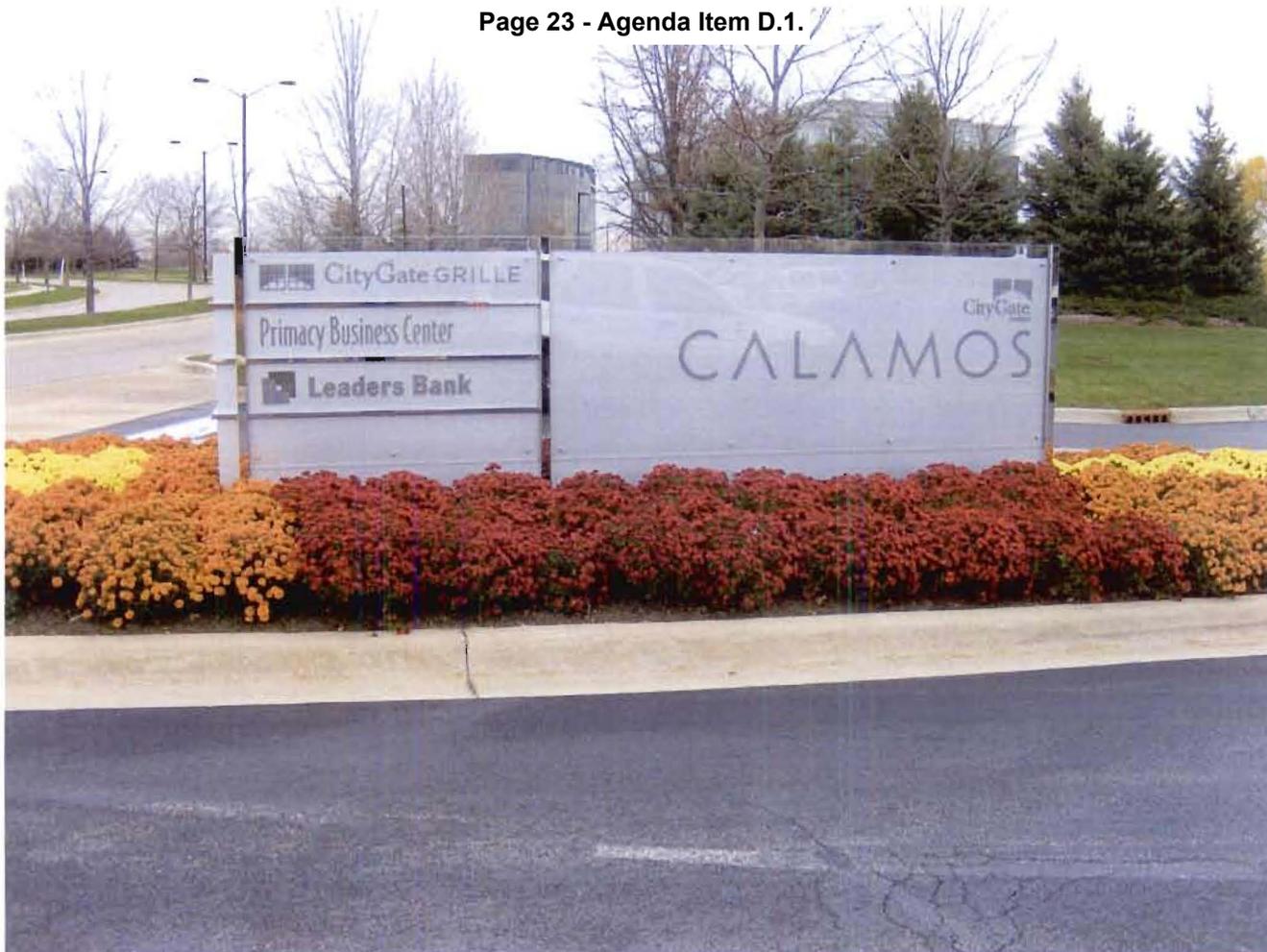
None

SHEET

06N

DRAWING NO.

37762









# Naperville

## NAPERVILLE PLANNING AND ZONING COMMISSION AGENDA ITEM

**PZC CASE:**            11-1-137                            **AGENDA DATE:**        12/7/2011

**SUBJECT:**                139 Water Street- Lions Donation Box  
Petitioner: Naperville Township

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**LOCATION:**                139 Water Street

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Correspondence        New Business            Old Business            Public Hearing

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**SYNOPSIS:**

The petitioner requests approval of variances from Section 6-2-22:2 (Donation Boxes) including: a variance from Section 6-2-22:2.1 in order to locate the donation box in the B5 (Secondary Commercial) District; a variance from Section 6-2-22:2.3 in order to locate the donation box in the required front yard; and variances from 6-2-22:2.7 and 6-2-22:2.8, which require signage on the box indicating the not-for-profit status of the operator and contact information, respectively.

---

**PLAN COMMISSION ACTION PREVIOUSLY TAKEN:**

Date	Item No.	Action
3/30/2011	D1	Recommended approval of donation box ordinance
11/2/2011	N/A	Continued the public hearing to December 7, 2011

**ACTION REQUESTED/RECOMMENDED THIS MEETING:**

Conduct the public hearing.

**PREPARED BY:**        Suzanne Thorsen, AICP, Planning Services Team

---

**EXISTING ZONING, LAND USE, AND LOCATION:**

The subject property is the Naperville Township Building, located at 139 Water Street, which is generally at the northeast corner of Webster Street and Water Street in the downtown area. The property is zoned B5 (Secondary Downtown) and is improved with a municipal office building. The petitioner proposes to provide a donation box on the south side of the building, facing Water Street.

**CONTROLLING AGREEMENTS AND ORDINANCES:**

N/A

139 Water Street – PCZ 11-1-137

December 7, 2011

Page 2 of 3

### **BACKGROUND**

On June 21, 2011 the Naperville City Council passed Ordinance 11-90 establishing regulations for donation boxes. Prior to that time, donation boxes required City Council approval of a temporary use for placement anywhere in the city. The purpose of the proposed amendment was to establish consistent regulations and streamlined permitting procedures for all donation boxes in the community.

The proposed amendment specifically prohibited the placement of donation boxes in the downtown area (B4 and B5 Districts). This prohibition is consistent with other policies in the downtown which prohibit newspaper boxes and establish strong aesthetic standards. In addition, staff found that donation bins create traffic patterns (i.e., drop-off activity) that are inappropriate with the downtown character and circulation.

In March 2011 the Naperville Township placed a donation bin in front of its office building at 139 Water Street in the downtown area. The Township was notified of the pending ordinance change which was up for consideration at the Planning and Zoning Commission's March 30, 2011 meeting. No representatives of the Township responded to the amendment. The matter was subsequently considered by the Naperville City Council on May 3 and June 21, 2011. No representatives of the Township provided public input during the City Council deliberations.

Following passage of the Donation Box Ordinance in June, 2011, all property owners with nonconforming donation boxes were provided a two-month window in which to work toward compliance by either a) relocating/removing nonconforming donation bins; or b) applying for a permit to retain the donation bin on-site. The Township was notified that relocation of the existing donation bin to the inside of the building would resolve the city's zoning concerns; the Township declined this option and subsequently decided to apply for a zoning variance.

### **PLANNING SERVICES TEAM REVIEW:**

A review of the existing donation bin at 139 Water Street indicates that the following zoning variances are required in order to accommodate it in its existing state and location:

- Section 6-2-22:2.1 in order to locate the donation box in the B5 (Secondary Commercial) District;
- Section 6-2-22:2.3 in order to locate the donation box in the required front yard; and
- Sections 6-2-22:2.7 and 6-2-22:2.8, which require signage on the box indicating the not-for-profit status of the operator and contact information, respectively.

### *Standards for a Zoning Variance*

Staff has reviewed the petitioner's request for zoning variances to accommodate the donation bin at 139 Water Street and finds that it does not meet the Standards for Granting a Variance (Section 6-3-5), specifically noting that the proposed donation box location in the downtown is inconsistent with the essential character of the downtown area (as discussed above), is not necessary to accommodate a reasonable return, and is not associated with any practical difficulties of physical hardships. In addition, staff finds that an alternate solution to the proposed variance exists, which is to accommodate the donation bin within the Township Building, which is permitted by right.

*139 Water Street – PCZ 11-1-137  
December 7, 2011  
Page 3 of 3*

**ACTION REQUESTED:**

Conduct the public hearing.

**ATTACHMENTS:**

1. Petition for Variance
2. Donation Box Ordinance

# CITY OF NAPERVILLE APPLICATION FOR A ZONING VARIANCE

ADDRESS OF SUBJECT PROPERTY: 139 Water St. Naperville

PARCEL IDENTIFICATION NUMBER (PIN) \_\_\_\_\_

APPLICANT'S NAME: Gary Vician, Naperville Township Supervisor

APPLICANT'S ADDRESS: 139 Water St

CITY: Naperville STATE: IL ZIP CODE: 60540

APPLICANT'S DAYTIME PHONE: (630) 355-2786

E-MAIL ADDRESS: gary@naperville-township.com

OWNER OF PROPERTY: Naperville Township

OWNER'S ADDRESS: 139 Water St

CITY: Naperville STATE: IL ZIP CODE: 60540

OWNER'S DAYTIME PHONE: (630) 355-2786

ZONING OF PROPERTY: \_\_\_\_\_

AREA OF PROPERTY (Acres or sq ft): 6732 sq ft

List improvements on property (buildings, fences, pools, decks, etc.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

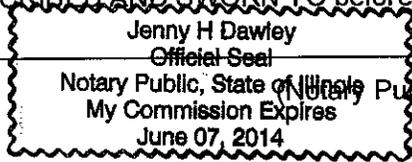
DETAILED DESCRIPTION OF VARIANCE (include relevant Section numbers of Municipal Code; attached additional pages if needed):

~~Allow~~ Allow Lions Donation box on the Naperville Township property.

