

Planning Commission Meeting Minutes
September 16, 2021 @ 5:30 PM
City Hall Council Chambers

Board Members Present: Dr. Phillip Stone, Reed Cunningham, Lekesa Whitner, and Jemar Brown. Jared Wilson, Mike Epps, and Warrick Spencer were absent. City Staff present: Martin Livingston, Community Development Director; Nan Zhou, Planner I; and Julie Roland Admin. Assistant. City Attorney Bob Coler was also present.

Roll Call

Dr. Stone said I am the Chair, and I'm calling this meeting to order of the Commission, and will preside over these proceedings this Thursday, September 16th, 2021. Please note the notice of this meeting was posted and provided to the media 24 hours in advance as required by the Freedom of Information Act.

Let the record reflect that four Members of the Commission are present, and three were absent. Therefore, we have a quorum and can proceed with business before us. Dr. Stone asked all the Planning Commissioners to identify themselves for the recording.

So the first item will be the approval of this evening's Agenda for September 16, 2021.

Ms. Whitner moved approval of the Agenda for the September 16, 2021 meeting and was seconded by Mr. Cunningham. The motion was approved by a vote of 4 to 0.

Disposition of the Minutes of the August 19, 2021 Meeting

Mr. Cunningham moved approval of the August 19, 2021 Meeting; and he was seconded by Ms. Whitner. The motion was approved by a vote of 3 to 0, with New Member Jemar Brown abstained since he did not attend the meeting.

Old Business:

RZC-21-011-00004 – The Planning Commission has received a rezoning request regarding the former Calvary Baptist Church site at 577 N. Church Street (TMS#7-12-01-249.00); from split zoned R-8/B-3 to B-3, General Business District to support an appropriate commercial development consistent with the B-3, General Business District. Owner: CBC Investments, LLC/Agent: Lucas Ward, Gibbs International.

Dr. Stone said I guess I move that we take the item related to 577 North Church Street from the table; and he was seconded by Mr. Cunningham. The motion was approved by a vote of 4 to 0.

Dr. Stone asked Mr. Livingston to please come forward and be sworn.

Mr. Livingston, Community Development Director came forward and was sworn; and he entered the meeting packets the Planning Commissioners had previously received via email; tonight's presentations and slides into evidence as Exhibit A for all of tonight's cases.

Mr. Livingston: Mr. Chairman, Members of the Planning Commission, we have before us is a request for rezoning the former Calvary Baptist church site at 577 North Church Street from split zone R-8/B-3 to B-3 General Business District to support an appropriate commercial development, consistent with B-3 general business district. The owners is CBC investments, LLC. The agent Lucas Ward, Gibbs International. We have not changed the staff report. We did add two items for the Board consideration, and what I will do is go through the public presentation for the Board. We do want to make sure that there's a correction in the staff report. It explains the next steps. So we'll be correct in those next steps.

Mr. Livingston said first, we had an Informational Meeting on Tuesday, September 7th, at 5:30 PM. There was no one in attendance. The meeting notices were sent out to the public within 400 feet of the property. And also notice of the meeting for this public hearing was advertised in the Spartanburg Herald Journal. The Planning Commission meeting tonight, the Planning Commission will have the opportunity to approve or deny or amend the request for rezoning and submit it to, if it's approved, submitted to the City Council for approval. City Council will hold a public hearing on October 11th. At the public hearing, if it is approved, we move on to the Second Reading on Monday, October 25th.

Mr. Livingston: Under state law, if the Planning Commission recommends approval of this application; Staff will schedule the matter for another public hearing and First Reading before City Council to put out a First Reading, then it will go before City Council for a Second Reading. Public hearing will be publicly noticed, typically in the Spartanburg Herald Journal. If the Planning Commission recommends against the application, a negative recommendation will be forwarded to City Council. In this case, a public hearing before City Council will be conducted only if the applicant submits a written request within a two-week period following the Commission's action. Tonight the Planning Commission may act to support or oppose the application with or without changes to the proposal. The Commission could also continue the matter if additional testimony dialogue is necessary. The last meeting, the Planning Commission continued the matter to get additional information. And so we are here tonight to provide additional information for the Planning Commission's and public's consideration.

Mr. Livingston: Again, we looked at these five characteristics, which are included in the staff report. He showed a slide of the location of the property, and again, along North Church Street, Future Land Use Map recommends medium density residential property. The front location is zone B-3. The rear is zoned R-8. And you see the property split zone along with other properties that are split zoned in the area as well. This is the church, the structure of the church. Of those surrounding properties, we have only one residential. And again, this is General Institutional zoning. Photographs of the structure and surrounding properties on Church Street, a single family house, the parking lot, and adjacent vacant lots around the area.

Mr. Livingston: We did request of the applicants, to provide any additional information they would like to provide regarding the potential use of the site. We received this sketch of a potential mixed use, which includes commercial as well as residential on the site with parking in the rear. And so we provided this as part of your packet as information for the Planning Commission to review. Staff also conducted a study of the different zones that were discussed by the Planning Commission to determine an appropriate zoning designation; and what we offer here is analysis of the current zoning and other surrounding zones. Staff did not include GID, which would limit the activity to only an institutional use. And staff also did not look at R-8 Single Family Residential again, because of a couple of reasons. One, the high traffic on Church Street, and two, the limitation to only residential being allowed to be developed. So staff provided current... We broke this up into current proposed option and options. So we looked at the B-3/R-8, which is the current zoning. We looked at the strictly B-3. We looked at B-1. And we looked at DT-5, which is across the street. There are positives and negatives for all of the zoning options, depending on if you were the developer or the community, or an interested party. We provided the square footage of the properties. This is split zoned. So we provided two square footages, the front being 42,000, the rear being 38. These are approximate, very approximate numbers.

