

STAFF REPORT
Planning Commission Meeting: June 15, 2023
City Council Meeting: July 3, 2023

Case: RZ-2023-03

Current Zoning: RS- Single Family Residential

Proposed Request: Rezone property from RS (Residential Single-Family) to GC (General Commercial)

Staff Report Compiled By: LaShawn Gardiner

Staff Recommendation: Approval to Rezone to GC (General Commercial)

APPLICANT INFORMATION

Owner of Record: Kinh Enterprises, Inc.
Address: 4884 College Street
City/State: Forest Park, GA 30297

Applicant: TR1 USA, LLC
Address: 4233 Thurman Road
City/State: Forest Park, GA 30297

PROPERTY INFORMATION

Parcel Number: 1317A B014
Address: 4233 Thurman Road

Acreage: 0.287 +/-
FLU: Institutional

SUMMARY & BACKGROUND

The subject property is located at 4233 Thurman Road. The parcel number is 1317A B014 and is currently zoned RS (Single-Family Residential). The property is currently a small, vacant triangular piece of land with a paved parking lot and a few bricks, blocks, and wood remnants of what remained of the previous convenience store building. The applicant's request is to rezone the property from RS (Single-Family Residential) to GC (General Commercial). The parcel is 0.287 acre.

Records show that the previous structure was built in 1965. The property most recently operated as the In-N-Out Groceries convenience store since 2014. A fire destroyed the building in 2022. General commercial and industrial zoned uses are located east and south of the property. Properties west (Calvary Refuge Center) and north (unincorporated Clayton County) of the subject property are zoned residential. The convenience store and structure prior to its destruction was a pre-existing non-conforming use. Zoning Code Sec. 8-8-112 Nonconforming structures states the following:

Where a lawful structure exists at the effective date of adoption that could not be built under the terms of this chapter by reasons of restriction on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it is and remains otherwise lawful subject to the following provisions:

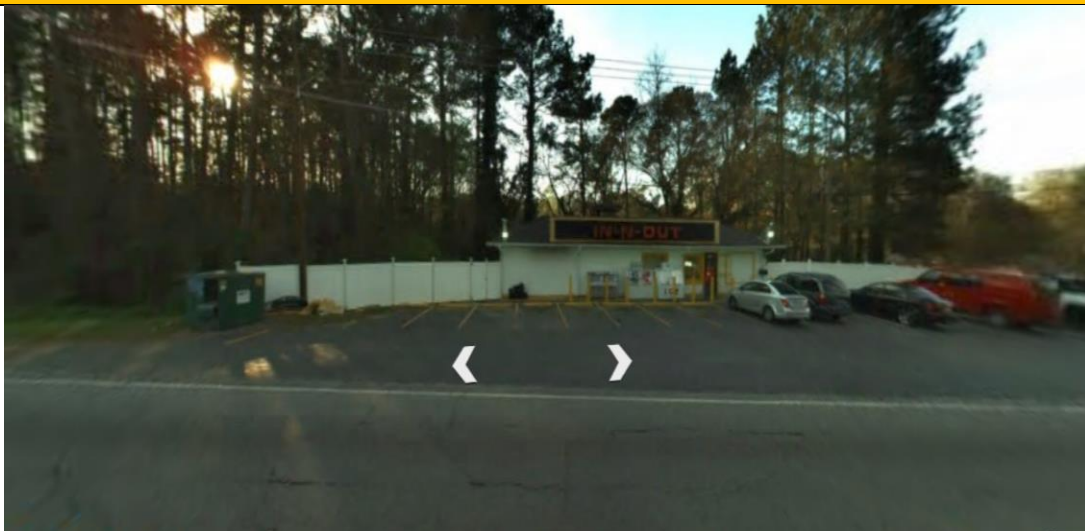
- (1) *No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity; but any structure or portion thereof may be enlarged or altered if the degree*

of its nonconformity remains the same or is decreased, provided such structure is used for a permitted use.

