

AGENDA ITEM

TO: Planning and Zoning Commission

THROUGH: Brandon Opiela, Senior Planner

FROM: Anthony Satarino, Planner

SUBJECT: Conduct a Public Hearing to Consider/Discuss/Act on the Request by Francisco Gomez, for Approval of a Request to Rezone Approximately 0.35 Acres from “PD” – Planned Development District to “PD” – Planned Development District, Generally to Modify the Development Standards, Located on the Southwest Corner of Josephine Street and Kentucky Street.

APPROVAL PROCESS: The recommendation of the Planning and Zoning Commission will be forwarded to the City Council for final action at the April 3, 2012 meeting.

STAFF RECOMMENDATION: Staff recommends approval of the proposed rezoning request with the following special ordinance provisions:

1. The subject property be developed according to the “BN” – Neighborhood Business District, and as amended, except as follows:
 - a. An upholstery shop be an allowed use on the subject property.
2. A 30’ wide corner clip landscape buffer shall not be required at the intersection of Josephine Street and Kentucky Street.
3. A 6’ wide landscape buffer along Josephine Street be allowed as shown on the attached zoning exhibit.
4. A landscape buffer along Kentucky Street shall not be required, as shown on the attached zoning exhibit.
5. A 5’ wide perimeter landscape buffer shall not be required adjacent to the vehicular use area at the southeast corner of the subject property.
6. A terminus tree at the south end of the parking row along Kentucky Street shall not be required.

7. Canopy trees along Kentucky Street frontage shall not be required as shown on the attached exhibit.
8. A 10' wide landscape buffer and associated screening shall not be required along the portion of the southern property line adjacent to the building expansion.
9. The applicant provide evergreen shrubs (a minimum of 3' in height at the time of planting and planted 3' on center) along the south and west property lines except were immediately adjacent to the building expansion.
10. The subject property shall generally develop to the attached zoning exhibit.

APPLICATION SUBMITTAL DATE: January 10, 2011 (Original Application)
February 18, 2011 (Revised Submittal)
February 25, 2011 (Revised Submittal)
February 24, 2012 (Revised Submittal)

ITEM SUMMARY: The applicant is proposing to rezone approximately 0.35 acres of land, located on the southwest corner of Josephine Street and Kentucky Avenue from "PD" – Planned Development District to "PD" – Planned Development District, generally to modify the development standards. The subject property has an existing 2,250 square foot shopping center (tenants are a beauty salon and Frank's Upholstery).

This item was originally heard at the March 8, 2011 Planning and Zoning meeting (see attached report and minutes). During the public hearing, the Commission asked that the item be tabled so that Staff could again meet with the applicant to further resolve some of the issues related to the site. Over the past year, Staff has worked closely with the applicant to resolve the issues surrounding the building expansion. Since the Planning and Zoning Commission meeting, the applicant has agreed to provide additional parking on site to meet the minimum parking standards of the zoning ordinance. The applicant has also proposed shrubs on the site to serve as a living screen where adjacent to residential uses on the western and southern property lines. Additionally, the applicant has provided Staff with information pertaining to the existing trees on site in order for them to received credits against the required trees necessary for the expansion of the site.

BACKGROUND INFORMATION

The applicant originally met with Planning Department staff in November of 2009, after receiving a Stop Work Order from the Code Department for pouring a foundation adjacent to the existing structure, without an approved building permit. During the meeting, Staff outlined the Zoning Ordinance provisions that could not be met due to the location of the new foundation in terms of parking, screening and buffering, and landscaping requirements, as the building addition was greater than 30 percent (approximately 38 percent) of the original floor area.

In December of 2010, the Code Department issued a second Stop Work Order for the continuation of a 990 square foot addition, which was constructed without an approved building permit or proper Planning approvals. Staff met with the applicant again, reiterating that short of taking down the unauthorized addition, the only way for the Planning Department to approve a site plan for the expansion would be for the applicant to modify the zoning on the property to reduce the site requirements for landscaping, parking, and screening and buffering between the adjacent residential use.

The applicant has indicated in the letter of intent that the contractor that was hired after the first Stop Work Order was supposed to coordinate permits with the City; however, this did not take place and the applicant is now seeking proper approvals to allow the building to be finished without having to tear it down. It is important to note that although a rezoning request could allow for the proposed footprint and reductions in screening, buffering, and landscaping; the addition was constructed without a building permit, and therefore has not been inspected. Staff is continuing to work with the applicant to resolve issues regarding the inspection process of the building.

ZONING NOTIFICATION SIGNS: The applicant has posted zoning notification signs on the subject property, as specified within Section 146-164 (Changes and Amendments) of the City of McKinney Zoning Ordinance.

