

Requested Council Meeting Date: September 4, 2018

Item: COUNCIL BILL NO. 2018-265

Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Copy of Council Bill 2018-265
2) Planning Report
3) Commission Minutes

Planning/Community Development Manager: Troy Bolander

Finance Director: Leslie Haase

City Attorney: Peter C. Edwards

City Manager: Samuel L. Anselm

Board or Commission: Planning and Zoning Commission Date: 08/13/18

Recommended Action: Planning and Zoning Commission recommended to table by a vote of "4 in Favor, 0 Nay, 3 Absent."

SUMMARY/REQUEST:

Case 024-18: Adjacent and South of I-44 at Exit 1 – A request to rezone from Single Family Residential District (R1) to Commercial Planned Overlay District (C3-PD) – Bill Richert.

STAFF SUMMARY:

This property's close proximity to I-44 make it very ideal for commercial use. All property automatically comes into the city as R-1 (Single Family Residential) until a more appropriate zoning classification can be determined. This property was annexed into the city with the understanding that it eventually become commercial property. There is currently commercial property several hundred yards from this property along Outer Road.

On April 9, 2018 Mr. Richert applied to have this property rezoned from R-1 (Single Family Residential) to C-3 (Commercial). This request was approved by the Planning and Zoning Commission unanimously. However, when the case appeared before the City Council there was resistance from adjacent property owners and the Council did not approve the rezoning request.

At this time the property owner is seeking to rezone again, this time to Commercial Planned Overlay District (C3-PD). It is the property owner's hope that having a Planned District designation will mitigate many of the adjacent property owners' concerns. Having a Planned District designation would mean that the site plan for any commercial development must be reviewed and approved by the City Council. This will allow more input during the development process

Staff recommends Case 024-18 be approved.

PLANNING & ZONING COMMISSION TESTIMONY:

Mr. Whitmore stated that due to the controversy of this case he would read off the criteria for making a zoning decision. Zoning decisions should be based on the entire Community, not just the interests of a particular property owner or neighboring property owners. The Planning & Zoning Commission should try to distinguish between facts and opinions at a public hearing. Zoning decisions should include consideration of long range community goals as well as short range needs. The recommendations of the Comprehensive Plan should be the primary source for this information. The Comprehensive Plan should

be reviewed on a regular basis by the Planning & Zoning Commission. It is important to zone base on land use issues not the personal issues affecting the individual applicant. Instead, decisions should be based on whether the land is appropriate for the proposed zoning district.

Finding of Fact Hearing:

Mr. Whitmore stated the six (6) criteria that zoning decisions are made upon.

1. Character of the neighborhood.

This surrounding property is residential, however, further to the east there are existing commercial properties.

2. Zoning and uses of properties nearby.

This is mixed, residential and commercial use.

3. Suitability of the subject property for the uses for which it has been restricted.

With this property being so close to the interstate, restricting this property to residential would not be a suitable use for this property.

4. Extent for which the newer restrictions or change in zoning will detrimentally affect the nearby property.

Removing the restrictions or changing the zoning may somewhat detrimentally affect nearby property. But due to the already high-volume traffic on Outer Road, it does not seem likely to dramatically affect nearby property owners, despite concerns that have been expressed.

5. The findings concerning the extent which the rezoning request meets the intent of the zoning regulation.

The rezoning of this property meets the intent of the Comprehensive Plan and Zoning Regulations.

6. Compliance with the Comprehensive Development Plan -Future Land Use Map.

The Future Land Use Map shows this property as commercial and it was annexed into the City of Joplin with the intent to be commercial property.

PUBLIC COMMENT:

Mr. Richert, 6033 S. Québec Ave., Tulsa OK. He is one of the owners of the property. They are asking the Planning & Zoning Commission for a rezoning for the property at Exit 1 from R-1 to C-3-PD. The understanding is that it will allow commercial uses, but a site plan will need to be brought in for P&Z approval and City Council approval before any development may occur. The zoning at exit interchanges all through Joplin are the same: C-3. They are asking to be able to do a similar type of development to what was on that property before, Nickerson Farms Restaurant. Mr. Richert stated that they are the owners, not the developers. Mr. Cortez wanted to know from Mr. Richert if he was able to tell us what the developer is hoping to do on that property? Mr. Richert stated probably in the same respects as a hotel, restaurant, C-Store. Mr. Ramsour wanted to know from Mr. Bolander how long ago was this piece of property annexed into the City and why was it this particular parcel and not any of the adjacent parcels. Mr. Bolander stated the property owner approached the City about coming into the City. He wanted to receive city services. It was one of the co-founders of Sitton Truck Lines who owned this property. When we annexed the interstate, he requested to be annexed, which occurred in 2008. Mr. Ramsour asked if the property was annexed as a vacant lot. Mr. Bolander stated it did. It was with the understanding from Mr. Sitton that it would be commercial property. Mr. Sitton could have

developed the land any way he chose to if this property wasn't annexed into the city. There are no land use regulations in the county.

Casey Vanstory, 1601 S. Outer Road, Joplin, MO. Things that need to be considered before rezoning the property, characteristics of the neighborhood is one of them. There are a total of eight (8) families that this rezoning will affect. They do not live in the city limits and have concerns for her family. The major concerns are the fabrication of the distance of the utilities. Nickerson Farms was run off a well and a lagoon system. She said there is a natural gas line that runs through the property and prevents any permanent structures being built within 20 feet of this line. Mr. Richert was not made aware of that until the first meeting by someone else. The land itself has a hill and it will cause flooding on all of the properties. She stated that she has failed to receive any notifications and she is adjacent to the property of the rezoning request. She would like to see all notifications. She re-read her letter that she had written at the meeting two months ago. Things that need to be considered before rezoning the property, characteristics of the neighborhood is one of them.

Alan Mauk, 4404 Aadrvarik Drive, Joplin, MO. Mr. Mauk stated that at this point in time, you have to consider a developer from Tulsa, who hastily drives by his property and doesn't care if it is full of garbage and trash to make a meeting to change a designation on a property that your own staff has acknowledge there are numerous homes in the area that would be affected by this. The business that was there 40 years ago that was on a well and lagoon would not be accepted today. You have a developer that comes in who does not have a plan or any thought about the process. He has not spoken about any of the utilities, lighting, and upkeep on Outer Road.

Nick and Tamara Breedlove, 1645 Outer Road, Joplin, MO, stated she had nothing else to add, only that she was against the rezoning.

Mr. Ramsour asked Mr. Bolander his opinion on the proper notification of the land owners.

Mr. Bolander stated that we are required to make a good faith effort to notify property owners within 185 feet. There is some debate on whether we need to notify property owners who are not within city limits, but we still do that as our policy. We did check down in Newton County to see why Mrs. Van Story was not receiving a letter. According to Newton County the property is owned by Molandco Incorporated. That may have been a mistake, but she should check with Newton County because that is where we receive our records from.