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People Saving Places for People

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[www.Landmarks.org](http://www.Landmarks.org)

January 12, 2023

(VIA EMAIL)

City Council  
City of Naperville  
400 S. Eagle Street  
Naperville, IL 60540

*RE: Pass the ordinance amending Chapter 11 (Historic Preservation) of Title 6 (Zoning Ordinance) regarding the Designation of Landmarks and owner consent - PZC 22-1-113*

Dear Naperville City Councilmembers:

During the December 20 meeting of the City Council, Councilmembers heard and discussed amendments to the historic preservation ordinance. Landmarks Illinois appreciates the Council's careful consideration of the proposed amendments and reiterates our support for them. We find the revisions made following the December 20 meeting to be fair and reasonable.

However, during deliberation, we were alarmed to hear Councilmembers describe local landmarking as "taking" property rights. We would like to clear up any misperception that may arise from the use of that particular terminology.

By legal definition, a taking is an instance where government either a) seizes private property for public use or b) when government regulation limits the use of private property to such a degree that the property owner is deprived of all reasonable economic benefit deriving from ownership. The U.S. Supreme Court's decision in *Penn Central Transportation Company et al. v. City of New York*, 438 U.S. 104 (1978) established that landmark designation for the purpose of historic preservation does not constitute a taking. The *Penn Central* decision held that historic preservation is a legitimate governmental objective and that designating landmarks is an appropriate means for accomplishing historic preservation. It also established that a property owner must be denied *all* reasonable and beneficial use of their property to constitute a taking, not merely what the owner believes to be the highest and best use. Since *Penn Central*, federal and state courts have routinely rejected takings claims arising from the designation of properties as historic resources under historic preservation ordinances. It is therefore inaccurate and misleading to characterize local landmark designation as "taking" property rights.

Similar to zoning, building code, and other property regulations, landmark designation regulates the use of private property to provide for the public interest. It is in the interest of Naperville as a community to be able to protect the historic and cultural resources that tell the story of Naperville's past, and local landmark designation is a legitimate tool for that purpose.

Sincerely,

A handwritten signature in black ink, appearing to read "Kendra Parzen", with a long horizontal flourish extending to the right.

Kendra Parzen  
Advocacy Manager

cc: Allison Laff, Deputy Director, TED, City of Naperville  
Councilman Patrick Kelly, City of Naperville  
Becky Simon, Naperville Preservation