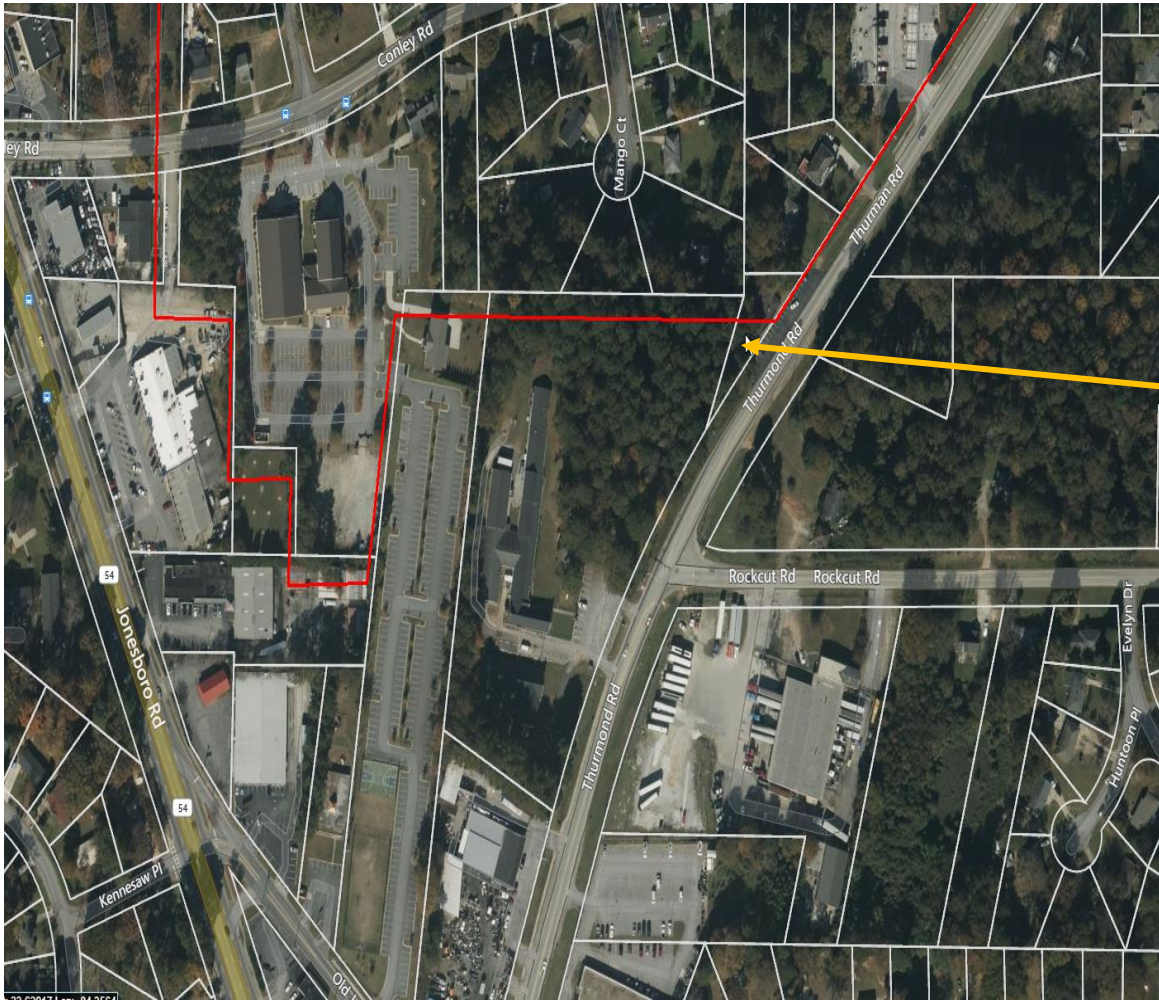
- (2) *One- and two-family residential structures. Should such nonconforming one- or two-family residential structure be destroyed, by any means, in whole or in part, it may be reconstructed in the same location and upon its previous foundation and to its previously existing height, provided said reconstruction does not increase the previously existing degree of nonconformity and further provided that said reconstructed structure is used for a permitted use.*
- (3) **All other structures. Should such nonconforming multifamily residential, commercial, or industrial structure be destroyed by any means to an extent of more than sixty (60) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this article.**
- (4) *Accessory structures. When nonconforming, accessory structure be destroyed by any means, in whole or in part, it shall be subject to the same provisions as govern the primary structure to which they are an accessory use.*
- (5) *Moving. Where a nonconforming structure is moved off its previous lot, it shall thereafter conform to the regulations for the district in which it is located after it is moved.*
- (6) *Public purposes. In cases where land is taken for public purposes from legal lots of record at the time of such taking in such manner as to reduce yards previously provided in relation to a portion of a structure below yard requirements generally applicable within the district, the portion of the structure involved shall be construed to be nonconforming.*