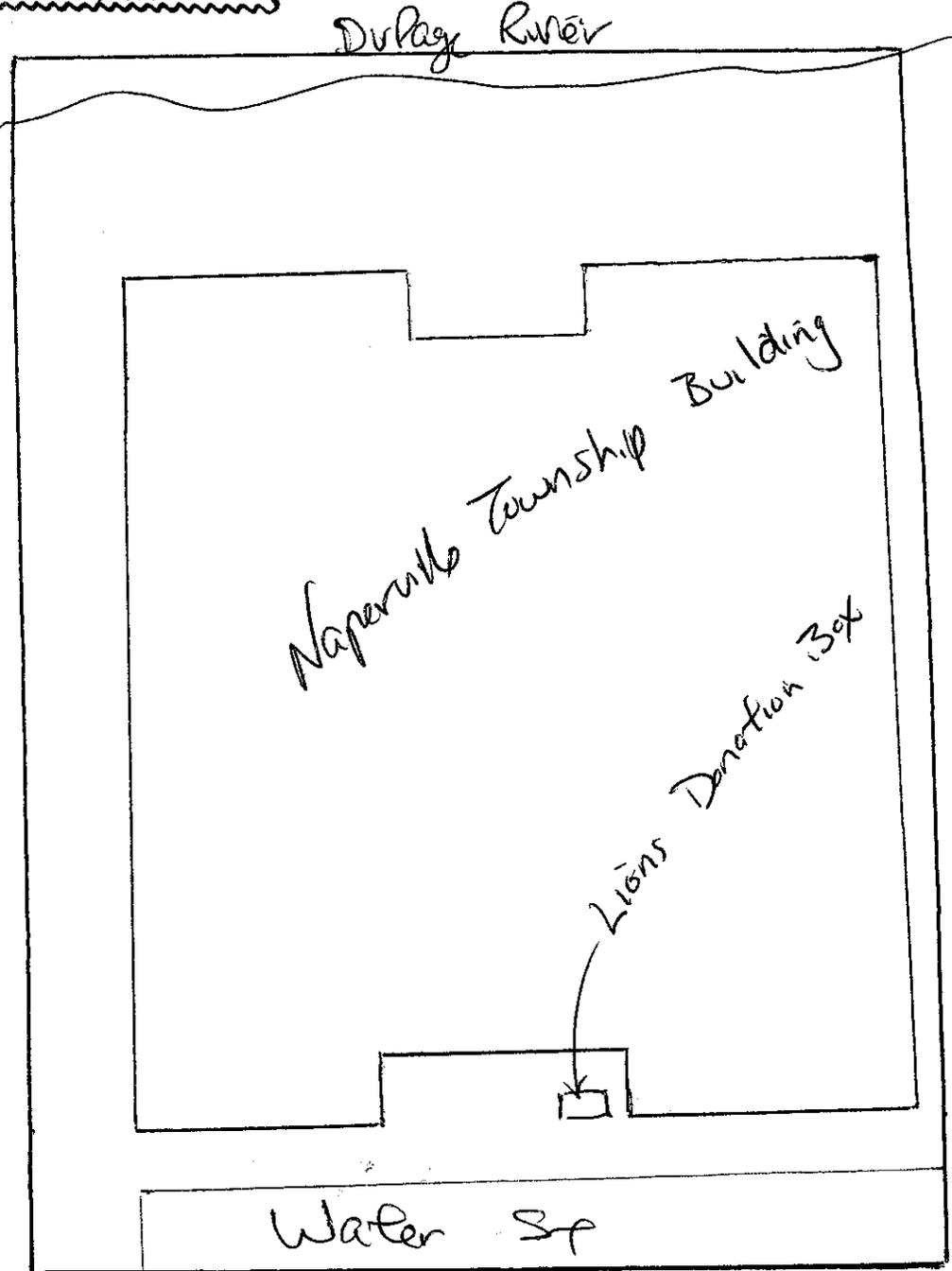
The above information, to the best of my knowledge, is true and accurate:

Jay Van (signature of applicant)      9/16/2011 (date)

SUBSCRIBED AND SWORN TO before me this 16<sup>th</sup> day of SEPTEMBER, 2011



Jenny H Dawley  
(Signature of Notary Public and Seal)



132

143

Webster St.

495

# STANDARDS FOR A ZONING VARIANCE

A zoning variance can only be granted if there are specific, land-related hardships or practical difficulties in carrying out the requirements of the ordinance for a particular piece of property. Self-inflicted hardships or increased profit or property value are not sufficient justifications to warrant a variance.

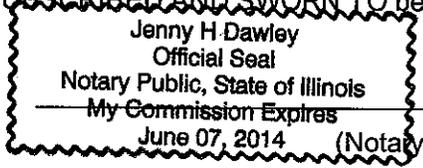
The recommendations prepared by staff and the Planning and Zoning Commission are prepared based upon the following standards, which are contained in Section 6-3-5 of the Naperville Municipal Code. *You should review the standards and, if necessary, prepare written findings or other evidence to support your request.*

1. **The variance is in harmony with the general purpose and intent of this Title; and**
2. **Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and**
3. **The property cannot yield a reasonable return if permitted to be used only under the conditions allowed by this Title; and**
4. **The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.**

I have reviewed the Standards for a Zoning Variance and understand and acknowledge that my request will be considered based upon the extent to which it fulfills these standards. Further, I understand and acknowledge that I may be required to provide a written explanation detailing how my request fulfills these standards.

*Darryl Moran*                      9/16/11  
 (signature of applicant)                      (date)

SUBSCRIBED AND SWORN TO before me this 16<sup>th</sup> day of SEPTEMBER 2011



*Jenny H. Dawley*  
 (Notary Public and Seal)

**CITY OF NAPERVILLE  
DISCLOSURE OF BENEFICIARIES**

In compliance with Ordinance 85-193, An Ordinance amending Title 1 (Administrative) of the Naperville Municipal Code, as amended, by adding Chapter 12 thereto requiring disclosure of certain interests by persons applying for permits, licenses, approvals or benefits from the City of Naperville.

1. Applicant: Gary Vician  
Address: 139 J Water St.  
Naperville, IL 60540

2. Nature of Benefit sought: Helping needy individuals

3. Nature of Applicant (Please check one):  
a. Natural Person  d. Trust/Trustee   
b. Corporation  e. Partnership   
c. Land Trust/ Trustee  f. Joint Venture

4. If applicant is an entity other than described in Section 3, briefly state the nature and characteristics of applicant: Naperville Township Government

5. If in your answer to Section 3 you checked box b, c, d, e or f, identify by name and address each person or entity which is a 5% shareholder in the case of a corporation, a beneficiary in the case of a trust or land trust, a joint venture in the case of case of a joint venture, or who otherwise has a proprietary interest, interest in profits and losses or right to control such entity:  
a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_

6. Name, address and capacity of person making this disclosure on behalf of the applicant:  
Gary Vician (above)

IMPORTANT NOTE: In the event your answer to Section 5 identifies entities other than a natural person, additional disclosures are required for each entity.

VERIFICATION

I, GARY J VICIAN, being first duly sworn under oath, depose and state that I am the person making this disclosure on behalf of the applicant, that I am duly authorized to make this disclosure, that I have read the above and foregoing Disclosure of Beneficiaries, and that the statements contained therein are true in both substance and fact.

Signature: Gary J Vician

Subscribed and Sworn to before me this 16<sup>th</sup> day of SEPTEMBER, 2011.

Jenny H Dawley  
Notary Public



**PREPARED BY:**

**CITY OF NAPERVILLE  
LEGAL DEPARTMENT  
630/420-4170**

**RETURN TO:**

**CITY OF NAPERVILLE  
CITY CLERK'S OFFICE  
P.O. BOX 3020  
400 SOUTH EAGLE STREET  
NAPERVILLE, IL 60566-7020**

**P.C. Case #11-1-016**

**ORDINANCE NO. 11- 090**

**ORDINANCE AMENDING CHAPTER 1 (DEFINITIONS) AND  
CHAPTER 2 (GENERAL ZONING) OF TITLE 6 (ZONING  
REGULATIONS) OF THE NAPERVILLE MUNICIPAL CODE  
PERTAINING TO DONATION BOXES**

**WHEREAS**, the City of Naperville, in its authority as a Home Rule community, has enacted Zoning Regulations for the purpose of improving and protecting the public health, safety, comfort, convenience and general welfare of the people; and

**WHEREAS**, donation drop boxes have heretofore been authorized through issuance of a temporary use permit, an approach that involves substantial processing for the initial approval and subsequent renewals when boxes to be placed for a period exceeding six months; and

**WHEREAS**, donation boxes fulfill community need by providing a location for donation of clothing, books and similar items for resale or recycling purposes; and

**WHEREAS**, it is interest of the city to maintain the community character and aesthetic by establishing reasonable standards by which donation boxes may be permitted and sited; and

**WHEREAS**, on April 20, 2010, the City Council directed staff to prepare zoning regulations for donation boxes as an amendment to the Naperville Municipal Code; and



2. Standards: A permit shall not be issued for a donation box unless it demonstrates compliance with the following standards:
  - 2.1. Donation Boxes may only be placed on properties zoned to allow commercial, assembly, institutional or industrial use, except, however, that Donation Boxes shall not be permitted in the B4, B5 and TU Districts;
  - 2.2. Donation Boxes shall not be placed within a required parking space;
  - 2.3. Donation Boxes shall not be placed within a required front or corner side yard, or major arterial setback. To the extent feasible, Donation Boxes shall be placed so as to be inconspicuous as viewed from public rights-of-way;
  - 2.4. Donation Boxes shall not be placed in such a manner as to cause a sight obstruction for pedestrians or motorists;
  - 2.5. Only one Donation Box shall be permitted per lot or per shopping center, whichever is more restrictive;
  - 2.6. Donation Boxes shall not exceed six and a half feet (6.5') in height; and
  - 2.7. Donation Boxes shall indicate whether the operator is a not-for-profit organization; and
  - 2.8. Signage on Donation Boxes shall not exceed five inch (5") letter height. All Donation Boxes shall contain the following contact information in two inch (2") type visible from the front of the box: the name, address, email, and phone number of both the permittee and operator.
3. Maintenance: Donation Boxes shall be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti. All boxes shall be free of debris and shall be serviced regularly so as to prevent overflow of donations or the accumulation of junk, debris or other material.
4. Revocation of permit: any permit granted pursuant to the provisions of this Section may be subject to revocation for cause by the Director of Transportation, Engineering and Development (or his/her designee), including but not limited to the failure to comply with this Section or any other applicable provisions of the Naperville Municipal Code.
5. Exclusions:
  - 5.1. The provisions of this Section shall not be applied to attended donation facilities (including trailers), which shall be authorized under the provisions of Section 6-2-11.
  - 5.2. The provisions of this Section shall not be applied to recycling receptacles for the principal use of the owner(s) or occupant(s) of the property. Screening of recycling facilities shall be in accordance with Section 5-10-3.

