

MEMORANDUM

TO: Planning Commission

FROM: Alexis DiLeo, City Planner

CC: Brett Lenart, Planning Manager

DATE: May 8, 2018

SUBJECT: Briarwood Mall Parking Lot Rezoning Discussion

The Briarwood Mall Partial Parking Lot rezoning petition includes two parcels requested to be rezoned from P (Parking) to C2B (Business Service). On March 20, 2018, the Planning Commission offered a split recommendation – recommending approval for rezoning a portion of Parcel 2, a 1.8-acre area northeast of the mall, but postponing a recommendation for Parcel 1, 13 acres located southeast and southwest of the mall. Reasons noted for postponing action on Parcel 1 included allowing the applicant to more fully describe the immediate and long term plans for future uses and development on Parcel 1. And, because the applicant indicated they may consider offering conditions, the postponement would allow time for them to make a decision.

Since the March 20 meeting, staff has spoken to and met with the applicant about the various options and tools available. Two ideas have emerged as the best way to move forward. Staff presents them, with some analysis, below.

Conditional Zoning

Rezoning Parcel 1, entirely or portions, to C2B would allow all of the uses permitted in the C2B district to occur in the areas zoned C2B. Offering conditions to the C2B zoning designation, to limit the uses permitted to a small subset, would alleviate the Planning Commission's concerns about recommending approval for a rezoning without an area plan indicating the impacts of developing the site (or sites) with hundreds of thousands of square feet of permanent buildings and uses, which would be allowed by-right upon rezoning.

An applicant may offer, and the City Council may accept, conditions upon a zoning designation. (It is important to note that conditions may not be solicited or required. Any and all conditions must be voluntarily offered. Conditions may not be used to circumvent any normal process or add any uses or permissions. Conditions must further restrict and not expand the standards and regulations of the zoning district.)

The table below shows the permitted uses in the C2B district as provided in the Unified Development Code (draft April 16, 2018). **Bold type** highlights the uses the applicant is seeking to host on a temporary basis. **Gray shading** indicates uses that are not consistent with the applicant’s examples of outdoor sales and events they desire and are uses the Planning Commission implied concern about developing without a site plan petition, or an area plan and supporting information.

C2B Use Table

(Permitted uses only, prohibited uses not shown. Use specific standards, not shown, may also apply.)

	PRINCIPAL	SPECIAL EXCEPTON	ACCESSORY	TEMPORARY
RESIDENTIAL	Adult Foster Care			
	Assisted Living			
	Multi-Family			
	Single-Family			
	Townhouse			
	Two-Family			
	Emergency Shelter			
	Frat./Sorority/Cooperative			
	Group Housing			
	Guest House			
PUBLIC/INSTITUTIONAL	Club Headquarters or Community Center			
	Museum, Art Gallery			
	Funeral Services			
	Gov't Offices and Courts			
	Library			
	Religious Assembly			
	Adult Day Care			
	Child Day Care			
	Higher Learning, Private			
	Higher Learning, Public			
	School, Private			
	School, Public			
	School, Industrial/Trade			
Nursing Care Facility				

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	PRINCIPAL	SPECIAL EXCEPTON	ACCESSORY	TEMPORARY
COMMERCIAL	Bed & Breakfast			
	Hotel			
	Artist Studio			
	General Entertainment			
	Indoor Recreation			
	Outdoor Recreation			
	Auto, Motorcycle, Rec. Vehicle Equipment Sales and Rental			
		Fueling Station		
	Outdoor Sales, Permanent			
		Medical Marijuana Provisioning Center		
	Restaurant, Bar, Food Service			
	Retail Sales, General Merc.			
	Wholesale, Resale, Building Material and Supplies			
	Auto, Truck, Construction Equipment Repair			
	Contractors, General Construction and Residential Building			
	Laundry, Cleaning and Garment Services			
	Personal Services			
		Vehicle Wash		
Veterinary, Kennel, Animal Boarding				
OFFICE AND RESEARCH	Bank, Credit Union, Financial Services			
	Office, General			
	Office, Medical/Dental			
	Office, Nonprofit Corp.			
	Medical Laboratory			
INDUSTRIAL	Medical Marijuana Secure Transporter			
	Railroad and Public Transportation Rights-of-Way			
	Transit Center, Station, Depot			
	Broadcasting Facility			
	Data Processing and Computer Centers			
	Wireless Communications Facilities			
	Warehousing and Indoor Storage			

	PRINCIPAL	SPECIAL EXCEPTON	ACCESSORY	TEMPORARY
ACCESSORY		Drive-Thru		
			Family Day Care Home	
			Group Day Care Home	
			Home Occupation	
			Management/Maintenance Office and Storage	
			Medical Marijuana Home Occupation	
			Medical Marijuana Use or Cultivation	
			Outdoor Display and Vending Machines	
			Outdoor Sales, Temporary	
			Solar Energy Systems	
			Wireless Communication Antenna	
TEMPORARY				Christmas Tree Sales
		Outdoor Sales, Temporary by Others		
		Special Event Sales		

C2B Area, Height and Placement Table

FAR	Premiums	Front Setback	Side Setback	Rear Setback	Maximum Height	Lot Area	Lot Width
200% max	N/A	10 ft min 25 ft max	None (unless abut R)	None (unless abut R)	55 ft max 4 stories max	4,000 sq ft	40 ft min

A rezoning to C2B With Conditions would enable tent sales of rugs and seasonal flowers, pumpkin patches, boat/rv/car shows, circuses and carnivals, community events, and concerts but, as a temporary outdoor sales by other, each use or vendor would require special exception use approval.

