



*City of Jonesboro City Council
Staff Report – RZ 10-13: 5205 E. Johnson Ave.
Huntington Building - 900 W. Monroe
For Consideration by the Council on August 17, 2010*

REQUEST: A recommendation by MAPC to rezone property containing 2.73 acres more or less.

PURPOSE: To rezone a tract of land from R-1 Single Family to C-4 L.U.O. Commercial with a list of permitted use (See Findings Section).

**APPLICANT/
OWNER:** Border Properties, LLC, P.O. Box 59, Jonesboro, AR 72403

LOCATION: 5205 E. Johnson Ave. (West of Oriole Dr.), Jonesboro, AR

**SITE
DESCRIPTION:** Tract Size: 2.73 Acres (118,918.8 sq. ft.)
Frontage: 435.85 ft. frontage on Hwy 49 N.; 156.81 ft. on Oriole Dr.
Topography: Predominately Flat
Existing Developmt: Residence & Shop Building

SURROUNDING CONDITIONS:	<u>ZONE</u>	<u>LAND USE</u>
North:	R-1	Undeveloped
South:	R-1	Single Family
East:	C-4 LUO	Undeveloped Neighborhd Commercial
West:	R-1 Single Family	Commercial

HISTORY: None.

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

COMPREHENSIVE PLAN FUTURE LAND USE MAP

The Future Land Use Map adopted on January 5, 2010 shows this area to be within the Northeast Sector and to be recommended as Planned Mixed Use Area.

Typically, PMUA is a campus-style planned development with multiple uses that are created in separate buildings or within single buildings, sharing a common image and circulation system. The Planned Mixed Use Area is typically located on major arterial streets; where the infrastructure is preexisting or is planned as part of a proposed development. Access management shall be a major priority; consolidated curb-cuts shall be promoted.

Components: The intent of the PMUA is to promote a mix of uses and to discourage single use, and the composition shall be reviewed on a case by case basis by the Metropolitan Planning Commission.

PMUA promotes innovative neighborhood themes having housing choices that will stand the test of time in terms of construction and architectural standards as well as first-class management and maintenance. Consistency is determined with the current proposed change in the zoning to “C-3” L.U.O. if designed in

an orderly fashion taking into account surrounding residential in terms of buffer and screening and incompatible uses are excluded under a limited use overlay or planned district development.

Master Street Plan Review:

The proposed site is located along E. Johnson Ave. which is proposed as a Principal Arterial on the most current Jonesboro Master Street Plan.

Approval Criteria- Section 14.44.05, (5a-g) - 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:

- (a) Consistency of the proposal with the Comprehensive Plan
- (b) Consistency of the proposal with the purpose of the zoning ordinance.
- (c) Compatibility of the proposal with the zoning, uses and character of the surrounding area;
- (d) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment;
- (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
- (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.



Aerial Map/ Vicinity Map

RECORD OF PROCEEDINGS: MAPC Public Hearing held August 10, 2010:

Mr. Gardner, Attorney for the applicant:

Mr. Gardner stated that the 2 tracts that are subject to this rezoning are located on the S.E. corner of Oriole Dr. & E. Johnson Ave. (Hwy. 49N). The property was purchased in April of 2008 and has been on the market since, with a residence and a shed. **Mr. Gardner** made an observation and correction on the application that there is a tenant in that residence who has not moved.

Mr. Gardner added that his client has no specific plans for a specific development and intend to sell the property. As you know the site is located on Johnson Ave. which is a 5-lane highway that is just not suitable as residential; and the highest and best use is commercial and it not feasible to continue to use it as residential.

The property to the east was zoned C-4 L.U.O., and we listed the uses in this application rather than sought the C-3 Commercial District; although other commercial properties are to the west and the Planned District is to the north.

Mr. Gardner: One of the reasons we chose this route was to try to address any concerns of the Wheeler Heights Subdivision residents. We have proposed those uses on the list. If developed as commercial, there are utilities and sanitary sewer which will be extended up from the south and will cross Oriole Dr. The Wheeler Heights Subdivision is on septic and this project will add that benefit. We met with some of the residents last evening. The Staff has recommended approval with certain conditions and the owner is prepared to accept those conditions.

Mr. Hoelscher commented that he doesn't think it is MPAC's position to micro-manage what happens in the development. I spoke with Otis Spriggs prior to the meeting. And, as he put in the staff report, there is a certain logic of encouraging neighborhood development, while understanding we can't dictate having a single development on the site; there are limitations on the density being developed.

Public Input:

Denise Bowman, Oriole Dr. We are opposed to it changing at all; we do realize that things are changing out there because of the new hospital. Most of the C-4 uses listed are businesses we are opposed to except for the medical office or pharmacy. We are opposed to restaurants, a convenience store and a carwash. If you put a convenience store in, you are in our front yards. For some, it will be in their back yard. Our neighborhood is very quiet we were there before everyone. We have little traffic. They will be coming off on Oriole Drive. Convenience stores stay open late it's not what we want. We have lived there for 16-21 years. I would like you to consider that.