**SECTION 4:** This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED this 21<sup>st</sup> day of June, 2011.

AYES:        PRADEL, BRODHEAD, CHIRICO, FIESELER, HINTERLONG,  
                 KRAUSE, McELROY, MILLER

NAYS:        WEHRLI

ABSENT:     NONE

APPROVED this 22<sup>nd</sup> day of June, 2011.



A. George Pradel

Mayor

ATTEST:



Pamela LaFeber, PhD

City Clerk





# Naperville

## PLANNING AND ZONING COMMISSION AGENDA ITEM

**PC CASE:** 11-1-122 **AGENDA DATE:** 12/07/2011  
**SUBJECT:** Panda Express Arterial Setback Variance  
 Petitioner: Panda Restaurant Group, Inc., 1683 Walnut Grove Ave,  
 Rosemead, CA 91770

**LOCATION:** 1125 E. Ogden Avenue

Correspondence      New Business      Old Business      Public Hearing

**SYNOPSIS:**

The petitioner requests a variance from Section 6-2-14 (Major Arterial Setback Requirements) of the Naperville Municipal Code – PC Case 11-1-122

**PLAN COMMISSION ACTION PREVIOUSLY TAKEN:**

Date	Item No.	Action
None		

**ACTION REQUESTED/RECOMMENDED THIS MEETING:**

Conduct the public hearing.

**PREPARED BY:** Amy Emery, AICP, TED Business Group

**EXISTING ZONING, LAND USE, AND LOCATION:**

The subject parcel, zoned B3 (General Commercial District), is generally located at the intersection of Ogden and East Avenues, with a common address of 1125 E. Ogden Avenue. The subject property encompasses approximately .673 acres and is vacant. The parcel is surrounded by properties that are also zoned B3 and improved with a variety of commercial uses.

**CONTROLLING AGREEMENTS AND ORDINANCES:**

Ordinance 07-209	The subject property is lot #2 of Universal Subdivision. The lot was approved with the condition that the size and shape of the parcel may not be used for justification from variances for parking, trash enclosures, loading or landscaping.
------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**REQUEST:**

The petitioner proposes to construct a 2,286 square foot fast food restaurant with a drive-through. The site layout complies with all requirements for parking, landscaping, and building setback. The proposed plan necessitates approval of a variance from Section 6-2-14 (Major Arterial Setback Requirements) of the Naperville Municipal Code to reduce the required setback along Ogden Avenue from 20 feet to 4 feet to accommodate surface parking spaces.

1125 Ogden Avenue (PC 11-1-122)

December 7, 2011

Page 2 of 3

**PLANNING SERVICES TEAM REVIEW:**

The proposed use of the subject property is permitted in the B3 Zoning District. Staff is supportive of the use as it will add to the commercial vitality of the Ogden Corridor and infill an existing vacant parcel.

*Standards for Granting a Variance*

Section 6-2-14 (Major Arterial Setback Requirements) of the Municipal Code requires properties fronting a major arterial (e.g., Ogden Avenue) maintain a front yard setback of 20 feet from the edge of the right-of-way. In this case the building complies with the required setback, but surface parking is provided in the required major arterial setback. Specifically, a 16 foot variance is required to allow parking 4 feet from the property line along Ogden Avenue.

When the subject lot was created in 2007, it was designed to accommodate retail, office, or bank uses that have a much lower parking requirement than the proposed fast food restaurant use. The proposed Panda Express layout meets all code requirements with respect to the required number of parking spaces, building setback, drive aisle and drive-through width, stacking spaces, site lighting and landscaping. However, given the higher parking requirement associated with a fast food restaurant than the other uses contemplated for this parcel, a variance is required.

When considering variance options to accommodate a fast food restaurant, the petitioner had two options, either:

- 1) Reduce the supply of off-street parking and propose a variance to the total number of parking spaces required for a fast food restaurant; OR
- 2) Provide all required parking and seek a major arterial setback variance.

Of the two options, staff prefers setback variance because if too few parking spaces are provided through a variance request, overflow will be pushed to neighboring properties or East Avenue. The number of parking spaces on the adjacent lot does not include excess beyond code requirements. Parking on-street is undesirable, limited in supply, and may present some safety concerns in proximity to the intersection with Ogden, traffic along East Avenue, and pedestrian access from this area to the restaurant.

With the arterial setback variance, all require landscaping can still be installed. Moreover, since there are no plans to widen Ogden Avenue, the reduced setback does not create a concern to future public improvements. For reference, with the requested setback variance, the surface parking will exist 28 feet (at its closest point) to traffic lanes on Ogden Avenue.

*Staff Summary:*

Staff has reviewed the requested zoning variance and the petitioner's responses to the standards for granting a variance, and finds that the petitioner has worked with staff to propose a site design that complies with the goals of the *Ogden Avenue Corridor Enhancement Initiative* to:

- Promote attractive commercial development in accordance with the Citywide Design Standards.
- Provide a cohesive landscape pallet that helps to unify the appearance of the corridor.

*1125 Ogden Avenue (PC 11-1-122)*

*December 7, 2011*

*Page 3 of 3*

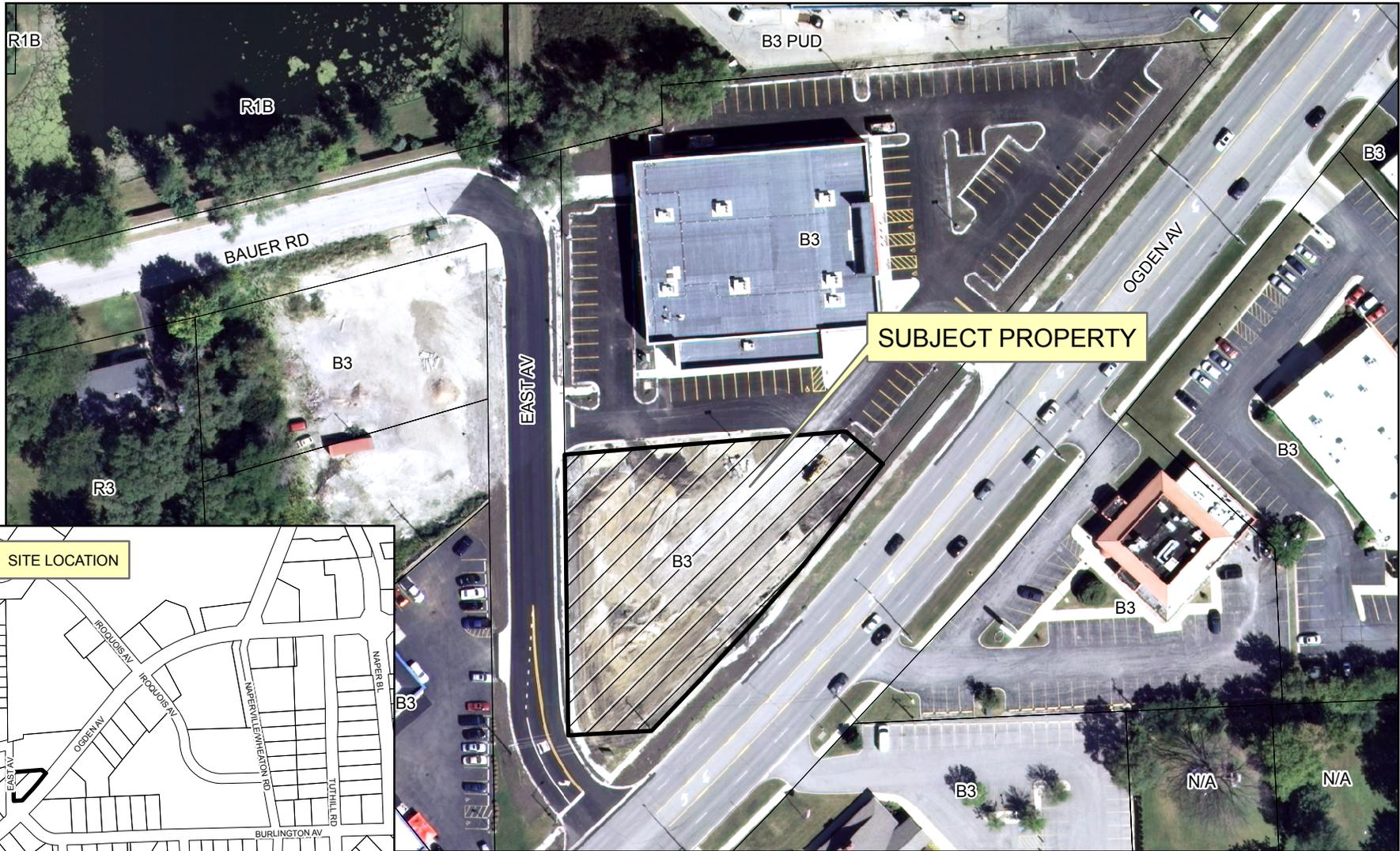
- Provide cross access between commercial sites to minimize the need for additional curb cuts along Ogden Avenue and promote safe traffic flow.
- Provide a new restaurant use, consistent with the commercial character of the corridor and B3 zoning, which will support the economic vitality of the corridor.

