
[Planning Commission Comment] Agenda Item 19: 11-H-20-RZ

1 message

Benjamin C. Mullins <bmullins@fmsllp.com>

Wed, Nov 11, 2020 at 4:30 PM

Reply-To: bmullins@fmsllp.com

To: "commission@knoxplanning.org" <commission@knoxplanning.org>, Michelle Portier <michelle.portier@knoxplanning.org>, Amy Brooks <amy.brooks@knoxplanning.org>

Cc: Ron Welch <ronwelch49@yahoo.com>

Commissioners,

I was only retained this afternoon to assist Mr. Welch in his application for a Prior Zoning Equivalent for the Property located at 2613, 2615, and 2625 Greenway Dr. From my review of the application, the current zoning ordinance and map, the prior zoning ordinance and map, and staff's recommendations, I would urge you to not follow staff's recommendation in this instance and grant Mr. Welch the requested C-H-1 zone as it is the only comparable equivalent zone to what he had prior to the adoption of Recode.

As noted by staff's report, the prior zoning was C-4. The existing, and prior, uses on the property include outdoor vehicle storage and sale. This use is was allowed in the prior C-4 zone but is not allowed in the recommended C-G zone. The Transition Rules of the current zoning ordinance, Article 1.4.H. allows for property owners aggrieved by this Code's application of a new or substantially different zoning district to submit a written request for a prior zoning equivalent. This request must be for a zone that is "substantially similar to the prior zoning district which applied immediately before the adoption of this Code." Based upon the language of the Transition Rules, the "substantially similar" zoning district to the prior C-4 zone is the C-H-1 zone. That is demonstrated not only by a review of the allowable uses (including outdoor storage and vehicle dealership) is the C-H-1 zone. Additionally, a review of the current "Purpose Statement" of the C-H-1 zone with the "General Description" of the C-4 zone reveal an almost identical description of purpose.

C-4:

https://library.municode.com/tn/knoxville/codes/code_of_ordinances/349215?nodeId=APXBZORE_ARTIVSPDIRE_S2BADI

2.2.7. - C-4 highway and arterial commercial district.

A. *General description.* This highway and arterial commercial district is established to provide areas in which the principal use of land is devoted to commercial establishments which cater specifically to the needs of motor vehicle oriented trade. Typical uses offer accommodations and services to motorists, contain certain specialized retail outlets, or provide commercial amusement enterprises. It is the intent to provide a location for the limited amount of merchandise, equipment and material being offered for retail sale that, because of the type of material or transportation requirements, are suitable for display and storage outside the confines of an enclosed building. The intent of this district is to provide appropriate space and sufficient depth from the street to satisfy the needs of modern commercial development where access is entirely dependent on motor

vehicle trade; to provide the orderly development and concentration of highway and arterial commercial uses at appropriate locations; and to encourage the development of these locations with such uses and in such a manner as to minimize traffic hazards and interference with other uses in the vicinity.

C-H-1:

https://library.municode.com/tn/knoxville/codes/code_of_ordinances?nodeId=APXBZOCO_ART5COOFDI