SURROUNDING ZONING AND LAND USES:

Subject Property: "PD" – Planned Development District Ordinance No. 2004-06-058 (commercial uses)

North	"BN" – Neighborhood Business District	Single-family residence
South	"BN" – Neighborhood Business District	Single-family residence
East	"BN" – Neighborhood Business District	Single-family residence
West	"RS-60" - Singly-family residential District	Single-family residence

Discussion: The property was rezoned (04-107Z) in 2004 to allow for the additional use of an upholstery shop on the subject property.

PROPOSED ZONING: The applicant is requesting to rezone the subject property from "PD" – Planned Development District generally for neighborhood business uses to "PD" - Planned Development District, generally to modify development standards.

The applicant is requesting to maintain the base zoning district of "BN" – Neighborhood Business under the proposed planned development district. The applicant has provided a proposed layout which shows a building expansion requiring additional parking, screening and buffering, and landscaping since the addition is greater than 30 percent of the original floor area. Although the proposed layout does not meet several provisions

of the Zoning Ordinance, primarily due to the location of the existing structure and associated parking, the applicant has proposed sufficient parking for the building expansion and provided screening/buffering and landscaping where possible on the site.

Parking Requirements: The existing building totals 2,550 square feet for retail uses, which requires a total of 11 parking spaces. The site is currently under-parked with only 9 parking spaces, but is allowed to continue operating with a legal non-conforming status with regard to parking. Per Section 146-130 of the Zoning Ordinance, whenever a building or use is changed or enlarged in floor area by less than 50 percent, parking spaces shall be provided on the basis of the enlargement or change. The proposed addition of 990 square feet enlarges the floor area by approximately 38 percent. Under the current parking requirements for retail uses, the applicant is required to provide an additional four (4) parking spaces, totaling 13 spaces for the site. As shown on the attached zoning exhibit, the applicant is proposing to provide additional parking in the northwest corner of the property to accommodate the building expansion.

Residential Adjacency Screening and Buffering: Current Zoning Ordinance regulations are in place to minimize any potential negative impacts the non-residential use on the subject property will have on the existing residential uses to the south and west of the subject property. These regulations include: approved screening devices along any shared property line between a single family residential use and a non-residential use, coupled with a landscaped area of at least ten (10) feet in width along the common property line planted with one canopy tree for each forty (40) linear feet or portion thereof of adjacent exposure. Each screening and buffering requirement is listed below with a description of how it pertains to the subject property.

- A. The applicant shall provide a landscaped area of at least ten (10) feet in width along the common property line.
 - Although the existing permitted portion of the structure maintains its legally non-conforming status with regard to current screening and buffering regulations, any new addition to the existing structure must be brought up to meet all current regulations with regard to the screening and buffering between adjacent uses. The new building addition is approximately four (4) feet from the common property line, thus disabling the applicant from providing a ten (10) foot wide landscape buffer requirement along the entire southern property line.
 - The applicant has provided the required ten (10) landscaping buffer in all other applicable locations along the southern and western property line.
 - Staff is comfortable supporting the reduction in landscape buffer width between the new addition on the subject property and adjacent residential uses.

B. The applicant shall provide an approved screening device along any shared property line between a single family residential use and a non-residential use.

- The applicant is proposing a living plant screen consisting of Nellie R. Stevens (36-inches tall at the time of planting) to mitigate the view of the building from adjacent residential property. The new building addition is approximately four (4) feet from the common southern property line, thus disabling the applicant planting the required living screen immediately adjacent to the building expansion.
- Staff feels that a living screen (in conjunction with the existing wood fence and trees) will provide an adequate screen between the adjacent residential properties and the subject property and should not negatively impact the adjacent residential properties

C. The applicant shall provide a canopy tree for each forty (40) linear feet or portion thereof of adjacent exposure.

- The site has a number of existing trees that qualify for tree credits towards the tree requirement where adjacent to residential property line. On the southern property line a total of 4 trees are required. There is an existing 24" caliper pecan tree adjacent to the southern property line that will give the applicant 4 tree credits and will satisfy the tree requirement along the southern property line. Furthermore, along the western property line there are a number of existing trees located in the proposed landscape buffer. There are a total of 7 trees of various species and caliper inches that total a credit of 15 trees along the western property line that exceeds the required number of trees (3 trees required).

Street Trees: The Zoning Ordinance requires that all non-residential parcels have one canopy tree per 40 linear feet, or portion thereof, of street frontage. The applicant is required to provide 4 street trees along Josephine Street. However, because of an existing tree (24" caliper pecan) located along Josephine Street, the applicant is able to satisfy their street tree requirement (a 24" caliper tree will give the applicant credit for 4 trees). The applicant is not proposing any street trees along Kentucky Street (3 trees required) as the existing parking will not allow for the placement of new trees.

Terminus Trees: The Zoning Ordinance states that a landscape island must be located at the terminus of every parking row and should contain at least one canopy tree (minimum of four-inch caliper and twelve feet in height at the time of planting). The applicant is requesting a reduction of this requirement to provide only one landscape island with a terminus tree at the north end of the existing parking row. The applicant is unable to provide a landscape island with a terminus tree at the south end of the existing parking row, due to the existing pavement.

