



# STAFF REPORT

## Planning Commission

### CASE #Z-907-14

<b>PC Date:</b>	December 4, 2013	<b>Case Planner:</b>	Jared Draper
<b>CC Date:</b>	January 6, 2014		
<b>Location:</b>	5155 E. 64 <sup>th</sup> Avenue 6430, 6450, 6460 Highway 2		
<b>Applicant:</b>	Impacto de Fe	<b>Owner:</b>	Impacto de Fe
<b>Address:</b>	1289 W. 64 <sup>th</sup> Avenue Arvada, CO 80004	<b>Address:</b>	Same as applicant

### Case Summary

<b>Request:</b>	<ol style="list-style-type: none"><li>1. Rezone consolidated parcel from I-1 to C-2 at 5155 E. 64<sup>th</sup> Avenue.</li><li>2. Rezone 3 lots from I-1 to C-3 at 6430, 6450 and 6460 Highway 2.</li></ol>
<b>Project Description:</b>	<p>The applicant is requesting a change in zoning for the subject properties from I-1 to C-2 and C-3 respectively. There is also a concurrent request (S-609-14) to consolidate 4 parcels into one lot and adjust the lots lines for 3 parcels along Highway 2. The applicant is the owner of 3 lots along Highway 2 as well as the larger property at 5155 E. 64<sup>th</sup> Avenue. Currently, one of the lots along Highway 2 is occupied by a tire shop, while the other two are vacant. The request to rezone from I-1 to C-3 is for the properties along Highway 2, while the request to change from I-1 to C-2 is for the property at 5155 E. 64<sup>th</sup> Avenue for the future use as a church and school.</p>
<b>Issues/Concerns:</b>	<ul style="list-style-type: none"><li>▪ Impacts to adjacent properties</li><li>▪ Appropriate uses for proposed zone districts</li></ul>
<b>Key Approval Criteria:</b>	<ul style="list-style-type: none"><li>▪ Compliance with the Comprehensive Plan</li><li>▪ Meets the zone change approval criteria</li></ul>
<b>Staff Recommendation:</b>	Approval with Conditions
<b>Current Zone District:</b>	I-1 (Light Intensity Industrial District)
<b>Comp Plan Designation:</b>	Mixed-Use (Corridor and Commercial)

### Attachments for Review: *Checked if applicable to case.*

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary      | <input checked="" type="checkbox"/> Vicinity Map                    |
| <input checked="" type="checkbox"/> Z-448-87 Ordinance with conditions | <input checked="" type="checkbox"/> Neighborhood Meeting Invitation |
| <input checked="" type="checkbox"/> Site Plan                          |   |

## Background Information

### Site Information

<b>Site Size:</b>	13.022 acres
<b>Current Conditions:</b>	There is an existing commercial building being used as an events center and accessory structure at 5155 E. 64 <sup>th</sup> Avenue. There is an existing commercial building used as a tire shop at 6450 Hwy 2.
<b>Existing Right-of-Way:</b>	E. 64 <sup>th</sup> Avenue to the South and Highway 2 to the West
<b>Neighborhood:</b>	Memory Lane Gardens
<b>Existing Buildings:</b>	There is an existing commercial building being used as an events center and accessory structure at 5155 E. 64 <sup>th</sup> Avenue. There is an existing commercial building used as a tire shop at 6450 Hwy 2.
<b>Buildings to Remain?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Site in Floodplain</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
<b>North</b>	Commercial	Sharp's Roadhouse and residential units	C-3/C-2/R-1/R-3
<b>South</b>	Undeveloped	Dog Track Redevelopment Site	C-3
<b>East</b>	Residential	Single Family Detached	R-2
<b>West</b>	Commercial	Circle K and Conoco	C-2

### Case History

The subject properties have several variance cases for signage prior to and after the zoning cases identified below. With regards to the proposed subdivision and zone change requests, the following cases provide adequate history of the subject properties. The entire subject property was originally part of the Robert's Gardens Subdivision approved in 1935. Over time, portions of the site were resubdivided as in subdivision case #S-141-86, in which the corner of E. 64<sup>th</sup> Avenue and Highway 2 was subdivided to create a two lots for the use of retail and gas fueling station. Subdivision case #S-147-86 was a resubdivision of 10.27 acres into Lot 1, Block 1 of the Greyhound Subdivision, Filing No. 1. Both the entire Greyhound Subdivision Filing No. 1 and parts of the Robert's Gardens subdivision make up the subject property.

