



## AGENDA MEMORANDUM

Public Hearing & First Reading Ordinance for the City Council Meeting 3/28/2023  
Second Reading Ordinance for the City Council Meeting 4/11/2023

**DATE:** March 28, 2023  
**TO:** Peter Zaroni, City Manager  
**FROM:** Al Raymond, AIA, Director  
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Rezoning a property at or near 10902 Interstate 37 (Up River Road)

### **CAPTION:**

Case No. 1022-07 Arriba Development (District 1): Ordinance rezoning property at or near 10902 Interstate 37 (Up River Road), located along the north side of Interstate Highway 37 and along the west side of Sessions Road, from the “RS-6” Single-Family 6 District and the “CN-1” Neighborhood Commercial to the “RM-1” Multifamily and “RM-2” Multifamily Districts. (3/4 favorable vote required due to protest by surrounding owners)

### **SUMMARY:**

The purpose of this rezoning is to allow for a 280-unit apartment community.

### **BACKGROUND AND FINDINGS:**

The subject property is 14.63 acres. To the north, properties are zoned “RS-6” Single-Family 6 with a mobile home community. To the south, properties are zoned “CN-1” Neighborhood Commercial and are vacant. To the east and west, properties are zoned “RS-6” Single-Family 6 with low-density residential uses.

After evaluation of case materials provided and subsequent staff analysis including land development, surrounding uses and zoning, transportation and circulation, utilities, Comprehensive Plan consistency, and considering public input, staff proposes denial of the change of zoning and in lieu recommends approval of the “RS-6/SP” Single-Family 6 District with a Special Permit.

### **Current Site Conditions:**

The subject property is located at the intersection of the Interstate 37 access road and Sessions Road. The subject property consists of approximately four acres of property zoned “CN-1” Neighborhood Commercial District and approximately 10 acres of property zoned “RS-6” Single-Family 6 District. In regard to access to the subject property, the approximate travel distance from the exit ramp of Interstate 37 to Sessions Road is 300 feet. Under optimal travel conditions and observance of speed limits, a driver has a 3-second window to travel across three travel lanes and slow to make a 90-degree angle turn at Sessions Road. The exiting of Session Road to enter

Interstate 37 is a distance of approximately 90 feet. Similarly to the exiting scenario, under optimal conditions with a limited sight distance and observance of speed limits, a driver has a 1-second window to travel across three travel lanes and accelerate to the posted 75-mile-per-hour speed limit. City staff has added a requirement to a potential Special Permit that the developer consults the Texas Department of Transportation (TxDOT) for the installation of traffic delineators to prevent to/from access to Sessions Road to Interstate 37.

The only other means of access to the subject property is McKinzie Road. From the subject property to the McKinzie Road/Interstate-37 intersection is roughly  $\frac{3}{4}$  of a mile and traverses through residential neighborhoods.

Sessions Road was originally constructed in 1966 and the last maintenance occurred in 2002 adding a new seal coat to the asphalt road. Sessions Road is a 43-foot right-of-way with a varying pavement section that does not exceed 20 feet in width. Additionally, Sessions Road does not have sidewalks and uses roadside ditches to manage drainage. Currently, Sessions Road has a Pavement Control Index (PCI) Score of 60 on a scale of 1-100. According to the City's Urban Transportation Plan (UTP), Sessions Road is a "C1" Residential Collector Street that should have a 60-foot right-of-way with a 40-foot pavement section in addition to sidewalks with curbs and gutters.

### **Traffic and Density:**

Due to the existing zoning of approximately four acres of property zoned "CN-1" Neighborhood Commercial District and approximately 10 acres of property zoned "RS-6" Single-Family 6 District if conditions remain the maximum density that could be constructed under the provisions of the Unified Development Code (UDC) would be 73 single-family homes within the 10 acres zoned "RS-6" District and 165 apartment units within the portion zoned "CN-1" Neighborhood District and totaling 238 dwelling units overall. Thus producing 1,801 average daily traffic trips (ADT), 610 AM peak hour trips, and 628 PM peak hour trips under the existing zoning scenario.

