



## Legislation Text

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File #: 23-0693B, Version: 1

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### **CITY COUNCIL AGENDA ITEM**

#### **ACTION REQUESTED:**

Waive the first reading and pass the ordinance amending Chapter 1 (Zoning Title, Purpose, Definitions) and Article B (ORI Office, Research and Light Industry District) of Chapter 8 (Industrial Districts) of Title 6 (Zoning Regulations) of the Naperville Municipal Code - PZC 23-1-041 (requires 6 positive votes)

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Sara Kopinski, AICP

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

The Planning and Zoning Commission (PZC) conducted the public hearing regarding the proposed ORI amendments on June 7, 2023 and voted to recommend approval of the amendments (approved 8-0). Staff concurs.

#### **BACKGROUND:**

On May 2, 2023, the City Council directed staff to review the City's Zoning Code and prepare an ordinance that provides the City with greater ability to control warehouse, storage, and distribution facilities in the ORI zoning district.

In response to that direction, City planning staff reviewed the ORI zoning provisions to evaluate land use issues in ORI that would reduce the negative impacts on nearby residential and office neighbors resulting from all day and late-night semi-truck traffic, noise, light pollution, and poor visual aesthetics associated with warehouse, storage and distribution facilities. In addition, the proposed text amendments refine the intent of the ORI Zoning District to provide for a mix of uses directed toward research and development activities, engineering and testing activities, and office uses while accommodating accessory warehouse and storage facilities and manufacturing uses.

To that end, warehouses and storage facilities and manufacturing uses are recommended to be allowed as permitted uses in ORI so long as they are accessory to other allowed uses and comprise less than 50% of the gross square footage of a building.

As a result of evaluating the City Council's request, and for the reasons generally described below, staff recommends review and possible revision or elimination of certain permitted and conditional uses in the ORI Zoning District, as well as new and revised required conditions for uses in the ORI district.

#### **DISCUSSION:**

Properties zoned ORI in the City of Naperville are largely located near the I-88 corridor. The

proposed ORI amendments are intended to accomplish two things: (1) eliminate or limit uses which are not in alignment with the refined intent of the ORI Zoning District described above; and (2) eliminate uses which can be accommodated in whole or in part in other permitted or conditional use categories, or which can be accommodated through the PUD use deviation provisions discussed below.

Staff reviewed several uses as part of the ORI amendments, including, but not limited to warehouse and storage facilities, fulfillment centers, cross docks, data centers, and manufacturing, often generate a significant increase in truck traffic, large off-street loading areas and truck docks, noise levels, exterior lighting, and are designed in manner that is distinctly different from existing professional office buildings and residential areas.

To address these impacts, staff recommends amendments to defined terms as provided in Section 6-1-6 (Definitions) of the Municipal Code, and revisions to Article B (ORI Office, Research and Light Industry District) of Chapter 8 (Industrial Districts) of Title 6 (Zoning Regulations) of the Naperville Municipal Code.

To review the proposed ORI text amendments in their entirety, please see the attached “**Proposed ORI Text Amendments**” provided with this agenda item.

Proposed new language is underlined, and language recommended for removal is ~~stricken~~.

**Key changes proposed as part of the Proposed ORI Text Amendments are summarized below:**

### ***Changes to Permitted Uses***

- **Addition of Life Sciences Facilities.** Life Sciences Facilities have been added to the list of permitted uses in the ORI zoning district. Life Science Facilities are defined as facilities providing office, research, and laboratory space related to the fields of pharmaceuticals, biotechnology, biomedical technologies, nutraceuticals, cosmeceuticals, and other related fields.
- **Permitted Accessory Uses.** Recognizing that several permitted uses in the ORI Zoning District require accessory warehouse, storage, and/or manufacturing space as a part of their business. Warehouse and storage facilities and/or manufacturing uses have been added as permitted uses in ORI when such uses (i) are an accessory use to another permitted use in ORI; and (ii) where the cumulative total square footage of such uses comprises less than 50% of the gross square footage of a building. These permitted uses will be subject to the Required Conditions set forth in Section 6-8B-4:2 through 6 of the Municipal Code.
- **Modifications of Use Categories.** The only use proposed to be eliminated in ORI is “Low Nuisance Industrial Activities” which is currently permitted. This use is not in alignment with the refined intent of the ORI Zoning District discussed above. In addition, data centers are now included as a conditional use (previously they would have been considered a use encompassed within “Low Nuisance Industrial Activities”).

Other uses which appear as stricken in the “Proposed ORI Text Amendments” are in reality

either changed from a conditional use status to a permitted use status (or from a permitted use status to a conditional use status) or are encompassed in part in other permitted or conditional use categories.

For instance, “production of prototype products” is duplicative of “Pilot Plants;” “laboratories, offices, and other facilities for research and development, including basic, applied, development and technical services conducted by or for any individual, organization, or concern, whether public or private” are largely duplicative of other permitted land uses or are accommodated, in whole or in part, through new Life Sciences Facilities use.

### ***Changes to Conditional Uses***

- **Data Centers.** The category of “Data Centers” is new under the proposed ORI text amendment. As noted above, currently data centers would be classified as “Low Nuisance Industrial Activities” which is proposed to be eliminated from the permitted uses in ORI. To ensure inclusion of data centers, and to allow for a level of review as specified in proposed Section 1 of the “Required Conditions” discussed below, Data Centers are proposed to be included as a conditional use in the ORI zoning district. Classifying Data Centers as conditional uses will not automatically prohibit them in the ORI Zoning District, but will subject them to review by the Planning and Zoning Commission (PZC) and City Council to determine if the use is appropriate for the proposed location based on the specifics of the case presented. Further, the PZC and City Council may determine that a proposed conditional use may be acceptable subject to conditions imposed with approval that would mitigate adverse impacts related to the proposed use.
  
- **Eliminated conditional uses.** Staff recommends that certain conditional uses in the ORI Zoning District be eliminated for the reasons discussed above:
  - a. “Warehouse and Storage Facilities established after February 16, 2022” (noting, however, that under the proposed amendments these uses will become Permitted Uses so long as they are less than 50% of the square footage of a building of which they are part; so long as they are an Accessory Use; and subject to the Required Conditions discussed below).
  - b. “Warehouse, self-storage established after February 16, 2022” (distinguished from (a) above since this category of uses applied to self-storage warehouses intended for the purpose of renting or leasing individual storage spaces.)
  - c. “Sales and storage of building materials and products:
  - d. “Food manufacture, packaging, and processing”.
  - e. Uses previously identified as conditional uses when part of a planned unit development (PUD) are shown as removed; however, these uses are provided for in other conditional use sections.

### ***Required Conditions***

Section 6-8B-4 of the Naperville Municipal Code establishes Required Conditions for conditional and permitted uses in ORI. Certain Required Conditions (e.g. Section 1) apply only to conditional uses. Other Required Conditions apply either generally to all conditional and permitted ORI uses or to specific uses.

- **Site Specific Review Applicable to Conditional Uses.** Proposed Section 1 of the ORI Zoning District's *Required Conditions* will reinforce site specific review of a conditional use (as outlined in Section 6-3-8 of the Municipal Code) by requiring review of the following components: property location; anticipated truck and customer traffic and parking generation; current and proposed roadway capacities; site access; visibility of the property from major thoroughfares; proposed building design; and other criteria determined to be necessary.

This section also identifies conditions to mitigate potential adverse impacts of proposed conditional uses, which may include but are not limited to: additional landscaping; improved building elevations and/or materials; access restrictions or additional access; directional signage; increased setbacks; improved lighting; and/or change in building orientation.

- **Prohibited uses.** In accord with the refined intent for the ORI zoning district discussed above, the following uses are proposed to be prohibited:
  - Cross Docks, Fulfillment Centers, Freight Terminals and facilities used for similar purposes regardless of their name;
  - Warehouse and Storage Facility and/or manufacturing uses in excess of 50% of a building's gross floor area;
  - Any Warehouse and Storage Facility and/or manufacturing uses which are not Accessory Uses.
- **Parking and loading requirements.** Staff proposes a required condition providing there shall be no more than one Off Street Loading Dock permitted per 40,000 square feet of building gross floor area per building. Buildings constructed in the ORI zoning district prior to approval of the ORI amendments which have Off Street Loading in excess of this proposal shall be permitted to continue to exist subject to compliance with Chapter 10 (Nonconforming Uses) of the Municipal Code.

### ***Height Limitations/Bulk Regulations***

- The Municipal Code currently provides that increases to permissible building height and/or bulk could be processed as conditional use requests in the ORI zoning district. This was a process that was rarely, if ever, used. The ORI amendments propose instead that petitioners be allowed to seek approval of increased height or bulk allowances through the standard variance process.

### **Nonconforming Uses**

Land uses legally in existence prior to enactment of any approved text amendments to the City's ORI Zoning District would be allowed to continue subject to the nonconforming use provisions set forth in Chapter 10 (Nonconforming Uses) of Title 6 (Zoning Ordinance) of the Naperville Municipal Code, as amended from time to time.

### **Other Options for Petitioners Seeking Land Use Approvals**

ORI zoned properties not located near the I-88 corridor could logically be considered for rezoning which staff would support.

Further, under Section 6-4-3:12.2 (Use Deviations) of the Naperville Municipal Code a use which is neither a permitted or conditional use may be allowed in the context of a planned unit development if the proposed use is incidental to the principal use of the PUD and where the provisions set forth in that section are met.

**Planning & Zoning Commission Action**

The Planning and Zoning Commission considered this matter at their meeting on June 7, 2023. Legal counsel for Franklin Partners, LLC, Scott Day, spoke in opposition to various components of the proposed text amendment, including the restrictions proposed for allowable warehouse space within permitted uses and the number of permissible loading docks (a letter from Mr. Day is attached to this agenda item). Christine Jeffries, on behalf of the Naperville Development Partnership, spoke in favor of the proposed amendments and noted the significance of the I-88 corridor in the City. After limited discussion, the Planning and Zoning Commission closed the public hearing and voted to recommend approval of the ORI Amendments as proposed (approved 8-0). Staff concurs with the Planning and Zoning Commission's recommendation.

**Recommendation to Waive the First Reading**

Staff is recommending that the City Council waive the first reading and pass the ordinance.

**RELATED FILES**

N/A