

**AGENDA REPORT
PLANNING AND ZONING COMMISSION MEETING
February 21, 2019**

SUMMARY

A request by Engineering Surveys and Services (agent) on behalf of Jeffrey E Smith Investment Co Inc. (owners) for approval to rezone 15.68 acres of property from PD (Planned Development) zoning to 9.91 acres of M-N (Mixed Use-Neighborhood) and 5.77 acres of M-C (Mixed Use-Corridor) zoning. The subject site is generally located at the southeast corner of Nifong Boulevard and Bethel Street. (**Case #51-2019**)

DISCUSSION

The applicant is seeking to rezone the approximately 15.68-acre C-P (Planned Commercial) portion of the originally approved Gentry Estates PUD-17 and C-P development. The C-P portion of the development has never obtained a development plan approval; however, the PUD-17 portion has been fully improved with the Gentry Estates PUD which consists of two, 3-story multi-family residential buildings.

To the east of the site is a PD zoned property owned by the City that includes a development plan for an electric substation, as well as M-N zoned property. To the north is additional PD zoned property that is currently improved with a bank, a medical office (under construction), and multi-family dwellings. On the west side of Bethel is a PD-zoned residential development that includes multi-family dwellings. Columbia Public Schools owns the property to the south which houses the campuses of Gentry Middle School and Rock Bridge High School.

Background

The site's current planned district zoning was originally approved on October 3, 2011, and included designations of C-P (Planned Commercial) and PUD-17 (Planned Residential – 17 du/ac). Upon the adoption of the UDC in March 2017, the prior planned district names were replaced with a single planned district designation - PD for Planned Development. Prior to the current zoning, the site was generally zoned O-1, with small portions of R-1 R-2 and R-3. The southeast 19 acres was rezoned to O-1 from R-1 and PUD-3 in 1991.

The original approving ordinance (Ord. #16361) included a statement of intent that included certain use restrictions for the site, which was originally separated into four development areas - A through D. The proposed rezoning affects areas A-C; area D is developed with a PD plan and will remain as is. The site has been subdivided, and development area A is coincident with Lot 1, area B with Lot 2, and area C with Lot 3 of *Gentry Estates*. Each development area (or lot) has with its own section within the statement of intent that controls the permitted uses. Outside of use restrictions, the SOI did not include any other requirements such as additional buffering or design guidelines.

The request under consideration is to rezone the Lots 1-3 to a standard (non-planned) zoning designation. If approved, the site would be permitted to develop using the permitted uses within the Table 29-3.1 of the UDC (see Attachment #5) and would be subject to all of the UDC regulations, including any use-specific standards. .

Zoning

Changes in zoning are evaluated from several perspectives, the first being how the zoning correlates with the city's Comprehensive Plan (Columbia Imagined) and its future land use designation. The Comprehensive Plan identified the subject site as lying within the land use category of a Commercial District which is reflective of the site's currently entitled land uses. Per the Comprehensive Plan, Commercial Districts can contain "a variety of citywide and regional retail uses," as well as office and high-density residential uses to support said commercial uses. As the the Comprehensive Plan does not specify the specific commercial zoning designation, additional analysis is required to determine the appropriate zoning for the site.

The site includes areas A, B, and C (referred to as development areas in the existing SOI). They allow progressively intense commercial uses from west to east, with area A at the intersection of Bethel and Nifong being the most restrictive. Per the public hearing minutes when the site was zoned to C-P, this was intentional to help buffer the residential uses on the west side of Bethel. Combined, areas A & B are permitted no more than 35,000 sq.ft. of gross building area between them, which limits the potential impacts of the development of the site. Area C is permitted 130,000 sq.ft. of building space.

Area A is similar in nature to the current M-N zoning designation, but there are, of course, differences as well. One similarity is the restriction on drive-throughs - there are restrictions within area A and B that prohibit drive-throughs for restaurants, but allows them for retail. In area A these retail drive-throughs are further restricted so that they must be located away from the Bethel side of buildings. In M-N, drive-throughs require a conditional use, but restaurant drive-throughs are not specifically prohibited.

Large retail (which likely would include lumber yards) and adult uses would also still be prohibited in M-N. But vehicle service/gas stations and car washes would be conditional uses. And some uses currently prohibited would become permitted, such as payday loan establishments and all residential uses.

