

City of Jonesboro Metropolitan Area Planning Commission
Staff Report – RZ 23-19, 915 Southwest Dr.
300 S. Church Street/Municipal Center
For Consideration by Planning Commission on December 12, 2023

REQUEST: To consider a rezoning of one tract of land containing 1.47 +/- acres

PURPOSE: A request to consider recommendation to Council for a rezoning from “R-1” single family medium density district and “C-5” quite zone, to “C-3” general commercial district

APPLICANT: G.S. Brant Perkins, P.O. Box 4054, Jonesboro, AR 72403

OWNER: Small Potatoes Investments, LLC, 2341 Alteras Dr. Nashville, TN 37211

LOCATION: 915 Southwest Drive, Jonesboro, AR 72401

SITE DESCRIPTION: **Tract Size:** Approx. 1.47 Acres
Street Frontage: Approx. 380.16 ft. on Southwest Drive

Existing Development: Vacant

SURROUNDING CONDITIONS:

ZONE	LAND USE
North	C-3 – Commercial
South	C-3 – Commercial
East	C-4 – Commercial & R-1 – Residential
West	C-3 – Commercial

HISTORY: Cleared lot

ZONING ANALYSIS:

City Planning Staff has reviewed the proposed Zone Change and offers the following findings:

Comprehensive Plan Land Use Map:

The Current/Future Land Use Map recommends this location as a **High Intensity** Growth Sector. This property is also slightly located in the **Moderate Intensity** Growth Sector.

A wide range of land uses is appropriate in the **high intensity** zone, from multi-family to fast food to Class A office space to outdoor display/highway oriented businesses like automotive dealerships, because they will be located in areas where sewer service is readily available and transportation facilities are equipped to handle the traffic.

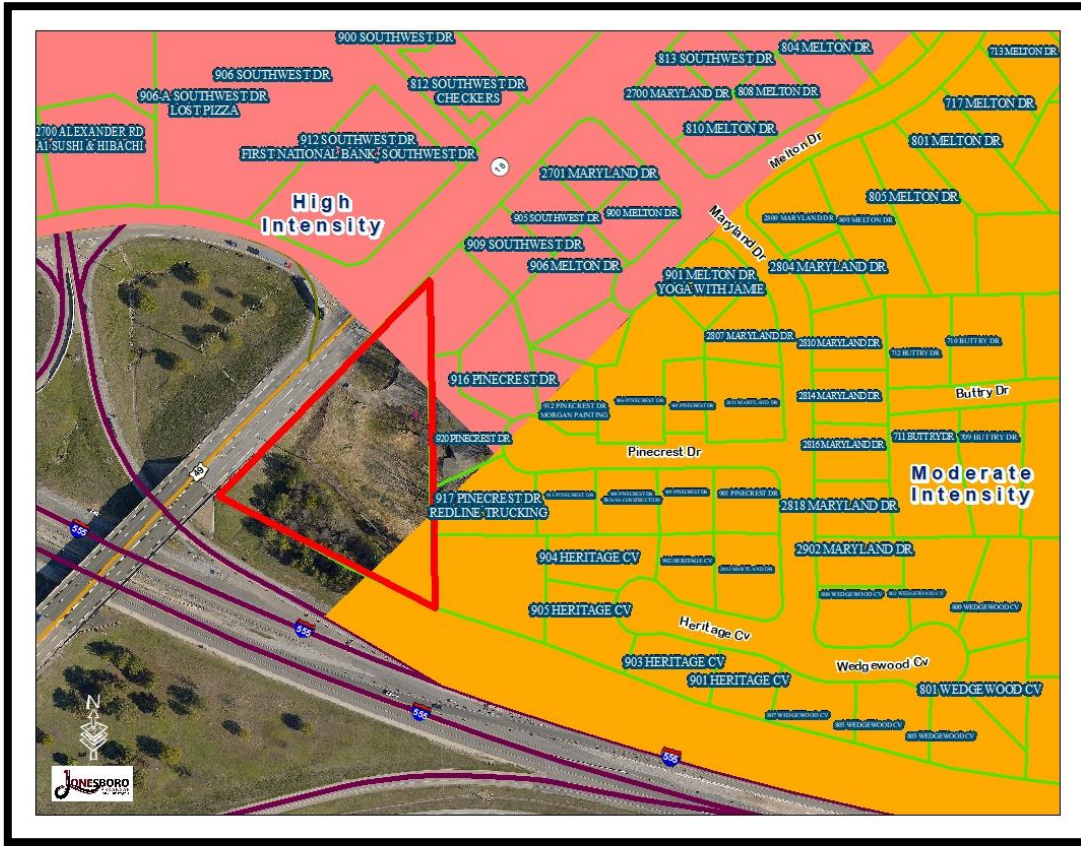
Typical Land Uses:

