



AGENDA MEMORANDUM

Public Hearing and First Reading Ordinance for the City Council Meeting of May 13, 2014
Second Reading Ordinance for the City Council Meeting of May 27, 2014

DATE: April 30, 2014

TO: Ronald L. Olson, City Manager

FROM: Barney Williams, P.E., Interim Director, Development Services Department
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**Rezoning from Apartment to Commercial Zoning
By BCH Investment Group, LLC
Property Address: 7601 South Staples Street (FM 2444)**

CAPTION:

Case No. 0414-04 BCH Investment Group, LLC: A change of zoning from the "RM-2" Multifamily 2 District to the "CG-2" General Commercial District, resulting in a change to the Future Land Use Plan. The property to be rezoned is described as being an 8.080-acre tract of land out of Lots 23 and 24, Section 6, Flour Bluff and Encinal Farm and Garden Tracts, located along the west side of South Staples Street (FM 2444), approximately 400 feet south of Yorktown Boulevard.

PURPOSE:

The purpose of this item is to rezone the property to allow development of a commercial use.

RECOMMENDATION:

Planning Commission and Staff Recommendation (April 9, 2014):
Approval of the rezoning from the "RM-2" Multifamily 2 District to the "CG-2" General Commercial District.

BACKGROUND AND FINDINGS:

As detailed in the attached report, the applicant is requesting a change of zoning from the "RM-2" Multifamily 2 District to the "CG-2" General Commercial District to allow for the development of an entertainment center that will include a movie theater with up to 1,300 seats, eight-lane bowling alley, laser tag area, and arcade. This use is classified as a commercial "indoor recreation" use according to the Unified Development Code

(UDC) and is allowed in both the request zoning district, "CG-2" General Commercial District, and in the "CN-1" Neighborhood Commercial District.

The area being rezoned is 8.08 acres and is part of an approximately 10-acre site. The front portion of the 10-acre tract is already zoned "CG-2" General Commercial District and the developer has indicated that the two acres at the front of the property along South Staples Street will likely be reserved for commercial out-parcels (or lots). The proposed indoor recreation use will be housed within an approximately 65,000-square foot building according to the developer's latest site plan. To minimize negative impacts on the neighboring single-family dwellings to the west, the development would be required to comply with the UDC's requirements for protecting single-family uses from the nuisances of commercial development, such as minimizing glare from outdoor lights and installing a buffer yard to physically separate the uses. In a "CG-2" District, the development would have to provide a 15-foot wide buffer yard.

The subject property is bordered by Asbury United Methodist Church to the north; a mini-storage facility to the south; vacant commercial property immediately to the east of the subject property; and a single-family subdivision to the west. With the exception of the single-family subdivision, all adjacent properties are currently zoned "CG-2" General Commercial District. The area on the west side of South Staples Street between Yorktown Boulevard and Boston Drive to the south was annexed in 1987 and was shortly thereafter rezoned to the "CG-2" General Commercial District.

The subject property is located on South Staples Street (FM 2444), a TxDOT highway with an existing classification of "A2" Secondary Arterial with four travel lanes and median. The Level of Service (LOS) for in this segment of South Staples Street is LOS "A," which means the highway currently has "good flow". For this type of street "good flow" is less than 16,100 average daily trips (ADT) and "tolerable" flow" is between 16,101 and 19,100 ADT. If this rezoning is approved, a general commercial retail use allowed by the "CG-2" General Commercial District can be estimated to generate approximately 4,400 ADT on a Saturday, which is about 2.8 times as much traffic as an apartment complex would generate. A movie theater and bowling alley would have generated 5,500 ADT, which is about 3.5 times as much traffic on a Saturday than apartments would generate. Traffic volumes (January 2014) on South Staples Street are about 7,800 ADT.

Staff's recommendation for approval is based on the zoning history of the property and the "CG-2" zoning of the surrounding commercial properties. The 8.08-acre subject property was previously zoned "CG-2" and was rezoned to "RM-2" for a residential project that failed to develop. The Future Land Use Plan slates the property for multifamily uses due to the previous rezoning, therefore making the current rezoning request inconsistent with the Plan. Traffic impacts and other negative impacts are minimal or will be minimized by development standards for the development.

ALTERNATIVES:

1. Deny the request.
2. Deny the requested "CG-2" General Commercial District and approve a less intense zoning district such as the "CN-1" Neighborhood Commercial District, which is the minimum zoning district that would allow the proposed use.
3. Deny the requested "CG-2" General Commercial District and approve a Special Permit.

OTHER CONSIDERATIONS:

Though the proposed indoor recreation use is expected to serve alcoholic beverages, it would not be classified as a “bar” according to the UDC since the main use of the building is for entertainment activities and because the entertainment facility would not be expected to generate more than 75% of its gross revenue from the sale of alcoholic beverages for on-premise consumption. A bar is not allowed in the “CN-1” Neighborhood Commercial District and the UDC requires that a bar shall not be located any closer than 1,000 feet from a place of worship, or elementary, middle or high school and 300 feet from a day care use. Texas Alcoholic Beverage Commission (TABC) will regulate the on-premise consumption of alcoholic beverage through its own permitting requirements.

CONFORMITY TO CITY POLICY:

The subject property is located within the boundaries of the Southside Area Development Plan. Although inconsistent with the adopted Future Land Use Plan, which calls for a medium-density residential use (or apartments at 22 units per acre), the proposed rezoning is compatible with the current zoning and development patterns of the abutting commercial to the south and east properties.

EMERGENCY / NON-EMERGENCY:

Non-Emergency

DEPARTMENTAL CLEARANCES:

Traffic Engineering, Legal, and Planning Commission

FINANCIAL IMPACT:

Operating Revenue Capital Not applicable

| Fiscal Year: 2013-2014 | Project to Date Expenditures (CIP only) | Current Year | Future Years | TOTALS |
|-------------------------------|--|---------------------|---------------------|---------------|
| Line Item Budget | | | | |
| Encumbered / Expended Amount | | | | |
| This item | | | | |
| BALANCE | | | | |

Fund(s):

Comments: None

LIST OF SUPPORTING DOCUMENTS:

- Ordinance with Exhibits
- Report with Attachments
- Aerial Map & Presentation