



Legislation Details (With Text)

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**Title:** Option A: Concur with the petitioner and staff and recommend approval of Adler Point (27W130 Bauer Road) as presented - PZC 21-1-063; or  
Option B: Concur with the Planning and Zoning Commission and deny the petition for Adler Point (27W130 Bauer Road) - PZC 21-1-063 (Item 1 of 6)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Development Petition, 2. Annexation Petition, 3. Disclosure of Beneficiaries, 4. Legal Description, 5. Location Map, 6. Final Engineering, 7. Tree Preservation

Date	Ver.	Action By	Action	Result
12/7/2021	1	City Council	approved	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

**Option A:** Concur with the petitioner and staff and recommend approval of Adler Point (27W130 Bauer Road) as presented - PZC 21-1-063; or

**Option B:** Concur with the Planning and Zoning Commission and deny the petition for Adler Point (27W130 Bauer Road) - PZC 21-1-063 (Item 1 of 6)

**DEPARTMENT:** Transportation, Engineering and Development

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

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission (PZC) held a public hearing on October 6, 2021 regarding the petitioner’s request to rezone the subject property to R1A upon annexation. The PZC made a motion to approve the petitioner’s request which failed (3 in favor; 4 against). A detailed summary of the PZC discussion can be found within this report. Staff does not concur with the PZC’s recommendation and recommends approval of the rezoning request.

**BACKGROUND:**

The Adler Point subdivision is a request for approval of annexation, an annexation agreement, rezoning to the R1A zoning district (Low Density Single Family Residence District) upon annexation, and approval of a preliminary/final plat of subdivision. The request reviewed by the PZC proposed subdivision of the subject property into four new lots. Following the PZC’s denial, the petitioner revised the proposal to reduce the proposed lots from four to three.

The subject property has a common street address of 27W130 Bauer Road and is located at the

northeast corner of Bauer Road and Eagle Street. The 1.74 acre property is currently improved with a single-family residence and is zoned R-3 (Single Family Residence District) in unincorporated DuPage County. The owner and petitioner, Scott M. Barenbrugge intends to keep the existing single-family home and construct two new single-family homes on separate lots.

The subject property is adjacent to unincorporated properties to the north and west. The parcels directly abutting the subject property to the east are unincorporated, however, the neighboring subdivision to the east (Indian Hill Unit 4) is incorporated and is zoned R1A. The properties across Bauer Road to the south of the subject property are incorporated and zoned R1B.

## **DISCUSSION:**

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

The PZC conducted a public hearing for PZC 21-1-063 on October 6 to consider the request for rezoning to R1A upon annexation. In addition to the rezoning request, the petitioner also noted the request for annexation, demolition of the existing single-family home and subdivision of the subject property into four lots. By code, the petitioner's annexation and subdivision requests were not required to be reviewed by the PZC and information on these requests was provided for reference only.

During the public hearing, 11 members of the public spoke in opposition to the rezoning request. Those in opposition raised concerns with the proposed impact of the development on the surrounding homes within the neighborhood, specifically citing an increase of traffic creating a safety concern during school pick-up and drop-off, removal of trees and incompatibility of the proposed property sizes in relation to the existing lots within the subdivision. Several members of the public stated they would be in support of a two-lot subdivision finding the lot sizes would then be more compatible.

The PZC discussed the existing subdivision, alternative zoning districts, architectural details of the proposal, and the contiguity of the property to Naperville's municipal boundary. During deliberation, Commissioners noted concern that the proposal did not include final details of the plans, rather it only noted what the developer desires to construct. Commissioners stated they would consider the petition if the proposal was a request for rezoning to the R1 zoning district which requires larger minimum lot sizes. Staff recommended approval of the rezoning request finding the zoning to be consistent with the recommendations of the East Sector Plan and compatible with surrounding incorporated properties. Upon conclusion of the discussion, the PZC's recommendation to approve the rezoning request to R1A upon annexation failed (3 in favor; 4 against).

### **Plan Revisions**

Following the October 6 PZC review, the petitioner submitted revised plans to alter the Preliminary/Final Plat of Subdivision. The revised plans propose to preserve the existing single-family home on the subject property and construct two new homes (total number of lots has been reduced from four lots to three lots).

The proposed lot sizes will range between 10,894 square feet to 22,791 square feet in size. The proposed lots exceed the R1A minimum required lot size of 10,000 square feet and are in compliance with the 90% rule (Section 7-4-4:2.4). Per code, the 90% rule requires the minimum lot size of any single-family residential lot that results from subdividing one or more existing lots to be equal to or greater than 90% of the mean of all of the single-family residential lots within 300' of the subject property. The 90% rule for the subject property resulted in 10,893 square feet minimum lot size requirement. The 90% rule stipulates that if the minimum lot size designation of the zoning district in

conflict with the 90% rule minimum, the more restrictive requirement is applicable. The proposed lots comply with the 90% rule minimum lot size requirement.