These are also approximate and based on the Tax Assessor's information about the acreage of the properties. We've broken that down into square footage. Setbacks. These are the setback required from the property line. For B-3, there are no FARs, which means floor area ratio. Floor area ratio typically in

the zoning ordinance, you will find a floor area ratio designation for a piece of property that says you can only build out 50% of the property. Excuse me. With commercial properties you typically can build out 100% of the property; so you can cover the entire property. But you also have to meet setbacks. You have to meet zoning requirements. You have to meet parking and landscape requirements. So typically that doesn't typically occur. The only location where that may occur is in DT-5, which has zero setbacks. And we provided that information as well.

Mr. Livingston: Uses allowed for the front. B-3 residential in the rear, commercial in the front. But the other three allows a mix of uses retail, residential offices, institutional, and multi-family depending on the property. We took a look at densities; and the way we calculate densities is based on the size of the properties and the zoning ordinance. In the zoning ordinance there are numbers based on the size of the property, whether you can... It's based on the number of units you can build. So for in the R-8 you saw, we said only six units could be built. That's based on the fact that in R-8, this highlighted area, the minimum allowed per dwelling unit is 6,000 square feet per dwelling unit.

Mr. Livingston: So in order to be able to build on that property, that portion of the property would only allow six units. And then when you get down to commercial, it has a little more density, 800 units for B-3, and 1800 units for B-1. So it really drastically reduces the number of units in a B-1. And then all of the setbacks are included here. This is for one structure on the lot. This table is for commercial structures. Can tell if you do a number of units... I'm not sure why it says dwelling units here, but typically these are the setbacks for commercial units. And this is for multiple buildings on a lot. And there's a size limit that limits when you can have multiple buildings on these properties. So for B-1 it must be two acres in order for the property to have multiple structures.

Mr. Livingston: So it's not quite two acres. You cannot have multiple structures if it's re-zoned B-1. I don't think the developer is proposing multiple structures. I think they're only proposing one structure. There you see the floor area ratio of 50%. Only 50% of the property can be built out. So that will be limited. The floor area ratio will be limited. If the size was two acres, now they would have to go back up to the other table in order to build up. You see B-3 and DT5 lumped together. There are no minimum project area required. Here is a density, a little bit more density, for B-3. There are no density requirements in DT zones, which is the Downtown Code-zones. And then there are no setbacks in the DT zones. There are setbacks in B-3. We'll go back to PowerPoint.

Mr. Livingston: So there are open space requirements for each property. There are streetscape requirements in DT5. Again, there are open space requirements for B-1. When it comes to just a single structure, multiple buildings cannot be located on B-1. There's required buffer yard requirements for all of the structures, except for maybe DT5. It has a landscape requirement, street landscape requirement. That property requirement doesn't typically have a buffer yard requirement for DT, but it has for the other zoning types. Some other consideration, maximum height of property. The R-8 has a 35 foot limit. And then as you increase the height of the building, you have to go one foot off the setback. So a 36 foot building would need to be... Let's say a 30 foot setback would need to be 31 feet.

Mr. Livingston: Every foot you increase in height, you have to set back a foot. B-3 does not have any proposed zoning height restrictions. B-1 does, and DT has a maximum six stories. DT5 has a maximum of six stories. Some issues concerning all of these issue requirements. If you continue with the B-3/R8 zone, you could be looking at cumbersome development, cumbersome site plan review process. Multiple buildings is proposed. B-3 can be allowed, but also B-3 allows other uses that you may not want, such as automobile rentals. B-1 has multiple buildings not allowed, but B-1 could be spot zoning, because there

are no other B-1s in this area. DT5 would be allowed, but it will require approval by the DRB, the Design Review Board, which will be reviewing, not only a site plan, but the quality of design. I'll answer your questions, Planning Commissioners.

Planning Commission Questions for Staff:

Dr. Stone: Does anyone have questions for Mr. Livingston. And Mr. Brown, feel free since you kind of missed the earlier presentation. Anything you want to ask to feel like you need to get up to speed, feel free to ask. Let's see.

Ms. Whitner: Martin, this rendering that they provided for you, it does look like just the one building. Are we pretty certain that this is the route that they're going to go, with just the one building.

Mr. Livingston: So we have no idea what route a developer could take to develop the property. Again, once you rezone the property, there are allowed all those uses in that table, the zoning table.

Dr. Stone: So how far... You may not have the zoning map nearby. And I did not look at it at home before I came over here. And I would have the concern about B-1 being spot zoning. Where do you think the nearest B-1 zone is even from this. Would it be further up North Church on the right side, on the east side of the street. Because everything on the west side of the street is DT5.

Mr. Livingston: Yes. Almost everything on the west side is DT5.

Dr. Stone: Meaning going closer to town, everything is... Probably once you get past Wofford, most everything's either GID or in the Downtown Code. And I know, spot zoning for all of us, for our collective thought, it's a bad planning principle at the most. It's not that you want to just design a spot, zone for a specific spot that is in comparison with everything around it. Is it actually illegal.

Mr. Livingston: I don't know that it's illegal.

Dr. Stone: That's kind of what I felt too.

Mr. Cunningham: But, you know, the definition of these various classifications, there are going to be situations where something doesn't fit exactly as you might want it to. And I can envision a situation where you would pick a spot zone to some degree as the best of two bad choices. I mean, there's no way that a zone would meet every block or check every requirement. So if you get to that point, then I think it should be possible, but not typically the standard approach. But the fact that it's not illegal, then it can be considered.

Dr. Stone: The flip side to that is you could just say, this is not in harmony with what the Comprehensive Plan and everything else says for this area. And that's just not going to fit our zoning. And you don't change. As we said last month, rezoning is a discretionary act of Council, depending on how they want to make that work. I don't see anything B-1 anywhere nearby.

Mr. Livingston: So the closest to B-1 might be here, which is in front of the hospital. I think most of that's parking.

Mr. Cunningham asked Mr. Livingston to go back to the comment about the open space and B-1 not possible versus the B-3/B-1. When you say, not possible is that... There was some discussion about the number-

Mr. Livingston said: So, open space would be required, but for multiple buildings, that's not possible-

Mr. Cunningham: Because of the size of the property.

Mr. Livingston: Because of the size of the property, yes. So there are certain things you can't do in B-1 because of size of property.