- Regional Shopping Centers
- Automotive Dealerships
- Outdoor Display Retail
- Fast Food Restaurants
- Multi-family
- Service Stations
- Commercial and Office
- Call Centers
- Research and Development
- Medical
- Banks
- Big Box Commercial
- Hotel

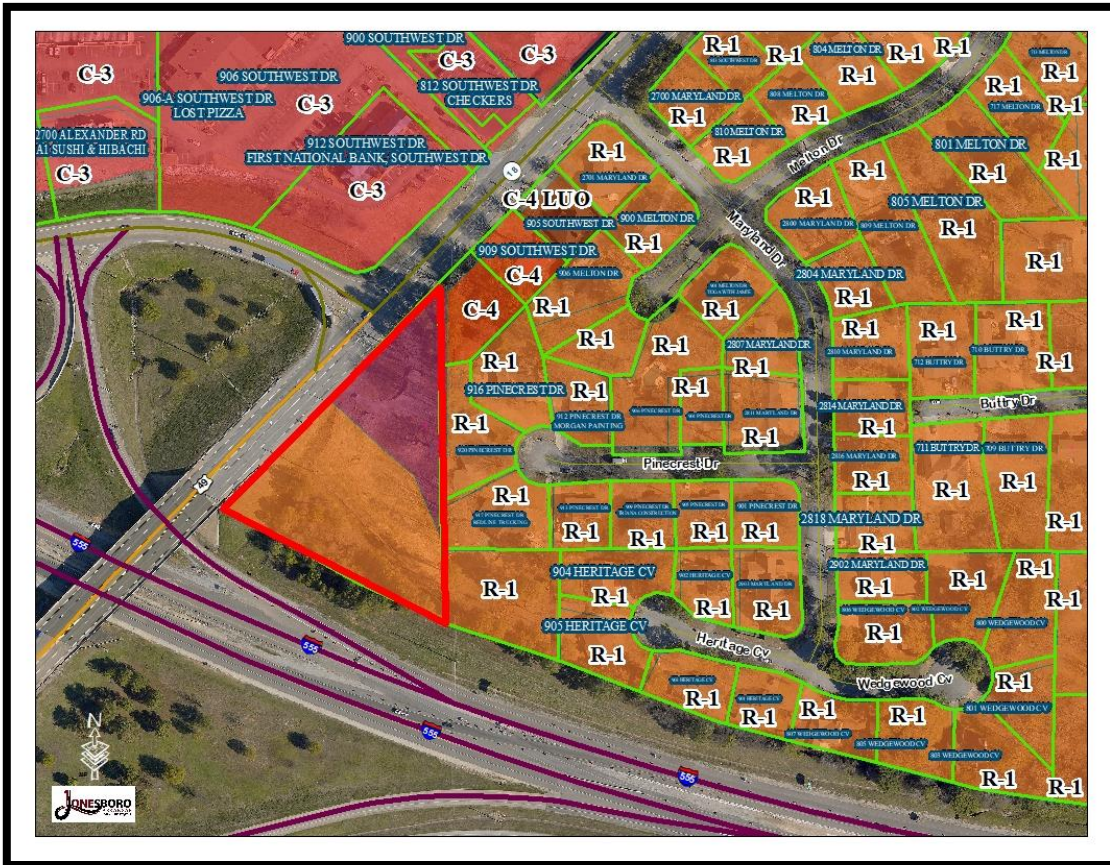
Density: Multi-family 8-14 Dwelling Units per acre

Height: 150 feet

Traffic: This will be located along arterial streets with high traffic volume.



