



Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: September 3, 2019

Re: Gentry Estates – Zoning Map Amendment; Development Agreement (Case #51-2019)

Executive Summary

Approval of this request would result in the rezoning of approximately 15.68 acres from PD (Planned Development) to M-N (Mixed Use - Neighborhood) zoning. Approval would also authorize the City Manager to execute a development agreement between the City and Jeffrey E Smith Investment Co Inc. establishing public infrastructure obligations related to the future development of the Gentry Estates subdivision located southeast of the intersection of Nifong Boulevard and Bethel Street.

Discussion

The applicant, Engineering Surveys and Services (agent) on behalf of Jeffrey E. Smith Investment Co Inc. (owners), is seeking approval to rezone 15.68 acres of property from PD zoning to M-N zoning. Prior to the Planning Commission conducting its public hearing, but after the request was advertised, the applicant amended their request to remove the 5.77 acres of M-C (Mixed-use Corridor) zoning that was proposed in the parcel's southeast corner to the present request for the entire site to be zoned M-N (Mixed Use-Neighborhood). This reduction in the level of zoning intensity is considered permissible without the need for readvertising.

The current PD zoning has an associated development agreement that is part of Ordinance 21098 (attached) that includes, among other improvements, requirements to construct additional public streets through the site. The City and applicant have agreed to a new development agreement (attached) that reallocates the obligations of the City and property owner that takes into account the City's proposed reconstruction of Nifong Boulevard along the parcel's northern frontage.

Rezoning

The request under consideration is to rezone the entire property to a standard zoning designation, not a planned development (PD) zoning designation. If the requested M-N zoning is approved, the existing planned development SOI restrictions and development agreement would become void and allowed to be developed with all M-N uses shown in Table 29-3.1 of the UDC (see Attachment #5 of the PZC report), subject to all of the UDC regulations.

The Planning and Zoning Commission considered the permanent zoning for the subject property at their February 21 meeting. Staff presented its report and the applicant and their representatives gave an overview of the request. Two members of the public spoke during



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the public hearing. One individual sought clarity on meetings that may have been held between the applicant and the Bedford Walk Homeowners Association; staff had no knowledge of these meetings. The other speaker represented the Bedford Walk HOA, and requested additional time to review the amended application. The speaker also submitted a letter (attached) explaining why the HOA had originally not objected to the rezoning, but had since rescinded their support.

The Commission discussed the appropriateness of the M-N zoning. Discussion included potentially tabling the hearing to allow additional time to review the impacts of the amended application (M-C to M-N zoning), and further clarification on what uses would be permitted and conditional in the M-N zoning. Following the public hearing and additional discussion, the Commission voted (7-1) in favor of the amended request. The Commission further voted (8-0) to have this item considered on the Council Agenda under "Old Business" to allow the neighborhood association an opportunity to voice its concerns with the change in the requested zoning.

Development Agreement

The site is subject to a development agreement that requires infrastructure upgrades to be completed of which most notably include two new public roadways, Aurora Drive and Nova Way, that will connect Nifong Boulevard and Peachtree Drive. The improvements will include a new traffic signal at the Nifong/Aurora intersection, a roundabout at the Aurora/Nova intersection, and a roundabout at the Nova/Peachtree intersection. Due delays in the development of the subject site and the City's initiation of the Nifong Boulevard reconstruction project (to begin in the spring of 2020), the City and applicant have identified the need to revise the existing development agreement so that existing infrastructure obligations can be reallocate between the parties.

As part of the City's Nifong Boulevard improvements, certain improvements that were originally the obligation of the property owner will be completed by the City. In the revised agreement, the property owner will be obligated to complete other improvements that are different from those originally required but nearly equivalent as well as pay the City the difference between the costs of the original obligations and the new obligations. The development agreement also includes a performance guarantee that stipulates the City can construct all improvements if the property owner does not complete their improvements prior to completion of the Nifong project. The applicant has agreed to the terms of the revised development agreement.

The Planning Commission staff report, locator maps, application materials & zoning graphic, existing zoning ordinance & SOIs (Ord. 21098), surrounding zoning, UDC excerpt, meeting minutes excerpts, public comments, and the revised development agreement are attached.



Fiscal Impact

Short-Term Impact: None anticipated within the next two years. Public infrastructure extension/expansion would be at the cost of the developer

Long-Term Impact: Public infrastructure maintenance such as roads, sewers, and water, as well as public safety and solid waste service provision. Future impacts may or may not be offset by increased user fees and/or property tax collections.

Strategic & Comprehensive Plan Impact

Strategic Plan Impacts:

Primary Impact: Infrastructure, Secondary Impact: Economy, Tertiary Impact: Not Applicable

Comprehensive Plan Impacts:

Primary Impact: Livable & Sustainable Communities, Secondary Impact: Mobility, Connectivity, and Accessibility, Tertiary Impact: Infrastructure

Legislative History

Date	Action
9/8/2015	Approved revised development agreement (Ord. #22566)
10/3/2011	Approved rezoning of the site to C-P and a development agreement. (Ord. #21098)

Suggested Council Action

Approve the requested M-N zoning as recommended by the Planning and Zoning Commission, and authorize the City Manager to execute the attached revised development agreement with Jeffrey E. Smith Investment Co.