

City of Jonesboro City Council
Staff Report – RZ 13-11: Burnett_Thomas Green Rd.
Huntington Building - 900 W. Monroe
For Consideration by the Council on August 20, 2013

REQUEST: To consider a rezoning of a parcel of land containing 1.30 acres more or less.

PURPOSE: A request to consider a an appeal of a denial by MAPC to Council for a rezoning from R-1, Single Family Residential to C-3 General Commercial District, L.U.O.

**APPLICANT/
OWNER:** Chris Burnett, 2810 Church St., Jonesboro, AR 72401

LOCATION: Thomas Green Road, between Church and DanLee Drive.

**SITE
DESCRIPTION:** **Tract Size:** 1.30 acres / 56,764 sq. ft.
Frontage: Approx. 472'
Topography: Gradually Slopes
Existing Development: Residence

SURROUNDING CONDITIONS:	<u>ZONING</u>	<u>LAND USE</u>
North:	R-1	Residential
South:	R-1 C-3	Unimproved Office Building & Storage Warehouse
East:	R-1 C-3 LUO	Retail Store, Service Repair Garage, Office Building, & Storage Warehouse Unimproved
West:	R-1	Meadow Wood Subdivision
Northwest:	R-1	Unimproved

HISTORY: None.

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

COMPREHENSIVE PLAN FUTURE LAND USE MAP

The Current/Future Land Use Map recommends this location as Commercial Node. The proposed rezoning to C-3 General Commercial District is consistent with the adopted land use map.



Adopted Land Use Map

Approval Criteria Checklist- Section 117-34- Amendments:

The criteria for approval of a rezoning are set out below. Not all of the criteria must be given equal consideration by the Planning Commission or City Council in reaching a decision. The criteria to be considered shall include, but not be limited to the following list. Staff has reviewed each and offers explanations and findings as listed in the rezoning checklist below:

Criteria	Consistent (Yes or No)	Explanation
(a) Consistency of the proposal with the Comprehensive Plan	Yes. Plan Update is Pending.	See Land Use Section Above.
(b) Consistency of the proposal with the purpose of the zoning ordinance.	Yes.	Property is currently residential but fronts on a major arterial that has been proposed as a future Commercial Node.
(c) Compatibility of the proposal with the zoning,	Yes, as proposed.	Area is currently residential in nature with a school located just

uses and character of the surrounding area;		south of the tract.
(d) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment;	Suitable.	
(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; (f) Length of time the subject property has remained vacant as zoned, as well as its zoning at the time of purchase by the applicant; and	Minimal detrimental effects. Several years vacant platted property.	Property is currently Residential but highlighted as part of a commercial node on the long-range Land Use Map.
(g) 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.	With a few exceptions the associated impacts are minimal	Additional units (duplexes) would be equal impact if developed as single family and less impact on the potential by-right usage as High Density Multi-family. Common open space, sidewalks, community building, and possible picnic/gazebo area should be provided.



Vicinity/Zoning Map

Findings:

Master Street Plan/Transportation

The subject site is served by Thomas Green Road and Hwy. 141N, Church Street, which is on the Master Street Plan are defined as a Minor Arterial Street for Church St. /Hwy. 141 and a Collector Road for Thomas Green Road. The right of way from the street centerline as shown on the plat satisfies the Master Street Plan recommendations for Thomas Green Road and Hwy. 141.

Other Departmental/Agency Reviews:

Department/Agency	Reports/ Comments	Status
Engineering	Received	Shared access with commercial properties on either side should be required.
Streets/Sanitation	Received	No objection noted.
Police	Pending	No comments to date
Fire Department	Received	No objection noted.
MPO	Pending	Shared access with commercial properties on either side should be required.
Jets	Received	No objection noted.
Utility Companies	Received	No objection noted.

