

PINs:
08-18-411-019
08-18-411-020

ADDRESS:
821 E. CHICAGO AVE.
NAPERVILLE, IL 06540

PREPARED BY:
CITY OF NAPERVILLE
LEGAL DEPARTMENT
630/420-4170

RETURN TO:
CITY OF NAPERVILLE
CITY CLERK'S OFFICE
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540

PZC Case # 18-1-053

ORDINANCE NO. 18 –
AN ORDINANCE REVOKING CONDITIONAL USES,
RELEASING A COVENANT, AND REZONING THE PROPERTY
LOCATED AT 821 E. CHICAGO AVENUE TO
TU (TRANSITIONAL USE DISTRICT)

WHEREAS, Brian Hellman, on behalf of Land Trust 8002374068, (“Petitioner”) has petitioned the City of Naperville for rezoning of real property located at 821 E. Chicago Avenue, legally described on **Exhibit A** and depicted on **Exhibit B** (“Subject Property”) from OCI (Office, Commercial and Institutional District) to TU (Transitional Use District); and

WHEREAS, Petitioner also seeks revocation of conditional uses previously granted for the Subject Property and release of a covenant binding the Subject Property as described herein; and

WHEREAS, Land Trust 8002374068 is the Owner of the Subject Property; and

WHEREAS, the Subject Property is presently improved with a two-story frame building (“Subject Building”) and associated surface parking spaces; and

WHEREAS, on February 21, 1984, the Naperville City Council passed Ordinance 84-021 which: (i) granted conditional uses which permitted the Subject Property to be used for two family residences and a meat market-grocery store subject to certain conditions and restrictions (“Conditions”) as set forth in Ordinance No. 80-5: Section 8.6-2 (OCI District: Conditional Uses) (b) dwelling units and (f) general retail; (ii) required a covenant (“Covenant”) incorporating said Conditions which would run with the land to the benefit of the City of Naperville; and (iii) rezoned the Subject Property from R2 (Single-Family and Low Density Multiple-Family Residence District) to OCI (Office, Commercial and Institutional District); and

WHEREAS, the required Covenant was recorded with the DuPage County Recorder against the Subject Property as document number R84-40049; and

WHEREAS, the Petitioner asks that the City release the Covenant and revoke the conditional uses approved by Ordinance 84-021 as to the Subject Property and rezone the Subject Property from OCI (Office, Commercial and Institutional District) to TU (Transitional Use District); and

WHEREAS, the intent of the TU District is to serve as a mixed use transitional area between a low-density residential neighborhood and other more intense uses such as an arterial roadway; and

WHEREAS, the Subject Property is surrounded by a low density neighborhood to the north, east and west, and a minor arterial roadway to the south and therefore, meets the intent of the TU District; and

WHEREAS, a portion of the Subject Building is currently used as an eating establishment and shall be permitted to continue operation until the lease of the current operator of said establishment expires; and

WHEREAS, the requested rezoning meets the Standards for Granting a Map Amendment as provided in **Exhibit C** attached hereto; and

WHEREAS, on July 18, 2018 the Planning and Zoning Commission conducted a public hearing to consider the rezoning request and recommended denial of PZC 18-1-053; and

WHEREAS, the City Council of the City of Naperville has determined that the Petitioner's request should be granted as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule powers, as follows:

SECTION 1: The foregoing recitals are incorporated as though fully set forth here. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

SECTION 2: The conditional uses approved for the Subject Property by Ordinance 84-21 are hereby revoked.

SECTION 3: The City Attorney is directed to prepare a release of the Covenant described herein, and the City Clerk is directed to record said release with the DuPage County Recorder.

SECTION 4: The Subject Property, legally described on **Exhibit A** and depicted on **Exhibit B**, is hereby rezoned to TU (Transitional District) in the City of Naperville.

SECTION 5: A portion of the Subject Building is currently used as an eating establishment and may continue its current use as a legal non-conforming use within the TU District, and any expansions to the site, alterations to the site, or changes to the scope of the current use must comply with TU zoning regulations, pursuant to Section 6-10 (Non-Conforming Uses) of the Naperville Municipal Code. All redevelopment will be required to comply with the TU zoning regulations.

SECTION 6: The Zoning Map of the City of Naperville is hereby amended in accordance with this Ordinance.

SECTION 7: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

SECTION 8: This Ordinance is subject to all conditions and requirements set forth in the Naperville Municipal Code, as amended from time to time.

SECTION 9: The City Clerk is authorized and directed to record this Ordinance with the DuPage County Recorder.

SECTION 10: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2018.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2018.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk