

- **General Rezoning:** Property containing 2.08 acres +/- (Parcel ID R04913-010-00-000) located at 3606 Market Street from O&I, Office and Institutional to CS, Commercial Services. **Patrick O'Mahony, Planning Manager (Z-7-525)**

Mr. Patrick O'Mahony, Planning Manager provided a summary of the request to rezone the property at 3606 Market Street from O&I, Office and Institutional to CS, Commercial Services. He explained that the 2.08 acres +/- property is currently being used as a warehouse for food storage and distribution with access from Market Street. Mr. O'Mahony showed maps of the property and surrounding areas as well as photos of existing site conditions. He noted that CS zoning is already present to the north and east of the site, while O&I zoning exists to the south and west.

Mr. O'Mahony said that the Comprehensive Plan designates the area as a "Retrofit Area of Opportunity" and an "Urban Mixed Use Center," which envisions redevelopment with more compatible, mixed-use development patterns. Staff determined that the proposed rezoning to CS is inconsistent with this vision, particularly because CS zoning allows by-right uses such as light industrial services and industrial storage, which are viewed as incompatible.

Mr. O'Mahony concluded his presentation and noted that the applicant could consider a conditional rezoning to better limit uses to those consistent with the current operation while enabling planned expansions. But staff recommended denial of the general rezoning request.

Vice Chair Adams asked for clarification on a general rezoning request versus a conditional rezoning. Mr. O'Mahony said there was concern that a general rezoning would open the property to too many potentially incompatible uses. He explained that the rezoning request was triggered by the applicant's proposal to expand the use, which staff determined fell outside permitted uses in O&I, and confirmed that a conditional rezoning approach could restrict permitted uses to those matching the current nonprofit operation.

Commissioner Lennon asked about the zoning maps and adjacent properties, confirming that CS zoning exists across Market Street and nearby. Chairman Pollock added and confirmed that this is a legal non-conforming use. Mr. O'Mahony confirmed both statements were true but reiterated that the general rezoning opens the potential uses in CS to uses that would not be allowed in O&I.

At this time, Ms. Cindee Wolf provided a summary of the request. She said that Nourish NC is a nonprofit organization operating on the site since the property was purchased in 2019. She said that it was renovated and expanded in 2021, and received its certificate of occupancy in March 2022 under the O&I zoning. Ms. Wolf said that the current use includes administrative offices, a walk-in shopping area for distributing food, and warehouse storage in the rear emphasizing the organization's mission.

Ms. Wolf explained that the recent plan to add a walk-in freezer and new storage building triggered the city's determination that the use is "warehouse/distribution," which is not permitted in O&I. She recounted that they had tried to have the use defined as general retail, which would have allowed a different rezoning path, but the zoning administrator classified it as warehouse/distribution.

Cindy argued that the site has already been improved to modern standards with significant investment, demonstrating stability and compatibility with the area. She acknowledged staff's concerns about potential by-right uses under CS zoning but argued that the actual risk of inappropriate industrial uses locating on this small, improved site was minimal. She further explained that conditional zoning was considered too burdensome for the nonprofit, given the cost, process requirements, and future uncertainty about possible minor expansions that could require returning for approvals.

Commissioner Cofer asked for clarification whether the operation functioned as retail or warehouse space. Ms. Wolf said that customers can walk in to shop, but a larger portion in the rear is dedicated to storage and packing. Commissioners reviewed the site's history as a former restaurant property that had been renovated and upgraded, including landscaping and stormwater improvements to current code. Discussion confirmed that the property is surrounded by CS-zoned uses, including hotels, car dealerships, restaurants, and other businesses. But commissioners also expressed slight concern about opening the site to all by-right CS uses, such as industrial laundries or storage services, which staff had identified as incompatible.

Commissioner Collier asked about the ability for staff to work with the applicant to allow for future expansion. Mr. O'Mahony responded that a conditional rezoning could restrict the use list while also allowing future expansions without excessive difficulty. However, Ms. Wolf said that the nonprofit's needs for flexibility and limited resources made conditional rezoning less attractive.

Since there were no additional questions of the applicant, Chairman Pollock opened the public hearing for comments. No one being present to speak, the public hearing was closed.

During the discussion, Commissioner Cofer acknowledged the "use" classifications but disagreed with the zoning administrator's decision in this case noting that the uses are both a grocery-style retail and storage.

Commissioner Collier agreed noting that if this part of the city were redeveloping in line with the Comprehensive Plan's vision, they might see the request differently at this time none of the surrounding area has redeveloped that way.

Vice-Chair Adams admitted that supporting general rezoning was against his usual instincts and that he typically disliked going against staff recommendations. However, he saw this case as an exception and felt the risk of undesirable future uses was small.

Commissioner Lennon agreed and said that while the commission tries to separate the user from the zoning decision, it was impossible to ignore that the nonprofit's role was factoring into his decision. He pointed out that the area is already surrounded by CS zoning and located on Market Street, making CS zoning an appropriate fit.

Commissioner Woodruff and Commissioner Jones also voiced support. Commissioner Jones noted that nonprofits in general often face significant challenges navigating zoning processes and that requiring them to repeatedly appear before the commission would be an unfair burden.

Chairman Pollock said that he was hearing overall support for the request and noted that the commission recognized the circumstances that brought the applicant to the decision of a general rezoning request and what their true intent was for the property.

At this time, Commissioner Lennon made a motion to approve case number Z-7-525 for the general rezoning of 3606 Market Street to CS, Commercial Services. The motion was seconded by Commissioner Collier.

The motion to approve was carried 7-0.