

**STAFF ANALYSIS  
REZONING REQUEST  
*Unified Zoning Ordinance***

**ZONING CASE:** JeVoris Blackwell is seeking to rezone a tract of land from Medium-Density Residential (R-3) to Neighborhood Commercial (C-1) (parcel 12-218-02-069) containing a total of 0.13-acre located at 840 McAfee Street. The tract is currently developed with a 2,000SF commercial building. The rezoning request to (C-1) is sought to serve the purpose of allowing the petitioner to utilize the property for a small convenience store:

The surrounding uses and zoning are as follows: 1) to the north, is a single tract of land across McAfee St. that contains a commercial building zoned R-3; 2) to the east, there is a 0.1-acre tract of land containing a small single-family detached dwelling zoned R-3; 3) to the south, is an undeveloped 0.1-acre tract of land zoned R-3; 4) To the west, is a 0.1-acre tract of land contained a single-family detached dwelling zoned R-3.

The subject property is within the jurisdiction of the City of Dalton's Mayor and Council.

<u>Administrative Matters</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>
A. Is an administrative procedure, like a variance, available and preferable to annexation?		<u>X</u>	
B. Have all procedural requirements been met? 1. Legal ad August 6, 2021 (16 days notice) 2. Property posted August 6, 2021 (Yes -- one sign on the lot frontage; 16 days notice.)	<u>X</u>		
C. Has a plat been submitted showing a subdivision of land?			<u>X</u>
D. The following special requirements have an impact on this request:  <b>100-year flood plain</b> <b>Site Plan</b> <b>Buffer Zones</b> <b>Soil Erosion/Sedimentation Plan</b> <b>Storm Water Requirements</b>	     <u>X</u>	     <u>X</u>  <u>X</u>	     <u>X</u>

## **CONSIDERING FACTORS FOR A REZONING/ANNEXATION ANALYSIS**

**(A) Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and whether the proposed change is consistent with the established land use pattern and zoning of adjacent and nearby properties.**

The area surrounding the subject property is largely zoned R-3. In fact, the entire block the subject property occupies is zoned R-3 with the vast majority of tracts being in conformity with the R-3 zone district. There are, however, a few tracts in the vicinity that contain older commercial buildings similar to the subject property. The issue of said commercial buildings within the R-3 zone district is that the commercial buildings have been vacant for long enough that they are no longer able to be utilized commercially per the non-conformity clause in the Unified Zoning Ordinance. The only way for the commercial building on the subject property to become a conforming use will be a commercial rezoning of the subject property. Generally speaking, the requested C-1 zone district is a great district for small commercial businesses to locate in central areas of a residential community in order to provide basic goods and services to said residential community as a convenience. Neighborhood commercial areas should be located in safely accessible areas where there is a concentration of residential development. Typically, we find these neighborhood districts at a crossroad area, much like the location of the subject property.

**(B) Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties.**

The subject property was developed for commercial use over 40 years ago according to the Whitfield County Tax records. Further researching the history of this area, staff discovered that the entire block, occupied by the subject property, was zoned M-2 at the time the subject property was developed. The City's zoning ordinance, during the 1970's, was of the pyramid style. The pyramid style zoning ordinance of this era permitted all defined land uses within the M-2 zone district from low-density single-family dwellings to large manufacturing operations and everything in between. The zoning ordinance also permitted little to no side setbacks or buffers at this time for most uses within the M-2 district that do not border properties zoned strictly residential. The findings from the research above explain, without a doubt, how the subject property was developed such as it is. With the exception of the crudely cemented parking area, the subject property's principle structure appears to have maintained much of its integrity and does not appear to be in a blighted state. Commercially developed properties are required in the UZO to provide for ample setbacks and buffers separating them from residential zone districts and development. The UZO's buffer standards clearly state that any C-1 zoned property should provide a minimum buffer area of 20' when it adjoins the R-3 zone district. Based on the subject property's existing commercial building and its location on the lot, there is no room to create any type of effective buffer along the majority of the side setbacks. Buffers are required in order to mitigate the effects of the commercial activity as it relates to the adjacent residential property. Buffers protect both the quality of life for residents adjacent to commercial property as well as the economic value of the residential property, and without adequate buffers in place, adjacent residential properties may suffer from the impacts of the adjacent commercial activity. It is fair to say, however, that the subject property has existed in a commercial state for several decades, and the adjacent single-family detached dwellings have remained occupied.

**(C) Whether the subject property has a reasonable economic use as currently zoned, considering the suitability of the subject property for the proposed zoned uses.**

As stated previously, the subject property has been developed for commercial use since, at least, the late 1970's. For many years the subject property was zoned M-2 which meant that it was a conforming property until the adoption of the UZO in 2015 when the R-3 zone district was

applied to this area. The R-3 zone district was applied to this area due to the majority of developed property being single-family detached residential in character. Several properties, once developed commercially, were overlaid with the R-3 zone district making them non-conforming. In short, the subject property may be considered a hardship situation as the existing development of the subject property is unusable under the current R-3 zoning. The only way for the subject property to have a viable use, other than demolition and redevelopment, would be a commercial rezoning, and the C-1 zone district would be the most conservative viable commercial zoning for the property.