Per the attached zoning exhibit, the applicant is proposing additional parking to comply with the Zoning Ordinance; however, no terminus trees have been proposed because the applicant has satisfied this requirement through preserving an existing tree on site. Adjacent to the proposed parking area is a 31" caliper pecan tree. Per the Tree Preservation section of the Zoning Ordinance, the applicant is able to receive 5 tree credits for preserving this tree. This exceeds the number of terminus trees required by the new parking spaces (4 trees required).

Perimeter Landscape Buffer: The subject property is required by the Zoning Ordinance to provide a perimeter landscape area of at least five feet between the edges of parking or vehicular use areas and adjacent property lines. The southernmost parking space is approximately two (2) feet from the southern property line, with the pavement extending all the way to the property line. The applicant has requested to leave this area paved, without providing the required perimeter landscape buffer along the southern property line.

Josephine Street Landscape Buffer: The Zoning Ordinance requires a minimum ten (10) foot landscape buffer adjacent to the Josephine Street frontage (a minor thoroughfare). The applicant is only able to provide a six (6) foot landscape buffer along Josephine Street as the existing structure is located approximately six (6) feet from the right-of-way. The applicant has requested a special ordinance provision to that would allow a 6' wide landscape buffer along Josephine Street.

Kentucky Street Landscape Buffer: The Zoning Ordinance requires a minimum 10-foot landscape buffer adjacent to the Kentucky Street frontage (a minor thoroughfare). However, the existing parking spaces are along Kentucky Street within the area typically utilized for a landscape buffer. The applicant is requesting that this requirement be waived.

Corner Clip Landscape Buffer: The Zoning Ordinance states that all non-residential parcels located at the intersection of two dedicated public streets (rights-of-way) must have a 30-foot landscape buffer parallel to the corner clip right-of-way dedication. Due to the existing parking and legally non-conforming structure, the applicant is unable to provide a corner clip landscape buffer at the intersection of Kentucky Street and Josephine Street. The applicant is requesting that this requirement be waived.

CONFORMANCE TO THE COMPREHENSIVE PLAN: The Future Land Use Plan (FLUP) designates the subject property for Neighborhood Business uses. The FLUP modules diagram designates the subject property as Town Center within a significantly developed area. The Comprehensive Plan lists factors to be considered when a rezoning request is being considered within a significantly developed area:

- Comprehensive Plan Goals and Objectives: One of the goals of the Comprehensive Plan is "Economic Development Vitality for a Sustainable and Affordable Community" through the stated objectives of "Retention and expansion of existing businesses." This rezoning request takes into account the

unique spatial challenges of the site, and can provide an opportunity for an existing business to not only remain in the City, but also expand.

- **Impact on Infrastructure:** The water master plan, sewer master plan, and master thoroughfare plan are all based on the anticipated land uses as shown on the Future Land Use Plan. The proposed rezoning request should have a minimal impact on the existing and planned water, sewer and thoroughfare plans in the area since it does not change the use of the subject property.
- **Impact on Public Facilities/Services:** The proposed rezoning request should have a minimal impact on public services, such as schools, fire and police, libraries, parks and sanitation services since it does not change the use of the subject property.
- **Compatibility with Existing and Potential Adjacent Land Uses:** The properties located adjacent to the subject property are being used for single family residences. As stated above, current Zoning Ordinance regulations are in place to minimize any potential negative impacts a non-residential use will have on existing residential uses in close proximity. In this particular case, the site has residential uses adjacent to the south and west. Since the applicant has provided a living screen along the west and south property lines and a landscape buffer along the western and southern property line (except for where the building expansion impedes upon the 10' landscape buffer), Staff feels that the building expansion should not negatively impact the compatibility of the site with the adjacent residential uses.
- **Fiscal Analysis:** Staff feels that there will not be a significant change in the economic impact associated with the proposed rezoning since it does not alter the land use. Staff did not perform a fiscal analysis for this case because the rezoning request does not propose to alter the land use from what is existing on the subject property.
- **Concentration of a Use:** The proposed rezoning request should not result in an over-concentration of commercial land uses in the area. Currently, the surrounding properties are zoned for residential and commercial uses.

CONFORMANCE TO THE MASTER PARK PLAN (MPP): The proposed rezoning request does not conflict with the Master Park Plan.

CONFORMANCE TO THE MASTER THOROUGHFARE PLAN (MTP): The proposed rezoning request does not conflict with the Master Thoroughfare Plan.

OPPOSITION TO OR SUPPORT OF REQUEST: Staff has received no comments or phone calls in support of or opposition to this request.

ATTACHMENTS:

- Maps
- Letter of Intent
- Staff Report from the 3/8/2011 PZ Meeting
- Minutes from 3/8/2011 PZ Meeting
- Existing “PD” – Planned Development District Ordinance No. 2004-06-058
- Proposed Zoning Exhibit
- PowerPoint Presentation