Mr. Cunningham: So, if it's 2.2 acres, then it would be a figure.

Mr. Livingston: That's correct.

Dr. Stone: I know that one of the concerns was particularly from the next door neighbor. And so the buffering is kind of weighing in my head, as well. And obviously we're required in B-1 and B-3, I'm interested in, will the... in DT5... Which if it were me, I think I'd be encouraging DT5, even though it's across the street because of the purpose of DT5. This is a corridor and when we rezoned the North Side into the Downtown Code, we just didn't reach across Church Street. The staff didn't propose it and we didn't do it. I would actually, I would like that myself, but I'm not going to push that because I think we either do B-3 or nothing. That's my view, but I would be concerned if we went DT5 and there's not a requirement for buffering against an R-8 next door neighbor. That would concern me a little bit. So any other questions.

Dr. Stone: I know we conducted a public hearing last time, but I would always rather air on hearing from people, than not hearing people. I always want to make sure everybody gets heard. So if we don't have any more questions, is the applicant here to say anything. Then we could hear from the applicant if they, if they would like to... Unless anyone has another question for Mr. Livingston.

Ms. Whitener: Yes, so Mr. Chairman, I just want to make sure... Technically B-3 is really off the table since its multiple buildings. Am I reading that correctly.

Dr. Stone said No. They have asked for B-3. B-3 is what is actually on the table.

Dr. Stone: Anybody from the applicant wish to say anything. The applicant did not wish to add anything. Dr. Stone opened the public hearing in case anyone from the public wishes to speak. And when you say your name for the record, if you will sign in, as well.

Alex Evins, the next door neighbor came forward and said I want to give more of an explanation of the pros and the cons. Here's what I'm likely to consider. He said if you went back and looked at the map that Martin showed a little while ago, industry extended all the way down through what is now the Wofford campus and around. When that happened, Danny Morrison, who at that time worked at Wofford came to me and he said, "Let me tell you what we're going to do. We're going to put the Richardson Center across Evans Street, if I could close Evans Street. Here's what our plan is. Here's what it looks like. What are you thinking." And I said, "That sounds great. I think that would be a great

improvement to this area." So Danny says, "Well, would you be willing to come to the City Council and say that." So I came to City Council naive and I came to right here. And this place was packed.

Mr. Evins said: And I stood over there and this lady turned to me. She goes, "Are you for or against." I said, "Well, I think this would be a good project." She goes, "Well you got to stand over there because we're against." So I go to the podium and I said, "Wofford's been a good man and Wofford intends to do this. And I am in favor and I have to go a different way to work every day. So in the rest of my career, but I'm perfectly willing to do that because I know that this will be a benefit to our area." Fast forward to now. What Martin alluded to in response to your question, which is "We have this GID zone. What does that mean." And the answer is it really doesn't mean anything, what it means is that anybody who came here could put whatever development went into B-3 at this site, the site list always build GID.

Mr. Evins said I'm 63 years old, but I suspect that Calvary Baptist Church was there ahead of me. So maybe for a hundred years, it's been GID. My house, next door has been there since 1854, presumably is supposed to be residential. But it's apparently zoned B-3. That's not right either, neither of these two things is zoned properly. I don't have any objection to Mr. Ward's proposal of wanting to develop the project property. But right now, what we're saying is anything that Martin alluded to, it would go on a site for B-3, with 10 feet of buffering. This potential fodder for any developer, maybe not Mr. Gibbs, but maybe just anybody. They sell the property to somebody else long after Mr. Gibbs is gone. And I'm living next to it now. If we come here with a project and they say, "Hey, we'd like to build something of character like Richardson Center." Then I'll be the one standing at the podium saying, "This is a great idea. Let's do this." And I told Lucas that I didn't have any specific objection to anything he said. If they build upon that project, probably after some consideration of really what was in what was included in that density, I would probably be all right with that. This is not going to be Central Park across the street is to Cash Checking Company. It used to be McDonald's and the filling station and BF Goodrich and a former hotel.

Mr. Evins: I understand where I live and I understand Martin's point about the density of the traffic. It is a car route, but we're on the cusp potentially of getting some less dense uses on my side of the road. Now I'd at least the fighting chance at the time that the development comes in to say, "Wait a minute, can we do this. Wait a minute, could be put in a little bit more buffer. This is my residence. And I'd like to see if it would be okay with you." And I promise I'll be most pliable partner, anybody who wants to pave the development, but I know you're going to consider, is the zoning option for a B-3 development. That includes a doughnut shop.

Dr. Stone: I believe that's right.

Mr. Evins: So that's fine. I'm sure it's going to be a great doughnut shop and have no objection to that either. I like doughnuts, but the bottom line is that at that time, you'd like to have an opportunity to know what's going in there and say, "Okay, this would be good. Or if you're going to do that, could you have this consideration or that consideration that is potentially in addition to the restrictions of a B-3 designation. Because the problem with the idea is that B-3 is not the way it should be zoned now. My house should be residential there, and that this property should be GID. I'm not requiring or not asking you to say it should be just GID from now on. I'm just asking for it not to be changed in advance of the plan that somebody is going to actually do. Thank you.

Dr. Stone: Thank you. Anybody else wish to speak in the public hearing.

Mr. Lucas Ward came forward and said he wants to be able to take questions, but I'm hearing response to where we left off with each other last month. The intent here, you seem to call it a legacy asset, wanting to develop a new manner that compliments both college and the corridor. So I guess that's the goal. Mr. Evins is correct. As a free holding property owner, our rights are unlimited in what we want to do with it, unless some outside restrictions are placed on it, but that's the purpose of property rights, freedom of decision to do what we want to do with our property.

Mr. Ward: What we're subject to are the zoning restrictions and conditions placed upon us by the jurisdiction. You all are our jurisdiction in this case. What it would be ultimately at the end of the day, I don't think is the purpose of today's meeting. I think that the zoning is going to be able to drive whether that's a possibility or not, but we're committed to have to go through a Site Plan Review Process with a civil engineer and architect team to make that a reality. But for us to take any further steps; we have to know what this site can be, what is available to us, what will it support. That's the only thing that can further the planning process, and be able to show some more promise, which I can tell you today is again, to develop it in a manner that's going to compliment the college and corridor.