The existing single-family home does not comply with the setback requirements of the R1A zoning district. As such, if the Adler Point ordinances are adopted, the existing single-family home will be required to follow the nonconforming regulations of the Municipal Code (Section 6-2-19). These regulations stipulate that any existing buildings and structures which do not comply with the yard requirements of the zoning district in which the home is located may be continued during the remainder of the normal life of the structure or until the structure has deteriorated to the extent that it is no longer safe. Any proposed repairs or alterations must conform to the zoning regulations. If the home is damaged to the extent that the cost of restoration exceeds 50% of the replacement cost, then any new construction or reconstruction must comply with all regulations of the zoning district. This provision has been included as a condition of approval within the subdivision ordinance.

Per Section 7-2-2:5, the subdivision plat does not require PZC review. Therefore, the revised plans were not required to be re-reviewed by the PZC. Staff continues to support the revised request.

### **Annexation and Annexation Agreement**

The subject property is currently located in unincorporated DuPage County and is improved with a single-family home. The petitioner seeks to annex the property. Upon approval of annexation and the annexation agreement, the petitioner will be required to follow the requirements stipulated in the annexation agreement. These include, but are not limited to, the requirement that the existing single-family home conform to the provisions of Section 6-2-19 (Existing Buildings and Structures) and school/park donations are required to be paid for on a per permit payment per Section 7-3-5:5.2.2.

### **Requested Rezoning**

The petitioner is seeking rezoning to R1A upon annexation; the petitioner's response to the standards for Granting a Rezoning can be found in the attachments.

Per the East Sector Plan, the future land use of the subject property is low-density residential (2.5 dwelling units per acre). The revised submittal for three lots at the subject property is under the allowable density for the property as recommended by the East Sector Plan (i.e., 1.74 acres x 2.5 dwelling units per acre = 4.35 units). As noted above, the proposed R1A zoning is also consistent with the zoning of Indian Hill Unit 4 which is incorporated and located directly east of the subject area.

For the reasons above, staff is supportive of the requested rezoning of the subject property to R1A. The proposed subdivision will exceed the minimum 90% rule lot size, which is a code requirement intended to ensure that subdivided lots are generally consistent in size with surrounding properties (note: by design, the calculation of the 90% rule specifically excludes unincorporated lots). Finally, all proposed lots also exceed the minimum R1A lot size requirement of 10,000 square feet and no variances are being requested.

While the proposed R1A zoning will result in lots which are smaller than the existing unincorporated lots surrounding the subject property, this is not uncommon for annexations. In most cases, unincorporated lots will have a larger minimum lot size in order to accommodate well and septic systems on site. When reviewing annexation requests, staff generally does not recommend a zoning district with larger minimum lot sizes unless (1) that zoning district is already the predominant pattern in the subject area, or (2) a lower density is specifically recommended for that property in the

comprehensive plan. As neither scenario above applies to the subject property, staff continues to find the requested R1A zoning appropriate.

### **Tree Preservation**

The petitioner has submitted a tree preservation plan to identify which trees will be removed or preserved. Staff from the Department of Public Works - Forestry and Parkway group conducted a site visit to review the proposed trees to be removed on proposed Lot 1 given the existing home will be remain on the lot. Staff verified that the majority of trees in question are small (6" and below) and the larger trees to be removed appear to be in decline. Additionally, staff noted that if a sidewalk and a sanitary line are installed, the majority of the trees to be removed would suffer root damage. Staff concludes that it is appropriate to remove the trees as indicated on the plan in order to allow for the proposed Alder Point development.

### **Option A and Option B**

Should the City Council concur with the petitioner and staff and recommend approval of Adler Point proposal as presented, Council approval of the ordinances for annexation, annexation agreement, rezoning to R1A, and approval of a preliminary/final plat of subdivision will also be required. However, if the City Council concurs with the PZC and denies the rezoning request to the R1A zoning district, no further action on the items is required.

### **Key Takeaways**

- The owner and petitioner is requesting approval of annexation, an annexation agreement, rezoning upon annexation to the R1A zoning district and approval of a preliminary/final plat of subdivision to subdivide the parcel to three lots in order to keep the existing single-family home and construct two new family homes on the property located at 27W160 Bauer Road.
- The original plans presented at the public hearing held on October 6, 2021 requested subdivision of the lot into four lots in order to demolish the existing single-family home and construct four new single-family homes. Staff supported the request for rezoning to R1A upon annexation. The Planning and Zoning Commission recommended denial of the petitioner's request for rezoning.
- Following the public hearing, the petitioner revised the development plans to request subdivision of the lot into three lots. The revised request included preserving the existing single-family home and constructing two new single-family homes on separate lots.
- Staff has continued to support the rezoning request finding it to be consistent with the recommendations of the East Sector Plan and compatible with the existing zoning on the north side of Bauer Road.

### **Related Files**

- Conduct the public hearing to consider the Annexation Agreement for Adler Point - PZC 21-1-063 (Item 2 of 6);
- Pass the ordinance authorizing the execution of the Annexation Agreement (requires six positive votes) for Adler Point located at 27W130 Bauer Road - PZC 21-1-063 (Item 3 of 6);
- Pass the ordinance annexing the subject property located at 27W130 Bauer Road - PZC 21-1-063 (Item 4 of 6);
- Pass the ordinance rezoning 27W130 Bauer Road to R1A upon annexation - PZC 21-1-063 (Item 5 of 6);
- Pass the ordinance approving the preliminary/final plat of subdivision for 27W130 Bauer Road - PZC 21-1-063 (Item 6 of 6)

**FISCAL IMPACT:**  
N/A