As a result, staff recommends approval of a variance from Section 6-2-14 (Major Arterial Setback) of the Naperville Municipal Code to reduce the required major arterial setback along Ogden Avenue from 20 feet to 4 feet for the purposes of constructing surface parking in accordance with code requirements.

**ATTACHMENTS:**

1. Panda Express – Aerial Photo/Location Map – PC 11-1-127
2. Panda Express – Site Plan – PC 11-1-127
3. Panda Express – Petition & Response to Standards – PC 11-1-127
4. Panda Express – Building Elevations – PC 11-1-127
5. Panda Express - Landscape Plan – PC 11-1-127

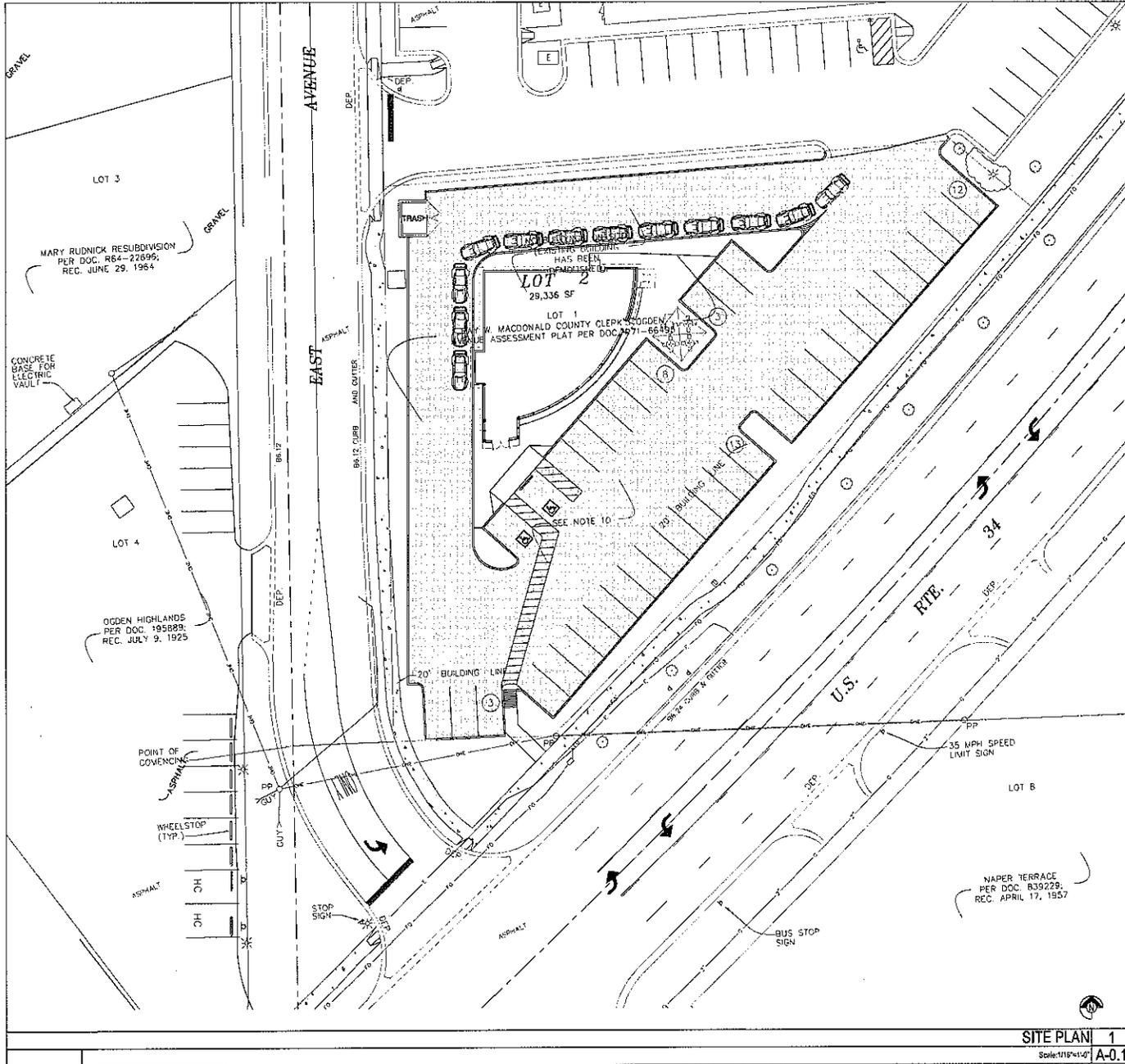
City of Naperville  
**PANDA EXPRESS - OGDEN AVENUE**



Transportation, Engineering and  
 Development Business Group  
 Questions Contact (630) 420-6719  
 www.naperville.il.us  
 November 2011



This map should be used for reference only.  
 The data is subject to change without notice.  
 City of Naperville assumes no liability in the use  
 or application of the data. Reproduction or redistribution is  
 forbidden without expressed written consent from the City of Naperville.



PANDA RESTAURANT GROUP INC.  
 1885 Walnut Grove Ave.  
 Rosemead, California  
 91776  
 Telephone: 626.709.8888  
 Fax: 626.372.8282

All fees, penalties, arrangements and plans indicated or submitted by the owner and the property of Panda Express Inc. and are covered for use on the specific project. None of these fees, penalties, arrangements or plans may be used or deemed to be a contract, an agreement or a license without the written permission of Panda Express Inc.

REVISIONS:


ISSUE DATE:  
 CITY COMMENTS 10-13-11

DRAWN BY: AS  
 PANDA PROJECT #: 98-11-0276  
 ARON PROJECT #: 11223

**HSE**  
 Hengsa Street Bajko  
 Architects + Engineers  
 10220 N. SCOTTSDALE RD.  
 SCOTTSDALE, AZ 85264  
 TEL: (602) 935-4400  
 FAX: (602) 934-7666

STAMP:  
 City of Spokane Project # 11-10000122

**PANDA EXPRESS**  
 1125 EAST OGDEN AVE  
 SPOKANE, ID

**SITE PLAN**

SITE PLAN 1  
 Scale: 1/16" = 1'-0" A-0.1

ATTACHMENT 2

**CITY OF NAPERVILLE  
T.E.D. BUSINESS GROUP  
PETITION FOR DEVELOPMENT APPROVAL**

Development Name (should be consistent with plat): Panda Express Ogden and East Ave.

Development Address: 1125 East Ogden Ave. Naperville, IL

Date of Submission: 9-2-11

**I. APPLICANT:**

Panda Restaurant Group

Name Corporation

1683 Walnut Grove Ave

Street

Rosemead

California

91770

City

State

Zip Code

Alex Ramon

Architect

602-635-6409X105

**Primary Contact Person**

**Relationship to Applicant**

**Telephone Number**

602-314-7550

aramon@hsbarch.com

Fax Number

E-Mail Address

**II. OWNER OF THE PROPERTY:**

1125 Ogden LLC

Name

2241 W Howard Chicago IL 60645

N/A

Address

Telephone Number

**III. APPLICANT'S/PETITIONER'S STAFF:**

Attorney: N/A Telephone Number: N/A

Email Address: N/A Fax Number: N/A

Address: N/A

Engineer: Mike Jackson Telephone Number: 602-371-1333

ATTACHMENT 3  
Page 1 of 6

**IV. ACTION REQUESTED (Check applicable boxes and complete corresponding Exhibits):**

- |                                                                                             |                                                                                                         |
|---------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Annexation (see Section V below)                                   | <input type="checkbox"/> Subdivision Waiver / Deviation to Platted Setback Line<br>(Complete Exhibit 4) |
| <input type="checkbox"/> Rezoning from ____ To ____<br>(Complete Exhibit 1)                 | <input checked="" type="checkbox"/> Zoning Variance<br>(Complete Exhibit 5)                             |
| <input type="checkbox"/> Preliminary PUD Plat<br>(Complete Exhibit 2)                       | <input type="checkbox"/> Final PUD Plat<br>(Complete Exhibit 2)                                         |
| <input type="checkbox"/> Major Change to a Planned Unit Development<br>(Complete Exhibit 2) | <input type="checkbox"/> Minor Change to a Planned Unit Development<br>(Complete Exhibit 2)             |
| <input type="checkbox"/> Preliminary Plat of Subdivision                                    | <input type="checkbox"/> Final Plat of Subdivision                                                      |
| <input type="checkbox"/> Conditional Use<br>(Complete Exhibit 3)                            | <input type="checkbox"/> Major Change to a Conditional Use<br>(Complete Exhibit 3)                      |
| <input type="checkbox"/> Minor Change to a Conditional Use<br>(Complete Exhibit 3)          | <input type="checkbox"/> Landscape Variance<br>(Complete Exhibit 6)                                     |
| <input type="checkbox"/> Site Plan Review                                                   | <input type="checkbox"/> Plat of Easement / Vacation / Dedication<br>(circle all that apply)            |
| <input type="checkbox"/> Sign Variance<br>(Complete Exhibit 5)                              |                                                                                                         |

**V. ANNEXATION**

Is this development within the City limits?

- Yes.
- Under review by another governmental agency and requires review due to 1.5 mile jurisdictional requirements.
- No, *requesting annexation*
- Are there electors living on the property:  
 Yes       No
- If yes, did they sign the Petition for Annexation?     Yes     No

**VI. SITE DATA**

- General description of site conditions (Including existing site improvements, i.e., buildings, parking, landscaping, etc.)