Land Use Map



Zoning Map

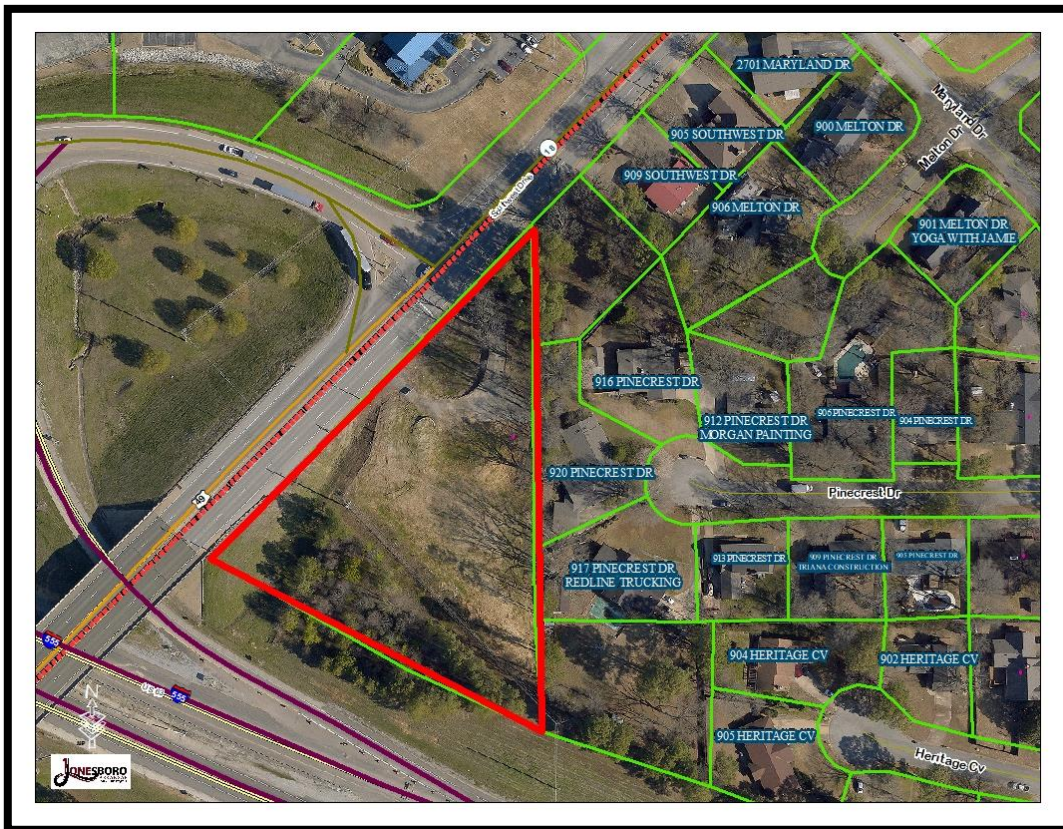
Master Street Plan/Transportation

The subject property is served by Southwest Drive. The Master Street Plan classifies Southwest Drive as a **Principal Arterial**.

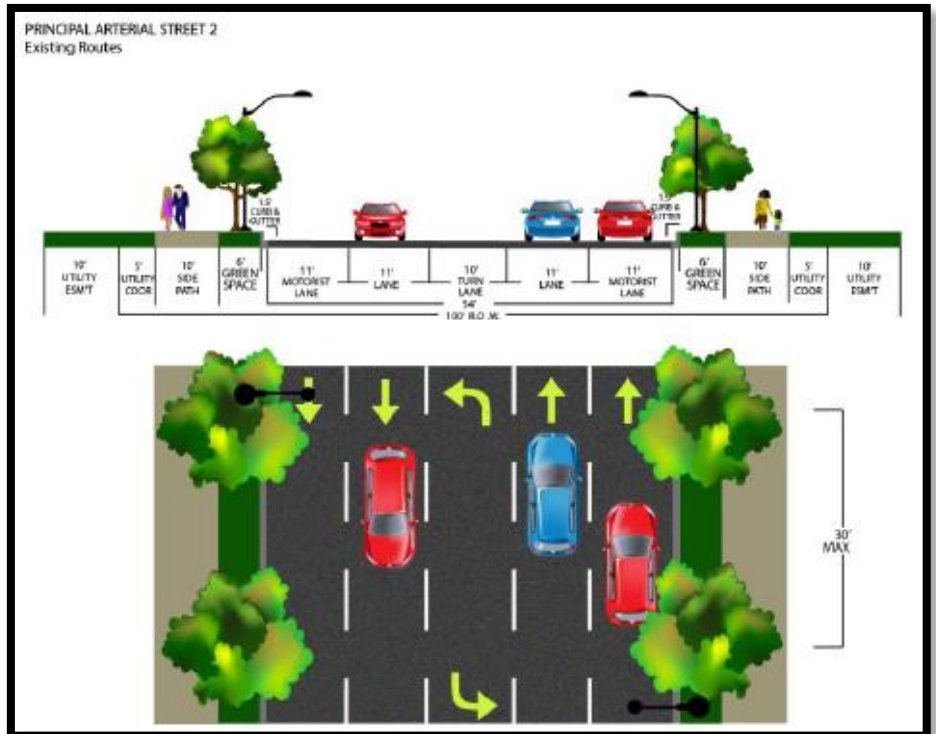
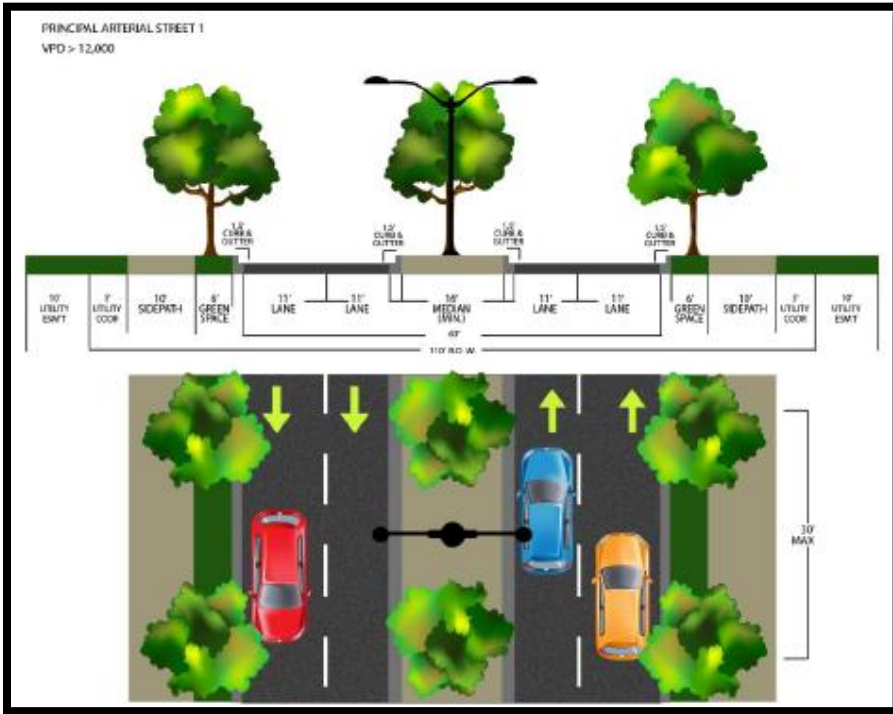
Principal Arterials provide both long distance connections through the urban area and to major traffic generators within the community. Roadways are designated principal arterials to imply the need to focus more on moving traffic rather than providing direct access to adjacent land. Traffic management techniques used to maintain a high level of traffic capacity on these roadways include the use of medians, restricting curb cuts per some spacing policy, and limiting the use of traffic signals to the intersection with other significant roadways.

FUNCTION: The primary function of a Principal Arterial is to serve through traffic and to connect major traffic generators or activity centers within an urbanized area. Since these roads are designed for through traffic and are generally located three or more miles apart, dedication of additional right-of-way is required to allow for future expansion to four through lanes plus left and right turn lanes. At intersections with Collector Streets or other Arterials (principal or minor), additional right-of-way may be required if the anticipated turning movements warrant extra lanes.

DESIGN: The standard Principal Arterial is to be used in all cases except where City Staff and the MAPC find that an unusual condition occurs. In such cases, the Other Principal Arterial Design Option provided in this section may be used. Cross-section selection shall be based on traffic impact analysis. Design in accordance with AASHTO policy on Geometric design of highways and streets (current edition).









