

COMMUNITY PROJECT/REZONING

Ordinance Fact Sheet

Case No. CD-CPC-2019-00176 Rezoning
CD-CPC-0219-00209 Development Plan

Ordinance Number

Brief Title

A request to approve a Rezoning and approving a Development Plan for an area of about 1 acre generally located at the southeast corner of Cleveland Ave and E 23rd St from District R-2.5 (Residential 2.5) to District B2-2 (Neighborhood Business 2 - 2). (CD-CPC-2019-00176 and CD-CPC-2019-00209)

Details

Location: 2303 Cleveland Ave, or generally located at the southeast corner of Cleveland Ave and E 23rd St

Reason for Legislation: Rezoning and Development Plans require ordinance approval by the City Council.

At its September 1, 2020 meeting, the City Plan Commission recommended denial.

EXISTING CONDITIONS

The site consists of 3 undeveloped parcels of land. The development site is bounded by Cleveland Ave to the west, E 23rd St to the north, Mersington Ave to the east, and residential homes and lots to the south.

NEARBY DEVELOPMENTS

North: Mount St. Mary's Cemetery

East: Developed and undeveloped single-family lots

South: Developed and undeveloped single-family lots

West: Undeveloped single-family lots

KEY POINTS

- The applicant proposes a 3,700 sq. ft. convenience store with 8 fuel pumps and a 3,800 sq. ft. multi-tenant retail building.
- The existing property is zoned R-2.5 as well as all of the surrounding properties.
- The Truman Plaza Area Plan recommends residential land uses corresponding to Districts R-6, R-7.5, or R-10, causing the need for the area plan amendment.
- Staff finds the proposed zoning to be a classic example of spot zoning.

PLAN REVIEW

The Development Plan consisted of a 3,700 sq. ft. convenience store with 8 fuel pumps and a 3,800 sq. ft. multi-tenant retail building. The site is approximately 1 acre in size and is bounded by Cleveland Ave to the west, E 23rd St to the north, and Mersington Ave to the east. The exterior finishes of each building consist of a

Positions/Recommendations

Sponsors	Jeffrey Williams, AICP, Director Department of City Planning & Development
Programs, Departments or Groups Affected	3 rd District (Ellington, Robinson)
Applicants / Proponents	Applicant Riad Baghdadi RB Architecture, Engineering and Construction City Department City Planning & Development Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	<input type="checkbox"/> For <input checked="" type="checkbox"/> Against Reason Against (see staff report)
Board or Commission Recommendation	City Plan Commission (4-2-1) 09-01-20 By Aye: Allender, Baker, Hill, Sadowski Nay: Crowl, Enders Recusing: Beasley <input type="checkbox"/> For <input checked="" type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For, with revisions or conditions (see details column for conditions)
Council Committee Actions	<input type="checkbox"/> Do Pass <input type="checkbox"/> Do Pass (as amended) <input type="checkbox"/> Committee Sub. <input type="checkbox"/> Without Recommendation

stone veneer wainscot with some vertical elements, aluminum and glass store fronts, and a stucco/EFIS façade. The convenience store and fuel pumps face to the west and front onto Cleveland Ave. The retail building is on the eastern half of the site and fronts onto E 23rd St. The rear property line of the site abuts one single-family home and one single-family lot. While the rear property line has added vegetation to act as screening to the single-family properties to the south, the building facades only carry on the brick veneer wainscot form the front and side building facades. This leaves a relatively blank façade facing the residential properties to the south.

Overall staff is not supportive of the three companion cases. The proposed uses of a convenience store with 8 fuel pumps and additional multi-tenant are inconsistent with the surrounding area as well as the land use recommendations of the Truman Plaza Area Plan. The Truman Plaza Area Plan recommends a land use of Residential Urban Low with is consistent with the surrounding area and existing zoning district of R-2.5. All of the surrounding properties are zoned R-2.5 including the cemetery to the north. If this proposed development was proposed in or adjacent to existing commercial corridors such as Jackson Ave to the east or Indiana Ave to the west a commercial use could be reasonable. The hypothetical location of a convenience store and fuel pumps in those corridors would need additional evaluation, but the proposed land uses and zoning for those corridors would support a commercial use in general.