Currently the subject property is vacant and void of any improvements



- 2. Existing Utility Services (water, sewer, electricity): all utilities are availble
- 3. Existing zoning on the site: B3- (General Commercial)
- 4. Existing Land Use: vacant
- 5. Acreage & Square Footage of the site: 29,336 Square Feet or 0.673 AC
- 6. List Controlling Ordinances and agreements (zoning, annexation ordinances, SIA, site plans, preliminary/final PUD plats, etc.):  
Per City of Naperville Zoning Code

**VII. PROPOSED DEVELOPMENT:**

- 1. Type of Development (check all that apply):

Residential       Commercial       Office  
 Industrial       Other: \_\_\_\_\_

- 2. Proposed Zoning: \_\_\_\_\_

Description of Proposal: (Including proposed land use, type of use, hours of operation, number of parking spaces, and all Exhibits mandated by the request (see Page 2, Section IV for Exhibit information)– attach additional pages if necessary):

The proposed Property intended use will be a Quick Serve Asian  
Gourmet Restaurant, the restaurant will be open from 11am to 11 pm  
the building will be 2,286 square feet and the lot will accommodate  
39 cars via parking stalls, the site will also contain a drive thru  
with 12 car capacity

- 3. Description of Building (Including number of buildings, square footage of each building and use, maximum height, façade materials):

the site will contain one building with a maximum building height of  
25 feet, the exterior building will consist of glass, EFIS, Stone  
all materials will be put together with Architectural harmony



4. Describe all requested Variances / Deviations from the underlying zoning regulations (i.e. parking, setbacks, density, height/bulk etc.) **NOTE:** Complete this section as well as **Exhibit 5** – attach additional pages if necessary:

The variance that we will apply for is to reduce the major arterial set back along Ogden Ave from 20 feet to 9 feet,

5. Describe all requested waivers from the Subdivision Regulations: (i.e. R.O.W., widths, easements, etc.) **NOTE:** Complete this section as well as **Exhibit 4** – attach additional pages if necessary:

N/A

6. Deviations from the Landscaping Regulations **NOTE:** Complete this section as well as **Exhibit 6** – attach additional pages if necessary:

Landscape plan was created per landscape requirements pulled from zoning

7. General Land Use Data:

	Residntl.	Comrcl.	Office	Indst.	R.O.W.	Park	School	Private	Other*	Total
No. of Acres										
% of Total										

\*Please explain:

N/A

8. Development Densities:

	Number of Units	Gross Acres	Gross Density	Modified Gross Acres	Modified Gross Density	Building square footage	Minimum Lot Size	Maximum Lot Size	Average Lot Size
Single-Family						NA			
Townhome						NA			
Duplex						NA			
Apartment						NA			



Comrcl.			NA	NA	NA			
Office			NA	NA	NA			
Industrial			NA	NA	NA			

- Gross Acres = land designated for land use type including right-of-way
- Gross Density = number of units divided by gross acres
- Modified Gross Acres = residential acreage including internal right-of-way, detention facilities, school/park dedications and open space areas.
- Modified Gross Density = number of units divided by modified gross acres.

**VIII. SCHOOL AND PARK DONATION REQUIREMENTS (calculation tables must be attached):**

1. Required School Donation of  n/a  acres will be met by a  n/a

2. Required Park Donation of  n/a  acres will be met by a  n/a

**IX. PRIVATE FACILITIES**

1. Private open space and recreational facilities include:

n/a

Which will be maintained by: \_\_\_\_\_ The City of Naperville  
 \_\_\_\_\_ Homeowners Association  
 \_\_\_\_\_ Other ( \_\_\_\_\_ )

2. Outlots and/or detention/retention facilities include (size, number and location)

n/a

Which will be maintained by: \_\_\_\_\_ The City of Naperville  
 \_\_\_\_\_ Homeowners Association  
 \_\_\_\_\_ Other ( \_\_\_\_\_ )

3. Detention, retention, open space/recreation and school uses within the development:

	Private -- Homeowners Association (acres)*	Public --To be Dedicated (acres)	Other (acres)*	Total (acres)
Open Space*				
a. Park Site				
b. Common				



Areas*				
c. Private Facility*				
Sub-total				
School Site				
Total				

\*Please Explain:

*Note: Please provide a brief explanation of the type of private facility, common area, open space or other acreage included in the development (Private facilities would include facilities such as clubhouses or private swim clubs. Other could include detention/facilities or outlots for landscape buffers, subdivision identification signage or similar purposes.)*

Respectfully Submitted,

[Enter Name of Petitioner(s) or Authorized Agent]

By: Alex Ramon

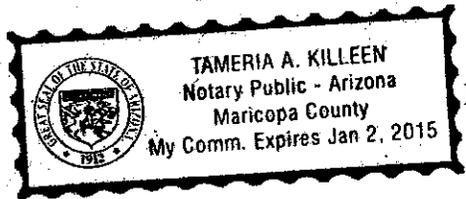


[Type in Name of Signatory]

[Type in Title of Signatory (e.g. Owner, Atty., etc.)]

STATE OF ILLINOIS )  
 COUNTY OF DUPAGE )  
 CITY OF NAPERVILLE )

The foregoing petition was acknowledged before me by [Type in Name of Notary] on the 31 day of Aug 20011 A.D.



By: Tamera A. Killeen  
Tamera A. Killeen  
 [Type in Name of Notary]  
 Notary Public

**LLC PETITIONERS**

LLC petitioners are required to produce the articles of organization that are on file with the Illinois Secretary of State's Office. If an LLC is manager-managed, this petitioner may be executed by the manager identified within the articles of organization. If an LLC is member-managed, this petition must be executed by each member of the LLC

**EFFECTIVE PERIOD OF APPLICATION**

Please note that applications for development approval are only valid for a period of two years from the date of application submission and that all cases will be closed by the City without further notice to the applicant after the two year period has expired.





Mr. Rick Trujillo  
Project Manager  
TED Business Group  
City of Naperville  
400 S. Eagle St.  
Naperville, IL 6540

PC Case#: 11-1-122

[trujillor@naperville.il.us](mailto:trujillor@naperville.il.us)

Dr. Mr. Trujillo,

A Zoning Variance to Section 6-3-5:2 is requested in accordance with Ordinance 05-028, 2-15-2005:

1. The variance is in harmony with the general purpose and intent of the Zoning ordinance. The proposed site and building development has been submitted for Naperville Planning reviews and has met all other site, building and landscaping requirements as reviewed by Naperville.
2. Strict enforcement of this title would result in practical difficulties and impose exceptional hardships due to the unusual condition of the triangular site being located along the diagonal Ogden Avenue, Route 34. The proposed development of the site will be very similar to the adjacent sites with a moderate parking space offset of approximately 12 feet.
3. The property cannot yield a reasonable return if permitted to be used only under the conditions allowed by this title because there is not room left on this unusual triangular site without this variance to develop sufficient number of parking spaces to meet the customer's needs as well as meet City of Naperville requirements. After the variance is granted parking layout and quantity will meet all standards.
4. The variance if granted will not alter the essential character of the neighborhood and will not be a detriment to adjacent property because the commercial use is compatible with adjacent property and the layout of parking along Ogden Ave is very similar to the adjacent commercial properties. The proposed site development meets the Naperville Zoning use classification, landscaping standards, etc.

Sincerely,

Alex Ramon

**Hengst Streff Bajko**  
Architects+Engineers

602 635 6409 t  
602 314 7550 f

16220 N Scottsdale Rd  
Suite 290  
Scottsdale Arizona 85254

16220 North Scottsdale Road  
Suite 290  
Scottsdale Arizona 85254-1781  
www.hsbarch.com  
602 402 7490

**ATTACHMENT 4**









# Naperville

## PLANNING AND ZONING COMMISSION AGENDA ITEM

**PZC CASE:**            11-1-152                            **AGENDA DATE:**        12/07/2011

**SUBJECT:**            Phoenix Restaurant at Design Pointe  
 Petitioner: Robert C. Kenny, Atty, representing Delaware Dearborn II, LLC

**LOCATION:**            East side of IL Route 59, south of Brookdale Street in the Design Pointe PUD.

Correspondence        New Business            Old Business            Public Hearing

**SYNOPSIS:**  
 The petitioner requests a deviation to Section 6-9-3 (Off-Street Parking) to reduce the required parking supply by 40 spaces in order to accommodate a new restaurant use.

**PLANNING AND ZONING COMMISSION ACTION PREVIOUSLY TAKEN:**

Date	Action
June 2005	Recommended approval of the Design Pointe PUD with parking provided at a ratio of 4.8 spaces/1,000 square feet. (788 parking spaces)
October 2011	Recommended approval of deviations for Outlot B development with McDonald's Restaurant, including a reduction in the overall parking supply to 4.3 spaces/1,000 square feet (742 parking spaces).

**ACTION REQUESTED/RECOMMENDED THIS MEETING:**

Conduct the public hearing.

**PREPARED BY:**     Amy Emery, AICP, Community Planner

**EXISTING ZONING, LAND USE, AND LOCATION:**

The Design Pointe PUD is located at the southeast corner of IL Route 59 and Brookdale Road. The property is zoned B2 (Community Shopping Center). Design Pointe was approved in November 2005 (Ordinance 05-207) to include nearly 170,000 square feet of retail space within two principal buildings, six outlots, and a retail bank. At this time, one of the principal retail buildings, the bank, and three of the outlots along the IL Route 59 frontage have been developed (or approved). The remaining space is vacant. All required parking has been constructed.

After foreclosure in 2010, Design Pointe is now under new ownership. The current owner is actively marketing the vacant tenant spaces to balance the home décor/interior finishing uses with complimentary uses permitted in the B2 zoning district.

Phoenix at Design Pointe (PC 11-1-152)

December 7, 2011

Page 2 of 3

**CONTROLLING AGREEMENTS AND ORDINANCES:**

*Ordinance 05-205 – Annexing the Subject Property to the City of Naperville*

*Ordinance 05-207 – Conditional Use for PUD and PUD Plat*

The Design Pointe PUD Statement of Intent and Concept promotes the development as a ‘shopping campus’ that has a unique character reflected in the building architecture, focus on pedestrian safety and hardscape/landscape amenities. The PUD also established a 2 foot setback for monument signage from the property line with a maximum height of 5 feet.