The applicant has proposed a C-3 General Commercial District rezoning. With the limited information there are a number of uses allowed by C-3 that would bring concern of compatibility such as:

- Adult Entertainment
- Off-Premises Advertisement

Staff has alerted the applicant that open-ended possible uses may result in community or neighborhood resistance due to the unknown of impacts. Their preference is to move forward as General Commercial, noting that the adult entertainment business would not pass approval because of the adjacent school.

THE FOLLOWING LIMITED USES ARE TYPICAL ADVISED AS REQUIRING A CONDITIONAL USE APPLICATION / APPROVAL BY THE MAPC:

- Carwash
- Cemetery
- Construction Services
- Convenience Store
- Gas Station
- General and Limited
- Vehicle Repair

The only means of addressing these uses, is contingent upon the applicant's desire to modify the request as a Limited Use Overlay, and by discouraging undesirable uses while giving attention to compatibility on others.

RECORD OF PROCEEDINGS: MAPC Public Hearing Held on July 9, 2013

Applicant: Mr. John Easley, Associated Engineering, presented on behalf of the applicant, representing Mr. Burnett. Mr. Easley stated that he intends to continue to park his truck on the site. He also noted that Thomas Green Road is a collector road as designated on the Master Street Plan.

Staff: Mr. Spriggs presented the staff findings of the Staff Report; noting that the Current/Future Land Use Map recommends this location as a Commercial Node, which would include general commercial uses. The proposed rezoning to C-3 General Commercial District is found to be consistent with the adopted land use map.

Master Street Plan: The subject site is served by Thomas Green Road and Hwy. 141N, Church Street, which is on the Master Street Plan are defined as a Minor Arterial Street for Church St. /Hwy. 141 and a Collector Road for Thomas Green Road. The right of way from the street centerline as shown on the plat satisfies the Master Street Plan recommendations for Thomas Green Road and Hwy. 141.

Departmental Reviews: No objections were made from CWL Utility, Streets, Sanitation, Fire nor the Jets departments. The MPO and Engineering Offices recommended shared access with commercial properties on either side should be required.

Mr. Spriggs stated that the applicant has proposed a straight C-3 General Commercial District rezoning. With the limited information there are a number of uses allowed by C-3 that would bring concern of compatibility such as adult entertainment and off-premises advertisement.

Staff alerted MAPC and the applicant that the open-ended possible uses may result in community or neighborhood resistance due to the unknown impacts. Other uses were read that become a potential issue adjacent to residential:

- Carwash
- Cemetery
- Construction Services
- Convenience Store
- Gas Station
- General and Limited
- Vehicle Repair
-

Mr. Spriggs reminded the Commission that the only means of addressing these uses is contingent upon the applicant's desire to modify the request as a Limited Use Overlay, and by discouraging undesirable uses while giving attention to compatibility on others.

Public Input: 16 persons stood in opposition.

Garry Tate: 2808 Dan Lee Dr.: Appeared before the MAPC noting that he previously served on the Jonesboro City Council. He added that he opposes rezoning this property because of past issues. There have been certain issues with Code Enforcement as stated by Ronnie Shavers. He referred to 500 pages of violation related information. Mr. Burnett exceeds the 1-ton capacity for commercial vehicles in residential areas. Code Enforcement has cited him before for the high grass that sometimes grows up to 2-3 ft. high. He has bush hogged it at times. He has several non-running vehicles that he recently moved inside.

Mr. Tate: We have invested several thousands of dollars of buildings since 1988, before the annexation and we got it approved and inspected by the City, before it was in the City. There are \$250k+ homes in the area. People still call him because he was a previous council member. I have talked to code enforcement concerning this and they had him to bush hog, but its right back to the same thing. It's not a place to be parking a tractor truck. We ask that you have the drainage issues resolved. We would like to see it cleaned up.

Tom Barnes, 210 E. Thomas Green Road. His property runs the entire back line of the subject property. Mr. Barnes noted that they have called to get his yard cleared up. Mr. Barnett only wants to have this property to have the tractor truck parked there. He noted that he has 42 years in the transportation industry. He voiced concerns of his property values.