Linda Baker, Oriole Dr. I abut to the back of the barn portion of this property. The tenant has been operating a make-shift garage out of that barn. The City recently shut that barn down. There were 10 or 12 vehicles down there a month ago.

We do live in an older neighborhood. Something clean would be good. In anytime he is going to open it back up. He's cleaned that area up a little.

Mr. Steve May (Applicant) stated that the City did not shut it down; I was the one that shut it down. I spoke to Thomas White and told him I would take care of it. The tenant was ordered to cease the business or I would have evicted him. I also had him to get the existing automobiles off the premises. The garage will not be opened back up.

Carolyn Rutherford, Oriole Dr. Stated she had questions about the sewer. It was stated that it will come cross Oriole. We have checked on sewer before it had to come from certain directions we were told. Will it be accessible for us to connect or will we have to come from a couple miles in a different way? **Mr. Gardner** explained that it could be a condition to getting their plan approved.

Mr. Gardner also explained that the traffic flow condition will be addressed per the Staff when the development is brought back to the MAPC.

Ms. Baker had mention the garage use and it is not permitted; nor would it be permitted for C-4. The concerns about the current tenants reopening will not happen.

Mr. Dover commented on the provided list of potential uses. Does the convenience store include a gas station and the underground tanks? Mr. Gardner replied yes.

STAFF:

Mr. Spriggs presented the Staff Report summary. The property to the east was rezoned specifically as C-4 LUO for a funeral home. Access management concerns were voiced for Oriole Dr. which is residential street. The list of requested uses was provided. Staff is proposing that a 20 ft. landscaped buffer be provided between this property and the abutting residential. All new work would not commence prior to site plan review. Lot 29 raises concerns since it faces a residential lot across Oriole Dr. MAPC has the discretion on restricting that lot. **Mr. Hoelscher** gave concerns on the C-4 in terms of lot density we have a lot coverage maximum of 50%.

Mr. White noted that the CWL Engineering Dept. can answer the sewer questions raised earlier. Are there any questions regarding the bill assurance of lot 29?

Mr. Gardner replied that he looked at that through some title work; it was amended to remove lot 29 from the restrictions of that subdivision. A 1982 amendment was provided. It is a fairly old subdivision and they do expire.

Mr. Kelton asked was it verified. **Mr. Kelton** noted that he was thinking it was amended to allow the cable company to put a tower up, and it was converted back to comply with the bill assurance after looking into that.

Mr. Kelton asked if it as possible to modify the list of permitted uses in the L.U.O. and restrict the car wash use? **Mr. Spriggs** noted that the MAPC has that liberty. **Mr. Kelton:** Many times they are unattended and open 7 days/24 hours.

Mr. Gardner stated that removing carwash is acceptable.

Mr. Dover stated that the gas station convenience store is an added burdened with the underground tanks. What is the City's position.

Mr. Spriggs noted that from an environmental standpoint they are regulated by the EPA/ADEQ once they cease to be a gas station they are considered a brownfield, and it becomes an added expense to the new owner. The MAPC can restrict what occurs on Lot 29 in terms of use, as well as hours of operation. Those can be conditioned under the LUO process.

Mr. White reiterated that the convenience store use and hours of operation could be limited by the Commission? **Mr. Spriggs** concurred. **Mr. Gardner** stated that they can drop the convenience store as a use on Lot 29; Carwash was dropped or excluded totally.

Gary Joe Kee, Oriole Drive, noted that he wasn't at the neighborhood meeting last night. He stated concerns about his children and grandchildren's safety and also asked if it is some way to limited this to where it can be 16 hours a day; where it won't be open all night long. My property is adjacent to this piece. Now or in the future that alcohol not be sold there is a concern.

Mr. Scurlock asked about privacy fencing or security fencing within the regulations. **Mr. Spriggs** noted that the code did not require that much detail but it can be listed as a condition.

Mr. Hoelscher asked about buffering along Oriole. **Mr. Spriggs** noted that landscape screening can be conditioned or added by the MAPC to screen vehicular lighting to avoid creating a nuisance.

Mr. Gardner agreed that a privacy fence is reasonable. Site development plans will take the access and screening into consideration.

Mr. Kelton stated that since sitting next to you is residential and a wood privacy fence with a privet hedge doesn't seem unreasonable.

Mr. Steve May concurred and noted he understands and stated he wants to work with the neighborhood. We don't object to a greenspace or fence.

Betty Rogers, Oriole Drive noted that Lot 29 on the corner was smaller in size and the lot won't be used; that's why it was donated to the cable company. The convenience store would be built on the 2 acres where it hits everyone's back yards. All of the property adjoins their back yards.

Mr. Hoelscher questioned whether there are rules preventing any subsequent owner from replatting the site into smaller lots. **Mr. Spriggs** noted they would be limited to the requirements of the C-4 provisions. **Mr. Spriggs** urged the Commission to limit or provide a setback of the convenience store use - 100 ft. away from any residential property. This would promote the convenience store to be placed along Johnson Ave. **Mr. Gardner** and the applicant concurred.

