

**MINUTES  
ZONING ADVISORY COMMISSION  
REGULAR SESSION**

6:00 p.m.

Wednesday, August 7, 2024

City Council Chambers, Historic Federal Building

**Commissioners Present:** Chairperson Matt Mulligan; Commission Members Martha Christ, Carrie Lohrmann, Rich Russell, and Teri Zuccaro

**Commissioners Excused:** Pat Norton

**Commissioners Unexcused:** None.

**Staff Members Present:** Shena Moon, Travis Schrobilgen, and Jason Duba

**CALL TO ORDER:** The meeting was called to order by Chairperson Mulligan at 6:00 p.m.

**MINUTES:** Motion by Zuccaro, seconded by Christ, to approve the minutes of the July 2, 2024 meeting. Motion carried by the following vote: Aye – Christ, Russell, Zuccaro, and Mulligan; Nay – none; Abstain – Lohrmann.

**ACTION ITEMS/WAIVER:** Application of Joe Delaney to waive Site Design Standards within Chapter 13 of the Unified Development Code for property located at 900 Seippel Road.

Joe Delaney, 900 Seippel Rd, spoke on behalf of the application. He stated that he's requesting a waiver from screening. He disputed the definition of storage and stated that his property is more like a new car lot with many expensive vehicles onsite. He noted the citation was not the result of a complaint and stated that the camper owners and neighbors would complain if the screening went in as having it open to view provides security. He discussed how neighboring residential property owners have expressed a desire to keep the property open as they do not desire fences or trees.

Commissioner Russell asked if the original site plan included the northern part of this property as RV storage. Mr. Delaney stated that he bought the property after the original site plan was approved, and it didn't show outdoor storage in that area as the previous owner had intended to build more storage buildings.

Commissioner Lohrmann asked what modifications to the request had been made from last time. Mr. Delaney stated that he's put in code compliant lighting and paved the driveways.

Staff Member Schrobilgen detailed the staff report. He outlined the Unified Development Code design standards that apply to the subject property. He displayed a map showing the locations where screening is required. He explained the difference between the definitions of a storage lot and a vehicle sales display lot. He noted that the applicant is replacing light fixtures to be code compliant and will hard surface all drive aisles so is asking for approval of three screening waivers which include exterior storage yard screening, screened gates, and commercial property screening.

Chairperson Mulligan appreciated the modifications from the previous request and expressed that the applicant is addressing the expensive alterations. He noted that the neighbors support not having screening, so he's inclined to support a waiver for screening.

Commissioner Lohrmann expressed support for the request, stating that she's not comfortable with blocking the view of the property from the street for security and safety reasons.

Motion by Russell, seconded by Christ, to approve the site design waiver as submitted. Motion carried by the following vote: Aye – Christ, Lohrmann, Russell, Zuccaro, and Mulligan; Nay – none.

**PUBLIC HEARING/REZONING:** Application of Ron Breiner to rezone property located at 8301 Seippel Court.

Ron Breiner, 16901 Asbury Road, spoke on behalf of the application. He stated that he's seeking to switch to C-3 for a potential leaser who's looking to move from Cascade to sell and service mobile homes. He noted that he is considering developing a residential unit in the building, but he will not be now due to the expense of fireproofing the walls. He stated there would be a showroom and three employees.

Commissioner Russell asked if there was a 2<sup>nd</sup> floor in the building, and Mr. Breiner replied that there is a 1,000 square foot mezzanine in the southwest corner, noting that it would be expensive but doable to turn it into a residential unit. He noted the potential tenant would use it as a place for delivery truck drivers to stay overnight.

There was no public input.

Staff Member Duba detailed the staff report. He described the characteristics of the property and the surrounding area, including zoning, land uses, and transportation. He described the differences between the CS and C-3 zoning. He expressed that since the property is already developed, it is unlikely that the character of the site would change significantly.

Commissioners had no questions or comments.

Motion by Christ, seconded by Zucarro, to recommend approval of the rezoning as submitted. Motion carried by the following vote: Aye – Christ, Lohrmann, Russell, Zuccaro, and Mulligan; Nay – none.

**PUBLIC HEARING/REZONING:** Application of Zoro's Investments, LLC to rezone property located on Peru Road

Videla Saliu, 5600 Saratoga Rd, spoke on behalf of the applicant, stating they are requesting to rezone the property.

Charles and Karlotta Goodwin, 819 Walker Street, stated that they own property that would be rezoned, but they don't understand what this is about.

Staff Member Schrobilgen detailed the staff report. He noted this area was brought into the city as a county subdivision between 1965 and 1975, and in 1992 it was rezoned for all 12 lots. He noted that there would be no use changes to the principal, accessory, or conditional uses allowed and that the only change was to remove the condition that was attached to the zoning district which prohibits more than one access along Peru Road. He explained that previously all 12 lots were zoned to R-3c and the proposed rezoning would remove the zoning conditions for all the lots. He said the rezoning would essentially clean up the district by removing the condition limiting one access from Peru Road for all the properties involved. He explained that any additional proposed access would still be reviewed by Engineering, and any proposed development would be reviewed by the Development Review Team. He said that staff had not received a plan to-date and that the only public inquiry was from the owner of 3870 Peru Road, also in the area to be rezoned, who was okay with the proposed change once they understood it.

