

Date of Meeting: July 7, 2016
Subject: Fountain Square Group LLC
Project Name: Special Exception to extend the CS, Commercial Shopping zoning
Location: 1301 S Western Rd, Fountain Square

BACKGROUND

The Fountain Square development is currently divided into two zoning districts, the CS, Commercial Shopping district and the A, Agriculture district. The A zoned property is mostly within the FEMA designated 100 year floodplain. The stormwater detention, open space, and a telecommunications tower is located in the A zoned portion of the property.

The Special Exception request would not change the zoning of the FEMA designated floodway, due to policy to use Agriculture zoning for floodways, or the telecommunications tower lease area, due to telecommunications towers being a permitted by-right use in the A district but a use requiring a Specific Use Permit in the CS district.

CODE APPLICATION

Sec. 23-67. - Special exception considerations.

- (a) Enumerated. The following considerations shall be given the actions requested in the following:
- (1) To permit a contractor's office and/or equipment shed accessory to the construction project to have direct access from a minor street if it is determined that such location would result in less traffic on streets in residential areas;
 - (2) To extend the time period beyond one year during which a contractor's office and/or equipment shed may be located at the same construction site;
 - (3) To extend the time period beyond two years or until 90 percent of lots are sold for a real estate sales office incidental to the marketing of properties in a subdivision;
 - (4) To permit the conversion of an existing residential structure to a nonresidential use, provided that such structure is determined to be architecturally similar or structurally sound in compliance with all code requirements;
 - (5) To permit any multifamily apartment complex or structure which has been made nonconforming with regard to density and/or off-street parking by the adoption of this chapter to be reconstructed at the same density and number of off-street parking spaces existing prior to the time of destruction if destroyed by an act of God. Reconstruction must meet all applicable building codes in affect at the time of the reconstruction;
 - (6) **To permit the extension of a zoning district where the boundary line of the zoning district divides a single lot, tract, or parcel of land under one ownership.**

DISCUSSION/ANALYSIS/FINDINGS

Section 23.66 Special exception considerations.

In determining whether or not the special exception should be granted the Board of Adjustment shall consider, and record in the official minutes of the meeting the extent to which the evidence demonstrates that:

- (1) Granting of the special exception will not adversely affect the rights of adjacent property owners or residents; and

Approval of the Special Exception would extend the frontage along Western Rd with commercial zoning. Additional development along Western Rd may be possible if the floodplain regulations can be met. Residential zoning and uses are located across the street. Additional commercial development could impact the existing development. However, according to the Comprehensive Plan, the properties on both sides of Western Rd are appropriate for commercial uses. The request is in conformance with the Comprehensive Plan.

- (2) Granting of the special exception will not cause substantial detriment to the public health, safety, convenience, or general welfare.

Extending the CS, Commercial Shopping zoning should not cause a detriment to the public health, safety, convenience, or general welfare. Any development is subject to the adopted development regulations. In addition, the A, Agriculture district allows for uses which may not be compatible with the surrounding commercial or residential properties.

MINIMUM RELIEF NECESSARY

The applicant requests the CS, Commercial Shopping district be extended to the entire property, except that area within the FEMA designated floodway and the telecommunications tower lease area.

RECOMMENDATION

After reviewing the two (2) criteria as indicated above, staff finds that the applicant has met items 1 and 2. Staff would recommend that the Board further review the items to determine, if in the Board's opinion, the information provided in the report and by way of testimony, allows the Board to make findings in the applicant(s) favor and grant the request.

Prepared by: Tom Coots, Planner I
Date of Preparation: June 29, 2016
Attachments: Area Map
Map Designation: SW