

6. PUBLIC HEARING

6.01: Public Hearing to Introduce Ordinance #18-13; Amendment to City Code Chapter 117 (Zoning and Subdivision of Land) to add a Neighborhood Business District

Presentation

City Planning Intern Imihy reviewed the staff report and recommendation to adopt Ordinance #18-13. She stated that this would update the Zoning Code to include a new district called the Neighborhood Business District.

Public Hearing

Motion by Councilmember Kuzma, seconded by Councilmember Shryock, to open the public hearing.

Motion carried. Voting Yes: Acting Mayor LeTourneau, Councilmembers Kuzma, Shryock, Johns, and Riley. Voting No: None.

The public hearing was called to order at 7:39 p.m.

Citizen Input

Jacqueline Abendroth, 15810 Sodium Street NW, stated that she neighbors the property and has seen many changes over the years. She stated that the secretarial service has reduced in scale and is unsure how the daycare is doing. She noted that other businesses have failed in that location. She stated that she would be hesitant to support changing the zoning because a number of businesses have failed in that location and therefore she would not want to see additional buildings constructed. She asked how close additional buildings could be constructed to the residential properties.

City Planning Intern Imihy stated that there is not a proposal for the business to expand or the building to change. She stated that the space does not fit within the zoning code and therefore that is the primary purpose for the change in zoning. She stated that requests to change or expand would need to come back before the Council.

Ms. Abendroth asked if there are limits on the property.

City Planning Intern Imihy stated that there would be prohibition of the uses not allowed but this would simply make the parcel a conforming use.

Community Development Director Gladhill stated that the City has approved the uses over the years for the parcel, but the appropriate tool was not in place for the zoning. He stated there are setback and buffering requirements for commercial/retail structures neighboring residential properties. He stated that the parcel would be rezoned for the district, which would match the use

of the business. He stated that if the business wanted to change, that would need to come back before the Council as a request.

Ms. Abendroth asked the type of barrier that would be between the building and the homes, whether there would be landscaping or just the back of the buildings.

Community Development Director Gladhill stated that the setback would be from the property line to the back of the building and noted that there could be landscaped buffering required between the structure and residential properties.

Ms. Abendroth asked if anything would change if the ownership changed.

Community Development Director Gladhill stated that the zoning would not allow for changes and would only allow for the uses specified within the zoning district.

Councilmember Shryock stated that this action would simply clarify the business that already exists and ensure that the zoning is more appropriate. She stated that at this time there are not any future plans for changes to the property or businesses and this simply changes the zoning to what it should have been for the allowed use.

Community Development Director Gladhill confirmed that to be true.

Councilmember Shryock reviewed the permitted uses in the proposed zoning district, noting that all of those uses have existed on the site previously. She stated that if anything else wanted to come to that site, the Council would have the ability to deny the request.

Elaine (last name/address not audible), stated that she would be opposed to allowing liquor at this location. She stated that Nowthen Boulevard is a very busy road with high speed traffic and a lack of sidewalks. She stated that she and her husband have called the police for additional enforcement and a patrol will come out for a few days but once they leave, the high speeds resume. She noted that there have been accidents and safety concerns on the roadway and she would be concerned with adding alcohol service to the mix. She was concerned with traffic and pedestrian safety. She asked the Council not to allow a business to serve alcohol at this location. She did not believe that trees provide adequate screening and believed that additional measures would be needed to provide appropriate screening. She stated that she does not mind the small businesses in that location but would not support a nighttime business or a business that serves alcohol.

Acting Mayor LeTourneau asked if the resident believes that the businesses in the location contribute to the traffic and problems that she cited in her comments.

Elaine replied that the issues that have occurred thus far have not caused the issues with traffic or alcohol in the area, but she believes that serving alcohol in that location would amplify those issues.

City Planning Intern Imihy stated that liquor is not a permitted use and would be a conditional use, explaining that if a potential business would like to serve liquor, that request would come before the Council and the decision would be made at that time whether or not to allow that activity.

Acting Mayor LeTourneau explained that the request would have to be brought forward to a regular meeting and public comment would be allowed.

Elaine (last name not audible) stated that her position continues that alcohol should not be an option as a possible opportunity for the site.

Acting Mayor LeTourneau asked for clarification on how that language would appear in the ordinance.

Community Development Director Gladhill stated that if the Council wishes to eliminate that opportunity, that could be stricken from the conditional use list. He noted that the Council could allow the activity as a conditional use and if a potential use seems appropriate, the Council could attach a list of conditions. He noted that the Planning Commission did recommend including that as a conditional use and advised that minutes from the Planning Commission were included in the case.