Mr. Ward: The College has a need for parking. You're going to see that this concept has a parking structure proposed. If you were to drive by Wofford at 10:00 AM on a Friday, you're probably going to see 30 or 40 students cars parked on surface from the Senior Village. So, there is a lot of thought being put into this. We are sensitive to the fact that our neighbor's residents, what I can't help is that it's been there for 250 years. And that the City has built itself up around it. There are a lot of places that were once rolling landscape and green grass, and it's a beautiful home. It's a beautiful property and we don't want to disturb it, but I can't help the fact that, Mr. Evin's house is in the center of the city.

Dr. Ward: So, today it would be wrong for me to give any guarantee of exactly what that's going to look like. That's the absolute, best case that I have. Could it be smaller. Yes. Do I think it will be larger. Very much unlikely. But to get much further with this process; we have to know what we straddle here inherited these sets of circumstances and understanding Mr. Livingston's presentation. The facts that I have is that, half of three quarters or two thirds of the parcel is B-3 and the remaining R-8. And I'm just asking for one consolidation over the other, rather than complete deviation and request the variance. What questions would you have with me this month, as opposed to last, that maybe I have better answers to, or more detailed answers to, for us to be able to get to Council in October.

Dr. Stone: Does anyone on the Commission have a question for the applicant.

Ms. Whitner: I don't know that I can even ask this because this is a rendering and I know we're still in talks about what this may or may not become. I know it was mentioned, it could possibly potentially be a grocery store, potentially, right. And that's subject to change. And my only question was, will it be exclusive to the Wofford students or anyone in the community.

Mr. Ward: That's a very good question. While I don't have their endorsement or full participation. We are in talks with the college. My principal has been a benefactor in the college for many years, and it's very important to him personally, while he owns the site that it complement and enhance the student experience. So, yes, the idea here is if we could have an office component, we would make it available to the college, not even necessarily exclusive to the college, because I can't speak for their planning.

Mr. Ward: I also can't speak for the health systems planning, but the idea would make the office component for market. The idea would make the residents for market, not necessarily some... it's not designed to be a student centered concept, it's designed to be available for the broader market. It's not exclusive to anyone in particular. Except for the parking structure. I say that because we would like to make parking stalls available to offer college for long term planning purposes. So for instance, 100 of the 300 proposed stalls would be used by or for faculty, staff and students, or for special events or for basketball games. For our event services require some surplus parking is pretty tightly direct.

Mr. Ward: So what you have was designed in a manner of, to say, we would like to have to be able to promote the idea of parking. We did want an office component. We think that that's something that the city overall is lacking from an availability and supply standpoint. I know that there's been some recent activity, the Montgomery Building, which is fantastic, which you hope fills quickly, but from a Class I office perspective, there really hasn't been anything built or delivered since 2008 or 2009. And that's not correct. And that vacancy factor is real tight.

Mr. Ward: So even if somebody wanted to come in and promote new business, there wouldn't really be some turn-key rate space for that. So I think reasonably, and this is just conservative, but for a 14 to 16 month construction period, I think that we're all but 24 months away from being able to see anything built and what's entailed there. More planning, you're going to be seeing them more frequently, having to go through this process and the jurisdiction to meetings of Council, to where more folks could get heard at that stage, but it's important to address your concerns today. What we can accomplish together to see if this is fit to pass muster for October 11.

Mr. Whitner: Once the decision is made. And I know this is far reaching, whoever your developers may be. Do you think they would consider hiring local talent or MWB to help with the new construction or even the demo.

Mr. Ward: No. Well, I think it has to be whoever's going to be most competitive and do the best job. And the only reason I answered that way is, when I came into the market out of college, I didn't have anybody to start me, but I knew that if I worked the hardest put together the best of both, I'd tend to get a shot. So compete for it. There are no solidified relationships for the design. There's no solidified relationships for the construction. Everything has to be done on its own merit. So everything that you see in front of there is from an architect friend of mine that was willing to work with me to get to something perspective, but we've not formally gone out to any architecture firms. Have visited with some construction companies, but there is nobody that has been, nothing's been formalized from a vendor perspective, it's all over.

Ms. Whitner: Last question. And so no relationship with anyone doing the demo either. Is that correct.

Mr. Ward: Well we've interviewed for the demo, but that's also not been selected. So, if I were to really give you the order of operations that I have for everything here, we're pursuing an abandoned building, a South Carolina Abandoned Building Tax Credit. That's a huge part here. And something that the City Manager, Chris Story really wanted was intent and a commitment to time and a demolition.

Mr. Ward: And I'm trying to demonstrate one half of that right now, the other half is going to come once I know what we can plan for. He was asking for a commitment. I think it was 60 or 90 days after being awarded. If we were deemed tax credit eligible. So I guess we're trying to make this a pad ready site,

that timeline consolidates for me considerably, if we could present something with the form for the City, which is what he's asked for. So trying to conform to that.

Mr. Ward: And if we were unable to do a project there, we still think that B-3 is the most marketable zoning designation, frankly. To address Mr. Evins, if we had to close our doors after 50 years of business and, sell everything, we still think that for overall, from the City's perspective, that the highest and best use of the zoning designation can promote a wide variety of uses that would bring that out in the corridor and in the community.

Ms. Whitner: I have one more question, I'm sorry. And you may not be able to answer. It may be a question for Martin. Are you aware if this is an opportunity zone.

Mr. Ward: That's a great question. It is in an opportunity zone. From the census track designation of things, in the last I checked for this year, I believe it to be.

Mr. Whitner: Thank you.

Dr. Stone said All right. Thank you, anybody else. There was nothing else; and he closed the public hearing; and said they would move to Board Deliberation.