**(D) Whether there is relative gain to the health, safety, morals, or general welfare of the public as compared to any hardship imposed upon the individual owner under the existing zoning.**

N/A

**(E) Whether the proposed (C-1) amendment, if adopted or approved, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities, as contrasted with the impact under the existing zoning.**

No issues regarding public utilities or infrastructure are noted with the exception of parking concerns. Staff took a close look into the existing parking area of the subject property and determined that the subject property could provide for, at most, five parking spaces per UZO specifications. The proposed convenient store use would require the subject property to provide for a minimum of 10 off-street parking spaces. If the requested C-1 rezoning and proposed convenient store are to be approved, a parking variance would be necessary. It is clearly stated in the UZO that all zone districts, with the exception of the C-2 Downtown district, provide for off-street parking. McAfee St. is clearly signed along each R/W near the subject property that no on-street parking is permitted. There is also a notable inconsistency in pedestrian infrastructure, such as sidewalks and crosswalks, in this area to safely allow nearby residents to safely walk to activity centers. A previous rezoning request sought for a similar situation near the subject property was recommended to be denied almost solely due to the fact that it was unable to provide for any off-street parking at all. The subject property could provide for, at least, some off-street parking opportunity.

**(F) Whether the property sought to be rezoned (or annexed) is in conformity with the policy and intent of the adopted joint comprehensive plan or equivalent. If not, has the plan already been amended, officially or unofficially, by the development of uses which are contrary to the plan recommendation, and if the plan has been amended, does this rezoning or annexation request allow uses which are compatible to the existing uses in the vicinity.**

The Comprehensive Plan and Future Development Map show the subject property to be within the Town Neighborhood Revitalization character area. This character area is intended to focus on aging neighborhoods within the city that have seen a decline in residential investment and that have been impacted by the encroachment of commercial and industrial developments. The goals for this character area are to restore the residential integrity to these areas by phasing out the aging heavy commercial and industrial developments. With that being said, however, one of the primary land uses recommended for this character area is neighborhood commercial. Essentially, low-intensity commercial land uses aimed at serving neighborhoods are not in conflict with this character area, and therefore, the requested C-1 rezoning would not be in conflict with the Comprehensive Plan and Future Development Map. The Town Neighborhood Revitalization character area also states that new development should be reflective of the established development pattern in the area. The subject property, as previously stated, has been developed for light commercial use for over 40 years.

**(G) Whether there are any other conditions or transitional patterns affecting the use and development of the property to be rezoned or annexed, which give grounds for approval or disapproval of the proposed zoning proposal. Whether the proposed zoning change constitutes an “entering wedge” and is a deterrent to the use, improvement, or development of adjacent property within the surrounding zone districts or would create an isolated, unrelated district (spot zone) as interpreted by current Georgia law.**

There are no nearby or adjacent properties zoned for commercial land use, nor are there and active commercial properties operating as non-conforming entities. If this rezoning is approved, it will create an island of C-1 surrounded by the R-3 zone district. While this at first appears as a simple situation of “spot zoning,” this planner understands that the whole intent of the C-1 Neighborhood Commercial zone district is, in point of fact, to serve neighborhood areas with basic goods and/or services. The C-1 zone district does not have the same invasive and intensive characteristics as the general commercial and manufacturing zone districts most commonly associated with the term “spot zone.” The previously mentioned fact of the subject property’s longstanding development as a commercial property also impact this factor, since the character of the property would not be altered if this rezoning request to C-1 is approved.

**(H) Whether the subject property, as currently zoned, is vacant and undeveloped for a long period of time, considered in the context of land development in the vicinity or whether there are environmental or cultural factors, like steep slopes, flood plain, storm water, or historical issues that influence the development of the subject property under any zoning designation.**

N/A

**CONCLUSION:**

The staff can provide the following pros and cons regarding the proposed C-1 rezoning:

1. The subject property has maintained a commercial character since it was most recently developed in the late 1970’s. The subject property was developed in conformity with the zoning ordinance and building codes of that era.
2. The Comprehensive Plan and Town neighborhood Revitalization character area do not conflict with the idea of a neighborhood commercial node within a residential zone district. The principle structure of the subject property has been established for several decades with much of its integrity intact, indicating that the property has been reasonable maintained through the years.
3. The subject property is capable of providing for up to five off-street parking spaces. While this falls notably short of the required ten spaces for the subject property, it is a significant increase in off-street parking opportunity than the recent commercial rezoning request on McAfee St.
4. There is no opportunity for an effective side-yard buffer along either the east or the west boundaries of the subject property. This property was, however, developed in a time where little to no setbacks were permissible, and no buffers were required due to the former zoning of adjacent properties.