The proposed development places the rear of the buildings as well as part of the parking lot area for the fuel canopies along the south property line. The building massing, scale, and architecture are not demonstrate architectural character found within the existing neighborhood. Further staff has concerns with the amount of vehicle trips that will be generated by these uses and their potential impact on the surrounding residential properties.

	<input type="checkbox"/> Hold <input type="checkbox"/> Do not pass
Policy or Program Change	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Operational Impact Assessment	n/a

Finances

Cost & Revenue Projections – Including Indirect Costs	n/a
Financial Impact	n/a
Funding Source(s) and	n/a

<p>Requested Deviations None</p> <p>Boulevard and Parkway Standards (88-323) The standards are not applicable because the project site is not adjacent to or within 150 ft. of a Park, Parkway, or Boulevard. For clarification Mount St. Mary's Cometary is not classified as park.</p> <p>The applicant's request conforms to the applicable requirements of this section.</p> <p>Parkland Dedication (88-408) No residential uses are proposed therefore parkland dedication is not required.</p> <p>Parking and Loading Standards (88-420) The proposed development exceeds the required vehicle parking requirements and provides the required short and long-term bicycle parking.</p> <p>Subject to the recommended conditions/plan corrections, the applicant's request conforms to the applicable provisions of this section.</p> <p>Landscape and Screening Standards (88-425) A landscape plan is required with Development Plan applications consisting of new construction and major redevelopment.</p> <p>Perimeter vehicular use area landscaping is required with the construction of any new parking lot / vehicular use area. Vehicular use areas shall be screened from public right-of-way by vegetation, screening wall, berm or combination thereof per section 88-425-05.</p> <p>Internal vehicular use area landscaping is required with the construction of any new parking lot / vehicular use area.</p> <p>Street trees are required with all Development Plan applications consisting of new construction or major redevelopment.</p> <p>The proposed landscaping plan does not demonstrate the required quantities of planting materials for each requirement in section 88-425 (i.e. street trees, parking lot screening, internal parking lot landscaping areas, etc.). Therefore it is unclear to determine if the proposed landscaping plan meets the requirements of this section of the zoning and development code (see plan corrections #1.j and 1.k).</p> <p>The proposed landscaping plan shows a continuous row of trees to be planted along the south property line and</p>	<p>Appropriation Account Codes</p>
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follows the north-south “turn” in the property line and building. The placement of these trees in proximity to the building and precise following of the property line concerns staff is these trees and shrubs will receive enough light in order to survive. Further once these are mature, staff is unclear how with the future owner access this area to maintain these plantings.

The applicant's request does not appear to conform to the applicable requirements of this section.

Outdoor Lighting Standards (88-430)

A lighting plan is required with any Development plan where outdoor lighting such as fueling canopies and parking lot lighting is proposed. A lighting plan has not been submitted. It must be submitted prior to City Council review.

Without knowing the specific parking lot light fixture placement, staff recommends adding light fixture shielding to any pole light within 10 feet of the south property line to provide additional foot-candle protection to the homes and residential lots immediately adjacent to the site.

Subject to the recommended conditions/plan corrections, the applicant's request conforms to the applicable provisions of this section.

Sign Standards (88-445)

A sign plan is required with any Development Plan application. A sign plan has not been submitted. A sign plan must be submitted prior to proceeding on to City Council review or will be subject to the standard sign regulations of the city.

Subject to the recommended conditions/plan corrections, the applicant's request conforms to the applicable provisions of this section.

Pedestrian Standards (88-450)

The standards of this section apply because they are applicable to development and redevelopment projects.

The proposed plan provides required pedestrian sidewalks along all street frontages. However, it does not provide the required internal pedestrian connections as stipulated in Section 88-450. Further given the multiple street frontages to the site, staff recommends at least two pedestrian connections from the internal circulation paths to the public sidewalks.