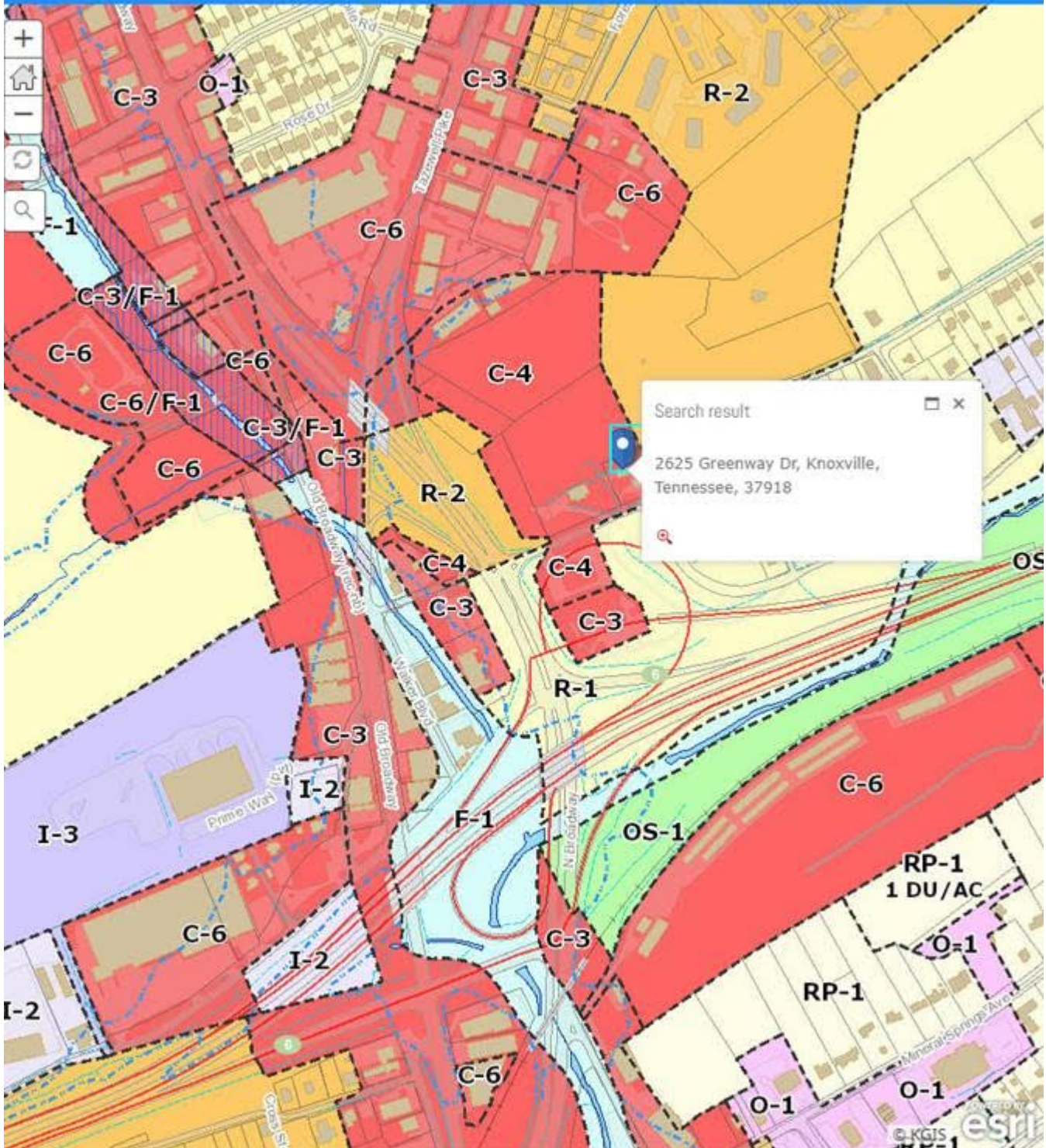
5.1 - PURPOSE STATEMENTS

Commercial Districts

3. C-H Highway Commercial Zoning District

The C-H Highway Commercial Zoning District is intended to accommodate higher-intensity commercial uses of a predominantly auto-oriented character, including retail, rental, and service establishments of a more intense commercial character including those requiring permanent outdoor service or storage areas. The C-H District regulations are intended to ensure the mitigation of any potential impacts related to such establishments on neighboring uses. The C-H District is divided into two levels of intensity related to the overall form and design of the development; however, uses are the same across all levels.

And while the Planners noted in Agenda Review that it was their opinion that it was their opinion that the C-G zone was more appropriate because there was other C-G zones in the area, but there was no other C-H zones in the immediate vicinity, this was true under the prior zoning map. See screenshot of prior zoning map below:



As such, I would urge you to approve this application for C-H-1 as it is the prior zoning equivalent of the prior C-4 zone and will continue to allow the current outdoor vehicle storage and sales use to remain a permitted use and not relegate it to non-conforming status.

I welcome any questions and look forward to our conversation tomorrow.

Benjamin C. Mullins *Attorney*



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