

AGENDA ITEM

TO: Planning and Zoning Commission

THROUGH: Michael Quint, Senior Planner

FROM: Alex Glushko, Planning Technician

SUBJECT: Conduct a Public Hearing to Consider/Discuss/Act on the Request by Hillcrest Funeral Home, on Behalf of St. James CME Church, for Approval of a Request to Rezone Approximately 0.44 Acres from “BG” – General Business District to “PD” – Planned Development District, Generally to Modify the Development Standards, Located on the East Side of State Highway 5 (McDonald Street) and Approximately 250 Feet South of Watt Street.

APPROVAL PROCESS: The recommendation of the Planning and Zoning Commission will be forwarded to the City Council for action at the March 2, 2010 meeting.

STAFF RECOMMENDATION: Staff recommends denial of the proposed rezoning request due to the special ordinance provisions needed to develop the subject property as proposed by the applicant.

APPLICATION SUBMITTAL DATE: June 15, 2009 (Original Application)
September 29, 2009 (Revised Submittal)

ITEM SUMMARY: The applicant is requesting to rezone approximately 0.44 acres (Exhibit B) from “BG” – General Business District to “PD” – Planned Development District, generally to modify the development standards, located on the east side of State Highway 5 (McDonald Street) and approximately 250 feet south of Watt Street.

The subject property currently has an existing 2,577 square foot structure on site that was previously used for commercial and multi-family uses, but has been vacant for a period of time longer than six months, and has subsequently lost its legally non-conforming status for the aforementioned uses. The applicant is leasing a portion of the subject property from the property owner in order to develop the property and utilize the existing structure for funeral home uses.

PLATTING STATUS: The subject property is currently unplatted, but does contain tracts of record, including all of McKinney Outlots 179A, 179B, 180A, 180B, 180D, 180F, and 181A.

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: “BG” – General Business District

North	“BG” – General Business District	Day Care Facility Uses
South	“BG” – General Business District	Undeveloped Land
East	“BG” – General Business District	Single Family Residential Uses
West	“BG” – General Business District	Shopping Center / Retail Uses

PROPOSED ZONING: In order to develop the site according to the proposed zoning exhibit, the applicant is requesting to modify numerous development standards of the Zoning Ordinance, including off-street parking and maneuvering surface material, the number of required off-street parking spaces, required screening device materials, as well as several landscape requirements. Generally speaking, Staff is not comfortable supporting the proposed rezoning request due to the special ordinance provisions that are needed to develop the subject property as proposed by the applicant.

The subject property totals 0.44 acres in size, while the applicant is only proposing to develop approximately 0.14 acres. By only developing a small portion of an already small tract of land, the development possibilities for the remaining undeveloped portion of the property become problematic. The issues with developing this remaining land includes, but are not limited to emergency access points, TxDOT access requirements, and the space needed to adequately build a structure while still providing the required maneuverability areas, parking, and landscaping. If the applicant were to utilize this remaining land to provide the required landscaping, parking, and drive aisles needed to meet the requirements of the Zoning Ordinance, the applicant would be able to meet all currently applicable regulations while also eliminating future development hindrances.

The applicant is proposing to use an off-street parking and maneuvering surface material, gravel, that does not meet the minimum requirements. The Zoning Ordinance requires the use of concrete or asphalt for parking and maneuvering. Concrete and asphalt parking and maneuvering areas are required by the Ordinance partially in order to permanently designate required parking spaces, to allow for the satisfaction of fire lane construction requirements, and to eliminate dirt and rocks from being transferred to public streets resulting in damage to automobiles. The City Council has never approved a rezoning request which allows an applicant to develop a site without the required concrete or asphalt surface material. The danger in approving a special ordinance provision to address this issue is in the precedent that will be set. If approved, it is likely that the Planning and Zoning Commission, as well as City Council, may see similar

requests in the future. For consistency purposes, it would be hard to justify why one developer is allowed to develop a site with an alternate material, while another is required to follow the ordinance's requirements. If rezoning in order to circumvent this requirement becomes standard practice, the quality of McKinney developments and the City's overall character may begin to diminish over time.

Mortuary or funeral homes are required by the Zoning Ordinance to provide one parking space for every 200 square feet of floor area. The existing building features 2,577 square feet for a total parking requirement of 13 parking spaces. Based on the applicant's development proposal (Exhibit A), only 12 parking spaces will be provided. The applicant has requested approval of a special ordinance provision allowing a reduction in the number of required parking spaces for the proposed development. Staff sees no reason why the applicant could not redesign the proposed development plan to incorporate another parking space and, as such, does not support that applicant's request.

The applicant has requested approval of several special ordinance provisions to eliminate the need for required landscaping. The applicant does not wish to provide canopy trees along the frontage of the subject property or at the end of every parking row as required by the Zoning Ordinance. Staff does not see any reason why the landscaping required by the Zoning Ordinance could not be provided on the subject property and is not comfortable supporting approval of the needed special ordinance provisions.

The proposed development and its existing structure are adjacent to existing single family residences. The Zoning Ordinance provides provisions for cases where non-residential and residential land uses are adjacent, specifically by requiring canopy trees every forty linear feet along the shared property line, in order to serve as a partial visual barrier between such uses. The applicant is requesting to not provide the required canopy trees. Allowing the applicant to develop the subject property without the required canopy trees may also set a dangerous precedent for future non-residential development which is adjacent to residential uses. This Zoning Ordinance provision is intended to partially mitigate residential uses from visual and audible affects of non-residential development, while adding a level of privacy that the required six-foot screening device cannot provide. Staff feels that waiving any requirement that is intended to protect the privacy and quality of life of McKinney residents, protect property values and private property, and insure a level of quality separation between traditionally incompatible uses, should be avoided whenever possible. Once again, if such a precedent were to be set, it is likely such requests for other developments may follow.