The subject property was operated as a non-conforming, commercial use, and therefore would have to conform to the current zoning standards of the General Commercial zoned district, per Sec. 8-8-112 (3), underlined above, if the rezoning is approved. The purpose of the request to amend the zoning of the subject property from RS (Single-family Residential) to GC (General Commercial) zoning category is to bring the use into conformance of the current zoning ordinance. Convenience/grocery stores are permitted uses in the general commercial zoning district, and it is the applicant's intent to rebuild the store.

In N Out Store Prior to Fire



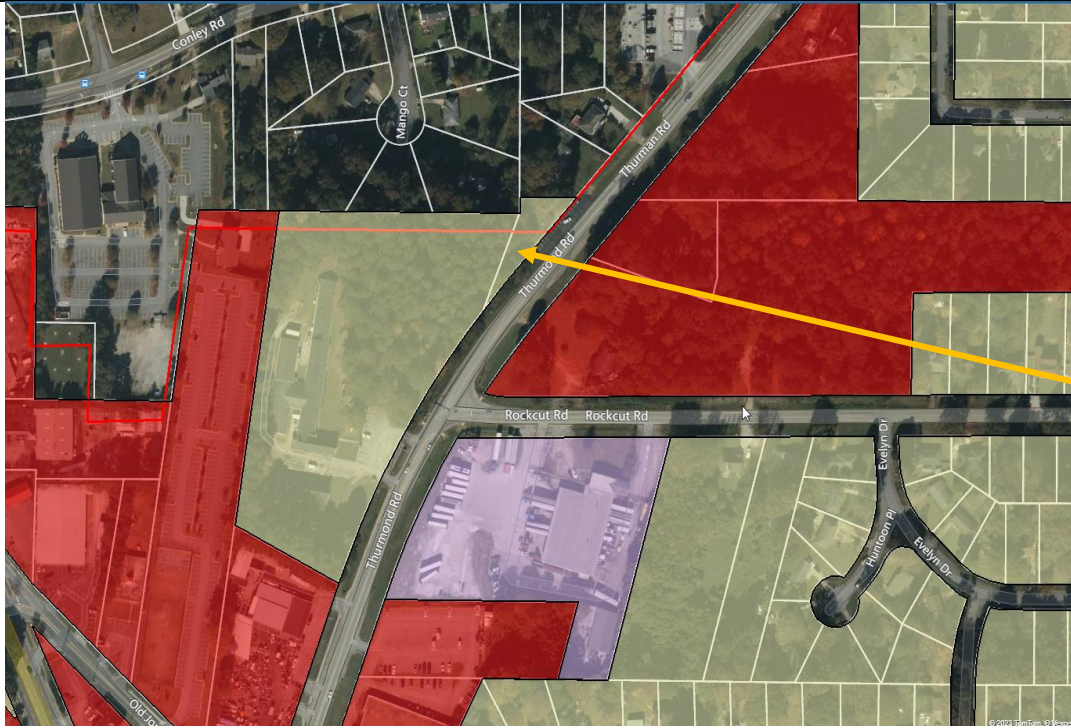
AERIAL MAP



ZONING CLASSIFICATION OF CONTIGUOUS PROPERTIES

North	(RS) Unincorporated Clayton County	East	General Commercial
South	General Commercial & Light Industrial	West	RS (Single-Family Residential)

ZONING MAP



Current Zoning: RS (Single-Family Residential)

FUTURE LAND USE MAP



Future Land Use: Institutional

Surrounding Properties



Calvary Refuge Center: Zoned RS (Single Family Residential)



NAT Enterprises: Zoned GC (General Commercial)



TABT, Inc.: Zoned LI (Light Industrial)

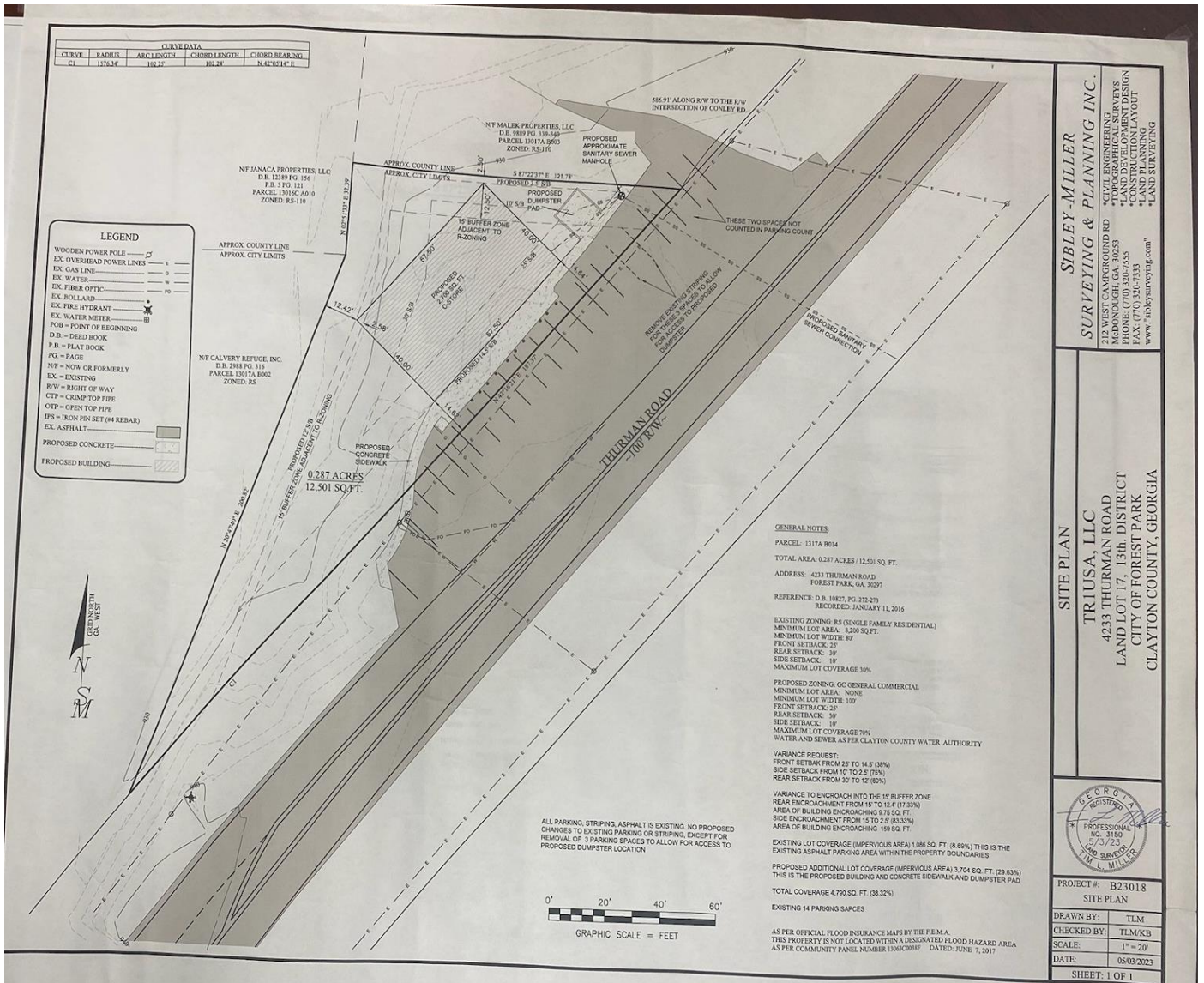


AT& T Telephone utility: GC (General Commercial)



Residential (Unincorporated Clayton Co.)

Site Plan of 4233 Thurman Rd.



SIBLEY-MILLER SURVEYING & PLANNING INC.
 312 WEST CAMPBELL RD
 MARIETTA, GA. 30067
 PHONE: (770) 320-7555
 FAX: (770) 320-7333
 www.sibleymiller.com

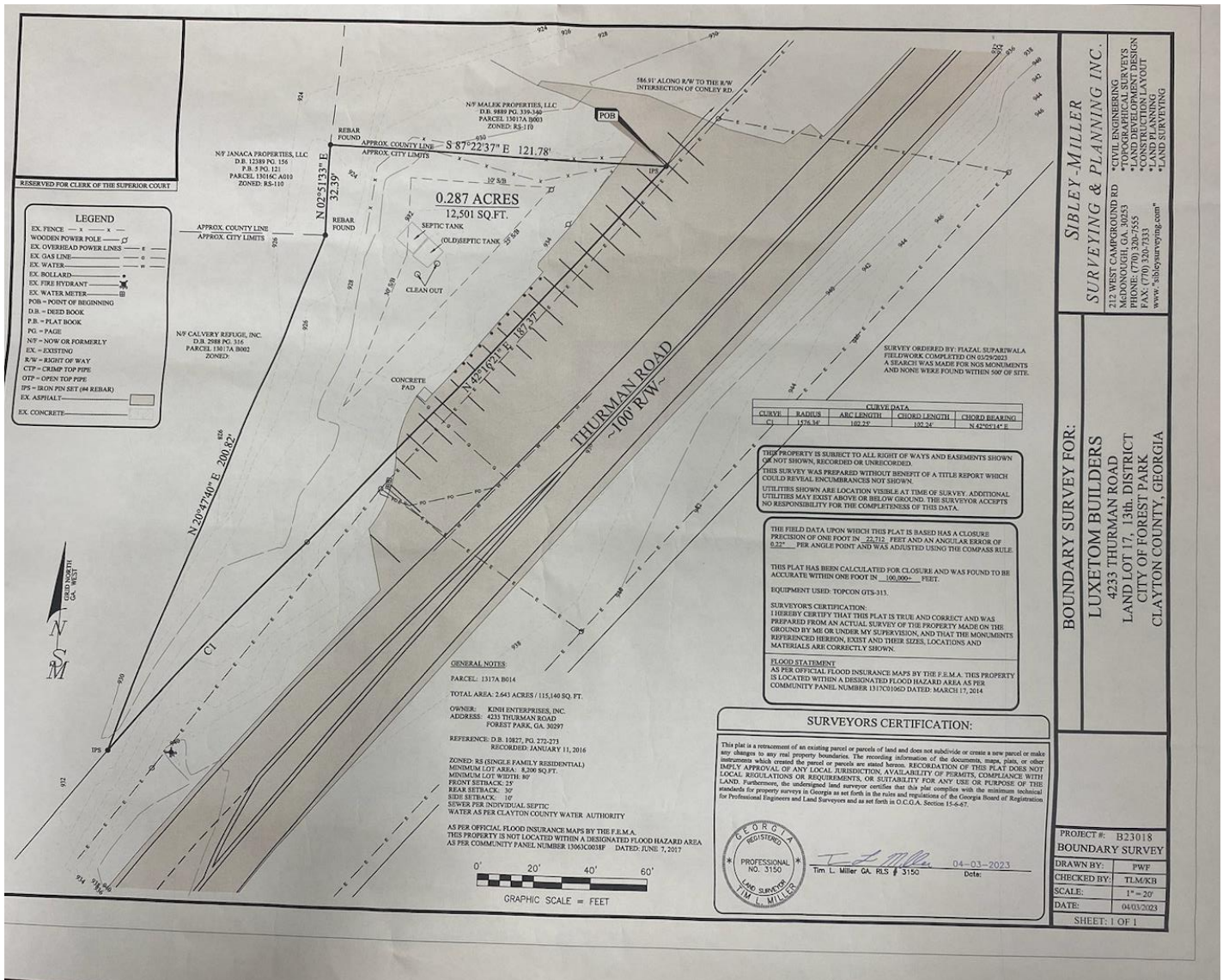
* CIVIL ENGINEERING
 * TOPOGRAPHICAL SURVEYS
 * LAND DEVELOPMENT DESIGN
 * LAND SURVEYING LAYOUT
 * LAND PLANNING
 * LAND SURVEYING

SITE PLAN
TRIUSA, LLC
 4233 THURMAN ROAD
 LAND LOT 17, 13th DISTRICT
 CITY OF FOREST PARK
 CLAYTON COUNTY, GEORGIA



PROJECT #: B23018
 SITE PLAN
 DRAWN BY: TLM
 CHECKED BY: TLM/KB
 SCALE: 1" = 20'
 DATE: 05/03/2023
 SHEET: 1 OF 1

Boundary Survey



Impact Summary

Would the proposed amendment be consistent and compatible with the city's land use and development, plans, goals, and objectives: Yes No *The subject property is flanked by commercial and industrial zoned properties to the east and south. Although, the future land use map designation is Institutional, due to the size, shape, and location of the property, it would be difficult to develop the subject property for institutional use.*

Would the proposed amendment tend to increase, to decrease, or to have no impact on traffic safety and congestion in the streets? Increase Decrease No Impact *We do not anticipate an increase in traffic congestion or detriment to traffic safety as a result of this rezoning.*

Would the proposed amendment tend to increase, to decrease, or to have no relationship to safety from fire and other dangers? Increase Decrease No Relationship

Would the proposed amendment tend to promote, to diminish, or to have no influence on the public health and general welfare of the city? **Promote** **Diminish** **No Influence**

Would the proposed amendment tend to increase, to decrease or to have no influence on the adequacy of light and air? **Promote** **Diminish** **No Influence**

Would the proposed amendment tend to cause, to prevent, or to have no influence on the overcrowding of land? **Cause** **Prevent** **No Influence**

Would the proposed amendment tend to cause, to prevent, or to have no relationship on the population distribution within the city, thus creating any area as dense in population as to adversely affect the health, safety, and general welfare of the city? **Cause** **Prevent** **No Relationship**

Would the proposed amendment tend to impede, to facilitate, or to have no impact on the adequate provision of transportation, water, sewerage, other public services, utilities, or facilities?
 Impede **Facilitate** **No Impact**

Would the proposed amendment tend to be compatible with environmental conditions in light of surrounding developments? If compatible, what factors, if any, would diminish the value, use and enjoyment of surrounding properties? **Yes** **No** *There are no known contributing factors that will affect the value, use and enjoyment of surrounding properties.*

Would the proposed amendment tend to promote, to diminish, or to have no influence upon the aesthetic effect of existing and future uses of the property and the surrounding area?
 Promote **Diminish** **No Influence**

Would the proposed amendment have measurable adverse economic effect on the value of surrounding or adjacent property? **Yes** **No**

Would the proposed amendment create an isolated district, unrelated to adjacent and nearby districts?
 Yes **No** *While the subject property is adjacent to two residentially zoned areas, several commercial and industrial zoned properties exist east and south of the subject property. The proposed zoning is commensurate with the previous and existing use of the property.*

Staff Review

The following city departments/divisions had no issues or concerns regarding the requested rezoning:

- Public Works, Police, Fire, and Building Inspector

Planning & Community Development Department

Planning staff recognizes that the property is 0.287 acres or 12, 501.72 square feet, and is a small, triangular shape. The current General Commercial (GC) zoning district requires the following minimum front, side, and rear setbacks if rezoning is approved:

Front: 25 ft.

Side: 10 ft.

Rear: 30 ft.

Due to the current GC setback standards and the size and shape of the property, a hardship would exist for the applicant to develop the property if the rezoning is approved.

Staff Recommendation

The requested rezoning from RS (Single-Family Residential) to GC (General Commercial) zoning category would allow for the current use of the property, although it would not meet the use of the property as an institutional use per the future land use due to its size and configuration. If the property is rezoned to commercial use, it would not be out of character of current, surrounding zoned uses in the area. The proposed amendment will not cause an adverse impact on the surrounding community. **Staff recommends Approval of the rezoning request** along with the following conditions:

1. Reduce the Front setback from 25 ft. to 14.62 ft.
2. Reduce the side setback from 10 ft. to 2.50 ft.
3. Reduce the rear setback from 30 ft. to 12.42 ft.
4. The property shall be for a convenience store only, with no automobile gas sales.
5. The building exterior shall be of brick, stone, or combination thereof.
6. Landscaping shall be planted around the perimeter of the building.

If the Rezoning with the recommended conditions is approved, the applicant will be required to apply to the Urban Design and Review Board for review and approve the landscaping and exterior architectural design of the building façade prior to receiving a building permit. Any changes or deviations from the recommended approval will need to come back before the Planning Commission.

