



Village Planning Committee Meeting Summary Z-11-18-3

Date of VPC Meeting	July 1, 2019
Request From	C-1 (Neighborhood Retail) (2.22 acres)
Request To	C-2 (Intermediate Commercial) (2.22 acres)
Proposed Use	intermediate commercial uses
Location	Approximately 228 feet north of the northwest corner of Tatum Boulevard and Shea Boulevard
VPC Recommendation	Approval, per the staff recommendation
VPC Vote	10-3

VPC DISCUSSION & RECOMMENDATION:

Mr. David Simmons, Planning and Development staff member, provided an overview of the request to include the background, issues and analysis of the site. He displayed an aerial map, zoning map, General Plan designation map, existing site plan, landscape plan and prospective of the building. Mr. Simmons provided an overview of the recommended stipulations for the case and explained why they are important.

Mr. Paul Gilbert, with Beus Gilbert, PLLC, representing the applicant, gave a presentation and stated that this is a very simple case and stated that the request was to rezone the building only, not the entire shopping center. Mr. Gilbert continued by providing an in-depth background of the business at this location as well as across the street prior to moving five years ago. He gave history on the use at this location as well as the business owners liquor license issued by the State of Arizona and shared the business is legal non-conforming under the current zoning designation. The proposed zoning change would make it legal and allow a bar as an accessory use to the tobacco-oriented business. He shared that he had spoken with all of the neighbors and no one had any concerns. He also iterated that he has sent letters out to over 60 neighbors and had no one show up to the neighborhood meeting in opposition.

Ms. Toby Gerst asked if the tenant was renting the space or if he owned the building. She also asked how long his lease was if he were renting.

Mr. Gilbert shared that the business owner is renting and is on an eight-year lease with the option to renew.

Mr. Roy Wise shared with the committee that the nuisance uses that are associated with the C-2 Zoning District are not permitted at this location if approved due to the proximity to residential. The nuisance uses have distance requirements restricting them from being located within a certain distance to residential.

Mr. Robert Goodhue stated that this proposal is consistent with the surrounding area and is well buffered from residential uses to the west by C-1. He shared that hundreds of people will not be flocking to this business and the business will have a minimal effect on the surrounding area. He is in favor of the proposal.

Mr. Mathew Avrhami shared that this is his primary area he visits regularly. He stated that he is a strong supporter for small business. He said that OHSO Brewing is the major user in the shopping center. He stated that he feels bad for the proprietor in the cigar shop but feels uneasy supporting the request in front of him. He stated that he is not supportive of the request.

Mr. Jay Cantor asked how many other users are in the building.

Mr. Gilbert shared that there are four businesses operating in the building.

Ms. Gerst shared that the cigar business moved from across the street and the old tenant space still smells like cigar smoke. She agrees with Mr. Avrhami and has concerns with the onerous uses that come along with C-2 zoning. She shared that the VPC did not support a C-2 request just to the west of this request not too long ago.

Mr. Goodhue stated that the C-2 request that they did not support to the west was adjacent to residential. This request is not adjacent to residential. It is adjacent to C-1 and is well buffered from residential. He shared that this is a prime location and no undesirable use would be able to afford such a space.

Chairwoman Hall asked Ms. Gerst if she had heard anything from neighbors about the request.

Ms. Gerst shared that she had and that the HOA informed her of the request because she is outside of the 600-foot notification radius.

MOTION:

Committee Member Mathew Avrhami made a motion to recommend denial.

Committee Member Toby Gerst seconded the motion.

VOTE: 3-10

Yes: Motion failed, with Committee Members Avrhami, Gerst, and Cantor in favor.

No: Committee Members Hall, Gubser, Enright, Goodhue, Knobbe, Leshner, Mazza, Sparks, Ulibarri, and Wise not in favor.

MOTION:

Committee Member Daniel Mazza made a motion to recommend approval, subject to staff stipulations.

Committee Member Roy Wise seconded the motion.

VOTE: 10-3

Yes: Motion passes, with Committee Members Hall, Gubser, Enright, Goodhue, Knobbe, Leshner, Mazza, Sparks, Ulibarri, and Wise not in favor.

No: Committee Members Avrami, Gerst, and Cantor not in favor.

STIPULATIONS

1. Prior to permit issuance of any tenant improvements, the developer shall update the existing landscape areas along the Tatum Boulevard frontage per the C-2 streetscape landscape standards for planting type, size and quantity, unless underground utilities and/or drainage are found to conflict subject to the following requirements, as approved by the Planning and Development Department.
 - a) All required trees in the Tatum Boulevard landscape setback shall be planted adjacent to the sidewalk to provide shade/thermal comfort for pedestrians.
 - b) The sidewalk along Tatum Boulevard shall remain detached and the existing landscaped strip located between the sidewalk and the back of curb shall be planted to provide a minimum of 50% live ground cover.
2. In the event archaeological materials are encountered during construction, the developer shall immediately cease all ground-disturbing activities within a 33-foot radius of the discovery, notify the City Archaeologist, and allow time for the Archaeology Office to properly assess the materials.

STAFF COMMENTS REGARDING VPC RECOMMENDATION:

Committee Members Avrami, Gerst and Cantor opposed the motion as they have concerns that the proposed C-2 zoning district may open the door for nuisance uses to be located in close proximity to residential.

Staff has no concerns.