Planning Commission Deliberation:

Dr. Stone said so for me, the problems that I have, however we got here, and I absolutely believe Mr. Evins that, that church property was probably GID some years ago. I suspect probably in the 1980s, there was some large citywide rezoning and this was before any of us were, well, any of us were on this Board or working for the City, because there were some other weird things that we've had to deal with. It makes no sense that the Evins-Bivings House, an 1854 house, would have gotten a commercial zone laid on half of it. I suspect what happened was somebody went down an arterial street like Church Street and said "Everything, X feet back; we're just going to apply B-3 to it," which may or may not have been appropriate, but it was probably what some comp plan came up with, which is why you have that strip through there. I can tell you historically, North Church Street, even as probably as late as 60 or 70 years ago was a lot of housing. Was a lot of large houses, nothing quite as nice as the Evins-Bivings House, but a lot on the other side of Church Street.

Dr. Stone said maybe on the other side of Church Street, the house that was next door to Second Presbyterian, a lot of homes like that along Church Street. The street has changed, it is a business corridor now. And I do think leaving that split zoned is not appropriate. And after hearing from Martin, I don't think B-1 is appropriate. I have concerns about B-3 just because it does allow... I'm generally for density, but it does allow a lot of density. And as the City Attorney told us last month, we have to consider that once it's rezoned, it's rezoned. And anything can go on. And so I do personally, as I said, I kind of liked DT5. I can see where the developer would not necessarily like DT5 because there're extra hurdles there that require going through DRB. I'll tell you personally, I don't think that's such a bad thing because it adds a layer of review and it doesn't involve us, which is even better as far as I'm concerned. So I've just basically blurted out everything I'm thinking, and I don't know what I think we ought to do.

Mr. Cunningham: Well, I think that we need to make the decision here now based on what we know and see rather than speculating what might happen down the road. You know, I think our task is to look at

the request before this Commission and try to move it in a direction to support the growth of the city in a fair and equitable manner, as well as within the comprehensive plan. I very much appreciate Mr. Evins' comments concerning his home place, but what I don't know, and I'm not privy to, and nor is at any of my business as to what the future direction of that property, as to what may happen to it, where it might go, will it be a residence for the next 150 years. I had a home place that was on South Church Street that ended up being demolished in favor of building a Social Security office. And so I understand the impact of losing one's home place, if that was not your intention.

Mr. Cunningham: I think the developer's presentation and the tone seems to be very supportive of a common solution. I think including potential parking for Wofford and other residential units, although not designed as student housing, but there are many students that own housing in adjacent streets or neighborhoods to where they go to school. I think that would be a valid business approach. And last thing is, I mean, one might say, once it's done, it's done, and B-3, and the next person can put this, that and the other. But I think there could be some site plan reviews. There would be some review of anything to be built there and that if we wanted to add a requirement to the plan, it might be possible. But I think of the choices on the table. I am supportive of B-3.

Ms. Whitner said after hearing the presentation from staff, Mr. Ward, Mr. Evins; thank you all for doing the extra leg work. I'm in favor of DT5. I just think that extra layer of review helps support everyone at the table, as well as your staff Mr. Evins. You want to make sure that everyone's presentation is taken into consideration beyond us as well. And in good conscious, I just think that's the best zoning code for this is and most supportive of all.

Dr. Stone asked New Board Member Jemar Brown if he had any comments.

Mr. Jemar Brown said I would first like to thank both of you for being here tonight, and of course I agree with Mr. Cunningham. I understand that that is your home, and that is certainly something for this Board to consider the fact that that is your home. I also would like to say that I think as it relates to making a decision tonight, I being the newest Board Member, was not sure if I could legally render a vote.

Dr. Stone: So, we are all over place, which is honestly kind of, if you want to know the truth, what I expected. The way I count, even if I voted to approve it at DT3, that's only two votes. Sorry, DT5. I'm sorry. I'm sorry. B-3, I confuse the two. I'm sorry, thank you for correcting me. Even if we got two potential votes for five, or for three, two potential votes for five, we don't really have consensus. And this is what I was afraid of when I found out we didn't have three of our members, and I hate to stretch it out for the developer another month, but I kind of... I don't know that we're going to have the... Well, we've gotten more information, but we still have one person who needs more information. So I'm afraid we may have to continue it for another month.

[Editor's Note: There was a good bit of discussion as to whether to try and continue the matter before a Special Called Meeting or wait until the next Meeting of the Planning Commission].

Mr. Jemar Brown asked would he be able to vote on the matter as a New Board Member.

Ms. Roland said he would be able to vote on the matter; as far as she was aware the only matter he could not vote on was the previous month's meeting minutes that he did not attend the meeting; and she asked Mr. Livingston his thoughts.

Mr. Livingston was not aware of any reason why Mr. Brown could not participate in the vote.

Dr. Stone said we don't have to have our official training before we can vote. I voted before I had mine, although I also transferred from another Board. Well, I don't think we're going to get... And frankly, we did have other members of the Commission. Even though they couldn't be here tonight, they were interested. And I think their opinions would make for a more solid decision going forward to City Council. And the other thing is we are in a chicken or the egg situation. That's the other thing, is everybody wants as much information as they can get before voting. The developer can only produce so much information based on which regulatory framework we're under, whether it's one, three or five. And I don't think one's an option just because of spot zoning.

Dr. Stone moved to continue the request to the next meeting, or whenever they could get it scheduled. And we can try in a few minutes to schedule another meeting if we need to schedule an extra meeting. The motion as seconded by Ms. Whitner. The motion was approved by a vote of 4 to 0 to continue to another meeting.

Dr. Stone said he regrets that we couldn't come to a decision, but I did have that fear at this point without a full Commission here.

Mr. Ward asked what feedback the Planning Commission would suggest he bring to a next meeting; because at the last meeting it was please present a conceptual design and direction.

Mr. Cunningham said I don't know that there's anything that we need. If you change this, I'm not sure it's the question. The question is whether the B-3 is the correct reclassification for the future, forgetting you and forgetting Mr. Evins. Other words, as far as the City Planning goes; is that what we feel is the highest and best use of that property. I have no doubt that you and your neighbor will come to an agreement. And if Mr. Evins said, look, could you do this. I get the feeling that you would do everything you could to make it a blend of the two interests. So I don't know of any other question I would ask them.