Similar to the canopy trees referenced above, a 6' tall screening device is required along the shared property line between single family residential and non-residential uses. These screening devices must be masonry, wrought iron with masonry columns every 20 linear feet with a living plant screen, or another screening device that is approved by the Planning and Zoning Commission. A chain link fence currently exists

along the shared property line between single family residential and non-residential uses. The applicant has proposed to install a wood fence adjacent to the existing chain link fence. Due to the maintenance issues that wood fences present over time and a wood fence's inability to provide the buffering and mitigation that one of the approved screening devices would provide, Staff is not comfortable supporting a special ordinance provision allowing the use of a wood fence to screen the proposed funeral home from the adjacent single family residences.

The applicant has submitted a zoning exhibit (Exhibit A) which is not scalable using an engineering or architects scale. While some dimensions and rudimentary scaling options are provided on the proposed zoning exhibit (Exhibit A), Staff cannot be certain that the proposed layout can be built as shown, as an exact scale is not provided. If the applicant receives approval of the proposed rezoning request based on inaccurate information shown on a proposed zoning exhibit, and such inaccuracies are discovered during the site planning or site development processes, it is possible the applicant will be forced to modify the development plan from what was approved at City Council as part of this proposed rezoning request, thus resulting in another required rezoning request.

Staff took the time to draft a development proposal (Exhibit C) for the applicant that uses more land area than the applicant's development proposal but would allow the applicant to meet all of the requirements of the Zoning Ordinance and nullify the need for a rezoning request. The applicant has chosen not to develop according to Staff's proposal and to move forward with this rezoning request, which is the applicant's right. Staff proposed development plan (Exhibit C) has been attached for the Commission's reference.

Finally, the applicant has generally failed to demonstrate to Staff the inability to meet all current development standards of the Zoning Ordinance because of a hardship placed on him by the subject property. Rather, the reasons cited by the applicant for the proposed rezoning request have been solely based on financial hardships. As such, Staff is not comfortable supporting the proposed rezoning request.

CONFORMANCE TO THE COMPREHENSIVE PLAN: The Future Land Use Plan (FLUP) designates the subject property for Town Center and Transit Village uses. The FLUP modules diagram designates the subject property as being within the Town Center and Transit Village, 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:** Although the proposed rezoning request is generally in conformance with some of the goals and objectives of the Comprehensive Plan, there are some key goals and objectives of which the proposed development does not satisfy. These objectives include land use patterns that complement one another, and land use patterns that address appropriate transitions and mixed of uses under the stated goal of Land Use

Compatibility and Mix. The proposed rezoning request does not illustrate a development which either complements or appropriately transitions to the adjacent residential uses.

- Specific Area Plans: The subject property is located within the boundaries of the Town Center Study. In March 2008, City Council approved the Phase 1 Report and adopted amendments to the Comprehensive Plan to include references to the Town Center vision. In doing so, the Town Center Study serves as a long-term planning and policy guide for city officials, property owners, and private developers. If approved, the proposed rezoning request may have a negative impact on the vision expressed in the Town Center Study.
- Impact on Infrastructure: The FLUP designates the subject property for Town Center and Transit Village uses. The water master plan, sewer master plan, and thoroughfare plan are all based on the anticipated land uses on the Future Land Use Plan. The proposed rezoning request should have no impact on the existing and planned water, sewer and thoroughfare plans in the area, since the uses allowed on the subject property are not changing, only the development standards.
- Impact on Public Facilities/Services: The FLUP designates the subject property for Town Center and Transit Village uses. Similar to infrastructure, the proposed rezoning request should have no impact on public services, such as schools, fire, police, libraries, parks and sanitation services, since the proposed rezoning request will not alter the land use from what is allowed on the subject property, only the development standards.
- Compatibility with Existing and Potential Adjacent Land Uses: The proposed development and existing structure are adjacent to existing single family residences, uses that are not traditionally compatible with one another. As such, the Zoning Ordinance provides mitigating elements for cases where non-residential and residential land uses are adjacent, including, but not limited to screening devices, landscape buffers, and additional landscaping. These provisions are in place in order to protect privacy, property values, and overall quality of life for adjacent residential uses by mitigating, to the highest degree feasible, the effects of adjacent non-residential uses. The applicant is requesting to develop the subject property in a manner which does not include these key provisions which help to ensure a level of quality separation between traditionally incompatible uses.
- Fiscal Analysis: Staff feels that there will not be a significant change in the economic impact associated with the proposed rezoning request since it does not alter the base land uses, only the development standards. Staff did not perform a fiscal analysis for this case because the rezoning request does not alter the base commercial zoning of 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 generally for commercial and industrial 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: At the January 12, 2009 Planning and Zoning Commission, Staff spoke to an adjacent resident who was generally against the rezoning request. Staff has received no other calls or emails in support or objection to the proposed rezoning request.

ATTACHMENTS:

- Location Map
- Aerial Exhibit
- Letter of Intent
- Property Owner Notice
- Property Owner Notification List
- Proposed Zoning Exhibit – Exhibit A
- Property Survey – Exhibit B
- Staff Proposed Alternate Site Layout – Exhibit C

Action: