



City Council Agenda Item Report March 19, 2013

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SUBJECT: DELIBERATION AND POSSIBLE ACTION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF BUDA TO CHANGE THE EXISTING ZONING OF INTERSTATE COMMERCIAL/OFFICE AND INTERSTATE RETAIL (C3/R3) TO INTERSTATE COMMERCIAL/OFFICE AND INTERSTATE RETAIL (C3/R3) AND MULTIFAMILY RESIDENTIAL (MFR) ON APPROXIMATELY 20.09 ACRES OF LAND IN THE JOSEPHUS S. IRVINE SURVEY, HAYS COUNTY, TEXAS, BEING A PORTION OF THE 221 DRIVE COMMERCIAL SUBDIVISION.

Updates since the January 15th and February 5th meetings appear in red below

1. BACKGROUND & ANALYSIS

Requested Action:

Owner-initiated rezoning to add Multi-Family Residential (MFR) to the existing zoning of Interstate Commercial/Office & Interstate Retail (C3/R3). The Gateway Corridor Overlay District will apply regardless of zoning.

Existing Land Use and Zoning:

Vacant.

The property is currently zoned C3/R3 with a Gateway Corridor Overlay designation. The Gateway Corridor Overlay designation allows multifamily provided it is on the 2nd floor & above in a vertical mixed use format. The proposed zoning change still allows for this vertical mixed use format, but also allows for a more horizontal mixed use with ground-level multifamily. The reason for the request is that the property owners have not had success in marketing exclusively for commercial uses or vertical mixed use format. The zoning change allows the establishment of more conventional multifamily, albeit still subject to the Gateway standards.

Surrounding Land Uses:

North: Industrial property used for metal fabrication. Zoning is Interstate Commercial/Office & Interstate Retail (C3/R3) with a SUP to allow the continued use of metal fabrication.

South: Utilized as outdoor storage yard for construction/hauling equipment. Zoning is Interstate Commercial/Office & Interstate Retail (C3/R3). This property is expected to eventually redevelop.

East: Sunfield MUD, outside of the city limits but within the City's ETJ and limited purpose annexation area. U.S. Foods is located nearby.

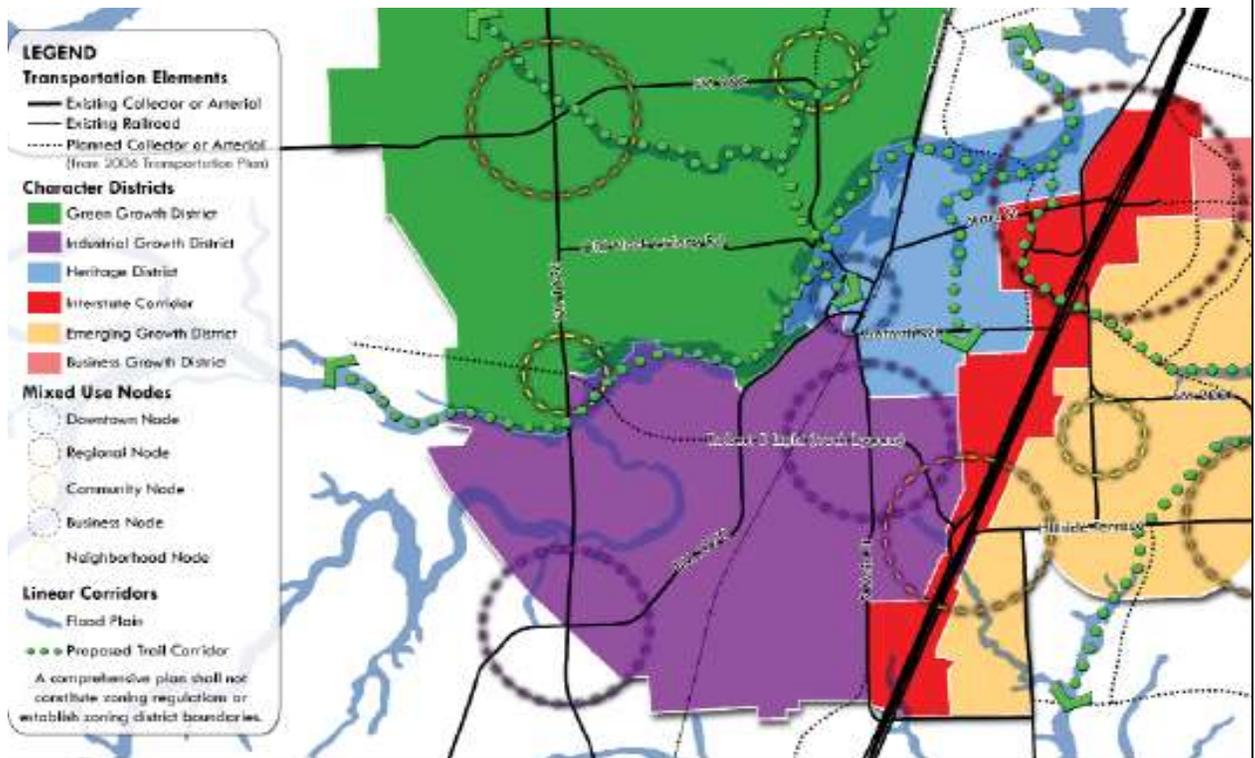
West: Partially-developed as community retail & lodging. Zoning is Interstate Commercial/Office & Interstate Retail (C3/R3).

