

CITY OF SMYRNA COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM

To: Mayor and Council

From: Ken Suddreth, Director of Community Development
Russell Martin, AICP, Senior Planner

Date: January 9, 2014

CC: Eric Taylor, City Administrator

RE: Zoning Amendment Case Z14-001 – 3240 South Cobb Drive

Applicant: Integrity Engineering & Development Services, Inc.

Existing Zoning: GC-Conditional

Titleholder: T-L Smyrna, LLC

Proposed Zoning: GC-Conditional
Size of Tract: 1.07 acres

Location: 3240 South Cobb Drive

Contiguous Zoning:

Land Lot: 380

North	GC
East	GC
South	GC
West	GC

Ward: 4

Access: South Cobb Dr.

Hearing Dates:

Existing Improvements: A partially developed retail center with out-parcels

P&Z Board	N/A
Mayor and Council	January 21, 2014

Proposed Use:

Modification to the currently approved zoning stipulations from Rezoning Case Z11-009.

Staff Recommendation:

The Community Development recommends **denial** of the zoning amendment.



STAFF COMMENTS

Section 1508 of the Smyrna Zoning Code details nine zoning review factors, which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a rezoning request. The following provides the nine factors followed by an analysis of each factor in italics:

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

The proposed zoning amendment will not change the use of the overall property, but will essentially change the building height, building orientation and site design for outlots #6 and #7 of The Crossings shopping center. The applicant is requesting the following modifications to Z11-009 to construct a new McDonald's restaurant on-site: (1) Allow for a freestanding monument on-site; (2) A reduction in the number of required parking spaces from 53 spaces to 43 spaces; and (3) Allow the side of the building (drive-thru side) to orient towards South Cobb Drive. The proposed use of a fast food restaurant is suitable in view of the use and development of adjacent and nearby property. However, the design modifications requested by the applicant could create a negative precedent in the development of adjacent and nearby property.

2. Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property.

The proposed development could have an adverse affect on the overall development with regards to the requested parking reduction from 53 spaces to 43 spaces. In the original zoning of the property (Z09-008), the property owner requested and was approved for a parking reduction from 1,136 spaces (required parking ratio of 4.5) to 784 spaces (proposed parking ratio of 3.1). The proposed parking reduction would further increase that reduction and could adversely affect the existing use or usability of the adjacent property within the shopping center.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject parcel has a reasonable economic use as currently zoned General Commercial-Conditional (GC-Conditional).

4. Whether the zoning proposal will result in a use, which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

Based upon information provided by the City Engineer, the proposed development is not expected to cause an excessive burden to existing streets or transportation facilities.

Based upon information provided by the Public Works Director, adequate water and sewer capacities are available in the area to accommodate the development associated with the zoning amendment.

5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

The subject site currently has a future land use designation of Community Activity Center on the City's Future Development Map. The proposed zoning amendment will not require a land use change from Commercial Activity Center. The General Commercial zoning designation is an appropriate category and corresponds with the Community Activity Center land use designation.

6. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.

There are no existing or changing conditions affecting the use and development of the property. A zoning amendment (Z11-09) was approved in November of 2011, which granted the property owner flexibility to develop the outlots within the shopping center provided they meet certain design requirements outlined in "Design Standards and Guidelines" submitted by the applicant and approved by the Mayor and Council as a condition of zoning. The current zoning amendment request seeks further waivers from the original intent of the development, as well as, the City's Zoning Ordinance.

7. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.

Although a new commercial building will enhance the architectural standards and open space requirements of the immediate area because the site is currently vacant; the design of the site does not conform to the City's Zoning Ordinance or the "Design Standards and Guidelines" submitted by the property owner. The proposed development will establish a negative precedent with regards to parking requirements and building orientation.

8. Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area.

The proposed use should not create a nuisance and is compatible with existing uses in the area. South Cobb Drive.

9. Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

Factors associated with the size of the proposed use, in either land area or building height, will negatively affect adjoining properties. The proposed building

and use are too large and the site is not large enough to accommodate the required parking for that use. Therefore, if the site is under parked, those patrons will be occupying allocated parking spaces for other uses/business within the shopping center, which was granted a significant parking reduction in the original rezoning (Z09-008).

The applicant sought rezoning of the 20.316 acre tract from General Commercial (GC) to GC-Conditional for the redevelopment of the Crossing Shopping Center. The property owner proposed to rezone the subject property for the partial demolition of the existing retail center and construction of a new retail center with outlots for total of 252,415 sq. ft. in gross leasable floor area. The proposed anchor for the development was a 93,005 sq. ft. Kroger food store. In addition to the Kroger, the property owner proposed six (6) two-story retail/office buildings ranging in size from 12,000 square feet to 9,600 square feet. The elevations for each building reflected four-sided architecture with the use of brick, stone and stucco on all exterior facades with a combination of pitched and flat roofs. The Mayor and Council heard the rezoning request (Rezoning Case Z09-008) on January 19, 2010. The Mayor and Council approved the rezoning request based on the site plan and building elevations provided along with 23 conditions by a vote of 5-0.

Since the initial approval of the rezoning, the property owner has subdivided the property into four parcels, one of which was purchased by Kroger for the development of their new store. In addition to subdividing the property, the property owner has completed the redevelopment of the site except for outlots #1 thru #8.