Area B is similar to Area A, but it removes the Bethel drive-through restriction. It is also somewhat comparable to M-N, with some caveats. Overall, rezoning M-N on area A & B would not have a substantially negative impact on the surrounding properties, and would be appropriate for the location. The PD zoning does not include a substantial amount of additional restrictions that would be lost in the change. Many of the more intense uses would be subject to conditional use approval, which would allow additional development conditions on a case by case basis.

Area C is proposed to be split zoned, with M-N zoning along Nifong, and M-C to the rear of the tract. Again, this location of M-N is seen as appropriate. However, the M-C zoning as proposed is not supported.

Below is an itemized list of circumstances that staff believes supports the denial of the request. Following the itemized list are additional reasons that might be seen as supporting the requested zoning, for comparison. The requested M-C zoning would allow a wide variety of commercial uses that are shown in the Table 29-3.1 (attached) of the UDC. It should be noted that some of the uses permitted per the requested M-C zoning are uses currently prohibited by the existing PD zoning.

CIRCUMSTANCES SUPPORTING DENIAL

- **Commercial node.** M-C zoning is concentrated at the intersection of Nifong and Providence, a major intersection. The zoning between this intersection and the subject site changes at the property immediately east of the site to M-N, a lower intensity commercial zoning. The logical, orderly transition of zoning from higher intensity at major commercial nodes/intersections to

lower intensity next to residential uses suggests M-N zoning.

- **M-C Zoning Intent.** The location of the M-C zoning is not located along a major roadway, such as Nifong. Property zoned M-C is typically associated with regional commercial uses requiring high-visibility. Per the UDC, the Mixed Use - Corridor (M-C) zone is appropriate for commercial activities that may be suited to areas of high visibility and may tend to be more auto-oriented, and generally located at intersections of major roadways
- **Prohibited uses.** Many uses that are permitted in M-C are currently prohibited in the PD zoning (e.g., Service/Gas stations, adult uses, bars, car washes). This suggests that full C-3 zoning was not considered appropriate at the time it was zoned C-P. With a zone change to M-C, many of the existing prohibited uses would be allowed within the M-C portion of the site. It is important to note that some of these uses have additional use standards. Taking adult retail as an example, the use-specific standards restrict hours of operation and limits signage. Use-specific standards apply to many of the uses in the UDC, and further restricts some of the uses based on other factors.
- **Surrounding zoning.** Zoning to the south is residential, but has an institutional use (public schools). To the west is PD zoned with residential uses. M-N would be a preferable transition.
- **Existing M-C.** Given the amount of M-C zoned property in place already in the vicinity, there does not appear to be an overwhelming need for additional M-C zoned property.
- **Split zoning.** Split zoning property is not generally a recommended practice. It can cause practical problems in the future when development occurs and there is a zoning boundary across a lot. This could be remedied by replatting the property.
- **Prior zoning.** Prior to the C-P zoning, the site was generally O-1 (Office) zoned, with a small amount of residential zoning. This represents the third request to upzone the property.

CIRCUMSTANCES SUPPORTING APPROVAL

- Outside of the use restrictions within the SOI, there are no other specific restrictions on the site, such as additional setbacks, buffering, landscaping, design requirements, etc that would be eliminated with the rezoning.
- Surrounding zoning is not single-family or two-family, which are less suited as a transition directly adjacent to M-C zoning. Additional landscape buffering would be required to the west against the PD zoned property.
- The existing PD zoning on Area C already allows for one of the likely uses of this site - large retail (i.e., retail with a footprint greater than 15,000 sq.ft. for single user, which is permitted in M-C, but not M-N). The current PD allows for a building footprint of 130,000 sq.ft, which is more consistent with M-C than M-N.
- Some uses in the M-C would be compatible with the surrounding land uses. Given the location off the major roadway and adjacency to public schools, many of the currently prohibited uses in the SOI may be unlikely (although still allowed), such as service stations and adult uses.
- Planned traffic infrastructure improvements will accommodate the increased land use intensity. A new traffic signal at the future intersection of Nifong and Aurora Drive will tie into site.

In addition to the future land use categories, the Comprehensive Plan includes a list of goals and associated policies that may also provide guidance when evaluating a requested land use change. However, it should be noted that not all of the goals may apply in all instances. In this case, the four policies of the “Livable and Sustainable Communities” goal are believed most applicable. In summary, the policies are 1) Support diverse and inclusive housing options, 2) Support mixed-use, 3) Facilitate neighborhood planning, and 4) Promote community safety.

