



## Legislation Text

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File #: 23-0600B, Version: 1

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### **CITY COUNCIL AGENDA ITEM**

#### **ACTION REQUESTED:**

Receive the staff report for 1296 E. Chicago Avenue (McAlister's Deli) - PZC 22-1-095 (Item 1 of 4)

**DEPARTMENT:** Transportation, Engineering and Development

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

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

The Planning and Zoning Commission (PZC) considered PZC 22-1-095 on May 17, 2023 and provided a positive recommendation on the requests subject to the conditions noted below (approved 6,0). Staff concurs.

#### **BACKGROUND:**

The subject property is located at the southwest corner of Olesen Drive and East Chicago Avenue and is approximately 0.91 acres in size. It is currently zoned B1 (Neighborhood Convenience Shopping Center District) and was previously utilized as a bank with 4 drive-thru lanes. The subject property is improved with a one story 2,372 sf building and associated parking areas.

#### **DISCUSSION:**

The Petitioner, the Hari Group, Inc., requests revocation of ordinance 76-137, approval of a text amendment to the OCI zoning district (separately considered as PZC 23-1-031), rezoning of the subject property from B1 to OCI, a conditional use for an eating establishment, and associated variances to allow for the redevelopment of the property to accommodate McAlister's Deli.

The requested text amendment to Section 6-7F-3:14 of the OCI zoning district regulations is to allow eating establishments as a conditional use without the requirement that such use be located within a planned unit development. This text amendment is being considered concurrently under PZC 23-1-031.

#### ***Revocation of ordinance 76-137***

On September 11, 1972, the City Council passed ordinance 72-52 which rezoned certain properties, including the subject property to the B1 zoning district and specified use classifications and restrictions, limitations, regulations, and conditions. On December 20, 1976, the City Council passed ordinance 76-137 which amended ordinance 72-52 and further limited the allowable uses at the subject property to banks and business/professional offices. In conjunction with the requests described below, staff and the Petitioner are recommending that ordinance 76-137 ordinance be rescinded since the limitations imposed through this ordinance are no longer necessary or appropriate. Should ordinance 76-137 be revoked, ordinance 72-052 will continue to remain in effect.

### **Rezoning**

The Petitioner is requesting to rezone the subject property from B1 (Neighborhood Convenience Shopping Center District) to OCI (Office, Commercial and Institutional District). The intent of the OCI district is to act as a transitional zone between intensive business areas and residential neighborhoods. Several different zoning districts and land uses are adjacent to the subject property:

- The property to the east (across Olesen Drive) is zoned R1 and is improved with Grace Pointe Church. The property to the southeast is zoned R3 and is improved with apartment buildings.
- The property to the north (across East Chicago Avenue) is unincorporated DuPage County and is improved with the Naperville Country Club.
- The adjacent property to the south and west is zoned B1 and is improved with a commercial shopping center formally anchored by the Butera Market grocery store.

The request for rezoning is consistent with the City's Land Use Master Plan. The Master Plan designates the subject property as neighborhood center, which identifies B1, B2, OCI as appropriate zoning districts. Based on the guidance found in the Land Use Master Plan and the surrounding context, staff is supportive of the request for rezoning.

The Petitioner's responses to the Standards for Granting a Map Amendment are included in the attachments. Upon review, staff and the PZC are in agreement with the Petitioner's findings and recommend adoption by the City Council.

### **Conditional Use**

Pending approval of the aforementioned text amendment to remove the PUD requirement, the OCI zoning district classifies eating establishments as a conditional use. The Petitioner is requesting approval of a conditional use in order to renovate the existing building to allow for a McAlister's Deli. Staff finds the use to be appropriate at this location.

At this time, the submitted plans are preliminary in nature and provide limited information on the desired modifications. As such, staff is recommending the proposed conditional use be approved with the following conditions to ensure that when the detailed plans are provided, the overall intent of the development aligns with what has been currently identified:

1. Final engineering plans must be submitted, reviewed and approved by City staff prior to the issuance of any site or building permits for the Subject Property. All staff comments, including but not limited to Department of Public Utility-Electric, Department of Public Utility-Water/Wastewater, Fire Department, Engineering and Planning Department, must be addressed and resolved to the City's satisfaction upon submittal of final engineering plans. All plans must be code compliant (except for approved variances).
2. A preliminary/final plat of subdivision shall be submitted with the final engineering plans to create a legal lot of record and to establish any easements and provisions required by the City.
3. Four-sided building elevations must be submitted concurrently with the final engineering plans. Any new exterior building materials must comply with the Citywide Design Guidelines. All RTUs must comply with Section 5-10-3:12 (Landscaping and Screening: Rooftop Equipment).
4. Bicycle parking must be installed on the Subject Property prior to issuance of an occupancy permit in compliance with Section 6-9-7 as amended from time to time (Off Street Parking:

Supplemental Standards for Bicycle Parking) and said bicycle parking shall be consistently maintained.

