

St. Charles Parish Department of Planning & Zoning

LAND USE REPORT CASE NUMBER: PZR 2017-06

GENERAL APPLICATION INFORMATION

- ◆ **Name/Address of Applicant:** Paul J. Hogan, PE Councilman-At Large, Division B **Application Date:** 1/16/17
- ◆ **Location of Site:**
13840 Old Spanish Trail
- ◆ **Requested Action**
Rezone from M-1 to C-3
- ◆ **Purpose of Requested Action**
"The rezoning is reverting back to prior rezoning that existed prior to the M-1 zoning."

SITE – SPECIFIC INFORMATION

- ◆ **Size of Parcel**
Approximately 18- 21.7 acres
- ◆ **Existing Land Use and Zoning**
M-1; the property is under a cease and desist order; the use was support work for a tree service including tree processing and burning.
- ◆ **Surrounding Land Uses and Zoning**
R-3 to east vacant; C-3 to south, abuts railroad; C-3 to north and west, vacant.
- ◆ **Traffic Access and Parking**
Pit Road, Old Spanish Trail.
- ◆ **Plan 2030 Recommendation**
General Commercial: The General Commercial category includes sites for commercial uses that provide a mix of business activities and that serve the community as a whole. These uses provide for comparison shopping and services which are ordinarily obtained on an occasional rather than daily basis. In general, this designation applies to most commercial uses that are permitted in the C-2 (General Commercial—Retail) and all of the uses permitted in the C-3 (Highway Commercial) zoning districts.

APPLICABLE REGULATIONS

Zoning Ordinance, Section IV.9:

Rezoning Guidelines and Criteria: Before the Planning & Zoning Commission recommends or the Parish Council rezones property, there should be reasonable factual proof by the proponent of a change that one or more of the following criteria are met:

1. Land-use pattern or character has changed to the extent that the existing zoning no longer allows reasonable use of the proponent's property and adjacent property. Reasonableness is defined as:
 - a. Land use the same as, or similar to that existing on properties next to, or across the street from the site under consideration.
 - b. Consideration of unique or unusual physical or environmental limitations due to size, shape, topography or related hazards or deficiencies.
 - c. Consideration of changes in land value, physical environment or economic aspects, which tend to limit the usefulness of vacant land or buildings.
2. The proposed zoning change, and the potential of a resulting land use change, will comply with the general public interest and welfare and will not create:
 - a. Undue congestion of streets and traffic access.

- b. Overcrowding of land or overburden on public facilities such as transportation, sewerage, drainage, schools, parks and other public facilities.
 - c. Land or building usage which, is, or may become incompatible with existing character or usage of the neighborhood.
 - d. An oversupply of types of land use or zoning in proportion to population, land use and public facilities in the neighborhood.
3. The proposed zoning change is in keeping with zoning law and precedent, in that:
- a. It is not capricious or arbitrary in nature or intent.
 - b. It does not create a monopoly, or limit the value or usefulness of neighboring properties.
 - c. It does not adversely affect the reliance that neighboring property owners or occupants have placed upon existing zoning patterns.
 - d. It does not create a spot zone, that is, an incompatible or unrelated classification which would prevent the normal maintenance and enjoyment of adjacent properties.

Zoning Ordinance, Section VI. C. IV C-3. Highway commercial district—

1. Use Regulations:

- a. A building or land shall be used for the following purposes.
 - (1) All uses allowed in the C-2 District.
 - (2) Commercial auditoriums, coliseums or convention halls
 - (3) Retail manufacturing
 - (4) Motor vehicle sales and service
 - (5) Wholesale uses
 - (6) Warehouses (less than 10,000 sq. ft.)
 - (7) Bus, railroad, passenger and truck terminals (without video poker gaming facilities)
 - (8) Bottling works
 - (9) Dog pound
 - (10) Building supply
 - (11) Heating and air conditioning service
 - (12) Plumbing shops
 - (13) Motor vehicle repair
 - (14) Glass installation
 - (15) Fabrication of gaskets and packing of soft metal material
 - (16) Creameries
 - (17) Parcel delivery service
 - (18) *Reserved.*
 - (19) Frozen food lockers
 - (20) Public stables
 - (21) Bulk dairy products (retail)
 - (22) Animal hospitals
 - (23) Gymnasiums
 - (24) Sheet metal shops.
 - (25) Upholstery
 - (26) Other uses of similar intensity
 - (27) Customary accessory uses incidental to the above uses located on the same lot.
 - b. Special exception uses and structures:
 - (1) Temporary construction facilities for a period of one (1) year upon approval of the Planning Director.
 - c. Special permit uses and structures include the following:
 - (1) Barrooms, night clubs, lounges, and dancehalls upon review and approval by the Planning Commission and supporting resolution of the Council.
 - (2) R-1A and R-1B uses upon review and approval by the Planning Commission.
 - (3) R-3 uses upon review and approval by the Planning Commission and supporting resolution of the Council.
 - (4) *Reserved.*
 - (5) Cellular installations and PCS (personal communication service) installations.
 - (6) *Reserved.*
 - (7) Warehouses (non-hazardous materials) over ten thousand (10,000) square feet.
 - (8) Green markets upon review and approval by the Planning Commission and supporting resolution of the Council. Such sites must possess frontage on a hard-surfaced public collector or arterial street.
 - (9) Bingo Halls, Video Bingo Parlors, and Off-Track Betting Establishments upon review of the Planning Commission and Ordinance of the Parish Council.
 - (10) Outdoor storage, when accessory to an otherwise permitted use in the district.
2. Spatial Requirements:
- a. Minimum lot size: Seven thousand (7,000) sq. ft. minimum width - seventy (70) feet.
 - b. Minimum yard sizes:
 - (1) Front - twenty (20) feet
 - (2) Side - five (5) feet
 - (3) Rear - ten (10) feet