Councilmember Johns noted that this parcel is within a residential area. She noted that the ordinance would apply throughout the entire City and therefore perhaps allowing alcohol would be appropriate for other locations but not be appropriate for this location.

Acting Mayor LeTourneau agreed that while alcohol service would not be appropriate for this location, the ordinance would be applied throughout the City and alcohol service may be appropriate in other locations. He asked the resident and received confirmation that she would be in agreement with leaving the language in, allowing alcohol service as a conditional use, with the understanding that this ordinance could be applied throughout the City and while that use may not be appropriate for the parcel bordering her home, it could be appropriate in other locations.

Terry Petro, 6140 157th Lane NW, stated that he moved into his property in 1979 when the parcel was occupied by a church. He stated that the church had a need to expand and moved down the road, selling the parcel to the secretarial service. He stated that a few years later, the secretarial service business was reduced, and the daycare joined the site. He stated that the Conditional Use Permit was then expanded to allow a larger building for an expanded daycare service. He stated that the expanded use has increased the amount of traffic that enters and exits the site daily. He believed that the daycare business was limited between the hours of 6:00 a.m. and 6:00 p.m., which ensures that the site is quiet during the evening hours. He was concerned that if additional buildings are added to the site, perhaps those limited hours would not apply. He stated that when he moved to his home the church was only open on Sundays and Wednesday evenings. He asked if there is an expiration on the Conditional Use Permit.

Community Development Director Gladhill stated that the Conditional Use Permit was approved for a list that is not listed as a conditional use. He stated that the City has agreed to apply a more appropriate zoning as the existing situation has created problems for financing for the business. He stated that because the City approved the use, the City is obligated to resolve the situation that was created.

Mr. Petro stated that it appears that the City's only option is to rezone the parcel or tear down the building.

Community Development Director Gladhill confirmed that the City's only option would be to zone the parcel appropriately to support the uses that have been approved.

Acting Mayor LeTourneau noted that the City is attempting to resolve a situation that has already occurred and uses that have already been approved.

Mr. Petro stated that this property would be worth more money for the business owner as a business parcel rather than a residential parcel with a Conditional Use Permit. He believed that the neighboring property owners would be the ones to suffer if a restaurant serving alcohol until 2:00 a.m. is allowed on the site compared to the daycare which closes at 6:00 p.m. He stated that he does not mind the daycare use but would not support the additional uses. He believed that additional structures would be added to the property once the zoning is changed.

Community Development Director Gladhill stated that the property owner relied on the City acting in good faith on its own ordinances 20 years ago. He stated that case law has since changed, and the zoning would need to be changed to list the allowed uses that have already been approved. He stated that looking at the existing use and previous uses, the site has been used commercially and the City is simply allowing the correction to the zoning to support uses that have already been approved and existed on the site. He stated that there is always a potential for expansion and new uses whether the zoning changes or not and he believed that it would be better to have the appropriate controls in place prior to receiving any requests.

Councilmember Shryock stated that the Council understands the concerns of the community and attempts to make decisions based on input from the community. She stated that the Council would not permit activities that would not be appropriate because of the location. She asked for clarification on the difference between the neighborhood business district and general business district.

Community Development Director Gladhill stated that the intent was to be very restrictive and selective on the uses. He noted that this would be much more restrictive than the Highway 47 corridor businesses, which is already more restrictive than the Highway 10 corridor businesses. He noted that there would be much more protection in this district compared to the other business districts.

Councilmember Shryock noted that there is no change for the parcel at this time. She stated that, in the future, perhaps a small café or coffee shop would be considered but did not believe that the Council would allow a full restaurant on this site.

Community Development Director Gladhill stated that there may be requests to expand in the future but noted that staff has rejected some proposals in the past because they would not fit on the site. He stated that this traffic corridor does not support high traffic businesses and therefore those businesses would not be looking at this site and would not be allowed on this site.

Acting Mayor LeTourneau confirmed that the resident is concerned with a high impact use above the existing daycare. He stated that this zoning district would be the most restrictive business district within the city. He asked if the resident is comfortable that the Council understands the concern of the neighborhood with a high impact business, and would not support a high impact business in that location.

Mr. Petro stated that he is not comfortable allowing the Council to make the decision. He stated that in the past the neighborhood expressed concern with a connection to a new development and were promised that the connection would be gated and used for emergency use only. He stated that when the development was constructed, it was full access and caused a lot of additional traffic. He stated that he is also concerned with property values, as after consulting with realtors he has been told that property values could decrease when bordering commercial property. He stated that 157th currently does not warrant a turn lane and asked if the Council is willing to upgrade the road to support the traffic.