Principal Arterial



Approval Criteria- Chapter 117 - Amendments:

The criteria for approval of a rezoning are set out below. Not all of the criteria must be given equal consideration by the MAPC or City Council in reaching a decision. The criteria to be considered shall include, but not be limited to the following.

Criteria	Explanations and Findings	Comply Y/N
(a) Consistency of the proposal with the Comprehensive Plan/Land Use Map	The proposed district rezoning is consistent with the Adopted Land Use Plan. Property is located in both the high and moderate intensity growth sectors.	
(b) Consistency of the proposal with the purpose of Chapter 117-Zoning.	The proposal will achieve consistency with the purpose of Chapter 117, with compliance of all District standards.	
(c) Compatibility of the proposal with the zoning, uses and character of the surrounding area.	Compatibility is achieved with this rezoning considering the surrounding area includes commercial uses.	
(d) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment;	Without the proposed zoning map amendment, this property cannot fully develop as a commercial use.	
(e) Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual, odor, noise, light, vibration, hours of use/operation and any restriction to the normal and customary use of the affected property;	With proper planning there should not be any adverse effects caused by the property if rezoned to commercial.	
(f) Impact of the proposed development on community facilities and services, including those related to utilities, streets, drainage, parks, open space, fire, police, and emergency medical services	Minimal impact if rezoned due to the fact that commercial uses currently exist in this area.	

Staff Findings:

Applicant's Purpose

The proposed area is currently classified as "R-1" single family medium density district and "C-5" quite zone. The applicant is applying for a rezoning to allow commercial use at this location.

Rezoning this property is consistent with the *Jonesboro Comprehensive Plan* and the *Future Land Use Plan*.

Chapter 117 of the City Code of Ordinances/Zoning defines C-3 as follows:

C-3, general commercial district. The purpose of this district is to provide appropriate locations for commercial and retail uses which are convenient and serve the needs of the traveling public. The district also provides locations for limited amounts of merchandise, equipment and material being offered for retail sale that are more suitable for storage and display outside the confines of an enclosed structure. Appropriate locations for this district are along heavily traveled arterial street. Development of groupings of facilities shall be encouraged, as opposed to less desirable strip commercial.

Departmental/Agency Reviews:

The following departments and agencies were contacted for review and comments. Note that this table will be updated at the hearing due to reporting information that will be updated in the coming days:

Department/Agency	Reports/ Comments	Status
Engineering	No issues were reported	
Streets/Sanitation	No issues were reported	
Police	No issues were reported	
Fire Department	No issues were reported	
MPO	No issues were reported	
Jets	No issues were reported	
Utility Companies	No issues were reported	CWL
Code Enforcement	No issues were reported	

Conclusion:

The Planning Department Staff finds that the requested zone change submitted for the subject parcel should be evaluated based on the above observations and criteria of Case RZ 23-19 a request to rezone property “R-1” single family medium density district and “C-5” quite zone, to “C-3” general commercial district; the following conditions are recommend:

1. The proposed site shall satisfy all requirements of the City Engineer, all requirements of the current Stormwater Drainage Design Manual and Flood Plain Regulations regarding any new construction.
2. A final site plan subject to all ordinance requirements shall be submitted, reviewed, and approved by the Planning Department, prior to any redevelopment of the property.
3. Any change of use shall be subject to Planning Department approval in the future.
4. The site shall comply with all overlay district requirements.

Respectfully Submitted for Planning Commission Consideration,
The Planning and Zoning Department

Sample Motion:

I move that we place Case: RZ 23-19 on the floor for consideration of recommendation by MAPC to the City Council with the noted conditions, and we, the MAPC find that to rezone property from “R-1” single family medium density district and “C-5” quite zone, to “C-3” general commercial district will be compatible and suitable with the zoning, uses, and character of the surrounding area.

RZ-23-19 REZONING: 915 Southwest Drive
G.S. Brant Perkins is requesting a rezoning from R-1, single family
medium density, & C-5, quiet zone, to C-3, general commercial district.
This request is for 1.47 acres located at 915 Southwest Drive.