- (4) Whenever property abuts a major drainage canal as defined by the Subdivision regulations the required setback for all structures shall be ten (10) feet measured from the inner boundary of such servitude or right-of-way, notwithstanding any other more restrictive setbacks, this provision shall not apply to any lot of record created and existing prior to the effective date of Ordinance No. 99-12-8
3. Transportation System: Arterial, local industrial, rail, water.
4. Special Provisions:
 - a. Where any commercial use in a C-3 zoning district abuts any residential district or use, a six-foot high solid wood fence or masonry wall shall border the same and there shall be a buffer strip ten (10) feet wide designated and maintained on the site planted with plant materials acceptable for buffer zones unless the Planning and Zoning Department shall require a greater or lesser buffer strip

ANALYSIS

Ordinance 15-12-3 zoned the subject site M-1 in December 2015. The property owner requested the rezoning in order to formally establish the existing (and never before property permitted) activities on the site as permitted uses with the understanding that site improvements were necessary for zoning compliance and multiple property maintenance code violations on the site would need to be rectified. The Department and Planning Commission recommended denial of the rezoning. Parish Council ultimately voted in favor of the proposed change after a public hearing.

The land use activities on the site supported a Louisiana licensed arborist, HTE Landscape Inc., d/b/a Hoover Tree Experts. Business filings of the LA Secretary of State show Hoover Tree, LLC as domiciled in Kenner, and voluntarily dissolved in 2009; there does not appear to be a listing for HTE Landscape, Inc. The Planning and Zoning Department has no record of a building permit or zoning compliance for either business.

After the 2015 rezoning, the property owner worked with the Code Enforcement Supervisor to clear derelict vehicles, trash and debris, and to develop a site plan that, if enacted, would have complied with parking, loading, fencing, and buffering requirements. The current application states that the compliance plan was not seen to completion and finds that if the zoning “reverts back to C3” the Parish will have more power to force compliance.

The St. Charles Parish Zoning Ordinance establishes three guidelines for evaluating a rezoning request. In order to receive a recommendation for approval, an applicant must demonstrate that the request meets at least one of the three guidelines.

The first guideline states that a rezoning request must conform to the parish's Future Land Use Map (FLUM) and not create a spot zone which is incompatible with the surrounding neighborhood. The FLUM designation for the property is General Commercial and reverting the zoning back to C-3 would comply with this land use designation. **The request meets the first guideline.**

The second guideline states that a rezoning should be considered if the land use pattern or neighborhood character has changed to the point where the existing zoning no longer allows for reasonable use of the subject property. It is difficult to apply this guideline to the request. M-1 zoning allows many uses that could be developed on the site and provides for site development requirements to mitigate potential impacts. **The request does not meet the second guideline.**

The third guideline states that a rezoning request may be considered if the uses permitted by the proposed zoning are not incompatible with existing neighborhood character and do not overburden existing public infrastructure. As a request to revert an M1 zone back to C3, which zoning was established in 1981 and which complies with the Future Land Use recommendations for the area and which would be more compatible with residential uses in the area, **the request meets the third guideline.**

This property and the reference application from 2015 as well as all permits and plans related to it are part of an ongoing enforcement action by the Department of Planning and Zoning. The compliance issues have been forwarded to the Legal Department for further action.

DEPARTMENT RECOMMENDATION

The action requested as part of this application meets two of the three criteria required to make a recommendation on a rezoning.

The Department of Planning and Zoning will not issue a formal recommendation at this time while the compliance issues are under review and potential action from the Legal Department.