*Ordinance 05-208 – Zoning of the Subject Property to B2 (Community Shopping Center)*

The ordinance restricts the property to a single retail bank, but allows all other B2 uses (e.g. retail, service, office, restaurant).

**RELATIONSHIP TO OFFICIAL PLAN OF THE CITY OF NAPERVILLE:**

The future land use designation for this site, as adopted in the 1996 Northwest Sector Revision to the Comprehensive Master Plan, is “Commercial.”

**REQUEST:**

The petitioner is requesting a deviation to Section 6-9-3 (Off-Street Parking) to reduce the required parking supply in order to accommodate Phoenix Restaurant, a dine-in restaurant serving Chinese cuisine, in approximately 7,700 square feet of space within suites H114 and H118 of the main tenant center (see Attachment 4). The proposed use is permitted within the B2 zoning district and complimentary to the retail, restaurant and building service uses in the Design Pointe PUD.

**PLANNING SERVICES TEAM REVIEW:**

*Deviation<sup>1</sup> to Parking for the Overall Design Pointe PUD*

In October 2011, the Planning and Zoning Commission approved a deviation to the parking supply within Design Pointe that resulted in all remaining vacant tenant space being allocated parking at a retail ratio. The petitioner is proposing to locate a dine-in restaurant in a tenant space previously allocated for retail use. Restaurants require 10 parking spaces per 1,000 square feet. Retail uses require 4.5 spaces per 1,000 square feet. If retail tenants had occupied the 7,700 square feet of leasable space, 35 parking spaces were required. The proposed restaurant, requires 77 parking spaces. As such, the petitioner is seeking a deviation of 42 spaces. Attachment 5 provides a breakdown of the proposed tenant mix and a review of previous parking deviations granted for the Design Pointe PUD.

---

<sup>1</sup> Deviations to PUD are evaluated on the following criteria (per section 6-4-3:12 of the Naperville Municipal Code): Whether the deviation undermine the purpose and intent of the PUD; AND Whether the deviation is a detriment to the provision of municipal services and infrastructure: AND Whether the requested deviation would contribute a planned unit development which offers a superior level of design, amenity enhancement, or environmental benefit. These criteria are separate and distinct from those required to obtain a variance. No hardship demonstration is required for a PUD deviation.

*Phoenix at Design Pointe (PC 11-1-152)*

*December 7, 2011*

*Page 3 of 3*

Given variations in hours of operation and different peak demand times for the proposed restaurant use as compared to the retail spaces in the center, staff is supportive of the requested parking deviation. In its present condition, the site has an abundance of parking as many of the retail spaces are yet to be constructed or are vacant.

In conjunction with this request, staff recommends the ordinance stipulate that future tenants with a parking requirement of 5 or fewer spaces (e.g. retail, professional or medical office, service) be allowed to occupy the vacant tenant spaces without further deviation. In other shopping centers in Naperville, it is the city's policy to always allow tenants with parking required at a ratio of 4.5 spaces per 1,000 feet or less (e.g. retail, professional office, service uses) to occupy any vacant tenant space, regardless of available parking supply. The additional allowance of 0.5 spaces per 1,000 square feet offers more flexibility to the owner to lease vacant spaces with B2 uses that might otherwise require slightly more parking spaces (e.g. training studio, medical office, etc.) than a standard retail use. This deviation will not allow any use that requires more than 5 spaces per 1,000 square feet (e.g. additional dine-in or fast food restaurants) to occupy vacant space without an additional deviation being granted.

*Building Elevations and Site Layout*

Phoenix Restaurant is seeking occupancy within the existing in-line retail building. No changes to the approved building elevations, parking lot layout, landscaping or signage are requested in conjunction with this application.

**ATTACHMENTS:**

1. Phoenix Restaurant – Development Petition – PC 11-1-52
2. Phoenix Restaurant – Response to Standards for Deviation – PC 11-1-152
3. Phoenix Restaurant– Location Map Aerial – PC 11-1-152
4. Phoenix Restaurant – Site Plan – PC11-1-152
5. Phoenix Restaurant – Parking Information – PC 11-1-152

**CITY OF NAPERVILLE  
T.E.D. BUSINESS GROUP  
PETITION FOR DEVELOPMENT APPROVAL**

Development Name (should be consistent with plat): **Design Pointe Shopping Center**

Development Address: **1320 N. Route 59, Naperville, IL 60563; Southeast Corner of Brookdale Road and  
Illinois Route 59**

P.I.N. Number (s): **07-10-102-005; 07-10-300-002; 07-10-300-011**

Date of Submission: **November 15, 2011**

**I. APPLICANT:**

**Robert C. Kenny, Attorney,**

**Schain, Burney, Banks & Kenny. Ltd**

Name

Corporation

**70 W. Madison Street, Suite 4500**  
Street

**Chicago**  
City

**Illinois**  
State

**60201**  
Zip Code

**312-345-5700**  
Telephone Number

**Robert C. Kenny**  
Primary Contact Person

**Attorney**  
Relationship to Applicant

**312-345-5743 Direct #**  
Telephone Number

**312-345-5701**  
Fax Number

**rkenny@sbbklaw.com**  
E-Mail Address

**II. OWNER OF THE PROPERTY:**

**Delaware Dearborn II, LLC, an Illinois Manager Managed LLC**  
Name

**707 Skokie Boulevard, # 420, Northbrook, IL 60062**  
Address

**847-564-9110**  
Telephone Number

**III. APPLICANT'S/PETITIONER'S STAFF:**

**Attorney: Same as Applicant; Robert C. Kenny**  
**Schain, Burney, Banks & Kenny, Ltd**

**Telephone Number: 312-345-5743 Direct #**  
**312-636-7657 Cell #**

Email Address: **rkenny@sbbklaw.com**

Fax Number: **312-345-5701**

Address: **70 W. Madison Street, Suite 4500; Chicago, IL 60602**

Engineer: **N/A** Telephone Number: \_\_\_\_\_

**IV. ACTION REQUESTED (Check applicable boxes and complete corresponding Exhibits):**

- |                                                                                             |                                                                                                         |
|---------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Annexation (see Section V below)                                   | <input type="checkbox"/> Subdivision Waiver / Deviation to Platted Setback Line<br>(Complete Exhibit 4) |
| <input type="checkbox"/> Rezoning from ____ To ____<br>(Complete Exhibit 1)                 | <input type="checkbox"/> Zoning Variance<br>(Complete Exhibit 5)                                        |
| <input type="checkbox"/> Preliminary PUD Plat<br>(Complete Exhibit 2)                       | <input type="checkbox"/> Final PUD Plat<br>(Complete Exhibit 2)                                         |
| <input type="checkbox"/> Major Change to a Planned Unit Development<br>(Complete Exhibit 2) | <input type="checkbox"/> Minor Change to a Planned Unit Development<br>(Complete Exhibit 2)             |
| <input type="checkbox"/> Preliminary Plat of Subdivision                                    | <input checked="" type="checkbox"/> PUD Deviation (Zoning or Subdivision)                               |
| <input type="checkbox"/> Conditional Use<br>(Complete Exhibit 3)                            | <input type="checkbox"/> Final Plat of Subdivision                                                      |
| <input type="checkbox"/> Minor Change to a Conditional Use<br>(Complete Exhibit 3)          | <input type="checkbox"/> Major Change to a Conditional Use<br>(Complete Exhibit 3)                      |
| <input type="checkbox"/> Site Plan Review                                                   | <input type="checkbox"/> Landscape Variance<br>(Complete Exhibit 6)                                     |
| <input type="checkbox"/> Sign Variance<br>(Complete Exhibit 5)                              | <input type="checkbox"/> Plat of Easement / Vacation / Dedication<br>(circle all that apply)            |

**V. ANNEXATION**

Is this development within the City limits?

- Yes.
- Under review by another governmental agency and requires review due to 1.5 mile jurisdictional requirements.
- No, *requesting annexation*
- Are there electors living on the property:  
 Yes       No
- If yes, did they sign the Petition for Annexation?     Yes     No

**VI. SITE DATA**

- General description of site conditions (Including existing site improvements, i.e., buildings, parking, landscaping, etc.)

This application deals with the Design Pointe inline shopping center stores only. Almost 60% of the inline space is vacant. The main shopping center construction and site improvements have been completed. This application deals only with the inline space of the existing center.

For information purposes, Design Pointe Shopping Center was approved under Ordinance No. 05-209. The Shopping Center was approved for 10 lots: 9 retail and 1 detention pond. To date, the inline shopping center building and three outlots have been completed. The City recently considered a PUD Deviation for a McDonald's Restaurant proposed on a fourth outlot.

- 2. Existing Utility Services (water, sewer, electricity): All utilities are currently available and serve the site.
- 3. Existing zoning on the site: **B-2 Community Shopping Center District; Planned Unit Development**
- 4. Existing Land Use: **Design Pointe Commercial Shopping Center.**
- 5. Acreage & Square Footage of the site: **Design Pointe Shopping Center is approximately 17.649 acres.**
- 6. List Controlling Ordinances and agreements (zoning, annexation ordinances, SIA, site plans, preliminary/final PUD plats, etc.):

**Ordinance No. 05-204 authorizing the execution of an annexation agreement;**  
**Ordinance No. 05-207 granting Conditional use for PUD;**  
**Ordinance No. 05-208 rezoning the property to B-2 Community Shopping Center District;**  
**Ordinance No. 05-209 approving a preliminary/final plat of subdivision for Design Pointe.**

**VII. PROPOSED DEVELOPMENT:**

- 1. Type of Development (check all that apply):

\_\_\_\_\_ Residential                      **XXX** Commercial                      \_\_\_\_\_ Office  
 \_\_\_\_\_ Industrial                      \_\_\_\_\_ Other: \_\_\_\_\_

- 2. Proposed Zoning: **PUD Deviation to reduce required parking to allow for a white table cloth restaurant: the Phoenix Restaurant.**

Description of Proposal: (Including proposed land use, type of use, hours of operation, number of parking spaces, and all Exhibits mandated by the request (see Page 2, Section IV for Exhibit information)- attach additional pages if necessary):

The proposed use is The Phoenix Restaurant. The original Phoenix Restaurant is located in Chinatown in Chicago. This will be their first suburban Phoenix restaurant: owned and operated by the same individuals. The Phoenix Restaurant is a family style, white table cloth restaurant serving classical Chinese cuisine. It will be located in the inline space. The restaurant will consist of approximately 7,700 square feet and will be located in Unit H-118 and H-114.