Lonnie Roberts (Chair): Next item we have on the agenda, this is a rezoning RZ, 23-19. A rezoning request at 915 Southwest Drive. GS Brant Perkins is requesting a rezoning from R-1, single family medium density, & C-5, quiet zone, to C-3, general commercial district. This request is for 1.47 acres located at 915 Southwest Drive. Do we have the proponent for this item?

Chloe James (Proponent): Hi, my name is Chloe James, on behalf of Mark Cahoon. The property consists of approximately 1.47 acres and is currently zoned partly R-1 and C-5. We are requesting a rezoning to a C-3 classification. Just to give a little background, Mark was an architect here in town and that was the location of his office and he has since retired and moved to Nashville and we are seeking a rezoning to help market the property and to achieve consistent zoning of the parcel.

Jeff Steiling (Commission): Mr. Chairman, Mark Cahoon was my former partner and so I have some knowledge of that property. I need to recuse myself.

Lonnie Roberts: Alright, thank you, sir. Okay city planner do you have the staff comments on this one?

Derrel Smith (City Planner): Yes, sir. We do, we reviewed it. It meets all six of the requirements for approval. So, we would recommend approval with the following stipulations:

1. The proposed site, shall satisfy all requirements of the city engineer, all requirements of the current storm water drainage design manual and floodplain regulations regarding any new construction.
2. A final site plan, subject to all ordinance requirements shall be submitted, reviewed, and approved by the planning department prior to any redevelopment of the property.
3. Any change of use shall be subject to planning department approval in the future.
4. The site shall comply with all overlay district requirements.

Lonnie Roberts: With this being a rezoning request, I'm going to open up to the public is there anyone to give public comments? I think we have one request for speaker.

Patti Lack (Opposed): Patti Lack, 4108 Forest Hill Road and I want you guys, just to give me a second because you're looking at this and thinking what is it? The information that I gave you right there was a FOI request that I made on November 19th, what I asked for in my FOI request was that I had heard that there was some trees that were cut down on that piece of property. I heard that there was a fine and it was a lot of money. All I was asking for was the name of the person and how much the fine was. That was made on November the 15th. I did not hear anything

within the 3 days of the recommended 3 day period, until 15 days, which is really in violation of the FOI law. You asked me why I asked. Well, I heard about these trees from several people from the city and from other people at this location. And the reason why I'm doing it is that I had a meeting with some city employees and I looked at the tree report that were on the property of Savannah Hills, the apartments behind me. And I looked at the tree report and on the one on Phase 5 it said that they only cut down 3 significant trees and I have to tell you guys, I called almost every single day and on weekends for someone to come out there because the trees were coming down but on the report, it showed that, there was only 3. I got phase 6 and 7, which they just had their preliminary plans, not the final plans. And it shows that he wants to cut down 186 significant trees and when you look at the report, I don't know if you've ever seen the tree report is it looks like a little spiral graph, little circles. I did not count 186 significant trees on there. They were just marked on there. So, I thought that if this individual that I heard, got a fine then, we need to really look at Savannah Hills and see if Mr. Pickle is falling into stringent rules and ordinance that we have and he's following them.

Lonnie Roberts: How does it pertain to this development?

Patti Lack: It does. So, the thing is, is that yesterday, I received an email from Bill Campbell and it said that apparently, you have a perception that something that you've made in your FOI request. I have sent you based upon my findings through the conversations through directors, everything that exists in our records. His next email to me was saying that no record is with the city. I have contacted every department that could be involved and find no evidence of a letter. The owner lives out of state. And this is a sentence that I really want you to focus on. His comment was the city has no authority to issue a citation out of state which would explain why we don't have a letter. So, with that comment, I'm assuming that Mr. Campbell says that if an individual lives out of state and wants to purchase property, and wants to rezone property, build a business, or even cut down trees that they don't have to follow any of our strict ordinances or laws. That's just kind of like saying that he can drive through Jonesboro speeding and we won't give him a ticket because he's out of state. I found out that there was another citizen back in January, January 26th, she wrote the city and it was two city council people. It was Derrel, Tony, and Brian saying that it appears that this property has been almost completely cleared of trees. My best bet is that the clearing took place during the weekend of January 12th to the 15th. If you haven't had the opportunity to look at the site yourself, I encourage you to do so. That was on January 26th, on January 27th this citizen received an email from Brian Richardson stating no tree preservation plans or permits were submitted for this property. We are currently conducting an investigation of trees removed from that property that would have been covered under the ordinance. The property owner has been notified and anticipate citations will be issued on completion of the investigation between code and the planning department. There was no follow up until September the 26th when the citizen sent, my purpose of writing today is to request an update regarding the citations and actions that have been concerning on this property. She never got a response. Just like I handed you right there. I showed you what my foyer request was to get, what the citation was and the letter and I received no response. So, the point here that I'm saying to you guys is that if the director of communication wrote me saying that we cannot apply a citation to someone that's living out of state to follow our ordinances, rules, and laws, then, we should not permit any type of rezoning, building permit, or anything because if they can't follow a simple tree ordinance that we have, then why are we granting them the possibility of doing business here. So, my requesting to you guys is that, this is really unresolved and something