Acting Mayor LeTourneau stated that as the community continues to grow, the City attempts to analyze and anticipate traffic impacts and infrastructure needs. He noted that as this is a County road, the City also has to work with the County for improvements. He stated that this zoning district would be the most restrictive to allow the use to continue to remain in a calm manner that is safe for the community.

Mr. Petro stated that he would agree with continuing to allow the daycare facility to operate without increasing the overall use on the site.

Community Development Director Gladhill stated that staff would be open to holding a single workshop with the residents, before the Council takes action, to allow for more open dialogue to resolve some of the concerns.

Councilmember Johns clarified that this would be a city-wide ordinance for zoning. She stated that a change has not been requested by the daycare center itself.

Community Development Director Gladhill stated that the request was from the daycare center as the City allowed the use without using the appropriate tool and therefore it is a legal issue to change the illegal non-conforming use.

Councilmember Riley suggested that the public hearing be closed, and the issue be tabled to allow for the public workshop as suggested by staff.

Acting Mayor LeTourneau stated that he would like to provide the opportunity for everyone present that would like to comment.

Carol Lubin, owner of the property, stated that she has owned the property since 1991. She stated that when she purchased the business for the secretarial service, she had 90 employees. She stated that as technology increased, employees were able to work from home, which left a lot of the building empty. She stated that a daycare was an allowed use when she purchased the property and that is what she created. She stated that they have been good neighbors. She noted that a

neighboring property owner was using part of her property as a turnaround for their garage and therefore she gave the property owner the necessary property to allow that activity on their property. She stated that there have only been three businesses on the site, the secretarial site, the daycare, and the café. She stated that the café and the daycare was expanded. She stated that additional space may be allotted to the daycare to allow for an indoor play area. She referenced a drug deal that was mentioned in the parking lot. She noted that the activity was noticed by staff and police were alerted to resolve the situation. She estimated that 75 people are employed between the secretarial site and daycare and they have been good neighbors. She stated that she was surprised by the comments tonight as she has allowed for a resident to have parking in her lot for an event at their home. She noted that if there have been issues, using the example of a trash enclosure tipping over, it is immediately resolved. She believed that the business has added character to the area and the property is maintained well. She stated that perhaps in the future she would think of adding a café as she believes that would be a good fit for the neighborhood.

Acting Mayor LeTourneau thanked her for her comments. He noted that the comments tonight have seemed to support the existing use. He stated that it seems that the Council would like to allow for additional discussions on how to put the next layer of protection in place.

Ms. Lubin stated that the church previously owned the property and paid zero property taxes. She stated that she has paid property taxes and the amount of property taxes has increased as the daycare use expanded.

Justin Jackson, 5950 158th Lane, referenced the cut-through traffic that happens in the neighborhood on 157th. He stated that he is already concerned with traffic in his neighborhood and increased traffic that would occur. He believed that additional traffic control should be placed in the neighborhood to protect the existing residents as well as no cut through traffic concerns.

Acting Mayor LeTourneau acknowledged the concern from the resident on the road conditions and safety concerns. He encouraged Mr. Jackson to learn more about what the City is doing towards road construction, maintenance, and reconstruction. He stated that the Council has spent a lot of time developing the plans for the roads as that was an issue that had not been planned for appropriately in the past.

Mr. Jackson asked if this zoning would apply only to this parcel, or whether it would apply throughout the community.

Community Development Director Gladhill noted that this parcel would be the first of the zoning district and confirmed that there could be a few other parcels throughout the community that could be a fit but noted that it would be sparsely used.

Motion by Councilmember Riley, seconded by Councilmember Johns, to close the public hearing.

Motion carried. Voting Yes: Acting Mayor LeTourneau, Councilmembers Riley, Johns, Kuzma, and Shryock. Voting No: None.

The public hearing was closed at 8:44 p.m.

Council Business

Councilmember Johns asked if this parcel would be rezoned by moving this item forward.

Community Development Director Gladhill noted that this is a policy decision and therefore the action does not trigger directly but would start the process and the request to rezone the parcel would follow.

Councilmember Shryock stated that she agrees that the new zoning district should be done properly

Motion by Councilmember Shryock, seconded by Councilmember Johns, to table Ordinance #18-13 amendment to City Code Chapter 117 (Zoning and Subdivision of Land) to add a Neighborhood Business District to allow staff to do additional research and hold a neighborhood workshop to discuss the possible ordinance amendment.

Motion carried. Voting Yes: Acting Mayor LeTourneau, Councilmembers Shryock, Johns, Kuzma, and Riley. Voting No: None.

Community Development Director Gladhill noted that there will be a mailing to alert residents of the neighborhood workshop. He stated that residents can also contact the planning department and watch agendas but confirmed that a mailing would be done to residents within 350 feet, similar to the notification for the meeting tonight.