



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: Z-7

Date: February 28, 2007

Subject: **APPLICATION Z11-06-122B C&L INVESTMENTS**
Request that the City Council consider a request to change the zoning from “M-1” Light Industrial District and “M-2” General Industrial District to “C-1” Light Commercial District on a 2.603 acre tract, all that certain tract or parcel of land situated in the J.Y. Jones Survey, Abstract 509, and the F.D. Bodenheimer Survey, Abstract 95, Smith County, Texas, being a part of New City Block 671 in the City of Tyler, located at the intersection of Nutbush Street (extended) and Gentry Parkway, approximately 236.06± feet south of Martin Luther King Junior Boulevard. This property fronts 256.19± feet along the east side of Gentry Parkway with a maximum depth of 452.10± feet.

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Item Reference:

The applicant is requesting a zoning change to allow for a Fred’s retail development.

Section 10-225, "C-1" Light Commercial District, allows as permitted uses restaurants, private clubs, antique shops, banks, service stations, offices and retail stores with no outdoor display or storage of merchandise or goods allowed. The maximum building height allowed within this district is two and one-half (2 1/2) stories or 42 feet in height. Off-street parking is determined by the specific use proposed. Properties with a commercial designation are subject to the requirements of the Subdivision and Landscape Ordinances.

The adjacent properties to the west are currently zoned “M-1” Light Industrial District, properties to the east are currently zoned “M-2” General Industrial District, properties to the south are currently zoned “R-1B” Single-Family Residential District and “C-2” General Commercial District, and properties to the north are currently zoned “M-1” Light Industrial District and “M-2” General Industrial District. The property carries a Commercial land use.

The applicant is requesting the zoning change to allow for the development of a Fred’s retail store. This request is consistent with the development pattern in the area and the rezoning of the property will be a continuation of the commercial zoning to the south. Allowing the zoning change would provide a more suitable buffer between the industrial use to the north and the residential area to the south, while providing a service to the neighborhood. This zone change also furthers the Comprehensive Plan by providing a zoning category consistent with the adopted land use.

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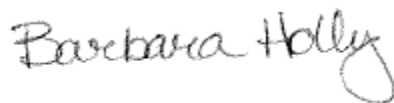
This request is consistent with the development pattern in the area and the rezoning of the property will be a continuation of the commercial zoning to the south. Allowing the zoning change would provide a more suitable buffer between the industrial use to the north and the residential area to the south, while providing a service to the neighborhood.

Of the 17 notices mailed; one was returned undeliverable; five notices were returned in favor of the application and two notices were returned in opposition to the request, citing a desire for more single family. The total calculated protest is 3.04%.

On February 6, 2007, the Planning and Zoning Commission held a public hearing on this request. Five notices were returned in favor of the request, two written letters of protest were filed and no one spoke in opposition to the request. Neary Rithikrivong appeared on behalf of the application.

RECOMMENDATION:

The Planning and Zoning Commission, by a vote of 7-0, recommends approval of the request to change the zoning from "M-1" Light Industrial District and "M-2" General Industrial District to "C-1" Light Commercial District.

A handwritten signature in cursive script that reads "Barbara Holly".

Drafted/Recommended By: Barbara Holly
Department Leader

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2007-18

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; DIRECTING THE AMENDMENT OF THE ZONING MAP; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION Z11-06-122B

That the following described property, which has heretofore been zoned “M-1” Light Industrial District and “M-2” General Industrial District, shall hereafter bear the zoning classification of “C-1” Light Commercial District to-wit:

All that certain tract or parcel of land situated in the J.Y. Jones Survey, Abstract 509, and the F.D. Bodenheimer Survey, Abstract 95, Smith County, Texas, being a part of New City Block 671 in the City of Tyler, and more particularly described by Exhibit “A”, and as shown on the drawings attached hereto as Exhibit “B” and “C”.

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning change.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 28th day of February, A.D., 2007.

JOSEPH O. SEEBER, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY

EXHIBIT "A" TO ORDINANCE 0-2007-18

EXHIBIT 'A'

Metes and Bounds Description 2.603 Acre Tract

All that certain tract or parcel of land situated in the J.Y. Jones Survey, Abstract 509, and the F.D. Bodenheimer Survey, Abstract 95, Smith County, Texas, being a part of New City Block 671 in the City of Tyler, being a part of that certain Tract 1, called 61.26 acres, described in a Warranty Deed from F.J. McKenna et ux Lillian McKenna to Rose Rudman, dated August 4, 1942, and recorded in Volume 453, Page 511 of the Deed Records of Smith County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod set for the southwest corner of the herein described tract, same being in the south line of said 61.26 acre tract, same being in the north line of a 20-foot wide alley as shown on the plat of Summit Heights Addition, a subdivision of record in Volume 103, Pages 244 and 245 of said Deed Records, same being in the east right-of-way line of Gentry Parkway (U.S. Highway 271), same being in a curve to the left having a radius of 4,648.66 feet; a 1/2" iron pipe found for reference bears North 89°37'20" East, 12.59 feet;

THENCE, with said east right-of-way line of Gentry Parkway, and along said curve to the left having a radius of 4,648.66 feet, a central angle of 00°40'41", and a chord bearing and distance of North 11°23'09" East, 55.02 feet, an arc length of 55.02 feet to a 1/2" iron rod set for a corner of same;

THENCE, North 11°02'48" East, continuing with said east right-of-way line of Gentry Parkway, a distance of 77.73 feet to a 1/2" iron rod set for a corner, same being the beginning of a curve to the right having a radius of 5,664.58 feet;

THENCE, continuing with said east right-of-way line of Gentry Parkway, and along said curve to the right having a radius of 5,664.58 feet, a central angle of 01°14'55", and a chord bearing and distance of North 11°40'16" East, 123.44 feet, an arc length of 123.45 feet to a 1/2" iron rod set for the northwest corner of the herein described tract;

THENCE, North 89°37'20" East, a distance of 451.40 feet to a 1/2" iron rod set for the northeast corner of the herein described tract;

THENCE, South 11°15'59" West, a distance of 256.05 feet to a 1/2" iron rod set for the southeast corner of the herein described tract, same being in said south line of said 61.26 acre tract, same being in said north line of said 20-foot wide alley;

THENCE, South 89°37'20" West, with said south line of said 61.26 acre tract, same being said north line of said 20-foot wide alley, a distance of 452.10 feet to the POINT OF BEGINNING and containing 2.603 acres of land.

EXHIBIT "B" TO ORDINANCE 0-2007-18



