

Agenda Item Details

Meeting	May 15, 2018 - Bryan City Council Second Regular Meeting
Category	6. Regular Agenda - This agenda consists of items requiring individual consideration by Council.
Subject	B. Appeal of the Planning and Zoning Commission's decision to deny a Conditional Use Permit (Case No. CU18-02), to allow an automobile sales use on land zoned Retail District (C-2), specifically on property located at 101 South Texas Avenue at the southeast corner of South Texas Avenue and East 26th Street, occupying Lot 6R in Block 40 of the Bryan Original Townsite in Bryan, Brazos County, Texas.
Type	Action
Preferred Date	May 15, 2018
Absolute Date	May 15, 2018
Fiscal Impact	No
Budget Source	na
Recommended Action	Motion to deny the Conditional Use Permit and uphold the decision of the Planning and Zoning Commission to deny a Conditional Use Permit (case no. CU18-02), to allow an automobile sales use on land zoned Retail District (C-2), specifically on property located at 101 South Texas Avenue at the southeast corner of South Texas Avenue and East 26th Street, occupying Lot 6R in Block 40 of the Bryan Original Townsite in Bryan, Brazos County, Texas.
Goals	Quality of Life

Summary:

The subject tract is comprised of 0.3421 acres of land located at the southeast intersection of South Texas Avenue and East 26th Street and currently addressed as 101 South Texas Avenue. Adjacent land uses are an automobile sales business to the south, a law office to the east, the Bryan ISD administration building across East 26th Street, and the Brazos County Court House across South Texas Avenue. The west edge of the property lies along the 100-foot wide right-of-way of South Texas Avenue.

The applicant and property owner, John Boegner, is requesting approval of a Conditional Use Permit, to allow the operation of an automobile sales business on the subject property. The proposed Conditional Use Permit request is similar, if not identical, to case number CU16-06, which was a request by Heeman Motor Company, Inc. in 2016 for the use of an automobile sales business at the subject property. Mr. Boegner also owned the property in 2016 when the previous request was made. That previous request was considered by the Planning and Zoning Commission on June 16, 2016, and denied by a vote of 8-0 with Chairperson Gutierrez abstaining from deliberation and voting on the item due to a conflict of interest. An excerpt from the June 16, 2016, Commission meeting minutes are attached to this Council Action Form.

Mr. Boegner has now re-submitted the same site plan and landscape plan submitted for the 2016 request for the case to be considered once again. In his application, Mr. Boegner states in the 22 months since case CU16-06 was considered, the property has not generated any interest other than for the use of automobile sales. Since CU18-02 was applied for, the property underwent the change of owner/use/tenant process and is currently being leased as a paintless dent repair business.

The Planning and Zoning Commission considered the applicants' new Conditional Use Permit request (case no. CU18-02) during its regular meeting on April 5, 2018. The Commission voted 8-0 to deny the request with Commissioner Gutierrez abstaining from deliberating and voting due to a conflict of interest.

On April 9, 2018, City staff received written notice from Mr. Boegner stating he wishes to appeal the Commission's denial of the request to the City Council. The appeal was received within 10 days of the Commission decision, within the provided deadline for Conditional Use Permit appeals, as provided by Zoning Ordinance Section 130-33(f).

Staff Analysis and Recommendation:

On April 5, 2018, the Planning and Zoning Commission concurred with staff's recommendation and voted 8-0, (with Commissioner Gutierrez abstaining) to deny the requested Conditional Use Permit. Staff recommends upholding the Planning and Zoning

Commission's denial of this Conditional Use Permit.

- During the citizen input portion of the City's recently updated Comprehensive Plan, BluePrint 2040, a common theme was citizen input concerning community appearance along major thoroughfares in Bryan, specifically the conditions of the Texas Avenue corridor, which is comprised of 25+ automobile sales or service businesses with what might be considered unsightly outdoor display and/or storage.
- The City recently adopted the Corridor Beautification Partnership, which is tasked with encouraging private re-investment of dilapidated and unsightly businesses along the Texas Avenue corridor in an effort to restore the economic vitality of the major corridor, which had fallen into a state of blight, with buildings, signage, landscaping, and infrastructure in disrepair. Staff finds the proposed use of an automobiles sales business at this location contradicts the goals of the City's beautification efforts and both public and private investment.
- The subject property is located 0.2 miles from Historic Downtown Bryan, and BluePrint 2040 suggests negative impacts on historic areas [or environmentally sensitive areas, including wildlife habitat areas and topographically constrained areas within the floodplain] should be avoided or adequately mitigated.
- The subject property is located in an area with primarily office uses, including Bryan ISD to the north, a law office to the east, Brazos County Courthouse to the west. BluePrint 2040 recommends promoting compatible infill and redevelopment in areas where activities will benefit the City as a whole and the area specifically.
- The adjacent property to the south of the subject property is developed with an automobile sales business. Should the proposed Conditional Use Permit be approved, an entire block face located along Texas Avenue, a major gateway into downtown, will be comprised of outdoor display and storage.

Options:

1. uphold the Commission's decision to deny the request;
2. reverse the Commission's decision and approve the request; or
3. reverse the Commission's decision and approve the request with conditions for approval the Council deems necessary to assure that the use meets the criteria set forth in Subsection 130-33(a) of the Zoning Ordinance (may require consideration at a future City Council meeting).

Attachments:

1. location map and aerial photographs;
2. excerpt from the Comprehensive Plan, BluePrint 2040;
3. appeal letters from applicant;
4. excerpt from April 5, 2018 Planning and Zoning Commission draft regular meeting minutes;
5. staff report to the Planning and Zoning Commission.

[Appeal of CU18-02, Auto Sales in C-2.pdf \(2,634 KB\)](#)

Motion & Voting

Motion to deny the Conditional Use Permit and uphold the decision of the Planning and Zoning Commission to deny a Conditional Use Permit (case no. CU18-02), to allow an automobile sales use on land zoned Retail District (C-2), specifically on property located at 101 South Texas Avenue at the southeast corner of South Texas Avenue and East 26th Street, occupying Lot 6R in Block 40 of the Bryan Original Townsite in Bryan, Brazos County, Texas.

Motion by Ben Hardeman, second by Greg Owens.

Final Resolution: Motion Carries

Aye: Andrew Nelson, Ben Hardeman, Buppy Simank, Greg Owens, Reuben Marin

Nay: Mike Southerland, Prentiss Madison

Motion to uphold the appeal for the Conditional Use Permit and reverse the decision of the Planning and Zoning Commission to deny a Conditional Use Permit (case no. CU18-02), to allow an automobile sales use on land zoned Retail District (C-2), specifically on property located at 101 South Texas Avenue at the southeast corner of South Texas Avenue and East 26th Street, occupying Lot 6R in Block 40 of the Bryan Original Townsite in Bryan, Brazos County, Texas. Discussion followed.

Motion by Mike Southerland, second by Prentiss Madison.

Final Resolution: Motion Fails

Aye: Mike Southerland, Prentiss Madison

Nay: Andrew Nelson, Ben Hardeman, Buppy Simank, Greg Owens, Reuben Marin