Mr. Lance. His house has been up for sale a number of times. The yard has been mowed and manicured. Over 12 years, there has been 1- 2 trailers or more in that back yard with junk trailers, junk piles, or cars or old trucks parked in the yard. If the property were rezoned it will give an opportunity to park big cars and bring junk in there.

Mr. Randy Ishmael , 206 Philadelphia: appeared before the MAPC and voiced his concern of over 16 years as stated by the previous proponents. He is not aware of any enforcement that has occurred. It has not been kept up or treated like a residential area. This is clearly all residential with a few exceptions of a small area. The area is mostly owner occupied and well kept. The question of spot zoning was raised. Various surrounding uses were described: Churches, Dacus Fence, Philadelphia School, Nursing Home, etc. Parking of junk and trailers was mentioned. People have big front yards and changing the zoning will open up for everyone to rezone it for a commercial.

Mr. Tomlinson asked for clarification on the Lots 3, 4, and 5. **Mr. Easley:** Lot 1, is where he lives, and it is not for rezoning. **Mr. Tomlinson** commented on his visit to the site, and noted that he would not support a straight C-3 Rezoning, without putting any kind of constraints on the case. Some of the C-3 specified uses are objectionable. He asked if they would entertain a Limited Use

Overlay. With the Limited Overlay District, specific lists of permitted uses are required. The applicant was not in agreement at first; however after deliberation, the applicant agreed to amend his petition to a C-3 Limited Use Overlay District.

Mr. Spriggs clarified: The C-3 Limited Use Overlay shall prohibit adult entertainment uses, off site advertisement, tobacco and liquor sale establishments, carwash, cemetery, convenience store, drive-thru restaurants, and gas station.

Mr. Chris Burnett appeared before the Commission and stated that the property will not be used as a parking spot for inoperable, abandoned trucks and vehicles. He added that he only parks his leased truck there on occasion from another company. He is not home every night and he is gone 2-4 weeks at a time. The alleged vehicles belong to his son and he has obtained a business license with some of his friends to have a business elsewhere. **Mr. Burnett** told the Commission that he is taking responsibility of the property and his son's two vehicles will be gone, now that he is starting a business.

Commission Action:

Mr. Kelton made a **motion** to place Case: RZ-13-11 on the floor for consideration of the recommendation by MAPC to the City Council for the rezoning of this property from R-1, Single Family Residential to C-3 General Commercial District L.U.O. , subject to the Staff conditions. **Motion** was **seconded** by **Dover** who noted that on the basis that the neighbors have a right to appear with the concerns that were voiced, and noted that this is not a good fit for the property and area.

Roll Call Vote: Mr. Reece- Nay; Mr. Tomlinson- Nay; Ms. Schrantz- Nay; Mr. Dover- Nay; Mr. Kelton- Nay; Mr. Scurlock-Nay. Motion failed unanimously with a **6-0 vote of denial**.

Absent were Beverly Nix and Paul Hoelscher. Mr. Roberts chaired the meeting.

Conclusion:

The MAPC finds that the requested Zone Change submitted by Chris Burnett should be evaluated based on the above observations and criteria, of Case RZ 13-11 noted above, a request to rezone property from R-1, Single Family Residential to C-3 General Commercial District (Revise to Limited Use Overlay) should be denied, and forwards this recommendation of denial to the City Council.

Respectfully Submitted for Council Consideration,



Otis T. Spriggs, AICP
Planning & Zoning Director

Site Photographs



East Thomas Green Rd. viewing west toward southeast corner of site.



View of site from 210 East Thomas Green Rd. located east of site.



210 East Thomas Green Rd. located east of site.



Jonesboro Public Schools Math and Science located southeast of site.



Intersection of North Church Street and East Thomas Green viewing north toward site.



Vacant property located at the southeast corner of the North Church St. and East Thomas Green intersection.



Dacus Fence property located at the southwest corner of the North Church St. and East Thomas Green intersection.



Vacant property located at the northwest corner of the North Church St. and East Thomas Green intersection.



2806 North Church Street located north of site.



2810 North Church St. located north of site.