Ms. Whitner had a question for Mr. Livingston regarding densities regarding multiple buildings in a B-3 and B-1 district.

Mr. Livingston explained.

Ms. Whitner said this may change my decision. On this analysis zone, where it's under the DT5, my question is under density. Where it says not applicable, does that mean that no units could be... What does that mean to us.

Mr. Livingston said: That means density is... Under DT, density is not applicable, meaning it can produce as many units as possible in the DT zone based on the stories and the land size.

Mr. Whitner said: I change my mind.

Dr. Stone: You want to reconsider.

Ms. Whitner: I really want to. Now that I know that, I thought that... Okay. Yeah, I would love to-

Dr. Stone: Okay. So I move that we reconsider our decision to postpone this matter to the next meeting. All in favor of reconsidering that motion. Aye. Any opposed. All right. So the question back before us, are you ready to vote on a zone. You want to go with the zoning then.

Ms. Whitner: I do. And now that I've got more clarity, I should've asked earlier. I'd like to go with the B-3.

Dr. Stone: B-3. All right. So, would someone like to move to approve the petition as presented to B-3.

Mr. Cunningham moved to approve the request as presented to B-3; and he was seconded by Ms. Whitner. The motion was approved by a vote of 4 to 0; that the Planning Commission recommend the request favorably to City Council as requested at B-3.

Dr. Stone said the Commission would move on to the New Business.

New Business:

- 1. The Planning Commission has received a rezoning request for a property located at 1631 John B. White Sr. Boulevard (TMS#6-21-13-056.00); from zone R-15, Single Family Residential District to B-3, General Business District to support the development for use as a Shipley's Donuts; from Brian Hammond, NAI Earle Furman, Agent; on behalf of Applicant Clint Larkins, on behalf of James V. Smith, Property Owner.**

Mr. Livingston said the project site is an approximately 24,750 square foot lot located at 1631 John B White Sr. Blvd with John B White Sr. Blvd to the north boundary. The purpose of this rezoning request is for the applicant to develop the property for use as a Shipley's Donuts, a regional restaurant chain based in Texas with over 300 locations nationwide. This property is currently zoned as R-15 (Single Family Residential District). The proposed project site is consistent with the commercial uses across the street and its left-side adjacent properties. The property adjacent to the project site on the right-side is a one-story structure for office use (a medical office), both properties to the left-side of the project site are for commercial use (restaurant). The properties across the street from the project site are zoned B-1 (Neighborhood Shopping Center) for commercial uses.

The western section of the John B. White corridor, between Erl Drive and the city limits, is characterized by mixed uses and a patchwork zoning pattern. More general commercial type activities are located to the south section of the corridor. Activity in the corridor is of such intensity that it would be unreasonable to prohibit the conversion of the remaining residential units into a use that is more consistent with high traffic counts and surrounding commercial and office development. The City's practice of allowing office and institutional land uses to the north of the roadway, while allowing more intense commercial activities to the south, appears to work. Residential neighborhoods are located further off the corridor to the south than to the north; therefore, general commercial development does not produce undue impacts.

The agent, Clint Larkins, would like to develop the site and obtain a zone designation of B-3 (general Business District) in order to accommodate a commercial use for restaurant as a Shipley's Donuts.

REQUIRED FINDINGS

Historically, the City of Spartanburg has required rezoning applications to meet certain criteria and the Planning Commission must make the following findings of reasonable conformance in order to recommend a change of zoning:

Staff offers the following analysis relating to each of these required findings:

ANALYSIS OF REQUIRED FINDINGS

The Zoning Ordinance enables Council to change the Zoning Ordinance or Map following public notice and hearing. The Planning Commission reviews and recommends action on proposed zoning changes at its regularly scheduled meetings. The following comments are based on established criteria:

1. **Consistency (or lack thereof) with the Comprehensive Plan** – The 2004 Comprehensive Plan Future Land Use Map has the subject parcel listed as General Activity Center. The Future Land Use map and the Comprehensive Plan are consistent in its determination on the future use of the property for General Activity Center uses. Thus, the proposed use would be consistent with the Comprehensive Plan and the Future Land Use Map.
2. **Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood** – The present characters of the adjacent properties are commercial and office uses in nature, commercial uses (B-1) across the street, and residential use (R-15) at the back. The proposed zoning will be conforming to the commercial and office uses across the street and its adjacent properties but noncompliant to the residential character at the back of the proposed site.

B-3 (General Business District) serves several functions. The designated General Business Districts provide central concentrations of goods and services for more than one neighborhood. They provide comparison shopper's goods, convenience goods and services, specialty goods, amusements and numerous services for less than a city-wide market. They also provide locations for small businessmen with a city-wide market who cannot operate in the downtown areas. The predominant purpose of all these functions is retail trade.
3. **Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment** – If the zone change is granted, the proposed use would require a Site Plan review process prior to any construction and commencement of use. This process allows City staff to provide feedback on the proposal site plan, ensuring that all site requirements are met (setbacks, landscaping and buffering, parking, etc.).
4. **Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment** – The marketability of the property would likely increase with the zoning change for the proposed use of restaurant. The proposed zoning change will allow for commercial uses, office/institutional uses, and residential uses.
5. **Availability of sewer, water and storm water facilities generally suitable and adequate for the proposed use** – Both water and sanitary sewer services are available to this site. The site will be reviewed by City staff during the Site Plan review process including, Planning, Building, Water, Streets and Stormwater, for compliance with applicable regulations.

STAFF'S ANALYSIS & RECOMMENDATION

According to Section I Adoption and Interpretation of the City Of Spartanburg Zoning Ordinance, § 105 Purpose, "The purpose of the zoning ordinance is to implement the land use element of the comprehensive plan for those purposes set forth in S.C. Code § 6-29-710." This S.C. Code section states that the "Zoning ordinance must be for the general purposes of guiding development in accordance

with existing and future needs and promoting the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare” of properties inside the City Limits.