5. The monument sign advertising McAlister's Deli must comply with applicable provisions of the Naperville Municipal Code, including but not limited to Section 6-16-5 as amended from time to time (Signs on Commercial and Institutional Property).
6. Details of the proposed dumpster enclosure on the Subject Property shall be provided by Petitioner for approval by City staff (material, style and design) upon submittal of final engineering plans, and the proposed enclosure must comply with Section 5-10-3:7 (Landscaping and Screening: Screening of Refuse Disposal Areas) and Section 6-2-10 (Accessory building, structures and uses of land) as amended from time to time.
7. If vehicles stacking in the pick-up lane block access to any parking spaces, staff will require that those parking spaces be designated as employee only parking. Petitioner shall promptly comply with City staff requirements.
8. Only vehicles shall be allowed to use the pick-up window and vehicles are prohibited from parking and waiting for food pickup north of the pick-up window (where the drive-through ends). Petitioner shall enforce compliance with this requirement at all times.

The Petitioner's responses to the Standards for Granting a Conditional Use can be found in the attachments. Upon review, staff and the PZC are in agreement with the Petitioner's findings, subject to the conditions noted above, and recommend adoption by the City Council.

### ***Stacking and Setback Variances***

In addition to the rezoning and conditional use requests, the Petitioner has submitted variances to allow for the existing drive aisles to be maintained and to reduce the stacking requirements for the pickup window.

The proposed McAlister's Deli will have a pickup window. The purpose of the pickup window is to have customers place their order ahead of time and drive to the location and pick up their order at the window. No orders will be placed at the pickup window. The Municipal Code does not distinguish drive-through windows versus pickup windows. Therefore, the McAlister's Deli pickup window is subject to the drive-through regulations, while the function of the window is significantly less intense.

The Municipal Code requires a total of 12 stacking spaces be provided for restaurant drive-throughs. The Petitioner is requesting a variance to reduce the stacking requirement from 12 to 3. Staff is supportive of this variance request based on the details provided and will be specifying that this variance is granted for pickup windows only. Any future user who desires to have a drive-through at this location would not be granted the same allowances.

The subject property is currently improved with a building, an associated parking lot, drive aisles and drive-through lanes. The existing drive aisles are nonconforming given they do not comply with the 30' required front yard setback (adjacent to Chicago Avenue) and the 15' required corner side yard setback (adjacent to Olesen Drive). Since modifications to the site are being made, the Petitioner is required to seek approval of variances to allow these drive-aisles to continue to remain within the required setbacks.

Given the Petitioner desires to modify the existing site and is not seeking a complete redevelopment, the location of the existing building and pavement limits the Petitioner's ability to comply with the required setbacks. As the Petitioner has noted in the response to standards, the existing

improvements would likely need to be completely demolished and the property reconfigured in order to comply with the required setbacks. As such, staff is supportive of this variance request finding it meets the standards proving a hardship.

The Petitioner's responses to the Standards for Granting a Variance can be found in the attachments. Upon review, staff and the PZC are in agreement with the Petitioner's findings and recommend adoption by the City Council.

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

The PZCs considered PZC 22-1-095 on May 17, 2023. Public testimony was received from Sharri Pieczynski, District Manager of Heinen's Grocery Stores in Illinois. Ms. Pieczynski mentioned Heinen's discussions with McAlister's including the easement agreement that is currently being negotiated between the two parties. The PZC closed the public hearing and Commissioner McDaniel spoke in support of the proposed development. The PZC provided a positive recommendation on the requests (approved 6,0).

### ***Key Takeaways***

- The Petitioner is requesting approval of rezoning from B1 to OCI, a conditional use for an eating establishment, a variance to allow existing driveways which encroach into the setback, and a variance to reduce the required number of stacking spaces from 12 to 3 in order to accommodate McAlister's Deli. Staff and the PZC recommend approval of the request with conditions.

### ***Related Files***

- Pass the ordinance revoking ordinance no. 76-137 applicable to property located at 1296 E. Chicago Avenue - PZC 22-1-095 (Item 2 of 4)
- Pass the ordinance rezoning the property located at 1296 E. Chicago Avenue to OCI - PZC 22-1-095 (Item 3 of 4)
- Pass the ordinance approving a conditional use for an eating establishment in the OCI zoning district and granting setback and drive-through stacking variances for the property located at 1296 E Chicago Avenue - PZC 22-1-095 (Item 4 of 4)

### **FISCAL IMPACT:**

N/A