The restaurant will be open for lunch and dinner. Although the hours of operation have not been finalized, it is anticipated that the hours may be: Sunday, Monday, Tuesday and Thursday 10:30 am to 2:30 pm for lunch, reopening from 5:30 pm to 10:30 pm for dinner. Friday will be similar but remaining open until 11:30 pm for dinner. Saturday: 9:30 am to 2:30 pm, reopening for dinner from 5:30 pm to 11:30 pm. Closed Wednesdays.

3. Description of Building (Including number of buildings, square footage of each building and use, maximum height, façade materials):

The restaurant will be located within the inline store space (H-114 and H-118) in the Design Pointe Shopping Center, two stores north of the Luna Carpet Store. It will consist of approximately 7,700 square feet. No change will be made to any aspect of the exterior of the building.

4. Describe all requested Variances / Deviations from the underlying zoning regulations (i.e. parking, setbacks, density, height/bulk etc.) **NOTE:** Complete this section as well as **Exhibit 5** – attach additional pages if necessary:

The PUD Deviation is to reduce the required parking spaces from 782 spaces to 742 spaces.

5. Describe all requested waivers from the Subdivision Regulations: (i.e. R.O.W., widths, easements, etc.) **NOTE:** Complete this section as well as **Exhibit 4** – attach additional pages if necessary:

None

6. Deviations from the Landscaping Regulations **NOTE:** Complete this section as well as **Exhibit 6** – attach additional pages if necessary:

None.

7. General Land Use Data:

	Residntl.	Comrc.	Office	Indst.	R.O.W.	Park	School	Private	Other	Total
No. of Acres		17.649*								
% of Total		100%								

\*Please explain:

\*Proposed Restaurant will be located within the existing inline stores.

## EXHIBIT 2

### Standards for Approving a PUD Deviation: Section 6-4-3

Zoning, landscaping and subdivision deviations: in accordance with the intent and purpose of this chapter, consideration may be offered for deviations from the zoning (other than use), landscaping or subdivision requirements of this code. The determination of whether a planned unit development deviation will be approved, using the following standards as guidelines:

1. Whether the requested deviation would undermine the intent and purpose of the underlying zoning district;

**The proposed use as a restaurant is a permitted use in the B-2 community shopping center district. The PUD Deviation is requested to allow the restaurant to locate in an inline store space of a size large enough to accommodate the needs of the Phoenix Restaurant. Due to the severe turn down in the economy and the devastation to the residential home building industry, the prognosis for the Design Pointe Shopping Center to be able to fill the available tenant spaces with home design and furnishing uses has been minimized. The Design Pointe Shopping Center is a center that benefits from fabulous architecture. Even with that amenity, filling the space has been very difficult. As a result, ownership of the center was forced to change.**

**The Phoenix Restaurant enjoys an excellent reputation and is the caliber of restaurant commensurate with the existing architecture. Granting the parking variation will bring new life into the center. Expanding the category of tenants beyond home design and furnishings, will attract new people who would not otherwise have an occasion to visit the center. With this caliber of restaurant, new people will be drawn into the center and will become aware of the tenants in the center, thereby more likely to return to visit the other tenants. The Phoenix Restaurant is of a caliber commensurate with and in harmony with the high quality architecture of the center.**

2. Whether the requested deviation would be a detriment to the provision of municipal services and infrastructure; and

**Granting the requested deviation will not be a detriment to the City's provision of municipal services and infrastructure. The City has more than adequate services and infrastructure to serve the proposed restaurant in the inline space.**

3. Whether the requested deviation would contribute a planned unit development which offers a superior level of design, amenity enhancement, or environmental benefit; or would enhance community vitality through the inclusion of attainable or barrier free housing.

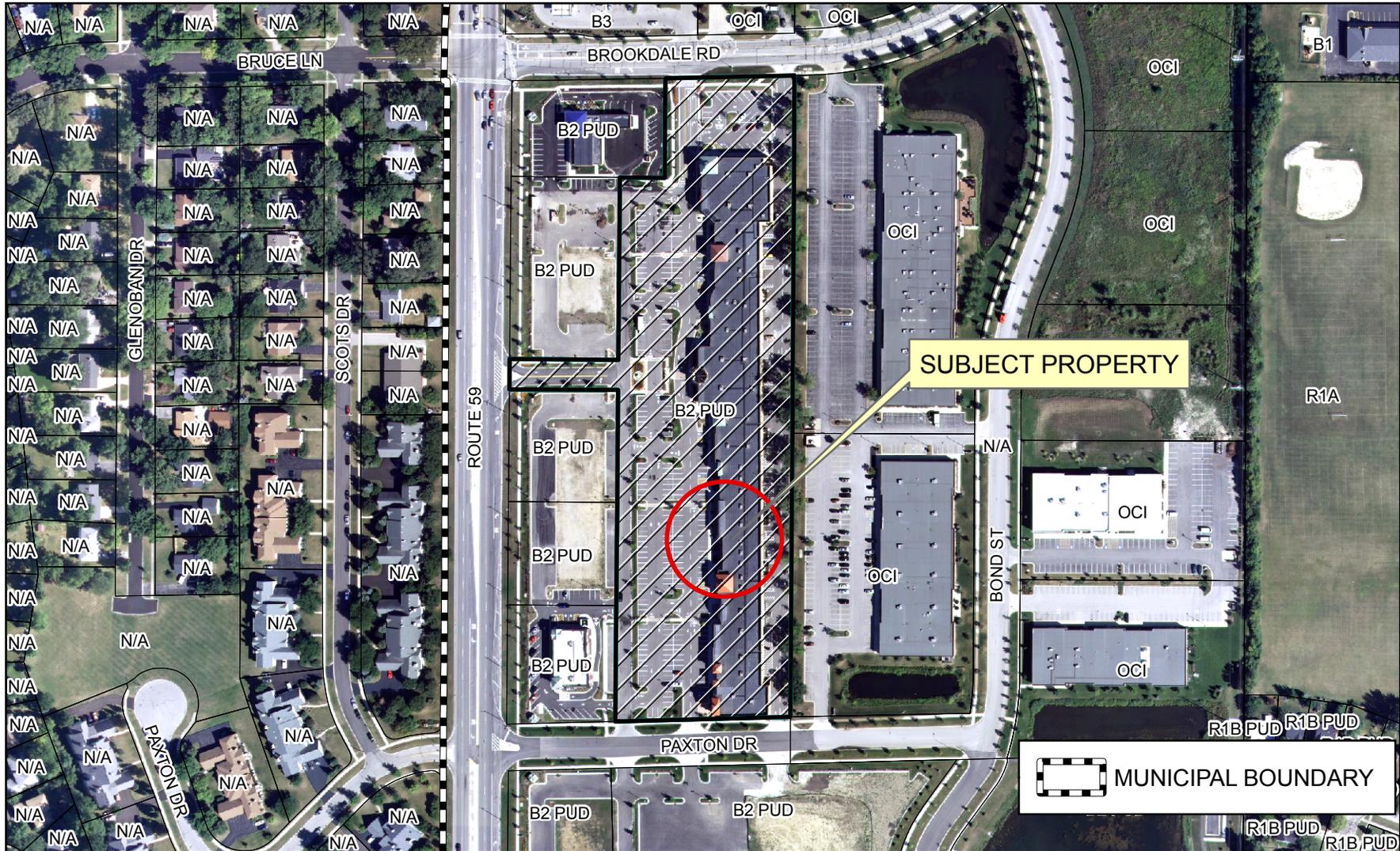
**A key component of the Design Pointe planned unit development is its architecture. The architecture is of a superior level of design and does enhance the community vitality. The PUD Deviation, if granted, will not alter that level of design. On the contrary, the granting of the PUD Deviation will allow the planned character of the shopping center and the neighborhood to reach its full potential. The fuller a center is, the more likely new tenants will want to rent space. No new tenant wants to commit to a stagnant shopping center. To bring in a restaurant the caliber of The Phoenix into the shopping center the caliber of Design Pointe will bring new people to the center and provide new**

customer opportunities for existing tenants. A restaurant of this caliber will provide the synergies that were originally anticipated for this center.

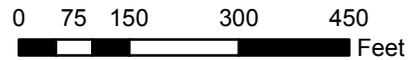
Because the shopping center has experienced long periods of vacancies in the available in line spaces, it would benefit the shopping center and the community as a whole to allow a use that has the ability to attract new potential customers to the center. With so many vacant tenancies, there will be no parking deficiencies in the foreseeable future. It is also important to note that the majority of the existing tenants in the inline center consist of home design and furnishing tenants which generally do not utilize all of the parking "allowed" to them under the parking ratio requirements of the zoning ordinance.

In this particular case, the parking requirements of the zoning ordinance, when applied to the entire center on the basis of full occupancy, mandate the PUD Deviation request. However, given the actual vacancies in the shopping center for the foreseeable future, the shopping center will have more than sufficient parking for a long time to come. To allow tenant spaces in a shopping center of this caliber to remain vacant because of a zoning ordinance provision that has no way of recognizing or adapting to long term vacant spaces is not healthy for the City, the property owner, or the few tenants that presently exist in the center. Granting this PUD Deviation will not result in a lack of adequate parking, but rather will help to fill the center with tenants, which in turn will help the owner and City achieve their mutual goal of a vibrant commercial community.