needs to be done and it shouldn't be granted until we finally investigate what the situation is and I just want you guys to be aware of that. So, thank you.

Lonnie Roberts: Thank you for your comments.

Carol Duncan (City Attorney): Do you want me to respond or no?

Lonnie Roberts: I was just about to ask who wants to tackle that.

Carol Duncan: I can answer the part about the citation. The city doesn't have the authority to issue a fine. Only the district court can issue a fine. So, if someone violates one of our ordinances, we can file charges against that person. If they're local, we can issue them a citation because we can serve it on them. If they're not local, we can file charges but unless they get served, they never go to court. At which point they can't be fined because only the judge has the authority to issue the fines. So, with him being out of state charges could be filed and they would sit there and after a year, they would be dismissed because of statute of limitations, because we only have a year to get them served because we don't have a way to number 1, go serve someone in another state, and number 2, compel their presence in court and it's the same for a misdemeanor crime. It's not just a city ordinance. If someone commits a misdemeanor crime here and then leaves the state, we don't have a way to compel them back to the state. You can for a felony but you can't for a misdemeanor. So, the analogy to speeding is not correct because they're here personally speeding and if they get caught speeding then they get a ticket for speeding but, and if he were here personally and they found out about it, they could issue him a citation while he was here but they can't force him to come from another state to court on a city ordinance or a misdemeanor, not that this is a misdemeanor but that's just an example. So, I don't know of any letter that was ever issued and certainly no citation was issued because that would have to be issued to him personally and we can't go to, I don't remember what state he lives in but we can't go there and issue that citation. So, I mean the city still has some enforcement ability as the property is developed to require the trees to be assessed back. But it does make it difficult to enforce any city ordinance when you have the person out of state that commits the violation of the city ordinance. But, I don't think there was any letter to give you in response to your FOI.

Patti Lack: Okay. So, there was a violation of our ordinance on there, the trees were cut down stated by Brian on there and so, there was an investigation. So, I'm just saying to you guys is that, once again, if we have these rules and regulations and this gentleman is from Jonesboro and so, why can't we put a lien on that property, on there?

Carol Duncan: A court has to put a lien on the property.

Patti Lack: So, what you're saying is that, so you're out of state. What happens when there's another that he doesn't follow? Does that mean that he can get away with that too?

Carol Duncan: Well, I think it depends on what it is. I mean, this body has the ability to enforce regulations on the development. I don't know that he's planning to develop it. I don't know the answer to that but it does make it very difficult when they're out of state. And it would be anywhere, it's not just Jonesboro.

Patti Lack: Well, I tell you, for that to happen for being out of state. I think, we need to really consider the people that are coming in to Jonesboro that want to make a business here is that if we can be lenient with just simple little trees being cut down, then, once again, they can maybe get away with something else, but I think once again, is that I want to point out to you guys that I made a FOI request and it was violated and I did not get any information from the city concerning this and it would have been really easy to do within that time period. So, thank you.

Carol Duncan: My only response to that is FOIA requires you to provide documents, not answers to questions. Now, whether they should have answered your question or not, it's a different story. I'm not speaking to that. I'm just speaking to FOIA and FOIA only requires the production of a document and if there wasn't a document, there was no way to produce it. There was no document.

Lonnie Roberts (Chair): Would you like to respond that? Were you aware of the issue?