P (Parking) District Amendments

Amending the P district to allow for more uses would also achieve the applicant’s goals and address Planning Commission’s future development concerns. The table below shows the permitted uses in the P district as provided in the UDC (draft 4-16-18).

P Use Table

PRINCIPAL	SPECIAL EXCEPTON	ACCESSORY	TEMPORARY
Institutions of Higher Learning, Public			
School, Public			
Parking Lot or Structure			
		Parking Attendant Building	
		Solar Energy System	
		Wireless Communication Antenna	
			Special Event Sales

With some changes, the P district could become a more versatile, active district at the Briarwood Mall as well as the few other locations in the City with parking lots zoned P. Changes could include:

- Create new use, Temporary Outdoor Activity, for sales of merchandise, trees and plants; personal and recreational vehicle showcases; carnivals, games, rides, and play structures; concession and souvenir stands; and concerts and live performances.
 - Provide Use Specific Standards to address duration, size and location, approvals, etc.
 - Allow shorter events as permitted uses. Allow longer events with special exception use approval.
- Create new use, Short Term Car Storage, for parking personal vehicles up to 8 days in conjunction with shuttle services such as the Air Ride, football shuttles, and Art Fair vendor parking.
- Create new use, Medium Term Car Storage, for new or dealer-owned vehicles owned with special exception use approval. Term length could be determined by special exception use permit.

The amended code may then look like this:

Definitions

Temporary Outdoor Activity – Activities and events that traditionally occur outdoors in large parking lots that are open to the public for temporary shopping, amusement, entertainment, and recreation. Examples include, but are not limited to: seasonal plant and decoration sales; farmers markets; carnivals with games, rides, and play structures;

concerts and live performances; starting and finishing lines of races; concession and souvenir stands; and car and recreational vehicle shows.

Short Term Car Storage – Parking of personal, privately owned vehicles in parking lots for up to 8 days. Typically associated with car sharing services or park-n-ride services.

Medium Term Car Storage – Parking of excess inventory of new, used or recalled vehicles owned by a licensed dealership for a specified period of time up to four months. Does not include storage of damaged vehicles, vehicles requiring repair, display of vehicles for customers, or retail sales of vehicles.

P DISTRICT USE TABLE

PRINCIPAL	SPECIAL EXCEPTON	ACCESSORY	TEMPORARY	Use Specific Standards
Institutions of Higher Learning, Public				
School, Public				
Parking Lot or Structure				
		Parking Attendant Building		
		Solar Energy System		
		Wireless Communication Antenna		
			Special Event Sales	
<u>Temporary Outdoor Activity</u>				<u>Section 1</u>
<u>Short Term Car Storage</u>				<u>Section 2</u>
	<u>Medium Term Car Storage</u>			<u>Section 3</u>

USE SPECIFIC STANDARDS

1. Temporary Outdoor Activity
 - a. Site must have at least 87,120 square feet (2 acres) of vehicular use area on an approved site plan.
 - b. Site must have a conforming conflicting land use buffer.
 - c. Activities up to 4 days require a zoning permit (and any other applicable permits). Activities beyond 4 days require special exception use approval.
 - d. No more than 8 activities on a site are permitted in any calendar year.

2. Short Term Car Storage

- a. Site must have at least 87,120 square feet of vehicular use area on an approved site plan.
- b. Site must have a conforming conflicting land use buffer.

3. Medium Term Car Storage

- a. Site must have at least 87,120 square feet of vehicular use area on an approved site plan.
- b. Site must have a conforming conflicting land use buffer.
- c. Special exception use approval shall include identify the area of the parking lot where cars may be stored, the maximum number of cars that may be stored, and the maximum length of time cars may be stored but not to exceed 4 months.
- d. At least 4 months shall lapse between approved periods of medium term car storage on a site.

Staff Comments

Our March 20, 2018 Planning Staff Report for the Briarwood Mall Partial Rezoning and Area Plan, noted, "The question is not so much if or why the parking areas should be repurposed, but how."

Should the applicant offer conditions to the C2B zoning designation, it could minimize or eliminate staff's and the Commission's concerns about unknown future development of the rezoned areas. But it may continue to unnecessarily restrict or hamper redevelopment of the Briarwood area with complex conditions that would take quite of bit of effort to undo in the future. Staff continue to recommend that a rezoning should consider how the area may further develop or redevelop in the future with permanent uses and buildings rather than temporary ones.

Amendments to the P district may offer an acceptable compromise, and would benefit the applicant as owner of Parcel 1 and 2 as well as the other major land owners at the Briarwood Mall including the parent company of Sears, Macy's, and J.C. Penney. Staff believe that amendments along the lines suggested above would bring new life to large, underutilized parking lots in appropriate ways city wide but would not affect the development potential of Parcel 1.

Staff looks forward to the discussion between the applicant and the Planning Commission and providing background information as needed.