Staff Member Moon noted the condition was put in place before city adopted the State Urban Design And Specifications (SUDAS) standards, which are now utilized to evaluate safety around access locations. She explained that the middle lot on Peru Road would not be accessible from Peru Road currently. She also noted that the removal of the condition may provide property owners with an improved ability to develop or utilize their properties.

Staff Member Schrobilgen noted that he could not find a documented reason why the condition was placed on the 1992 rezoning.

Chairperson Mulligan stated that removing this condition allows more flexibility on the property.

Staff Member Moon clarified that this rezoning does not affect the allowed uses and that Engineering would still evaluate any access requests.

Commissioner Lohrmann expressed that this is a minor application, removing a condition for all properties in this district to allow them to ask for an additional driveway.

Commissioner Russell stated that this allows them get access, if Engineering approves, so development can occur.

Staff Member Moon noted they could take access off Toledo or Walker Streets currently, but it would be costly and may limit development on the lots along Peru Road.

Commissioner Russell asked for clarification about 12 lots at this location, and Staff Member Schrobilgen noted that each parcel has two lots. He clarified that the parcels are for tax purposes and can be made up of multiple legally platted lots. Staff showed the lot lines on GIS for clarification.

Motion by Lohrmann, seconded by Zuccaro, to recommend approval of the rezoning as submitted. Motion carried by the following vote: Aye – Christ, Lohrmann, Russell, Zuccaro, and Mulligan; Nay – none.

**PUBLIC HEARING/REZONING:** Application of Merfeld Properties, LLC to rezone property located at 405, 575, and 595 Cedar Cross Road.

Julie Merfeld, 10713 Cottingham Road, spoke on behalf of the application, stating their request to rezone from the property from R-1 to CS. She noted the house at 595 Cedar Cross Road is rented as an Airbnb. She explained that they have tried to sell it, but potential buyers are reluctant when they learn the front yard could be reduced for a turn lane, but she has some interest in using the house for an insurance business. She said this is predominantly a commercial area. She stated the property has been in the family for 75 years, and they need to develop it. She stated they would like to move the Precision Transmission business here from 3130 Cedar Cross Court because the city has eliminated on-street parking there. She said this would not lead to an increase in traffic on Cedar Cross Road. She noted there would be seven employees working Monday to Friday from 7 AM – 5 PM. She said the property would be kept neat, it wouldn't be noisy, and the building would run the length of the property.

Commissioner Lohrmann asked which lots have existing buildings, and Ms. Merfeld replied that 405 Cedar Cross Road has a 1.5-stall garage and 595 Cedar Cross has an existing single-family residence.

Mike Reinert, 401 Cedar Cross Road, spoke in opposition to the request, noting that his R-1 property would be surrounded by commercial if this were to be approved. He stated that this would have a negative impact on him and decrease the value of his property, noting impacts such as noise and commercial activity. He said that since no direct plan has been submitted, which leaves the possibilities for development open ended. He said he is in favor of single-family residential development. He noted plans for widening of Cedar Cross Road, which would affect all these properties. He said that parking from Cedar Cross Court has been coming over to the subject property already. He noted the zoning has been R-1 for 50 years, and he believes it should stay that way. He expressed appreciation that the Commission did not recommend the previous rezoning request in June 2023.

Jason Maas read an opposition letter on behalf of his mother, Carol Maas, who resides at 3095 Nightengale Lane. She stated the rezoning would have a negative impact on her, so she desires these properties to remain R-1. She expressed that there are uncertainties about what could be developed there, and it could put a strain on the roads here. She noted the attempt to rezone to multifamily was previously denied, and she hopes to preserve the character of the neighborhood.

John Hoist, 3110 Nightengale Lane, said that the area is quiet except for the sport's complex traffic congestion. He stated that he doesn't want any more entrances or exits on Nightengale because the road isn't in good shape and will need to be improved in the future.

Luke Merfeld, 10713 Cottingham Road, spoke in favor of the request stating that there was an ice business that used to generate high volumes of truck traffic, but they went out of business so those box trucks aren't going on Nightengale anymore and that the Precision Transmission business would be less traffic.

Staff Member Moon detailed the staff report. She displayed the location of the project and shared the notification map showing property owners within 200' who received notice. She described the property characteristics including the zoning history, project site, site topography, and adjacent land uses. She discussed utilities available in the area and she discussed potential impacts of request, explaining that any development on the subject lots would be subject to site plan review by the Development Review Team (DRT). She noted the setbacks would be a minimum of 20' for development on a commercial property that abuts a residential property. She mentioned that the city does have future plans for improvements along Cedar Cross Road and Nightengale Road. She explained that future roadway improvements would be considered during a site plan review process. She explained that the previous rezoning request was for a Planned Unit Development, which requires a conceptual site plan, but this request does not because it's a traditional rezoning. She also noted that the previous application was not denied but was withdrawn by the applicant prior to City Council review. She noted there are 39 permitted uses in CS districts, but some could be challenging due to the size of the lots. She noted the two letters of opposition that were submitted and provided to the Commission. She responded to concerns about storing vehicles on the subject property, noting exterior storage is not currently a permitted use for R-1 zoned properties.

