

MEMORANDUM

To: City Council

From: Gregory E. Buckley
City Manager

Date: September 12, 2024

Subject: Plan Commission Recommendation on Application to Re-Zone Property at 1509 19th Street from B-1 Business to R-3 One and Two Family Residential

The Plan Commission at its September 9 meeting considered the above application, which was tabled from the August meeting.

The property in question was formerly the location of a dental office, on the south side of 19th Street. It is located just west of the former Evans Department Store property. The former Evans property and this parcel are zoned B-1, as are all properties in this block on the opposite side of the street. All properties west of the subject parcel on the south side of the street, to Adams Street, are zoned R-3 Residential.

The owner is seeking the zoning change to make use of the existing building as a two-unit residence. First floor residential uses are not allowed in the current B-1 zoning district.

The Plan Commission struggled with this decision, as there are plausible arguments for either maintaining the current business zoning or re-zoning to residential. The property is shown on the Future Land Use map in the Comprehensive Plan as "Governmental/Institutional/Utilities," along with the abutting U.S. Post Office property, through the block to the south.

After extensive discussion of this request, the Plan Commission voted to recommend approval of the request by the City Council, with the condition that the property owner replace the concrete-paved front yard and adjacent concrete-paved terrace with turfgrass. The rationale for that proposed condition was to make the property more residential in appearance, and thus more compatible with the neighboring residential uses to the west.

While the Plan Commission's proposed condition for the re-zoning may have merit, a subsequent discussion with the City Attorney identified a potential concern that this would be

considered "contract zoning." That is, the zoning decision would be conditioned upon the property owner doing certain things with the property that are not otherwise required by the Zoning Code. This could create problems in trying to enforce that condition in the future.

Based on this concern, I believe it would be appropriate for the Council to refer this matter back to the Plan Commission, for further consideration. Other alternatives available to the Council would be to schedule this matter for public hearing and then decide to either:

- Approve the rezoning with the condition recommended by the Plan Commission;
- Approve the rezoning without condition; or
- Deny the rezoning

If the matter is returned to the Plan Commission, there are other alternatives that might be pursued to address a residential use of the subject property, including:

- An ordinance amendment to allow some residential conversions of the first floors of B-1 zoned properties as a conditional use, provided certain requirements are met
- Consideration of a rezoning of the property with self-imposed conditions offered by owner, in the form of a covenant running with the land
- Re-zoning the property as Planned Unit Development, and considering redevelopment as a residential use under that section of the ordinance

I recommend that this matter be referred back to the Plan Commission for further consideration, for the reasons cited in this memo.