Subject to the recommended conditions/plan corrections, the applicant's request conforms to the applicable provisions of this section.

Proposed Land Uses

Provided the property is rezoned to B2-2, the proposed use of “gasoline and fuel sales” requires a Special Use Permit for that use in the proposed zoning district. However, Section 88-517-09-D of the city’s Zoning and Development Code states “If a use that would have required special use approval is approved on a development plan, no separate special use review will be required.” Meaning with the approval of this development plan a separate Special Use Permit is not required.

REZONING ANALYSIS

In reviewing and making decisions on proposed zoning map amendments, the city planning and development director, city plan commission, and city council must consider at least the following factors:

88-515-08-A. Conformance with adopted plans and planning policies;

The proposed rezoning is in direct opposition to the recommended land use of the Truman Plaza Area Plan. The Area Plan recommends “Residential Urban Low” and the proposed rezoning and companion cases are for reasonably intensive commercial uses. Staff uses area plans as guidance for future development. Occasionally staff may support an area plan amendment where the existing uses or surrounding uses are similar in scale and intensity to the proposed amendment. Here the surrounding uses and lots are cohesively single-family or small multi-family uses. There is no existing or nearby commercial uses to be able to support this notable change in land use.

88-515-08-B. Zoning and use of nearby property;
All properties surrounding the site are zoned R-2.5.

88-515-08-C. Physical character of the area in which the subject property is located;

The proposed gas station with convenience store and commercial/retail building are surrounding by developed and undeveloped single-family residential lots to the East, South, and West and by Mount St. Mary’s Cemetery to the north. The subject property is located in a vast residentially zoned (and used) area. The physical character of the area is medium-density residential. Staff considers the proposed zoning to be a classic example of “spot zoning”.

88-515-08-D. Whether public facilities (infrastructure) and services will be adequate to serve development allowed by the requested zoning map amendment;
There is adequate infrastructure to serve the property, the applicant will be required to make all necessary improvements to serve development and uses.

88-515-08-E. Suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations;

The subject property and a multi-block area surrounding it are all zoned residentially. While some lots are vacant, it is the city's longstanding policy goal to encourage infill residential development. Allowing commercial zoning in an area where it has not previously existed may discourage such development on adjacent undeveloped parcels. While the adjacent intersection is signalized and a large cemetery lies across the street, staff finds the property remains suitable for residential uses, particularly "missing middle" building types such as townhomes. The proposed rezoning and companion cases propose intense commercial uses in a cohesively residentially zoned area. Additionally there are commercial zoned corridors of Jackson Ave and E 24th St to the east or Indiana Ave near US-70 Hwy to the west.

88-515-08-F. Length of time the subject property has remained vacant as zoned;

The single-family home that was on the most northwestern lot (2303 Cleveland Ave) was demolished in 2005. The other two lots to the east and south have been vacant since at least 2006 according to the aerial photography on record. Any demolition permits would predate the City's digital records.

88-515-08-G. The extent to which approving the rezoning will detrimentally affect nearby properties; and Staff is concerned with the proposed anchor tenant of a convenience store gas station. Specifically with the hours of operation, lighting, and vehicle trip generation. Further, staff is concerned with such an intensive commercial use in a cohesively residential area that it could discourage residential redevelopment in the nearby undeveloped parcels.

88-515-08-H. The gain, if any, to the public health, safety, and welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

Denial of the current rezoning application would prohibit the development of the property as currently proposed. However, approval of the rezoning and companion development plan may negatively impact the predominately residential character of the area (e.g. traffic impacts, noise, and lighting). Additionally staff believes there are existing areas in the relative vicinity (e.g. I-70 and Indiana Ave to the west) which are already commercial zoned and are underutilized that could benefit from a commercial redevelopment project.

PLAN ANALYSIS

In order to be approved, the plan must comply with all of the following criteria:

88-516-05-A. The plan must comply with all standards of this zoning and development code and all other applicable city ordinances and policies.