Zoning case #Z-404-86 rezoned the entirety of the subject property that was a mixture of MHP, R-2, C-2 and I-2 to Planned Unit Development (PUD). The PUD zone district was approved with conditions. However, one of the conditions stated, "The project shall commence development within six (6) months and be entirely completed withing eighteen (18) months of final passage of this Ordinance."

The applicant did not however meet this condition and the zoning of PUD was revoked. The subject property reverted back to the previous mixture of zone districts. At a future date, a previous property owner request to rezone the property to I-1. This request was heard in zoning case #Z-448-87, in which the subject property was zoned from a mixture of MHP, R-2, C-2 and I-2 to I-1 with conditions. Those conditions are included as an attachment and currently regulate the subject property. The conditions imposed on the subject property restricted the future development of the property unless new plans were reviewed by City Council.

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
S-141-86	March 1986	Resubdivision of Robert's Garden	<b>Approved</b>
S-147-86	August 1986	New lot and block for Greyhound Subdivision	<b>Approval with Conditions</b>
Z-404-86	August 1986	Zone change to PUD (later repealed)	<b>Approval with Conditions</b>
Z-448-87	June 1987	Zone change to I-1	<b>Approval with Conditions</b>

## Applicant's Request

According to the applicant, the change of zoning from I-1 with conditions to C-2 at 5155 E. 64<sup>th</sup> Avenue will allow the church and potential private school as a use by right. The applicant is moving to the subject property from its current location in Faith Bible Chapel in Arvada, Colorado. The applicant notes that currently Commerce City residents that attend Sunday services or participate in other ways make up approximately 20% of the churches membership in the Arvada location. Along with the church use, Impacto de Fe will be providing Sunday school to the children of its members. Future plans include expanding the existing structure, a day care that would serve the community as well as schooling for grades K-8, youth and adult workshops, adult English as a second language courses (ESL) and other service needs as may be requested by church members or community residents. According to the applicant, the C-2 zone district meets the standards for lot area, frontage, setbacks and building height within the city's Land Development Code and therefore no additional variances would be necessary for the property at 5155 E. 64<sup>th</sup> Avenue.

The applicant is requesting zone changes to the subject properties along with a subdivision plat to consolidate and adjust lot lines of existing parcels. The current zoning of the subject properties is I-1 with several conditions. According to the applicant, the present zoning along with imposed conditions do not meet the future land use plan identifying this area as part of a mixed use commercial corridor and are not compatible with the future development plans for a church and school at 5155 E. 64<sup>th</sup> Avenue. Currently, the building is being leased to tenants as an events center; however those leases expire in July and August of 2014. Based on the applicant's narrative, lease renewals are not available to the tenants since the church only honored the leases in place as a requirement of its purchase agreement.

The applicant is also requesting to rezone and adjust the lot lines for 3 parcels that are along Highway 2. Currently, at 6450 Highway 2 the building is being leased to a tenant for the use as a tire shop. The lease with the tenant for the tire shop expires in March of 2014 and at that time, according to the applicant, it is anticipated that the lease will not be renewed but rather the applicant will take over the existing building for its own use. Potential uses may include minor automotive service for church members and the general public. Through the lot line adjustment, the existing building will be on its own unique lot rather than crossing lot lines. The proposed zone change to C-3 allows for a variety of businesses to develop along the Highway 2 commercial corridor. According to the applicant, the proposed C-3 zone district is compatible with the area and meets the standards within the city's Land Development Code and therefore shall not need additional variances for the 3 properties along Highway 2.

# Development Review Team Analysis

## Comprehensive Plan

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 1a	Future Land Use Plan as a Guide: Use the Future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the land Development Code (LDC).
<b><u>Analysis:</u></b>	The rezoning keeps the subject property in alignment with the Future Land Use Plan. Furthermore, the subdivision plat creates legal and conforming lots that do not require additional variances and meet all bulk standards.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Fiscal Stability	FS 2b	Reserve Land for Commercial Uses: Ensure adequate land for commercial uses through the Future Land Use Plan; preserve the opportunity for future retail development by designating locations.
<b><u>Analysis:</u></b>	The future use of the subject properties will be zoned for commercial uses, therefore providing additional commercial land and opportunity along a key regional corridor.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Economic Development	ED 1	Increase Economic Diversification
<b><u>Analysis:</u></b>	Removing the strict zoning conditions that place constraints on the property will provide an opportunity for new or different businesses to locate along the Highway 2 corridor. The proposed use of the church and school site will also provide numerous services to the community that may benefit the community as a whole.	