COMMISSION ACTION:

Motion:

Mr. White made a motion to approve and eliminate the carwash use on either lot; that no convenience store be developed on lot 29; that the applicant understands that upon site development approval that MAPC has concerns about the hours of operation; that buffer will be provided during site plan approval; that no garage services now or in the future be allowed and the additional Staff conditions are to be included; that the buffer will be well-defined including the entire residential perimeter, except the frontage on Oriole Drive; access issues will be determined on Oriole Drive during site plan review; that a setback of 100 ft. from residential be provided if convenience store is developed; Buffering will be consistent if the property is ever subdivided. **Motion was seconded by Ms. Norris.**

MAPC recommends approval by the MAPC to Council with a change from R-1 Single Family Residential to C-4 LUO Neighborhood Commercial District with the following stipulations:

1. THE LIMITED USE SHALL INCLUDE ONLY THE FOLLOWING:

- | | |
|---|-------------------------------|
| Animal Care, Limited | Government Service |
| Automated Teller Machine | Medical Service/Office |
| Bank or Financial Institution | Office, General |
| Post Office | |
| Church | Restaurant, Fast Food |
| Convenience Store (Prohibited on Lot 29) | Restaurant, General |
| Day Care, Limited (Family Home) | Retail, Service |
| Day Care, General | Safety Services |
| Funeral Home | Utility, Minor |

2. That all site plans be approved by the Planning Commission with access easement management included on individual site plans with cross access easements. No new work shall commence prior to Final site Plan review and approval by the MAPC.

3. A lighting plan and landscaping plan shall be submitted to the MAPC, including a 20 ft. landscape buffer, including privacy fencing where the site abuts existing residential uses.

4. That the proposed development shall satisfy all requirements of the City Engineer, satisfying all requirements of the current Stormwater Drainage Design Manual.

5. That prior to any issuance of Certificate of Occupancy of new uses, all requirements stipulated by all City, state and local agencies shall be satisfied.

6. That carwash use shall be prohibited and no convenience store shall be developed on existing lot 29.

7. That a setback of 100 ft. be provided between residential, if convenience store is developed; Buffering will be consistent if the property is ever subdivided.

Action: 6 to 1 Vote Approval: Mr. Hoelscher- Aye; Mr. Dover-Aye; Mr. White – Nay; Mr. Kelton- Aye; Ms. Norris-Aye; Mr. Tomlinson- Aye; Mr. Scurlock- Aye.

Findings:

The applicant has requested a C-4 LUO Rezoning for the said property. This area of the City has gained much attention in terms of future planning and has been highlighted as a major growth area. Careful planning of access is a must. Access management policies are advised by staff in order to promote good planning; therefore, multiple curb-cuts should be discouraged.

A lighting plan should be required to demonstrate compliance with the zoning ordinance during the permit process. This will allow for controls and assurance that will protect the abutting residential property to the south. Site access should be implemented with care and cross access easement should be provided to the east property line.

Conclusion

The MAPC and the Planning Staff have reviewed the request and all issues regarding impacts on the surrounding area have been considered. MAPC recommends approval to Council with a change from R-1 Single Family Residential to C-4 LUO Neighborhood Commercial District with the following stipulations:

1. THE LIMITED USE SHALL INCLUDE ONLY THE FOLLOWING:

- | | |
|---|-------------------------------|
| Animal Care, Limited | Government Service |
| Automated Teller Machine | Medical Service/Office |
| Bank or Financial Institution | Office, General |
| Car Wash | Post Office |
| Church | Restaurant, Fast Food |
| Convenience Store (Prohibited on Lot 29) | Restaurant, General |
| Day Care, Limited (Family Home) | Retail, Service |
| Day Care, General | Safety Services |
| Funeral Home | Utility, Minor |

2. That all site plans be approved by the Planning Commission with access easement management included on individual site plans with cross access easements. No new work shall commence prior to Final site Plan review and approval by the MAPC.
3. A lighting plan and landscaping plan shall be submitted to the MAPC, including a 20 ft. landscape buffer, including privacy fencing where the site abuts existing residential uses.
4. That the proposed development shall satisfy all requirements of the City Engineer, satisfying all requirements of the current Stormwater Drainage Design Manual.
5. That prior to any issuance of Certificate of Occupancy of new uses, all requirements stipulated by all City, state and local agencies shall be satisfied.
6. That carwash use shall be prohibited and no convenience store shall be developed on existing lot 29.
7. That a setback of 100 ft. be provided between residential, if convenience store is developed; Buffering will be consistent if the property is ever subdivided.

Respectfully Submitted for Council Consideration,

Otis T. Spriggs, AICP
Planning Director
Planning & Zoning Department

Site Photographs



View of property east of the subject site.



View looking southwest towards site



View looking East along Johnson Ave./Hwy 49.



View looking West along Johnson Ave./Hwy 49.



View looking East of rear property from Oriole Dr.



View looking East of abutting property (to the South).



View looking North of Oriole Dr.



View looking east of frontage along Oriole Dr. and Johnson Ave.



View looking east of frontage along Oriole Dr. and Johnson Ave.