One of the reasons for the Comprehensive Plan and City Zoning Ordinance is to have zoning classifications that allow certain uses in conjunction with adjacent properties that may be considered “less intense” uses. For this reason, the purpose is to protect the less intense uses from adverse impacts on their property with regard, but not limited to, noise and/or light pollution, traffic congestion, and any other adverse impact that a higher intense use could cause on a surrounding less intense use. Based on the above findings, staff recommends the proposed property be rezoned from R-15, Single Family Residential District, to B-3, General Business District, even though staff would favor a less intensive use of B-1 zone designation.

WRITTEN PUBLIC COMMENTS

Notices were sent to property owners within a 400 ft. radius of subject properties. 22 Notices were sent regular mail and 4 were mailed certified mail. A community meeting was held on Tuesday, September 7, at 5:30 PM at the City Council Chambers to discuss the rezoning request, comments, and concerns.

FUTURE PROCESS

Under State law, if the Planning Commission recommends approval of this application, staff will schedule the matter for another public hearing and First Reading of Ordinance by City Council on October 11, 2021. If the matter receives First Reading approval, it will then go before the City Council for a Second and Final Reading on Monday October 25, 2021. The public hearings will be publicly noticed.

If the Planning Commission recommends against the application, the negative recommendation will be forwarded to the City Council. In this case, a public hearing before the City Council will be conducted only if the applicant submits a written request within a two week period following the Planning Commission’s action.

On September 16, 2021 the Planning Commission may act to support or oppose the application, with or without changes to the proposal. The Commission could also continue the matter if additional information, testimony or dialogue is deemed necessary.

Mr. Livingston then showed slides in order to better illustrate the request.

Planning Commission Questions for Staff:

Dr. Stone asked Mr. Livingston in the staff’s analysis you recommend approval at B-3, even though the staff would favor a less intensive use of B-1.

Mr. Livingston: Yes.

Dr. Stone asked if he would explain.

Mr. Livingston: So B-1 probably will accomplish the goal of restaurant uses. Again, as we explained in the previous presentation, B-3 tends to be more intensive uses. And on this corridor, there are primarily restaurants that are accommodated by B-1 zoning. We were not sure when we prepared the staff report if staff can make a recommendation for a different zoning classification.

Mr. Livingston: We did ask the City Attorney if that's even possible. He said you can make a recommendation that is different from the applicant's request. However, it's certainly the Planning Commission and City Council that makes the final decision.

Dr. Stone: So even though the petitioner asked for B-3, we have a right to recommend it up to City Council at B-1.

Mr. Livingston: Yes.

Dr. Stone said All right. Any other questions for Mr. Livingston.

Mr. Cunningham: Now I would think that I would appreciate staff recommending another classification if, after your analysis, you came to that conclusion. I mean, in lieu of saying you would favor, and I get the feeling that you think B-1 is a better classification for this property, for this specific use, and this corridor is becoming quite commercial; so the next property owner can request the next classification if they have a different business desire that B-1 wouldn't accommodate. Now I think that I would look to staff and appreciate staff rendering your valid opinion and showing what was requested but why you feel it was incorrect. I know that you do meet with developers and work out to some degree what might be the best, but I think that's what we would look to you to do.

Dr. Stone: And I would echo that as well. You're the professional in this business, although looking at the map, I had that question. I mean, it's not spot zoning because there's something right over to B-3.

Ms. Whitner said I'm going to echo their same sentiments around it. You all are the experts in this market. It just makes sense to do that, to do B-1.

Mr. Cunningham said there are two restaurants in the building. I think Five Guys is on one end, and there's something else on the other.

Dr. Stone: I mean, I know we're going to hear from the applicant as well, but you believe that... And that was my question is there's no reason a donut shop or probably any other restaurant couldn't be in a B-1.

Mr. Livingston: That's correct. Generally restaurants are classified in B-1, B-3, and other non-commercial dwellings.

Dr. Stone: And I guess then we should hear from the applicant, and since this is sworn testimony, for the applicant, I will swear you in. If you will swear to tell the truth.

Clint Larkins, Applicant; and Brian Hammond, NAI Earle Furman, Agent were sworn.

Brian Hammond: I'm with NAI Earle Furman, actually the case is fairly straightforward. It's a very commercial zone, and I think it's going to continue to be that way. Obviously, Popeye's and Starbucks are both right across the street. Five Guys has B-3, I assume, for the multiple tenants; so really not asking for a lot of bending or a lot of stretching here. It's probably not going to be residential use in the future, and so hope that you will work with us. Shipley's Do-Nuts is out of Texas. I've actually spent some time, and I've had Shipley Do-Nuts when I was out there working. They got great donuts. They got a great product. It's going to be a family-type atmosphere, no alcohol.

Clint Larkins: Yeah, I would just say this is my first time being here before the Commission; so I'm definitely learning as I go, but I appreciate you guys' time and consideration. And like Brian said, I live here in Spartanburg. Me and my dad and my brothers are partners on and hopefully opening a few of these in the area. I grew up in Greenwood, and we're actually about to open one in Greenwood. Hopefully in the next month, construction will be done.

Dr. Stone asked if there were any Commission questions for the Applicant.

Ms. Whitner said as always, we need to consider hiring local talent to help with the redevelopment and the building of the structure. That's really my question, as always.

Mr. Larkins: Absolutely.

Mr. Hammond: Yeah. Well, being both from Spartanburg, I mean, their family is from here too, so I mean, I'm local, so it's not an out-of-town deal.

Ms. Whitner: Thank you, and thank you for being vested in Spartanburg as well.

Dr. Stone asked were there any other questions.

Dr. Stone said I guess I would ask, do you think you can make this work with the B-1 instead of the B-3.

Mr. Hammond: Well, I think so. I mean, we're talking about a restaurant space. Little Caesar's is B-1 right adjacent to us, so I would assume that there won't be any restrictions. We're not looking to do anything else.

