



Legislation Details (With Text)

**File #:** 18-599B      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 7/19/2018      **In control:** City Council

**On agenda:** 9/18/2018      **Final action:** 9/18/2018

**Title:** Option 1: Concur with staff and the petitioner to pass an ordinance revoking conditional uses, releasing a covenant, and rezoning the property located at 821 E. Chicago Avenue to TU (Transitional Use District) - PZC 18-1-053; or  
Option 2: Concur with the Planning and Zoning Commission to deny the rezoning of the property located at 821 E. Chicago Avenue - PZC 18-1-053

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 821 E. Chicago - Ordinance, 2. Exhibit A - Legal Description, 3. Exhibit B - Plat, 4. Exhibit C - Standards, 5. Ordinance 84-021, 6. Application, 7. TU - Permitted and Conditional Uses, 8. OCI - Permitted and Conditional Uses, 9. July 18, 2018 PZC Minutes, 10. Location Map - 821 E. Chicago

Date	Ver.	Action By	Action	Result
9/18/2018	1	City Council	passed	Pass

**PLANNING AND ZONING COMMISSION AGENDA ITEM**

**ACTION REQUESTED:**

Option 1: Concur with staff and the petitioner to pass an ordinance revoking conditional uses, releasing a covenant, and rezoning the property located at 821 E. Chicago Avenue to TU (Transitional Use District) - PZC 18-1-053; or  
Option 2: Concur with the Planning and Zoning Commission to deny the rezoning of the property located at 821 E. Chicago Avenue - PZC 18-1-053

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Erin Venard

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered this matter on July 18, 2018 and voted to recommend denial of the request (not approved, 6-0). Staff does not concur with the recommendation of the PZC.

**BACKGROUND:**

The subject property is located at the northwest corner of Chicago Avenue and Huffman Street, with a common address of 821 E. Chicago Avenue. The 15,658 square foot property is improved with a two story frame building and an associated parking lot. A portion of the building is occupied by Franco's, an eating establishment, while the remainder is occupied by a single residential unit.

In 1984, the subject property was rezoned from R2 (Single-Family and Low Density Multiple-Family

Residence District) to OCI (Office, Commercial and Institutional District) per Ordinance 84-021. The rezoning ordinance also included a condition that restricted the use of a portion of the subject building to a meat market and grocery store and the remaining balance of the building to a two-family dwelling unit. Both uses, a meat market/grocery store and a two-family dwelling unit, are neither permitted nor conditional uses in OCI.

The petitioner, Brian Hellman representing Land Trust 8002374068, requests rezoning of the subject property to TU. The purpose of the rezoning to TU is to remove the restrictive conditions while also aligning the subject property with a zoning district that is compatible with the surrounding neighborhood

**DISCUSSION:**

The petitioner requests rezoning of the property to TU (Transitional Use District) from OCI (Office, Commercial and Institutional District). 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. The subject property is bound by the DelCara Heights subdivision on the north, east, and west sides, and Chicago Avenue to the south. Staff finds the TU zoning appropriate for the property because DelCara Heights is a low-density residential neighborhood as it is zoned R2 and is comprised of mainly single-family and two-family units and Chicago Avenue is classified by the City as a minor arterial roadway.

With the proposed rezoning to TU, the use of the property will no longer be restricted to a “meat market and grocery and two-family dwelling unit” only and the property will be allowed to house any of the uses permitted within the TU district. The current business tenant, Franco’s, will be permitted to remain in place until vacating the subject property. Any future eating establishment/restaurant uses will not be permitted to locate on the subject property as they are not a permitted use in the TU District. All future tenants will be reviewed by the City for compliance with use, building, and parking requirements prior to permit issuance. The petitioner has indicated that he intends to market the property to a developer and does not have a tenant at this time.

It is important to note that staff does not find the current underlying OCI zoning to be appropriate for the subject property. While the OCI District is also intended to act as a transitional zone between higher intensity uses and residential neighborhoods, staff finds the intensity of allowable uses in OCI (schools, fitness, facilities, sleep clinics, etc.) are inconsistent with the surrounding neighborhood. The allowable uses in TU are low intensity (single-family residential, duplex, office, etc.) and are more compatible with the surrounding residential neighborhood. Furthermore, staff has found the use restrictions currently provided in Ordinance 84-201 to be problematic to administer for the City, property owner, and prospective tenants; for these reasons, staff has actively encouraged the property owner to seek rezoning to a more appropriate district, such as TU.

Staff finds that rezoning of the subject property to TU is preferred for the reasons noted above. The proposed rezoning to TU will align the subject property with the appropriate zoning classification while also removing the restrictive conditions from the previous rezoning ordinance. Upon review, staff agrees with the petitioner’s responses to the standards for granting a rezoning and recommends their adoption by City Council.

***Planning and Zoning Commission Action***

The Planning and Zoning Commission opened the public hearing to consider PZC 18-1-053 on July 18, 2018. Brian Hellman spoke on behalf of the petitioner. Three members of the public spoke

during public testimony. The testimony centered on the intensity of TU zoning as compared to the surrounding neighborhood with speakers finding that the property should revert to the original R2 zoning. It should be noted that if the Council should choose not to approve the proposed rezoning to TU, the property will remain zoned OCI with the restrictive conditions. The property will not be zoned R2 unless the petitioner requests rezoning to R2 and it is approved by Council.

After limited discussion, the Planning and Zoning Commission closed the public hearing and voted to recommend denial of PZC 18-1-053 (not approved, 6-0). The PZC did not support moving forward with TU zoning without a specific development plan. Staff does not concur with the Planning and Zoning Commission's recommendation.

***Key Takeaways***

- The petitioner requests approval of rezoning from OCI (Office, Commercial and Institutional District) to TU (Transitional Use District).
- Staff finds the proposed rezoning to TU is appropriate for the subject property because the rezoning meets the intent of the TU district and is compatible with surrounding area.
- Staff recommends approval of the requested rezoning to TU.

**FISCAL IMPACT:**

N/A