A proposal of a Special Permit (SP) is described within the Staff Report to zone the entirety of the subject property (14 acres) to "RS-6/SP" Single-Family 6 District with a Special Permit. Under the conditions of the SP, the maximum density of the subject property overall would be limited to 280 apartment units. Thus producing 1,862 average daily traffic trips (ADT), 876 AM peak hour trips, and 915 PM peak hour trips under the proposed SP zoning scenario. The SP further requires the following:

- **Buffer Yard:** A 10-foot-wide buffer yard and 10-foot buffer yard points shall be required along the property boundaries adjacent to single-family residential zoning districts or residential use.
- **Building Height:** No multifamily or nonresidential structure shall be located nearer any property line adjacent to a single-family use or two-family use than a horizontal distance of twice the vertical height of the structure as illustrated below. The height shall be measured from the existing ground level to the plate.
- **Sessions Road:** The applicant or subsequent owner will be responsible for the completion of Sessions Road to the "C1" Collector Street standard of 60 feet of right-of-way and a 40-foot pavement section. The reconstruction of Sessions Road to City standards of a rural street section will include the following: paving of the street section, stormwater management, and the dedication of land. Completion and acceptance by the City of Sessions Road are required prior to the issuance of any building permits.
- **Interstate 37:** The applicant or subsequent owner will be responsible for the coordination with the Texas Department of Transportation (TXDOT) of traffic delineators along the outside lane

of the Interstate 37 access road to prevent access to/from Sessions Road to Interstate 37 on/off the access road.

**Advantages of the proposed Special Permit:**

- Allow the creation of additional residential dwelling units in the Northwest area of the City.
- The reconstruction of Sessions Road on an expedited schedule rather than awaiting listing on the Capital Improvement Project (CIP) list.
- The proposed 280 units would be dispersed over the entirety of 14 acres rather than a potential 165 units clustered in the first 4 acres currently zoned “CN-1” District.
- Drainage and other site improvements will still be addressed at the time of platting.
- The difference between the number of dwelling units that can be constructed under the current zoning versus the proposed SP is 42 units.

**Disadvantages of the proposed Special Permit:**

- The proposed apartment complex is adjacent to single-family residential neighborhoods on two sides.
- The obvious traffic concerns will exist regardless of the rezoning, but an increase in density will present additional vehicle trips at a hazardous intersection or force to travel through existing neighborhoods as an alternate route.
- Despite the reconstruction/improvement to Sessions Road, a rural street standard will maintain a 26-foot pavement section of roadside ditches. The lack of sidewalks would remain a condition of the roadway. According to the UTP, a pavement section of similar width should limit the amount of traffic to no more than 500 ADT. The proposed apartment complex will create 1,862 ADT in addition to the existing single-family neighborhoods.

***Conformity to City Policy***

The proposed rezoning is inconsistent with the Future Land Use Map, however, is consistent with many broader elements of the Comprehensive Plan. The Future Land Use Map proposes commercial uses.

***Public Input Process***

Number of Notices Mailed  
39 within a 200-foot notification area  
1 outside notification area

*As of December 2, 2022:*

In Favor	In Opposition
0 inside notification area	8 inside notification area
0 outside notification area	0 outside notification area

Totaling **21.73%** of the 200-foot notification area\* is in opposition.

The 20% rule is invoked. A super-majority (3/4 vote) will be required at City Council.

\*Created by calculating the area of land immediately adjoining the subject property and extending 200 feet therefrom. The opposition is totaled by the total area of land that each individual property owner owns converted into a percentage of the total 200-foot notification area. Notified property owner’s land in square feet /Total square footage of all property in the notification area = Percentage of public opposition.

**ALTERNATIVES:**

1. Denial of the change of zoning from the “RS-6” Single-Family 6 District to the “RM-1” Multifamily District
2. District to the “CG-2/SP” General Commercial District with a Special Permit.

**FISCAL IMPACT:**

There is no fiscal impact associated with this item.

**RECOMMENDATION:**

Planning Commission recommended approval of the change of zoning from the “RS-6” Single-Family 6 District and the “CN-1” Neighborhood Commercial to the “RM-1” and “RM-2” Multifamily Districts in lieu thereof Approval of the “RS-6/SP” Single-Family 6 District with a Special Permit on November 30, 2022.

Vote Count:  
For: 4  
Opposed: 2  
Absent: 3  
Abstained: 0

Staff recommended denial of the change of zoning from the “RS-6” Single-Family 6 District and the “CN-1” Neighborhood Commercial to the “RM-1” and “RM-2” Multifamily Districts in lieu thereof Approval of the “RS-6/SP” Single-Family 6 District with a Special Permit on November 30, 2022.

To align the ordinance with the City Council’s discussion at the last Council meeting, an amendment to the zoning ordinance is needed to amend the required reconstructed pavement width of Sessions Road from 40 feet to 26-foot pavement width. The zoning ordinance can be amended before second reading via motion:

Motion to amend the zoning ordinance to clarify special permit conditions to specify the required 60 feet of right for session road and reconstruction of Sessions Road with 26-foot pavement width, as drafted by staff.

**LIST OF SUPPORTING DOCUMENTS:**

Ordinance  
Presentation - Aerial Map  
Planning Commission Final Report