Mr. Larkins: Yeah, this is the only use I have for it.

Dr. Stone said yeah. We just wouldn't want you to suddenly become a donut and oil change, a different kind of oil change. All right, thank you very much.

Brian Hammond: All right.

Dr. Stone said: All right, I will declare a public hearing. Anybody who wants to say anything may come up and say something. Seeing none, I'm going to close the public hearing.

And we will now move into Board Deliberation, which may end up needing to include an amendment.

Dr. Stone: I mean, for me, a rezoning to a business classification is a no-brainer. This is absolutely a business corridor. I mean, you live on that side of town, right. It's absolutely a business corridor, and everything around it is B-1, except for that one thing, which I just think is a legacy of something else. So I'm certainly in favor of the rezoning to B-1.

Mr. Cunningham agreed.

Dr. Stone said I guess someone just needs to move to recommend it as B-1 instead of B-3.

Ms. Whitner moved the request be recommended to B-1 instead of the B-3 zone; and she was seconded by Dr. Stone. The motion was approved by a vote of 4 to 0.

Dr. Stone said it will be sent to Council with a recommendation of B-1.

Site and Landscape Plans Approved since the August 19, 2021 Meeting:

1630 John B. White Sr. Boulevard – Starbucks and Popeye’s.

City Council Updates (FYI) since last Meeting of Planning Commission on August 19, 2021:

8-23-21: (Second Reading Approval) re 300 Aden St (TMS#7-11-08-150.00); 349 Preston St. (TMS#7-11-08-150.00); 604 Star St. (TMS#7-11-08-158.01); & 170 Arch St (TMS#7-11-08-158.00) zoned DT-4 to DT-4.

Staff Announcements:

Dr. Stone welcomed New Planning Commissioner Jemar Brown.

Dr. Stone said there was something very unfortunate that happened this past Tuesday night.

Mr. Livingston: On Tuesday night, we were supposed to have our open house regarding the Plan Spartanburg Comprehensive Plan. And unfortunately, the computer systems of our consultants were hacked, which resulted in very negative, very racist and sexist comments being made online. There were at least 50 people online. There were consultants who lost control of their computers, so we are going to be rescheduling that event. We are saddened, dismayed, disgusted, and disappointed by the comments that were made and by the images that were shown. We are attempting to reschedule. This time, the city would have control and place some additional securities. I will be changing some of my Zoom securities due to the recent attacks, cyber-attack, on that presentation as well.

Mr. Livingston: So I regret to inform you that we are rescheduling that. Hopefully, we're shooting for a date of September 28th, which is a Tuesday, at 6:00 PM. And we'll have links and information hopefully by next Friday. By Monday, we'll be sending that out to each of you.

Dr. Stone: Thank you for the update. And I was in the Zoom when the Zoom bombing happened, and I know Commissioner Willard Spencer was there. I was kind of watching who was in there, and it was pretty bad, not the city's fault. And I mean, I kind of took insult myself, and I'm proud to have received it because it may have happened because I know a lot of... I'll just say I felt particularly badly for the members of our African-American community, because I can't imagine how insulted they must've felt. Speaker 4: And I know that was most unfortunate, and I'm sorry that that happened. But we will move on, and I look forward to the unveiling, and I hope all of you will register and attend on the 28th, if that's when it happens.

Mr. Livingston: Yes. We also will be having some additional online as well as in-person activities October 7th through 9th, and we'll probably be announcing those next week as well, and we'll have also additional smaller venues for conversations with smaller groups as well.

Mrs. Roland also welcomed Mr. Brown to the Commission. She said everybody else on the Commission who are regular members have either taken their 2021 continued ed. or are in the process. There's a Jeff Shacker Continued Ed Training attachment; and it will be held in Greenville, SC on October 27th. Even the members that have taken their training... The new board member, if you want to take that, you can, but realize you still have to have your regular required six hours training during the year. I'll work with you on that.

Dr. Stone asked if there was anything else.

Mr. Cunningham: I have a question.

Dr. Stone: Yes.

Mr. Cunningham: This attachment or inclusion lists the Planning Commissioners with data. What is required by law that has to be published.

Ms. Roland said we don't publish or divulge any of that. We've told by the City Attorney and City Clerk that we do not give out any of that information. I don't know what's required, but I just have that for y'all's information for-

Mr. Cunningham: Yeah, that's fine. The last thing I want is a call from someone in anticipation of a meeting here, and I've had that on two issues from people, some I knew, which was a bit more irritating than ones that I didn't. But on the first incident, my home phone recorder was filled with messages, some interesting and some quite unpleasant. So I prefer that this information be controlled and not published as part of the public record. Speaker 7: I don't mind if the Commissioners have my contact information, but John Q. Public can look me up just the next person if they want to try to find me.

Mr. Livingston: No, we didn't provide that information.

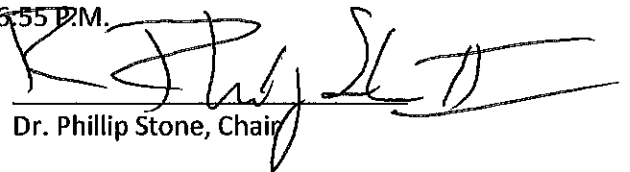
Mr. Cunningham: It's not hard to find somebody's phone number, even their cell phone number, today. So I'm just saying whatever you can do to not put this on the city's website.

Ms. Roland said well, normally, names, although it hasn't kind of been updated in some time, but-

Mr. Cunningham: Whatever is required, for instance, in the city ordinances, here are the City Council members. That's fine, but the least, the better is all I'm saying.

Dr. Stone: Yeah, the fact that we're members is a matter of the public record, but I can absolutely understand. And anybody can dredge up our phone numbers. Anyway, yeah, I can see where we wouldn't want all of our contact information out to the world to see. Any other business. So I'll entertain a motion.

There being no further business the meeting was adjourned at 6:55 P.M.



Dr. Phillip Stone, Chair

Minutes edited by Julie Roland