

**AGENDA REPORT
PLANNING AND ZONING COMMISSION MEETING
October 8, 2020**

SUMMARY

A request by the City of Columbia to correctively rezone five (5) remnant parcels of C-2 (Central Business) zoned land to R-MF (Multiple-Family Dwelling) district that are located along the eastern boundary of the Columbia Cemetery. The subject parcels are located on property address as 30 E. Broadway and are used as burial sites for human remains. (**Case #154-2020, Map Area #3**)

DISCUSSION

The subject parcels are being proposed to be rezoned so they become consistently classified with the remaining land owned by the Columbia Cemetery Association and used in conjunction with the Columbia Cemetery. Additionally, the request will ensure that the zoning applied to the property best conforms to the permanent zoning classifications established as part of the 2017 adopted Unified Development Code (UDC). The choice to not rezone the remnant parcels to M-DT (Mixed-use Downtown), the replacement district to C-2, was influenced by the fact that the M-DT district is a “form-based” zone dependent on a compact and highly walkable street network where buildings and building architecture influence the pedestrian experience. Given that the property is presently used for burial sites which is not permitted in the M-DT district, except when accessory to a church, and the parcels are not available for commercial development, recoding the parcels to M-DT was determined to be inappropriate.

During the UDC adoption process, it was contemplated that all C-2 zoned parcels located outside the existing core of Columbia (now zoned M-DT) would be considered for new zoning classifications following staff analysis and Planning Commission and Council review and approval. It was furthermore contemplated that once all anomalous C-2 parcels were rezoned the C-2 regulations would be deleted from the UDC. In fulfilling these objectives, the Commission and staff reviewed the proposed zoning classification of the remnant parcels in June and July 2017; however, were unable to initiate the rezoning process at that time due to time-sensitive work assignments. Since conducting its initial research and analysis, work assignments have normalized and staff has been able to re-engage in this activity.

The Columbia Cemetery Association was notified at the end of March 2020 of the pending rezoning action. Staff was contacted and asked for clarification regarding the zoning change specifically if it would impact the use of the site as existing and future burial plots. Staff indicated that given the historical use and it being permitted prior to the adoption of the UDC in the C-2 district the cemetery would be deemed “grandfathered” and the proposed zoning change was merely to unify all Cemetery Association property under one zoning classification. The Association’s representative was satisfied with staff’s response and indicated support to pursue the rezoning action.

On August 17, 2020, the City Council authorized staff to initiate the formal rezoning process on the remnant parcels to R-MF. Following this authorization, staff has followed all notification and public hearing notice procedures applicable to any other rezoning request. The property owner as well as adjoining property owners within 200-feet and Neighborhood Associations within 1000-feet of the remnant parcels have been notified of the pending action.

To the best of staff’s knowledge and based on information provided by the City’s Land Surveyor, the remnant parcels are parts of formerly vacated rights of way and vacated subdivision lots that once occupied the acreage now developed with the cemetery. Based on aerial photography it appears the

cemetery has existed since at least 1939 if not earlier. The only record of rezoning action on the property is a case from 1988 in which the property behind the former Lucky’s Grocery (now Eat Well) was rezoned from R-3 (now R-MF) to C-2 to accommodate a potential expansion of the then existing Osco Drug pursuant to a land sale. Based on ownership records the transfer appears to have never occurred, but the property was rezoned. Since then the subject C-2 remnant has been improved partially with burial sites.

It should be noted that based on the zoning regulations in place prior to the adoption of the UDC the use of the subject remnants was considered permitted pursuant to the R-3 zoning standards. The pre-UDC zoning regulations were “cascading” in nature meaning that uses allowed within the C-2 zoning district incorporated any of the “permitted” uses in zoning districts lower in intensity (i.e. C-1, O-1, R-3, R-2, and R-1). A cemetery first appears as a “by-right” permitted use in the R-3 (now R-MF) district.

Given the zoning analysis performed by staff, the historical use of the subject remnants as cemetery plots, and the fact that the zoning change is merely to conform the remnant parcel’s zoning to the remaining portions of the cemetery, staff believes the request is in the best interest of the City and will have no impact upon the property owners use of their land now or in the future.

Finally, it should be noted that under the UDC provisions for the R-MF district a cemetery is a conditional use. Given the C-2 district permitted a cemetery as a by-right use via the R-3 district it is staff’s belief that the required conditional use permit to allow a cemetery in the R-MF district is not required. Per Section 29-1.9(g) of UDC, uses previously permitted “by-right”, but recoded to a conditional use by the adoption of the UDC are to be automatically granted a conditional use permit. Had the remnant parcels been rezoned as part of the comprehensive action to adopt the UDC such provision would have attached to the parcels. There is no language in this section that establishes a time limit on when the provision can become effective. As such, staff contends by rezoning the parcels at this time the “transition” provision becomes valid automatically.

RECOMMENDATION

Approve the requested rezoning of the five remnant parcels to R-MF.

SUPPORTING DOCUMENTS (ATTACHED)

- 1) Locator Maps
- 2) Zoning Graphic

SITE CHARACTERISTICS

Area (acres)	Approximately 2.03 acres impacted by rezoning (30.43 ac total)
Topography	Sloping southeast
Vegetation/Landscaping	Turf, some landscaping
Watershed/Drainage	Flat Branch
Existing structures	Cemetery Office/maintenance building; burial plots

HISTORY

Annexation date	1826
Zoning District	R-MF on 28.4 acres; 2.03 zoned C-2
Land Use Plan designation	Neighborhood District
Previous Subdivision/Legal Lot Status	Parts of the Original Town Plat, now City of Columbia, and vacated rights of way.

UTILITIES & SERVICES

Parcel is serviced by all City services.

ACCESS

E. Broadway Street	
Location	North of subject parcel
Major Roadway Plan	Major Arterial; City-maintained
CIP projects	None
Sidewalk	Sidewalks present

PARKS & RECREATION

Neighborhood Parks	Located within 550-feet of Flat Branch Park
Trails Plan	None proposed for subject parcels
Bicycle/Pedestrian Plan	Parcels are not part of the Plan.

PUBLIC NOTIFICATION

All property owners within 200 feet and City-recognized neighborhood associations within 1,000 feet of the boundaries of the subject property were provided early property-owner notification of this pending request on September 5, 2020 and formal property owner notification letters on September 28, 2020. 38 postcards and letters were distributed.

Report prepared by _____

Approved by Patrick Zenner