

Agenda Item Details

Meeting	Sep 10, 2024 - Bryan City Council Second Regular Meeting
Category	7. Regular Agenda - This agenda consists of items requiring individual consideration by Council.
Subject	A. Appeal of the Planning and Zoning Commission's decision to approve a Conditional Use Permit (Case No. CU24-06) to allow construction of motor fuel retail use on property zoned Planned Development – Mixed Use District (PD-M) on 2.771 acres of vacant land out of the H. Jones League, Abstract No. 145, adjoining the west corner of North Harvey Mitchell Parkway (FM 2818) and Smith Lake Boulevard, in Bryan, Brazos County, Texas.
Type	Action
Preferred Date	Sep 10, 2024
Absolute Date	Sep 10, 2024
Fiscal Impact	No
Budgeted	No
Goals	Economic Development Quality of Life

Summary:

The applicants, Greens Crossing Center, LLC, desire to develop 2.77 acres out of a 25.66-acre tract of land with a motor fuel retail use. The subject property adjoins the west corner of Harvey Mitchell Parkway (FM2818) and Smith Lake Boulevard.

The Planned Development – Mixed Use (PD-M) District ordinance that governs land use in the Pleasant Hill Subdivision (Ordinance No. 2306) has three Planning Areas designated as Area 1 – Detached Residential Zone, Area 2 – High-Density Residential Zone, and Area 3 – Commercial-Retail Zone. The subject property is located within the boundaries of Planning Area 3 – Commercial-Retail Zone, which generally follows the uses found within the Retail District (C-2) zoning.

On November 14, 2023, in response to the proliferation of motor fuel retail establishments along major corridors, the Bryan City Council adopted Ordinance No. 2654. This ordinance defined the use of motor fuel retail and introduced standards to help guide future development. As a result of this ordinance adoption, motor fuel retail became a use permitted only conditionally in the C-2 zoning district.

On April 4, 2024, the Planning and Zoning Commission considered a similar proposal by the same applicants (conditional use permit case no. CU24-01) that also sought to utilize the property for a motor fuel retailer. The motion to approve that requested conditional use permit failed to receive the five (5) votes necessary for approval. At the time, Commissioners shared concerns regarding the proximity of the requested motor fuel retailer to existing fuel retailers, as well as the proximity to homes.

Since the April 4, 2024, Planning and Zoning Commission meeting, the applicant sought to allay some of the articulated concerns of the Pleasant Hill Subdivision residents by identifying a location for a covered bus shelter intended for Bryan Independent School District (BISD) students. With the Homeowner Association's (HOA) approval, the applicant is proposing to pay for the construction of a bus shelter. The maintenance of the shelter is intended to become the responsibility of the HOA. In addition, an online two-question survey conducted by Riverstone Companies, on behalf of the owner, was emailed to 490 Pleasant Hill Subdivision residents requesting feedback on the proposed development. The results, which are attached to this Council Action Form, contain responses from 169 residents, with 91 in support of the proposal and 78 against. Due to only 34% of residents responding, staff notes the survey may not be scientifically representative.

On August 1, 2024, the Planning and Zoning Commission considered a new request for a Conditional Use Permit (case no. CU24-06), which is the subject of this appeal. Prior to the meeting, staff received written comments in opposition to this new request from four (4) citizens. Their stated concerns are the perceived negative effects on the environment and the amount of existing motor fuel retail uses in the area. These comments were provided to the Planning and Zoning Commission prior to their public hearing on the matter.

During the Planning and Zoning Commission public hearing, seven (7) citizens came forward to speak in opposition to the request, stating concerns regarding crime, traffic, and environmental impacts. Following the public hearing, the Commission voted to approve the request with a vote of five (5) in favor and three (3) in opposition. The Commission's action was made subject to the condition the development shall observe the form and development standards provided by the applicant in renderings and elevations.

On August 9 and 11, 2024, staff received three (3) written notices from owners of property located within 200 feet of the subject property appealing the Commission's approval of this Conditional Use Permit request to the City Council. The written comments are attached to this Council Action Form.

The three appellant parties of the Planning Commission's decision to approve this request are Mr. Abner Cruz (5260 Montague Loop), Ms. Inocencia Gomez (5256 Montague Loop), and Mr. Jeff Niles (5254 Montague Loop). The appeals were received within ten (10) days of the Commission's decision on August 1, 2024, within the provided deadline for Conditional Use Permit appeals, as stipulated by Zoning Ordinance Section 130-33(f). Copies of the appeal letters, as well as additional input received from residents following the Planning and Zoning Commission hearing on August 1, are attached to this Council Action Form.

Staff Analysis and Recommendation:

Staff recommends upholding the Planning and Zoning Commission's approval of this Conditional Use Permit, including the approved condition, for the following reasons:

- The subject property is located in an area recommended for retail development according to the City's Comprehensive Plan (BluePrint 2040) Future Land Use Plan.
- The proposed development meets all requirements of both the PD-M District zoning and the supplementary regulations found within Zoning Ordinance Section 130-34(t).
- The motor fuel retail establishment will provide over 8,000 square feet of retail space within walking distance to Pleasant Hill Subdivision, a neighborhood that will contain 1,800 residential lots at buildout.
- North Harvey Mitchell Parkway and Smith Lake Boulevard, a super arterial and a minor collector as identified on the City's thoroughfare plan, are capable of accommodating the traffic typically associated with motor fuel retail.
- The proposed development will provide adequate and convenient off-street parking. Per the Land and Site Development Ordinance requirements, 43 off-street parking spaces are required and 63 spaces are being provided.
- Per recently adopted supplementary standards, all light fixtures associated with the motor fuel retail use will be designed in a way to fully shield and aim light away from adjacent properties.

Options:

1. uphold the Commission's decision to approve the request, including approved conditions;
2. uphold the Commission's decision to approve the request with additional conditions for approval the City Council deems necessary to assure 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); or
3. reverse the Planning and Zoning Commission's decision and deny the request.

Attachments:

1. location map and aerial photographs;
2. excerpt map from the Comprehensive Plan, BluePrint 2040;
3. comment letter from Ms. Rebecca Maine, dated July 31, 2024;
4. comment letter from Mr. Junior Alvarenga, dated July 31, 2024;
5. comment letter from Mr. David Vogt, dated August 1, 2024;
6. comment letter from Mr. Tim Gerszewski, dated August 1, 2024;
7. map showing property locations of appellants relative to the subject property;
8. appeal letter from Ms. Inocencia Gomez, dated August 9, 2024;
9. appeal letter from Mr. Abner Cruz, dated August 11, 2024;
10. appeal letter from Mr. Jeff Niles, dated August 11, 2024;
11. comment letter from Ms. Jean West, dated August 12, 2024;
12. comment letter from Mr. Clint Adamkavicius, dated August 12, 2024;
13. excerpt from Planning and Zoning Commission meeting minutes;

14. Results of Pleasant Hill resident online survey conducted by applicant, provided to staff on July 31, 2024 (separate attachment);
15. Pleasant Hill Planned Development Ordinance no. 2306 approved on November 13, 2018 (separate attachment); and
16. staff report to the Planning and Zoning Commission with related attachments (separate attachment).

[CAF attachments appeal of CU24-06 motor fuel retail.docx \(4,191 KB\)](#)

[Attachment 14. Survey Results.pdf \(797 KB\)](#)

[Attachment 15. ord. 2306 RZ18-21 Pleasant Hill.pdf \(1,719 KB\)](#)

[Attachment 16. 8.1 SR CU24-06 2818 Green Crossing.pdf \(2,138 KB\)](#)