Policy Two (support mixed-use) primarily addresses the desire in establish nodes of commercial activity in proximity to residential uses. This goal furthers the desire to provide walkable neighborhoods that

provides accessible services to surrounding neighborhoods, in contrast to past development practices of creating large homogenous blocks of single-family dwelling areas. This type of development pattern leads to concentration of commercial services in shopping areas that included “big-box” development.

This policy also points out that care should be taken when considering the location of these smaller-scale commercial uses adjacent to neighborhoods. Ideally, there would be a transition from the most intense to least intense uses (i.e. commercial to higher-density residential to low-density residential uses) that would help support the commercial services offered.

Conclusion

At the time the site was zoned in 2011, a planned development district was used to address surrounding residential neighborhoods concerns with the site. These concerns were generally centered around the permitted uses, traffic, and stormwater. The SOI, with its permitted use list, and accompanying development agreement, sought to address those concerns. The site is still capable of being developed in accordance with existing entitlement. The applicant; however, is seeking a change in that entitlement, but the City is not obligated to grant that change.

Area C could currently be developed with a range of uses, without any footprint restrictions besides the maximum 130,000 sq. ft. of building that is permitted in the SOI, which is not likely to have any practical restriction on the site once parking and drives are accounted for. This area restriction would be eliminated altogether in M-C, but would be enhanced in M-N with a limit of 15,000 square feet on an individual user (45,000 sq.ft. for a grocery).

In short, the requested rezoning will remove the PD plan requirement, open up the site to more uses than are currently permitted, and generally represents an upzoning of the site more so for the proposed M-C portion than the proposed M-N portion. Given its analysis, staff supports the M-N component of the request; however, does not support the M-C component for the reasons listed above.

NOTE: The site is subject to a development agreement that requires infrastructure upgrades to be completed, most notably a new roadway, Aurora Drive and Nova Way, that will intersect Nifong and which will include a new traffic light. Because the existing development agreement references the planned development zoning on this site, a new development agreement must be approved if the rezoning request is approved. The property owner and the City are currently working on a revised Development Agreement that would remove references to the planned development zoning, and thus would allow the requested rezoning to proceed. Due to their interdependence, both requests will be considered by Council concurrently, so this request cannot be placed on a future Council agenda until a revised development agreement has been agreed upon.

RECOMMENDATION

Denial as submitted for the above stated reasons.

Alternatively, staff would support a rezoning of the entire 15.68 acres to M-N (Mixed-use Neighborhood).

SUPPORTING DOCUMENTS (ATTACHED)

- 1) Locator maps
- 2) Application materials & requested zoning graphic
- 3) Existing zoning ordinance & SOIs (Ord. 21098)
- 4) Surrounding zoning
- 5) UDC excerpt

SITE CHARACTERISTICS

Area (acres)	15.68
Topography	Sloping northward
Vegetation/Landscaping	Turf
Watershed/Drainage	Mill Creek
Existing structures	Vacant

HISTORY

Annexation date	1966, 1969
Zoning District	PD (fka C-P)
Land Use Plan designation	Neighborhood District, Commercial District
Previous Subdivision/Legal Lot Status	Not a legal lot

UTILITIES & SERVICES

Sanitary Sewer	City of Columbia
Water	City of Columbia
Fire Protection	City of Columbia
Electric	City of Columbia

ACCESS

Nifong Boulevard	
Location	North side of site
Major Roadway Plan	Major Arterial (Unimproved & City maintained). 100-106-foot ROW (50-53-foot half-width) required to be dedicated at time of final plat.
CIP projects	1-2 Year project, scheduled to begin 2020; Widening, bike lanes, sidewalks, intersection improvements.
Sidewalk	Required.

Bethel Street	
Location	Westside of site
Major Roadway Plan	Neighborhood Collector (Improved & City maintained). 60-foot ROW (30-foot half-width) required to be dedicated. Existing 56-foot right of way; additional ROW required at time of final plat.
CIP projects	None
Sidewalk	Existing

PARKS & RECREATION

Neighborhood Parks	Located within Cosmo-Bethel Park service area
Trails Plan	None adjacent to site.
Bicycle/Pedestrian Plan	Bike lanes planned for Nifong.

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 notified of a public information meeting, which was held on January 29, 2019.

Public information meeting recap	Number of attendees: 3 (including 2 applicants) Comments/concerns: General inquiry.
Notified neighborhood association(s)	Westchester Village HOA, Bedford Walk HOA, Bedford Walk NA, Rockbridge NA
Correspondence received	None.

Report prepared by Clint Smith

Approved by Patrick Zenner