Commissioner Lohrmann asked about plans for road work on Cedar Cross Road and the potential loss of property. Staff Member Moon replied that the long-term proposal is to widen Cedar Cross Road and add a turn lane and to widen Nightengale Lane. She noted that the city has process through which they may acquire property from a property owner and there would likely be compensation for that acquisition.

Chairperson Mulligan asked about 406 Cedar Cross Road, noting that it is a residential structure within a commercial zone. Staff Member Moon replied that it's legally nonconforming, and Staff Member Schrobilgen added that there is a commercial business

within the existing residential structure. Commissioners also asked about the garage on 405 Cedar Cross, Staff Member Moon replied that it's legally nonconforming, and Staff Member Schrobilgen added that there was previously a mobile home there which was removed leaving the garage as legally non-conforming structure.

Commissioner Russell asked about the businesses at 15 and 19 Nightengale Lane. Staff Member Moon replied that there is a childcare and a former ice distributor.

Commissioner Lohrmann expressed that she was not in favor of the request as it would cut through two R-1 properties, and she felt it should be developed as R-1.

Chairperson Mulligan noted that the previous request for 32 residential units, and there was opposition to traffic and headlights and that this request would not have traffic and headlights but is also opposed by the neighbors. He expressed that this is an unusual location and that he feels for the owners of 3095 Nightengale and 401 Cedar Cross. He said that coming in with a specific plan can be a negative as well. He expressed that 595 Cedar Cross could be an office, and there is a large commercial area with CS zoning on both sides. He suggested that 405 and 575 Cedar Cross could be rezoned with a limited set of uses specific to what the applicant is proposing in order to allow for redevelopment. He said this is not a good location for R-1 development expressing doubts that anyone would build a home on the subject lots.

Commissioner Lohrmann said it would be hard to sell the homes that are left behind.

Commissioner Russell said he would like the proposal better if 401 Cedar Cross and 3095 Nightengale were included in the rezoning.

Commissioner Zucarro agreed that it is a difficult situation for 401 Cedar Cross and 3095 Nightengale.

Chairperson Mulligan proposed considering the rezoning of 595 Cedar Cross Road separately and questioned if it could continue to be residential if rezoned.

Staff Member Moon stated the if rezoned property could be maintained residential as a legal nonconformity, but if changed to a conforming use, it couldn't go back to single-family residential.

Staff Member Moon and Staff Member Schrobilgen explained the process for considering the rezoning of just the 595 Cedar Cross Road property.

Motion by Russell, seconded by Mulligan, to recommend approval of the rezoning as submitted. Motion failed by the following vote: Aye – none; Nay – Christ, Lohrmann, Russell, Zuccaro, and Mulligan.

Motion by Russell, seconded by Mulligan, to recommend approval of rezoning 595 Cedar Cross Road from R-1 to CS. Motion carried by the following vote: Aye – Christ, Russell, Zuccaro, and Mulligan; Nay – Lohrmann.

Chairperson Mulligan left the meeting and Commissioner Russell assumed lead the remainder of the meeting.

**ITEMS FROM PUBLIC:** None.

**ITEMS FROM COMMISSION:** None.

**ITEMS FROM STAFF:**

- Election of Officers

Motion by Zuccaro, seconded by Christ, to elect Matt Mulligan as Chairperson. Motion carried by the following vote: Aye – Christ, Lohrmann, Zuccaro, and Russell; Nay – none.

Motion by Christ, seconded by Zuccaro, to elect Rich Russell as Vice Chairperson. Motion carried by the following vote: Aye – Christ, Lohrmann, Zuccaro, and Russell; Nay – none.

Motion by Lohrmann, seconded by Zuccaro, to elect Martha Christ as Secretary. Motion carried by the following vote: Aye – Christ, Lohrmann, Zuccaro, and Russell; Nay – none.

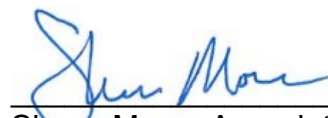
- Appointment to Airport Zoning Advisory Commission

Motion by Christ, seconded by Zuccaro, to elect Matt Mulligan and Rich Russell as representatives to the Airport Zoning Advisory Commission. Motion carried by the following vote: Aye – Christ, Lohrmann, Zuccaro, and Russell; Nay – none.

**ADJOURNMENT:** Motion by Zuccaro, seconded by Christ to adjourn the August 7, 2024 Commission meeting. Motion carried by the following vote: Aye – Christ, Lohrmann, Zuccaro, and Russell; Nay – none.

The meeting adjourned at 7:29 p.m.

Respectfully submitted,



---

Shena Moon, Associate Planner

---

September 4, 2024

Adopted