Normally having industrial next to multifamily would not be preferred. However, the base zoning for that industrial use is C3/R3 in anticipation of future redevelopment, and the metal fabrication does not generate particulates. It does not generate substantial amounts of heavy vehicle traffic; in fact, a commercial project would generate far more traffic than the industrial site or even the multifamily site. It does, however, produce some noise associated with OSHA-required warning systems and reverberation from the fabrication process. This could be an issue given that the facility operates up to 20 hours per day. That being said, multifamily is an entitled use of this property under the Gateway Corridor Overlay District—just in a vertical mixed use format.

The Gateway Corridor Overlay District will apply regardless of the rezoning, bringing with it substantially enhanced design standards.

Comprehensive Plan Specifications:

The subject property is located in the Interstate Corridor and within the Regional Mixed Use Node. Given that this property is located some distance from I-35, its commercial exposure is not as desirable. The commercial growth of this area has been somewhat limited by the lack of residential nearby to drive it. The Regional Mixed Use Node calls for either commercial and high density residential in this area, in a vertical mixed use format or the same in a horizontal mixed use format. This zoning change enables both without pre-empting the possibility of the entire site developing commercially. The owner has indicated that the property has been marketed for seven years exclusively for commercial uses without interest, but has received multifamily inquiries.



Public Utilities and Services

The site is served by Goforth Water for water service and City of Buda for wastewater service. Utility service is sufficient for this site. The property is served by Buda Fire for fire service and City of Buda for police services.

Transportation

The site has access to Main Street and County Road 118, both of which have more than sufficient traffic capacity. This is particularly useful as multifamily is required to have two access points; this site allows a potential best practice of those access points being located on separate roads.

2. FINDINGS/CURRENT ACTIVITY

The City Council tabled action at the January 15th and February 5th meetings to allow time for the applicant to meet with adjacent property owners to determine whether the applicant could make concessions for their concerns.

During this time, staff has facilitated multiple meetings with both parties to determine whether a mutually beneficial solution exists. In addition, staff prepared a comprehensive noise assessment of the property, which is attached for City Council's information.

The parties have determined that a solution may be possible utilizing a deed restriction enforceable by Capitol City Steel. This restriction, as currently proposed, would establish the following parameters whereby Capitol City Steel would consent to the zoning change:

- Establish a 150' setback along the property line for any buildings containing residential land uses
- Construction of a barrier 11' above the finished floor elevation of the nearest building containing residential land uses. The barrier must be constructed as a berm, masonry wall, or combination thereof
- Planting of a vegetative screen to achieve a height of 25', with particular standards if bamboo is used

Staff has determined that these attenuation methods, based on site-verified noise measurements, would clearly result in exterior noise levels complying with noise assessment standards for noise sensitive uses involving government funds for the 1st & 2nd floors of the nearest buildings. It appears sufficient for the 3rd floor as well, but that cannot be definitively determined due to multiple noise point sources limiting ability to ascertain the path length difference for each source. Please see attached memo for additional information.

It is important to note that the City of Buda is not party to these deed restrictions, as it could be interpreted as a 'contract zoning,' a practice prohibited in the State of Texas.

That being said, there is an argument to be made for preserving the subject property for primarily commercial uses along East Main Street, as this arterial is expected to grow in importance as Sunfield develops and East Main Street is extended to SH 45 via Turnersville. The City Council may consider availability/scarcity of commercially-zoned land, current or anticipated, in making its decision.

3. FINANCIAL IMPACT

N/A

4. ACTION OPTIONS/RECOMMENDATION

The City Council may motion to approve, deny or modify the requested zoning change.

The City Council tabled action at the January 15th and February 5th meetings to allow time for the applicant to meet with adjacent property owners to determine whether the applicant could make concessions for their concerns. The Planning & Zoning Commission recommended approval on a 3-1 vote (Strother dissenting) at its January 8th meeting. Strother had proposed an alternative to postpone the request in order to allow the applicant to reconfigure the zoning request, which failed on a 2-2 vote.

5. ATTACHMENTS

Draft Ordinance
Zoning change application with applicant justification
Maps of subject property
Noise attenuation memo and exhibit
Draft deed restriction