



## Legislation Details (With Text)

**File #:** 23-0711 **Version:** 1  
**Type:** Ordinance **Status:** Passed  
**File created:** 6/6/2023 **In control:** City Council  
**On agenda:** 6/20/2023 **Final action:** 6/20/2023  
**Title:** Waive the first reading and pass an ordinance amending Chapter 7 Article F (OCI: Conditional Uses) of Title 6 (Zoning Regulations) related to eating establishments within a PUD (requires six positive votes) - PZC 23-1-031

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Request for text amendment, 3. PZC Meeting Minutes 5-17-23

Date	Ver.	Action By	Action	Result
6/20/2023	1	City Council	waived the first reading and passed	Pass

### CITY COUNCIL AGENDA ITEM

#### **ACTION REQUESTED:**

Waive the first reading and pass an ordinance amending Chapter 7 Article F (OCI: Conditional Uses) of Title 6 (Zoning Regulations) related to eating establishments within a PUD (requires six positive votes) - PZC 23-1-031

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly, AICP, Community Planner

#### **BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission (PZC) conducted the public hearing regarding the proposed text amendment on May 17, 2023 and voted to recommend approval of the amendment (approved 6,0). Staff concurs.

#### **BACKGROUND:**

A development petition has been submitted by The Hari Group to allow for an eating establishment known as McAlister's Deli to be located at 1296 E. Chicago (PZC 22-1-095). In conjunction with this development request, the petitioner has requested that a text amendment to Section 6-7F-3:14 be processed to allow eating establishments as a conditional use in the OCI zoning district without the requirement that such use be located within a planned unit development.

#### ***Planning and Zoning Commission***

The PZC considered this matter on May 17, 2023. No public testimony was provided on the proposed amendment. After limited discussion, the PZC closed the public hearing and voted to recommend approval of the OCI text amendment as proposed (approved 6,0). Staff concurs with this recommendation.

## **DISCUSSION:**

The intent of the OCI zoning district is to act as a transitional zone between intensive business areas and residential neighborhoods. This district should contain office, residential, institutional and support commercial facilities. Currently, several commercial uses including offices, financial institutions, civic buildings, daycare centers, fitness facilities, and services such as barber shops, cleaners, pet grooming, repair shops, and similar businesses are permissible uses in the OCI zoning district. Full-service hotels, general retail, multi-family residential, eating establishments within a PUD, and other uses are conditional uses in the OCI district.

Eating establishments are defined as, “a building, structure or portion thereof within which food is offered for sale and which permits consumption within the building or structure”. The OCI zoning district currently requires such eating establishments to be located within a planned unit development (PUD) and to seek approval of a conditional use. The Petitioner has requested an amendment to the OCI conditional use regulations to remove the requirement that eating establishments must be located within a PUD if approved through a conditional use.

The objective of a Planned Unit Development is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable zoning regulations. Due to the additional requirements which are applicable in order to create a PUD, including the requirement that a minimum of 20% open space must be provided for mixed use/nonresidential PUD developments, not all properties qualify to be developed as a Planned Unit Development (PUD). It is particularly difficult for an improved property, such as 1296 E. Chicago Avenue, to achieve PUD status based on existing conditions.

Should this amendment be approved, any application to operate an eating establishment in the OCI zoning district would still be required to follow the conditional use process. The conditional use process includes a public hearing before the Planning and Zoning Commission with public notice provided no less than 15 days in advance of the meeting. Required public notice includes a publication in the newspaper, a public notice sign posted on the property, and a letter to the surrounding property owners within 300’ of the property. Following review by the Planning and Zoning Commission, the recommendation by the PZC and any public input which was received during the public hearing would then be forwarded to the City Council for final review and approval.

The conditional process allows each request to be thoroughly reviewed for its appropriateness at the desired location within the surrounding context. Additionally, the process provides an opportunity for any surrounding property owners who may be impacted by the proposed eating establishment to provide input on the request and for the PZC and/or City Council to recommend conditions which would be applicable to the requested conditional use.

An ordinance reflecting the above changes is attached. The proposed code language to be removed is ~~stricken~~. Staff is supportive of the proposed changes.

## ***Recommendation to Waive the First Reading***

Staff recommends the City Council waive the first reading and pass the ordinance due to the minor modification to the municipal code, the support by staff, and the positive recommendation by the Planning and Zoning Commission. Additionally, no members of the public spoke on this item and no submitted written comment was provided.

**FISCAL IMPACT:**

N/A