Subject to the approval of the companion rezoning and area plan amendment cases, the development plan meets the city standards subject to the plan corrections and conditions listed below.

88-516-05-B. The proposed use must be allowed in the district in which it is located.

The proposed use is allowed in the proposed district. If the Commission rejects the proposed rezoning, the plan may not be approved.

88-516-05-C. Vehicular ingress and egress to and from the site, and circulation within the site, must provide for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways.

The proposed site layout provides adequate vehicular ingress and egress, as well as proper internal circulation.

88-516-05-D. The plan must provide for safe, efficient, and convenient non-motorized travel opportunities, being pedestrian and bicycle movement, on the subject site.

The proposed plan does provide required sidewalks along all three street frontages. However, it does not provide required internal pedestrian connections to the public sidewalk (see Section 88-450-03). Staff does recommend at least two pedestrian connections from the internal site to the public sidewalk (plan correction #1.g).

88-516-05-E. The plan must provide for adequate utilities based on City standards for the particular development proposed.

The developer/applicant will be required to make any necessary service line utility upgrades or any necessary utility main capacity upgrades to serve the proposed development per Water Services Department or City Planning and Development - Land Development Division conditions.

88-516-05-F. The location, orientation, and architectural features, including design and material, of buildings and other structures on the site must be designed to be compatible with adjacent properties.

The proposed commercial development is not consistent with any surrounding structures and properties. Additionally, the proposed southern facades of the building are very blank and do not provide any architectural features that would face the neighborhood

to the south.

88-516-05-G. Landscaping, berms, fences and/or walls must be provided to buffer the site from undesirable views, noises, lighting or other off-site negative influences and to buffer adjacent properties from negative influences that may be created by the plan. The rear of the structures along with the proposed trees and shrubbery landscaping serve as a buffer and wall for the residential properties to the south for approximately the eastern two-thirds of the site. However, staff has concerns with the proposed landscaping that is located “behind” the building ability to survive. With that in mind staff would like the applicant to analyze the survivability of these plantings.

Additionally, the south property lines where the building stops and the parking lot and fuel canopies are visible are only screened with landscaping material. Staff recommends constructing an opaque fencing along this portion of the property line.

88-516-05-H. The design of streets, drives, and parking areas within the project should result in a minimum of area devoted to asphalt or other impervious surfaces consistent with the needs of the project and city code requirements. The proposed site appears to make reasonable accommodations to minimize impervious surface coverage.

88-516-05-I. The plan must identify trees to be removed and trees to be preserved during the development of the subject property with the goal of saving trees that are not required to be removed for the development of the property. There are approximately 10 existing mature trees along the south property line and 5 mature trees along Cleveland Ave. None of these trees are shown to be saved by the proposed landscaping plan. Staff recognizes not all of these could be retained with the new construction. However, these provide strong existing vegetation screening to the single-family properties to the south, and the trees along Cleveland Ave are part of the character of the neighborhood and streetscape. Further, these retained trees may be counted towards the required landscaping vegetation of section 88-425. Staff recommends preserving the mature trees along the south property line and Cleveland Ave (see plan correction 1.I).

PROFESSIONAL STAFF RECOMMENDATION

City Planning and Development Staff recommends **denial** of all three companion cases based on the application, plans, and documents provided for review prior to the hearing.

However, if the City Plan Commission and City Council approve the proposed three companion cases, staff recommends the following plan corrections and conditions of approval be applied to the Development Plan Case No. CD-CPC-2019-00209.

Fact Sheet Prepared By:
Christopher Hughey, AICP
Staff Planner

Date: 09/11/2020

Initial Application Filed: September 26, 2019 and November 18, 2019

Reviewed By:
Joseph Rexwinkle, AICP
Division Manager
Development Management

Date: 09/11/2020

City Plan Commission: September 1, 2020
Revised Plans Filed: July 27, 2020

Reference Numbers:
Case No.'s CD-CPC-2019-00176 and CD-CPC-2019-00209