Chloe James (Proponent): I am not aware of any citation but I will say at this point in time no development is planned. He's merely trying to sell the property and of course, any future development will have to adhere to the city's requirements.

Jim Little (Commission): I have a question.

Lonnie Roberts: I was going to open it.

Jim Little: Did the owners of the property take the trees out? Or was it a developer that took the trees out?

Chloe James: I'm not certain on that but Mark currently own the property so, I would assume it would be at his direction.

Jim Little: That he paid to take the trees out.

Chloe James: But I'm not sure. The building was torn down in October of 2021 I believe. And the lot was cleared. But there are no structures on the building at this time.

Dennis Zolper (Commission): Chairman I have a question, just out of ignorance. As an owner, if I have a tree on my property, do I have to have the permission of the city to cut it down?

Derrel Smith (City Planner): If it's more than 7 trees that are 18 inches in diameter or greater.

Dennis Zolper: Well, not my own property?

Derrel Smith: If it's an acre or more and you're taking down 7 or more, 18 inches in diameter or larger.

Dennis Zolper: But typically in the city with lots and blocks, it has to be an acre and a half or greater than an acre?

Derrel Smith: Right, greater than an acre.

Dennis Zolper: Learned something.

(Unable to transcribe)

Carol Duncan: The general rule is if you wouldn't benefit financially or if a close member of your family wouldn't benefit financially from whatever it is. You can recuse, if you feel uncomfortable because of a conflict.

Lonnie Roberts: Any other commissioners questions while Miss Nelson is considering?

Pattie Lack: I think Jim, I think the question for you right there is a really good question is that who is the person who gave the authorization to cut those trees down, and I think in the memo that the other citizen gave in January. It was directed to the two city council people and it was directed to Derrel. It was directed to Tony Thomas and to Brian and that was saying that there was an investigation through code. So, I don't know if that's a question that Derrel can answer.

Derrel Smith: What was the direct question?

Off-screen: The question of who authorized the cutting down of the trees?

Jim Little Commission: My question was who paid to get the trees taken out?

Derrel Smith: We don't know, the owner of the property is the person who had control of it. So someone was hired, I don't know if the owner paid him. We don't know.

Lonnie Roberts: I think just as Mr. Zolper pointed out, I think that the ordinance and the requirement of permission to remove a tree was unbeknownst to a lot of people in Jonesboro. And I'm not saying that, that gives him reason to say hey, I'm just going to go tear my trees down. I'm not saying that he shouldn't be held to the law. I'm just saying, I can see potentially how someone could go tear a tree down and not realize that there was a tree ordinance at that point.

Dennis Zolper: As an adjunct to that, Ms. Lack's been up here enough to know, there's a whole bunch more of rules and regulations to go through. We're just talking about a rezoning right now.

Lonnie Roberts: That's correct.

Dennis Zolper: We're not talking about site plans and compliance with all the ordinances and everything else. And the trees are gone, you can't do anything about that right now.

Lonnie Roberts: So, the landscape ordinance would that?

Carol Duncan: That would require them to put back trees I would assume.

Lonnie Roberts: That's where the development gets re-examined. It would be on the site plan and the landscape ordinance would be applied at that time.

Dennis Zolper: So, it's not really something we can do, All we can do is do the rezoning. Is it gonna be rezoned or not rezoned? Is that correct?

Lonnie Roberts: That's the question for you.

COMMISSION ACTION:

Mr. Dennis Zolper made a motion to approve Case RZ: 23-19, as submitted, to the City Council with the stipulations that were read by the Planning Department:

1. The proposed site, shall satisfy all requirements of the city engineer, all requirements of the current storm water drainage design manual and floodplain regulations regarding any new construction.
2. A final site plan, subject to all ordinance requirements shall be submitted, reviewed, and approved by the planning department prior to any redevelopment of the property.
3. Any change of use shall be subject to planning department approval in the future.
4. The site shall comply with all overlay district requirements.

The motion was seconded by Mr. Kevin Bailey.

Roll Call Vote:

Aye: 5 –Kevin Bailey, Monroe Pointer, Jimmy Cooper, Jim Little, & Dennis Zolper

Nay: 1 - Stephanie Nelson

Recuse: 1 – Jeff Steiling

Absent: 1 – Paul Ford