The subject properties are located to the North of E. 64<sup>th</sup> Avenue, across from the Dog Track redevelopment site as well as along Highway 2. The applicant has 2 requests that have been reviewed by the Development Review Team (DRT): 1) Rezone the consolidated lot from I-1 to C-2; and 2) rezone the 3 lots along Highway 2 from I-1 to C-3. The DRT has reviewed the requests with the approval criteria for zone changes within Article III of the city's Land Development Code. The following analysis addresses the current conditions of the subject properties, the future uses of the properties, approval criteria for zone changes, information from a neighborhood meeting and the recommendation of city staff based upon the analysis.

### **Current Conditions**

The subject properties currently consist of 7 parcels that were zoned I-1 by case #Z-448-87. Upon rezoning the subject properties to I-1, several conditions attached to the property. One condition specifically states, "The property shall be developed strictly in accordance with the approved site development plans, as submitted in connection with this application and as approved by the City Council." The site plan submitted in connection with the zoning case was approved by staff and City Council at the time of the rezoning. Due to the aforementioned condition, no additions or expansions to the property can be approved without a new site development plan approved by the City Council. This condition has limited new development on the property. Additionally, the zone change to I-1 allowed all uses that were allowed in C-1, C-2 and C-3 of the city's development code.

**Request #1:** Based upon the zoning case #Z-448-87, the intended user of the subject property was a flea market. Currently, the property is being leased by the owner to two tenants for the use of the

facility as two event centers. Within the current zone district, both event centers are allowed by right on the subject property located at 5155 E. 64<sup>th</sup> Avenue.

Request #2: The three subject properties along Highway 2 were also zoned I-1 as part of zoning case #Z448-87. Only one of the properties is occupied by a building and is currently being leased to a tenant that uses the building and lot for a tire shop. The other two properties to the North and South of the tire shop are vacant.

As part of the purchase agreement for the subject properties, that applicant shall honor the lease agreements of the 3 tenants (2 event centers and the tire shop). The applicant has informed staff that the lease for the tire shop expires in March of 2014 and there are no plans to offer a renewal to the tenant. The tenants operating event centers have lease agreements that expire in July and August of 2014 and according to the applicant, lease renewals will not be available to tenants for the use of the facility as an events center.

### **Future Uses**

Request #1: The applicant has indicated that the future use of the larger lot and building at 5155 E. 64<sup>th</sup> Avenue is a church and potential school facility. It is clear through the applicant's narrative that the subject property was purchased due to the growing congregation of the church and the number of church members and attendees that live in and around Commerce City. The future use of the property as a church and school are allowed in the proposed zone district of C-2. The proposal of the C-2 zone district offers a beneficial transition from the regional commercial property along Highway 2 into the established residential neighborhood to the East of the subject property at 5155 E. 64<sup>th</sup> Avenue.

Request #2: According to the applicant, at the expiration of the lease for the tire shop along Highway 2, the applicant intends to utilize the building for church purposes. The change of zoning from I-1 to C-3 retains the regional commercial uses for the properties along Highway 2. Furthermore, any development that occurs on the subject properties along Highway 2 shall meet the regulations and design standards within the city's Land Development Code. The rezoning of the properties to C-3 creates development ready lots to future establish Highway 2 as a regional commercial corridor. Additionally, the rezoning aligns the subject properties with the Future Land Use Plan.

### **Zone Change Approval Criteria**

Both zone change requests are consistent with the approval criteria within the city's Land Development Code. The DRT reviewed the zone change requests against the city's Comprehensive Plan and Future Land Use Plan and have concluded that both requests align with the future land use categories for the subject properties.

Request #1: The zone change from I-1 to C-2 will allow the church and the potential school to operate as a use by right at 5155 E. 64<sup>th</sup> Avenue. A C-2 zoning designation is compatible with the city's Comprehensive Plan and the surrounding area. Furthermore, the requested zone district acts as a transition from the Highway 2 commercial corridor to the West to the residential neighborhood to the East.

Request #2: The zone change request from I-1 to C-3 also meets the approval criteria within the Land Development Code. The C-3 zone district aligns with the future land use plan category of Mixed Use Commercial Corridor. Highway 2 has been identified as a corridor for regional commercial activity. A

C-3 zoning designation accommodates a variety of regional commercial uses and maintains a mix of appropriate zone districts and uses for the surrounding area.

