



Council Communication File Number: PUDA23-0003

Agenda Date: 9/16/2024

Version: 1

Status: Public Hearing

In Control: City Council

File Type: Zoning Ordinances

Southwestern Property Corporation is requesting approval of the Commons at 104th 2nd Amendment PUD Zone Document to allow additional commercial uses. The subject property is approximately 16.57 acres and is generally located at the southeast corner of Potomac Street and East 104th Avenue.

Summary & Background

The original Commons at 104th PUD Zone Document was approved by City Council in 2008. In 2022, City Council approved an amendment to the zone document to allow multi-family residential in the southern planning area. A condition was added by the City Council as part of the approval in 2022. The condition states that no more than 50% of the multi-family residential units in Planning Area B can be occupied until at least 25% of the commercial frontage along 104th is under vertical construction. This condition can be found as a note on Sheet 5 of the PUD Zone Document and will remain in place as part of this amendment.

The proposed amendment will allow retail stores less than 25,000 square feet by right and retail stores greater than 25,000 square feet with a Conditional Use Permit. This amendment will also define and distinguish fast food restaurants from sit down restaurants. A fast food restaurant is defined as having the ability to order food in a drive thru lane. A sit down restaurant would only allow the ability to order food inside the restaurant. However, a drive thru may be utilized to pick up a call-in/mobile order. Sit down restaurants with a drive thru are permitted by right but fast food with a drive thru is a Conditional Use Permit. EV Charging Stations are also being proposed as a requirement for a fuel sales use.

PUD Zone Document approval criteria - Land Development Code Section 21-3251(3)

A PUD zone document may be approved only if:

- (a) The PUD zone document is consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the City, or reflects conditions that have changed since the adoption of the comprehensive plan;
- (b) The PUD zone document is consistent with any previously reviewed PUD concept schematic;

- (c) The PUD:
 - i. Addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes set out in section 21-4370 (PUD Zone District) and represents an improvement in quality over what could have been accomplished through strict applications of the otherwise applicable district or development standards. This may include but is not limited to improvements in open space; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; unique architecture or design, or increased choice of living and housing environments; or
 - ii. The PUD is required to avoid completely prohibiting a legal, permitted business use within the City;
- (d) The PUD complies with all applicable City standards not otherwise modified or waived by the City;
- (e) The PUD is integrated and connected with adjacent development through street connections, sidewalks, trails, and similar features;
- (f) To the maximum extent feasible, the proposal mitigates any potential significant adverse impacts on adjacent properties or on the general community;
- (g) Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development;
- (h) As applicable, the proposed phasing plan for development of the PUD is rational in terms of available infrastructure, capacity, and financing; and
- (i) The same development could not be accomplished through the use of other techniques, such as height exceptions, variances, or minor modifications.

Staff Responsible (Department Head): Jeff Brasel, Interim Community Development

Director

Staff Presenting: Dalton Guerra, Senior Planner

Financial Impact: N/A

Funding Source: N/A

Planning Commission Recommendation: On August 6, 2024, this case was presented to the Planning Commission. The Planning Commission held a public hearing, took testimony, and voted (5 to 0) to forward the PUD Amendment request to City Council with a recommendation for approval.

Actions:

Approve the application, in accordance with the PC recommendation;

Approve the application with conditions;
Deny the application; or
Continue the application