

Item U – Rezoning of the property at 224 E. 8th Street

Downtown Master Plan - Transition Area

The [Downtown Master Plan](#) envisions an exercise of “transitional planning” around the perimeter of the downtown overlay. As the master plan was updated in 2014, with great public interest and input, Nore Winter formalized the concept of a Transition Zone, which is the very boundary of the downtown overlay. In all directions, this is where the special zoning created for the downtown project meets the existing residential zoning.

Transitions occur where Mixed Use Downtown (MU DT) zoning meets and abuts single family residential (RS) zoning. The master plan instructs us that we should create transitional uses of medium impact to serve as buffers between the high impact uses of full commercial and the low impact uses of residential zoning districts.

[Chapter 3](#) of the master plan offers the Development Strategy for the downtown project. I commend this chapter to your attention.

Page 48 states that edges of the downtown overlay zoning district should transition as they abut neighborhoods.

Page 49 introduces the Downtown Transition Area, which is the boundary of the downtown overlay, and calls it an “area of transition between the Downtown Overlay District and the surrounding residential neighborhoods”

This same introduction points to residential development itself as the highest and best way to transition into full residential. Townhomes, with one foot in the downtown bustle, and the other in the residential neighborhood, are probably the best example of the possibilities here.

See the [visual aid](#) for examples of correct development, and one example of an incorrect development.

The council will see many issues like this current one in the future. This event center is simply the first serious challenge to put in place, at the boundary of downtown, a transitional use of moderate impact that can coexist with residential life.

Whenever we fail to do this, we will see protests from the contiguous residential zoning. It's not the neighbors over-reacting. It's the city practicing inappropriate zoning.

The Subject Property

The subject property came with restrictions. The current owner bought the property encumbered with zoning limitations that had existed for a long time and that were well known.

The property was residential and was only allowed to be commercial through negotiation with its neighbors and subject to heavy restrictions on use.

The city compromised the unity of these restrictions when it introduced a new use into downtown zoning, the event center, and allowed this use on the property. None of the other restrictions were touched, and they remain in place.

When the current owner bought the property, he bought land encumbered by zoning restrictions. It happens every day that people buy real estate encumbered by deed restrictions, covenants, HOA requirements, etc.

Now the applicant is asking for the "full use" of his property, as if his property is like every other property in downtown, and not a property encumbered by zoning restrictions. The P&Z Commission explicitly from the dais gave this reason as part of its decision to recommend approval of the applicant's request to remove the other restrictions from this land.

And so P&Z used false reasoning, and made a mistake, in so doing. No one is restricting this owner from the full use of the property rights that come with this land.

This is not about the individual property rights of one land owner. This is about zoning.

The zoning restrictions on this land served an important purpose for a long time. They created a transitional property between full commercial properties in downtown and full residential properties in Old Town.

City Council Action

The council can deny this request in clear conscience that the owner already enjoys the full use of all the property rights that came with this property, the property rights that he bought. He has shown no compelling zoning reason to approve this request.

More importantly, the council can deny this request in confidence that the current zoning restrictions are in accord with the downtown master plan itself, as illustrated in Chapter 3 of the downtown master plan.