Subsequently, the property owner was in contact with other potential purchasers for outlots #1 thru #8. Chase Bank was interested in purchasing outlot #7 to construct a new bank. Since the proposed site design and building elevations were not consistent with the approved site plan and building elevations from Z09-008, the property owner was required to seek a zoning amendment to modify the currently approved plans. In the zoning amendment application (Z11-009), the property owner requested the following modification to the zoning conditions for outlots #1 thru #8:

1. The building of any size structure **up to** the maximum area shown below:
 - a. Outlot #1 – 6,000 sq. ft.
 - b. Outlot #2 – 12,000 sq. ft.
 - c. Outlot #3 – 11,050 sq. ft.
 - d. Outlot #4 – 11,050 sq. ft.
 - e. Outlot #5 – 11,050 sq. ft.
 - f. Outlot #6 – 9,600 sq. ft.
 - g. Outlot #7 – 12,000 sq. ft.
 - h. Outlot #8 – 2,729 sq. ft.
2. At the discretion of the applicant, the building heights may be one or two-stories.
3. The building placement other than as shown on the original 2009 zoning plan or the submitted 2011 conceptual plan, provided it's consistent with the provision of parking, circulation and driveway placement to complement the onsite road network.

The property owner provided a conceptual site plans for outlots #1 thru #8, which reflected possible site designs for each outlot. The property owner requested the freedom to redesign each outlot as purchased as long as adequate parking and circulation is provided. In addition, the property owner requested the freedom to construct any style building as long as it meets

the architectural guidelines submitted with the zoning amendment application (Z11-009). The zoning amendment was approved by the Mayor and Council at the November 21, 2011 meeting by a vote of 5-0.

The applicant is currently requesting a zoning amendment to outlots #6 and #7 to construct new McDonalds fast food restaurant. The proposed building is 3,915 sq. ft. and is oriented with the front of the building facing the internal access drive and the drive-thru side of the building fronting on South Cobb Drive. In addition, the applicant is proposing 43 parking spaces.

Community Development has reviewed the submitted site plan and building elevations with regards to compliance with the zoning stipulations from Z11-009 and the Zoning Ordinance. The proposed site plan does not meet the requirements of the Zoning Ordinance or the current zoning conditions (Z11-009) with respect to signage, parking and building orientation. The applicant is seeking the following variances from the Zoning Ordinance and zoning conditions:

- (1) Allow a freestanding monument sign that meets the requirements of the Sign Ordinance;
- (2) Allow a reduction in the minimum number of parking spaces from 53 spaces to 43 spaces; and
- (3) Allow the drive thru side of the building to front on South Cobb Drive. The three proposed variances would allow McDonalds to develop the site as proposed.

With regards to the request for a freestanding monument sign, Community Development believes this request is in direct conflict with the intent of the original zoning. The zoning condition #18 in both Z09-008 and Z11-009 is very explicit when it comes to signage for the overall development. The Mayor and Council provided four very large monument signs to accommodate all tenants within the development as opposed to individual monument signs on each outlot. The existing monument sign is 25' tall and has a sign area of 150 sq. ft. which can accommodate the McDonalds signage and is easily visible from South Cobb Drive. The property owner still has the opportunity to construct three other freestanding signs. Community Development has not identified a hardship or unique circumstance to warrant an additional freestanding sign and deviate from the intent of the original rezoning.

With regards to the request to reduce the minimum number of parking spaces from 53 spaces to 43 spaces, Section 906 of the Zoning Ordinance requires a minimum parking ratio of 1 parking space per 75 sq. ft. of gross floor area (53 parking spaces) for restaurant uses. The applicant has provided a parking ratio of 1 parking space per 91 square feet of gross floor area (43 parking spaces). Community Development believes this request will negatively impact the overall development. In the initial rezoning of the property, Community Development supported a parking reduction from for the overall site from 1,136 spaces (required parking ratio of 4.5) to 784 spaces (proposed parking ratio of 3.1). Reducing the parking spaces further may negatively impact the available parking spaces for the main shopping center. Community Development has not identified a hardship or unique circumstance to warrant a reduction in the minimum number of parking spaces.

With regards to the building orientation, Community Development believes having the building face the internal access drive with the drive-thru side facing South Cobb Drive is in direct conflict with the architectural design guidelines of the development (Z11-009) and the design requirements of the South Cobb Drive Corridor Design District (CDD-4). Section 717.81(a) of the Zoning Ordinance requires all facades of commercial buildings facing the primary artery to

contain typical features of retail store fronts, such as large windows, doors and architectural detailing. Zoning Condition #22 of Z11-009 states, "Primary, ground floor commercial building entrances may orient to sidewalks, plazas, parking areas, or streets. Outlots #3 thru #7 shall be oriented or have the appearance of being oriented towards South Cobb Drive. Outlots #1 and #2 shall be oriented towards the parking areas." Community Development has not identified a hardship or unique circumstance to warrant the orientation of the building to the internal access drive and not South Cobb Drive as required.

Community Development reviewed the requested zoning amendment and could not find any hardship or unique circumstances to support the need for the requested amendments. In addition, there are other suitable outlots (#2 & #3) within the development that would allow the applicant to accommodate the required parking and orient the building towards the access drive without the need for an amendment. Also, the applicant currently has a pending variance application to reduce the required parking on a site on Spring Road. Approving this request would directly impact the variance request on Spring Road. Finally, the proposed amendments are in direct conflict with the intent of the original zoning and South Cobb Drive Corridor Design District. Therefore, Community Development recommends **denial** of the proposed zoning amendments.

Figure – 1
(Subject Property)



Figure – 2
(Subject Property)