Proposed uses of the subject properties have been reviewed and it has been concluded that it is in the public interest to rezone the properties in both requests in order to achieve a transition from the regional commercial along Highway 2 to the West to the residential neighborhood to the East. The proposed use as a church and school as indicated by the applicant will serve as a benefit to the community with the potential services that the applicant intends to offer.

### **Neighborhood Meeting**

The applicant held a neighborhood meeting on November 20, 2013 at 5155 E. 64<sup>th</sup> Avenue at 7PM. Staff attended the meeting to observe and answer questions regarding the process of the zone change and subdivision plat. Attendance of the meeting included 4 residents, the tenant of the tire shop, security personnel for the event center that exceeds the 15,000 square-feet, the applicant and family, and the applicant's architect. The meeting gave an overview of the process and the proposed use of the property as a church and future school. Most of the commentary of the neighborhood meeting revolved around the event centers and were directed toward the individual that did security for the event center. Attendees expressed opposition to the existing event center, however mentioned their support and welcome to the church and potential school. The meeting concluded at approximately 8:30PM.

### **Summary and Recommendation**

The DRT has concluded that the zone change requests meet the approval criteria. Through discussions with the applicant and through observation of the neighborhood meeting, it is clear that the proposed use of the subject properties will be a benefit to the surrounding area and are compatible with the City adopted plans. The proposed concurrent plat and zone changes will not create substantial undue adverse effects to the surrounding properties and will be a benefit to the community through the services that will be offered.

The change in ownership along with proposed uses on the site has driven the zone change and final plat requests for the subject properties. The previous zoning and conditions attached to the subject properties restricted the future development of the property without review by City Council. However, the zoning of the property is not in compliance with the existing comprehensive plan. As the applicant has indicated in their narrative, the subject property is in a desirable location for the proposed use as a church and school, especially due to the number of members that live locally within Commerce City. The zone changes in both requests align the properties with the comprehensive plan and eliminate the restrictions associated with development.

**Request #1:** The plans of the applicant to improve the façade of the building along with renovations improve the aesthetic appeal of this vicinity of the city. Through the zone change, the property will align with the city's comprehensive plan and adequate services are already provided for the subject property. Based on the analysis above, the DRT is recommending approval with conditions for the zone change request from I-1 to C-2 for 5155 E. 64<sup>th</sup> Avenue.

**Request #2:** A zone change from I-1 to C-3 for the three properties along Highway 2 brings each of the properties into compliance with the comprehensive plan. Furthermore, the change of zoning is compatible with the surrounding area and creates legal and conforming lots ready for regional commercial development. The DRT concluded that the C-3 zone district is appropriate for the

Highway 2 commercial corridor and is recommending approval for the zone change request from I-1 to C-3 for 6430, 6450, and 6460 Highway 2.

Due to the lease agreement for the event center that exceeds the 15,000 square-foot threshold, staff recommends that the zone change from I-1 to C-2 not be effective until [date], the date the lease expires. In order to allow the applicant to begin construction to implement its future uses, staff recommends the immediate removal of the conditions previously imposed as part of the rezoning that occurred in case #Z-448-87. Finally, to ensure the use of the property does not revert to any industrial uses between now and the date the commercial zoning designation becomes effective, staff is recommending the following condition: Until such time as the C-2 zoning designation becomes effective, no new uses shall be permitted on the property unless specifically authorized by the City.

