



Zoning Committee

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| REQUEST | Current Zoning: R-3 (single family residential) Proposed Zoning: R-12MF(CD) (multi-family residential, conditional) |
| LOCATION | Approximately 7.05 acres located on the east side of South Tryon Street, north of Shopton Road West. (Council District 3 - Mayfield) |
| PETITIONER | The Woda Group, Inc. |

ZONING COMMITTEE ACTION/ STATEMENT OF CONSISTENCY

The Zoning Committee voted 5-0 to recommend APPROVAL of this petition and adopt the consistency statement as follows:

This petition is found to be inconsistent with the *Steele Creek Area Plan*, based on the information from the staff analysis and the public hearing and because:

- The adopted plan recommends residential land use up to eight dwelling units per acre.

However, we find this petition to be reasonable and in the public interest based on information from the staff analysis and the public hearing and because:

- The proposed development is consistent with the residential land use recommended for the site in the Steele Creek Area Plan.
- Petition is in the public interest because the increase in density (above what is recommended in the plan) is mitigated.
- As a public street is located along the south of the property, a buffer is not required but a good faith effort appears to be made to resolve the outstanding staff request buffer issue.

Motion/Second: Spencer / Sullivan
Yeas: Fryday, Majeed, McClung, Spencer, and Sullivan
Nays: None
Absent: McMillan
Recused: Nelson

ZONING COMMITTEE DISCUSSION

Staff provided a summary of the petition and noted that it is inconsistent with the adopted area plan. Staff did not recommend approval of this petition due to the increase in density above what the area plan recommended and the lack of a

buffer/fence for the adjoining single family properties to the southeast of the site. It was noted that the petitioner added a commitment to maintain monthly rents that are income restricted to households that are earning 60% or less of area median income for not less than 30 years.

A Commissioner said this is the sort of project he is inclined to support but asked for the update on the buffer issue. He also asked if other petitions have been approved or denied because of this type of buffer requirement.

Staff responded that this is a unique case as a new public street runs along the property line adjacent to the single family residential and a buffer is not required. However, the adjacent properties have not been redeveloped and are still used for single family purposes so staff feels a buffer should be provided. Staff continued that CDOT did not want the buffer/fence in the street right-of-way. The Subdivision Staff did not want the fence in a small strip of land left on the southwest side of the road as it would prevent access to the road in the future. There may be solutions outside the rezoning process that the petitioner could work with the adjacent property owner on; however, staff considers it an outstanding issue because it is important to be resolved.

Another Commissioner asked if there is already a public street right-of-way along that property line that is not used? Staff responded that there is easement to an adjacent land locked property but it is not public. The Commissioner asked if more trees and shrubs can be added in the area shown for street trees. Staff stated that they could add more behind the sidewalk if there is room but it would have to be tall and narrow. There was a discussion about a possible 10-foot utility easement along the property line that could prevent the additional plantings. Staff noted that if the fence is important, the petitioner could make the street private with a public access easement as long as it did not interfere with the utility easement.

A Commissioner asked if this site plan meets the buffer requirements. Staff responded that when there is a public street between single family and multi-family then a buffer is not required; therefore, the site plan meets the ordinance requirements. The site plan currently leaves an interim condition that staff is concerned about. In the long term, the adjoining property will redevelop and relate to the new public street.

A commissioner asked if staff's main concern was density. Staff indicated that the concerns are density and the buffer/fence. The Commission suspended their rules and asked the petitioner's agent if they are willing to address the issue?

Keith MacVean responded that they had looked at options for a buffer. However, an encroachment agreement with CDOT to put the fence in the right-of-way is not possible. The creation of a small trip of land for a fence located on the petitioner's property would create a "spite strip" resulting in a subdivision problem

creating a piece of property between the new right-of-way and the adjoining property that would not allow the property owner to have access to the street in the future. The petitioner has committed to the adjacent property owner to put a fence on her property and she is in the process of surveying it so she can show where she wants the fence. Mr. MacVean continued that the petitioner was unable to do more than that at this time. The petitioner entertained moving the street to the other side of the property; however, the property owner on the southwest side did not like that solution as she felt the road would benefit her in the future.

There was no further discussion of this petition.

Planner

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