City of Naperville  
**PHOENIX RESTAURANT - DESIGN POINTE**



Transportation, Engineering and  
 Development Business Group  
 Questions Contact (630) 420-6719  
[www.naperville.il.us](http://www.naperville.il.us)  
 November 2011



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DESIGN POINT PUD PARKING ANALYSIS  
4-Nov-11

Tenant	Classification	Suite	SF	Parking Ratio Per 1,000 Sq Ft	# of Parking Spaces Required
Caribou Coffee	Coffee Shops	E100	1735	4.5	8
Physical Therapy	Medical Offices	E104	1601	5	8
Spicy Pickle	Restaurants	E108	2148	10	21
Luna Flooring	Carpet and Rug Stores	H100	6498	4.5	29
Studio 41	Interior Decorating Shop	H146	4705	4.5	21
Belamin Moore	Wallpaper, Paint Shops	H166	2760	4.5	12
The Curtain Exchange	Interior Decorating Shop	H170	2230	4.5	10
Thomasville	Furniture Stores	H180	12895	2	26
McDonald	Fast Food Restaurants	B	4587	17*	83
Chase Bank	Banks	A	4693	4	19
Grand Appliance	Household Appliance Store	C	8350	2	17
<b>Proposed Phoenix Restaurant**</b>	<b>Restaurant</b>	<b>H118 &amp; H114</b>	<b>7700</b>	<b>10</b>	<b>77</b>
Vacant	Retail(Assumed)		49771	4.5	224
Unimproved	Retail(Assumed)		59290	4.5	267
<b>Total</b>			<b>168963</b>		<b>822</b>

Total Parking Provided\*\*\* 742  
Deficiency from Initial Approval 80

\*Deviation of 40 spaces approved 11/1/15. 43 spaces will be provided.  
 \*\*Retail Requirement for this Space is 35 spaces. Will require NEW deviation of 42 spaces  
 \*\*\* PUD Originally Approved with 788. Reduction of 5 Spaces Granted with Chase Bank in 2007. Reduction to 742 Spaces granted with McDonald's request. Requested deviation ordinance will allow for tenants with demand of 5.0 or less to occupy

ATTACHMENT 5  
Page 2 of 2

The table below provides a breakdown of past, current and proposed parking space allocations in the Design Pointe PUD.

	<b>Ratio Approved (Proposed)</b>	<b>Number of Spaces Required Based on Tenant Mix</b>	<b>Number Spaces Provided/Proposed</b>	<b>Overall Deviation from Original Approval</b>
Original Design Pointe PUD	4.8 spaces/ 1,000 square feet	788		NA
Deviation Approved for Chase	4.8 spaces/ 1,000 square feet	788	782	6
Deviation Approved for McDonalds	4.3 spaces/ 1,000 square feet	782	742	40
<i>Phoenix Restaurant Request</i>	<i>4.3 spaces/ 1,000 square feet</i>	822	742	80



# Naperville

## PLANNING & ZONING COMMISSION AGENDA ITEM

**AGENDA DATE:** 12/7/2011

**SUBJECT:** Multi-Tenant Ground Signs – Memo 2

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Correspondence      New Business      Old Business      Public Hearing

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**BACKGROUND:**

At the November 2, 2011 Planning & Zoning Commission meeting, the PZC briefly discussed the memo that staff provided regarding the subject topic. Based on this discussion, the Commission asked that it again be included on the December 7, 2011 agenda because Commissioner Herzog was unable to attend the November 2 meeting. Commissioner Herzog was the PZC member who had originally brought up the topic. In addition, during the discussion at the November 2 meeting, Commissioner Coyne inquired as to whether or not the businesses along Ogden Avenue were notified by letter of the changes that were going to be made to the sign code.

**ACTION REQUESTED/RECOMMENDED THIS MEETING:**

No action required.

**PREPARED BY:** Trude B. Terreberry, Code Enforcement Officer

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**STAFF’S RESPONSE:**

When proposing changes to the municipal code, staff’s standard practice includes outreach to the larger organized groups in Naperville that essentially represent the community at large that will be affected by the changes. For example, if the code changes affect residents, staff works with the Naperville Area Homeowner’s Association (NAHA); and, if the code changes affect the business community, staff works with the Chamber of Commerce (Chamber) and the Naperville Development Partnership (NDP).

When the sign-code update was being written in 2008, staff worked directly with the Chamber and the NDP to gain input and help market the update to the larger business community. As part of the process, the Chamber organized a subcommittee to work directly with staff to ensure that the business owners’ concerns were being addressed as part of the update and so that certain business needs were incorporated into the final code. The Chamber’s subcommittee reported back to the Chamber as a whole, which included business owners along Ogden Avenue, at their regularly scheduled meetings so that consensus could be gained with respect to the business community’s needs. In addition, the topic was discussed during several public meetings that were held during the process, which of course included the normal procedures for marketing a

*Multi-Tenant Ground Signs Memo 2 – Staff PZC Memo - Correspondence  
December 7, 2011  
Page 2 of 2*

public hearing. When the sign-code update was presented to the City Council, staff had 100% support from both the Chamber and the NDP.

In addition to the above, business owners along Ogden Avenue were also made aware of the intent for lower-profile monument signs along Ogden Avenue as a part of the Ogden Avenue Corridor Enhancement Initiative (OACEI), which was adopted prior to the current Street Graphics Control Ordinance (sign code).

Staff understands the PZC's concern that all business owners along Ogden Avenue were not given an opportunity to hear about the proposed changes and voice their opinions before the current sign code was adopted back in 2008. However, through the Chamber and NDP, as well as through the public-hearing process, staff believes that the majority of businesses in Naperville were provided information related to the sign code update so that they could voice their opinion on the matter.

**ACTION REQUESTED:**

No action required.

**ATTACHMENTS:**

1. Multi-Tenant Ground Signs – Staff PZC Memo – November 2, 2011



# Naperville

## PLANNING & ZONING COMMISSION AGENDA ITEM

**AGENDA DATE:** 11/2/2011

**SUBJECT:** Multi-Tenant Ground Signs

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Correspondence      New Business      Old Business      Public Hearing

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**BACKGROUND:**

At the September 21, 2011, Planning & Zoning Commission meeting, the PZC expressed concern that the Street Graphics Control Ordinance (Sign Code) seems “lenient” with respect to changing out face panels on existing nonconforming multi-tenant ground signs and that it would be a very long time before these types of signs would be replaced. Based on these concerns, staff wanted to provide the PZC with information as to why multi-tenant ground signs are treated differently than single-tenant ground signs.

**ACTION REQUESTED/RECOMMENDED THIS MEETING:**

No action required.

**PREPARED BY:** Trude B. Terreberry, Code Enforcement Officer

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**STAFF’S RESPONSE:**

Section 5-4-12:1 (Permit Process; Application) of the Naperville Municipal Code states, “Any person or activity proposing to erect, display or replace a sign, with the exception of individual panels on a multiple-tenant sign, shall file an application on a form provided by the City of Naperville.”

While the commission’s comments were not directed specifically to Ogden Avenue, that is where the large majority of existing, nonconforming signs are in the city and it is also where there have been two recent variance requests (Metropolitan Asian Family Services and National Tire & Battery). Therefore, staff counted the number of existing nonconforming ground signs on Ogden Avenue between Washington Street and Naper Boulevard and the breakdown is as follows:

- Multi-tenant signs – 22
- Single-tenant signs – 54

When the current sign code was being drafted, there was a consensus among City Council, staff and the business community that tenant panels on multi-tenant signs can be changed without the need of a permit or a variance (for nonconforming signs) for the following reasons:

- One tenant panel change should not cause for the remaining tenants within a shopping center to change their signage

*Multi-Tenant Panel Signs – Staff PZC Memo - Correspondence*

*November 2, 2011*

*Page 2 of 2*

- Business turnover within shopping centers is commonplace and all concerned parties wanted to allow face-panel swaps to occur with as little bureaucracy as possible
- Tenant-panel changes do not affect the size, height, or shape of an existing multi-tenant sign

Staff understands the PZC's concern about the length of time it will take to bring the multi-tenant signs along Ogden Avenue into agreement with the Ogden Avenue Corridor Enhancement Initiative (OACEI) objectives of lower-profile monuments signs in order to reduce clutter and improve navigation along the corridor. However, staff hopes that the PZC finds the above information helpful as to why a distinction is made between multi-tenant ground signs and single-tenant ground signs.

**ACTION REQUESTED:**

No action required.



# Naperville

## NAPERVILLE PLANNING AND ZONING COMMISSION AGENDA ITEM

**AGENDA DATE:** 12/7/2011

**SUBJECT:** PZC Bylaws Update/Training

Correspondence      New Business      Old Business      Public Hearing

**SYNOPSIS:**

The bylaws of the Planning and Zoning Commission will be updated in 2012 to reflect the new commission duties associated with the PC/ZBA merger and to incorporate updated procedures.

**PLAN COMMISSION ACTION PREVIOUSLY TAKEN:**

Date	Item No.	Action

**ACTION REQUESTED/RECOMMENDED THIS MEETING:**

Accept the memorandum.

**PREPARED BY:** Suzanne Thorsen, AICP, Community Planner

**BACKGROUND:**

On February 1, 2011 the City Council approved a merger of the Plan Commission and Zoning Board of Appeals in order to accommodate greater efficiency in consideration of zoning and sign matters. The Planning and Zoning Commission was thus established effective May 1, 2011.

Staff recognized that an update to the Plan Commission bylaws was necessary to reflect the revised title and duties of the Planning and Zoning Commission. Recent state judicial precedents have additionally necessitated that the procedures of the Planning and Zoning Commission be updated to provide adequate due process prior to and during public hearings.

**DISCUSSION:**

The draft of the Planning and Zoning Commission bylaws will be provided to as a correspondence item in early January, 2012. In order to accommodate questions and discussion on the draft bylaws, a training session with staff from the Planning Services Team and Legal Department has been scheduled for **Wednesday, January 25 at 6:00 p.m.** in the lunchroom of the Municipal Center. Commissioners will be invited to review the bylaws and provide questions in advance of the meeting in order to facilitate structured discussion of the document. Approval of the bylaws update will subsequently be considered during the PZC's February meeting schedule.