Criteria Met?	Sec. 21-3232. Rezoning or Zone Changes	Rationale
☒	The change is consistent with any City adopted plans for the area;	Request #1: The Comprehensive Plan identifies the subject property as Mixed Use for Corridors and Commercial. The C-2 zone district aligns the subject property with the Comprehensive Plan. Additionally, the future use of 5155 E. 64th Avenue as a church and potential school is in compliance with uses that are allowed within the Comprehensive Plan. Request #2: The Comprehensive Plan identifies the subject properties as Mixed Use for Corridors and Commercial. This future land use category is characterized by a variety of commercial, office and other services. The proposed zone change from I-1 to C-3 align with the future land use of the area. The requested zone change to C-3 along Highway 2 allows for numerous commercial uses along a key corridor within Commerce City.
☒	The change is compatible with proposed development, surrounding land uses and the natural environment;	Request #1: Located just to the West of an established residential neighborhood, the proposed lower intensity commercial zone district serves as an area of transition from Highway 2. Request #2: The subject properties are located adjacent to Highway 2 to the West. The proposed zone changes allow for regional commercial uses along Highway 2 a key commercial corridor
☒	There is, or will be, adequate public services, (water, sewerage, streets, drainage, etc.);	Request #1: The subject property currently has adequate public services for the site. Future expansions to the site shall require development review in order to ensure that adequate services are provided. Request #2: The occupied property currently has adequate public services for the site. Future development to the occupied site or vacant sites shall require development review in order to ensure that adequate services are provided.
☒	There is, or will be, adequate public uses (parks, schools, and open space);	Request #1: There is no requirement for public uses. However, the potential future use of the site as an educational facility is a beneficial public use. Request #2: There is no requirement for public uses.
☒	The change is needed to provide/maintain a proper mix of uses in the area/City;	Request #1: The C-2 zone district allows for an appropriate mix of uses on a property that is located adjacent to both a regional commercial corridor and a residential neighborhood. Request #2: Through the proposed zone change to the subject properties the surrounding area will have a better mix of appropriate uses and zone districts. Furthermore, the zone changes allow for more variety for commercial uses along Highway 2.
☒	The area for which the change is requested has changed/is changing and it is in the public interest to allow a new use or density.	Request #1: The subject properties have been restricted by previous zoning conditions. The applicant is proposing a new use with future improvements to the property. Staff has concluded that the change of use and the future improvements to the properties is beneficial to the surrounding area and promotes the goals of the city's Comprehensive Plan. The change of use will provide beneficial services to the community and it is in the public's interest to allow the new zone district and use. Request #2: The subject properties have been restricted by previous zoning conditions. Staff has concluded that the zone change to the properties is beneficial to the surrounding area and promotes the goals of the city's Comprehensive Plan. Therefore, the changes that will occur due to the zone changes are in the public's interest.

## Development Review Team Recommendation

### **Request #1 (I-1 to C-2):**

Based upon the analysis above, the Development Review Team believes that request one meets the criteria for a Zone Change set forth in the Land Development Code and recommends that the Planning Commission forward request one to the City Council with a recommendation that the City Council immediately remove the conditions imposed as part of the rezoning that occurred in case #Z-448-87 and approve the zone change from I-1 to C-2 effective September 1, 2014, subject to the following conditions:

### **CONDITIONS:**

- A. Until such time as the C-2 zoning designation becomes effective, no new uses shall be permitted on the property unless specifically authorized by the City.

### **Request #2 (I-1 to C-3):**

Based upon the analysis above, the Development Review Team believes that request two, meets the criteria for a Zone Change set forth in the Land Development Code and recommends that the Planning Commission forward request two to the City Council with a favorable recommendation.

## **\*Recommended Motion for Request #1\***

### ***To recommend approval subject to condition(s):***

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Zone Change for request one located at **5155 E. 64th Avenue** contained in case **Z-907-14** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council immediately remove the conditions imposed as part of the rezoning that occurred in case #Z-448-87 and approve the Zone Change from I-1 to C-2 effective September 1, 2014, subject to the following condition:

- A. Until such time as the C-2 zoning designation becomes effective, no new uses shall be permitted on the property unless specifically authorized by the City.*

## **Alternative Motions**

### ***To recommend approval:***

I move that the Planning Commission enter a finding that the request one Zone Change for the property located at **5155 E. 64th Avenue** contained in case **Z-907-14** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change.

### ***To recommend denial:***

I move that the Planning Commission enter a finding that the request one Zone Change for the property located at **5155 E. 64th Avenue** contained in case **Z-907-14** fails to meet the following criteria of the Land Development Code:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny the Zone Change from I-1 to C-2 in request one.

## **\*Recommended Motion for Request #2\***

### ***To recommend approval:***

I move that the Planning Commission enter a finding that the requested Zone Change for request two located at **6430, 6450, and 6460 Highway 2** contained in case **Z-907-14** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change from I-1 to C-3.

## **Alternative Motions**

### ***To recommend approval subject to condition(s):***

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Zone Change for request two located at **6430, 6450, and 6460 Highway 2** contained in case **Z-907-14** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change from I-1 to C-3 subject to the following conditions:

*Insert Condition(s)*

### ***To recommend denial:***

I move that the Planning Commission enter a finding that the requested Zone Change for request two located at **6430, 6450, and 6460 Highway 2** contained in case **Z-907-14** fails to meet the following criteria of the Land Development Code:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny the Zone Change from I-1 to C-3.