

1. 2009Z-007PR-001 (renamed 2009SP-014-001)

Map: 051-00 Parcel: part of 028
Madison Community Plan
Council District 4 – Michael Craddock
Staff Reviewer: Jason Swaggart

A request to rezone from OR20 to CS zoning a portion of property located at 619 Due West Avenue, approximately 1,000 feet west of S. Graycroft Avenue (0.05 acres), requested by Ragan-Smith Associates, applicant, for Christian Schools Inc., owner .

Staff Recommendation: Disapprove

APPLICANT REQUEST - A request to rezone from Office/Residential (OR20) to Commercial Services (CS) zoning a portion of property located at 619 Due West Avenue, approximately 1,000 feet west of S. Graycroft Avenue (0.05 acres).

Existing Zoning

OR20 District -Office/Residential is intended for office and/or multi-family residential units at up to 20 dwelling units per acre.

Proposed Zoning

CS District -Commercial Service is intended for retail, consumer service, financial, restaurant, office, self-storage, light manufacturing and small warehouse uses.

MADISON COMMUNITY PLAN

Office Concentration (OC) The OC policy is intended for existing and future large concentrations of office development. It is expected that certain types of commercial uses that cater to office workers, such as restaurants, will also locate in these areas. Residential uses of at least nine to twenty dwelling units per acre (RMH density) are also an appropriate secondary use.

Madison Community Plan Update The Madison Community Plan is currently being updated. The area proposed for CS is to remain within an office policy.

Consistent with Policy? No. The CS district is not consistent with the OC policy. The Madison Community Plan is currently being updated and this area is currently proposed to remain within an office policy area. Also, the area proposed for CS is not adjacent to any other CS zoning nor is there any CS zoning within the immediate area. The proposed CS district would not be consistent with the area's zoning pattern. The applicant has stated that the purpose of the zoning request is to allow an electronic sign, which is not allowed in the OR20 district. It is inappropriate to rezone property to a zoning district that is not consistent with policy, or the surrounding zoning to allow a use that is prohibited in the existing zoning district. It sets a bad precedent, and is not consistent with the community planning process, which has identified this area as non-commercial. It would be more appropriate to look at the sign ordinance and make any necessary changes.

PUBLIC WORKS RECOMMENDATION No Exceptions Taken

Due to small size of the area proposed for CS the amount of traffic created would be insignificant. Because the amount of traffic created would be minor, no traffic table has been created.

STAFF RECOMMENDATION Staff recommends disapproval of the request to rezone 0.05 acres from OR20 to CS. The CS district is not consistent with the OC land use policy or zoning pattern in the area.

Mr. Swaggart presented and staff is recommending disapproval.

Mr. Ricky Perry spoke in favor of the requested zone change.

Mr. Lindsey Judd spoke in favor of the requested zone change.

Councilmember Craddock spoke in favor of the requested zone change. He stated that the request would not

adversely affect this area and requested its approval. He also explained that he had not received any opposition on the request.

Mr. Gotto agreed with Councilmember Craddock. He then questioned whether the Commission could deny the request for CS zoning and recommend that Council request SP zoning that would allow all OR20 uses including approval of the electronic sign.

Mr. Bernhardt stated that the Council could make the request for SP zoning.

Ms. LeQuire offered her concerns on allowing an SP zoning in order to accommodate an electronic sign.

Mr. Gotto explained that all SP zoning would have to be approved by Council.

Ms. LeQuire acknowledged that a Sign Committee is currently reviewing the ordinance regulating electronic signs and offered her concern of recommending SP zoning that would include an electronic sign.

Mr. Gotto explained that there were no opposing views expressed by any neighboring property owners and offered his support for approving the request.

Mr. Bernhardt explained the Sign Committee is currently studying electronic signs for civic uses and with regard to public policy, this committee should be allowed to make their recommendation on the uses of electronic signs. He then explained the role of the Commission in making this decision and the difficult nature of the request.

Mr. Gotto explained he would not vote to disapprove this request.

Ms. LeQuire suggested the applicant apply for a variance.

Mr. Gotto explained that a variance could not be obtained on a law that is currently enacted. He then asked Mr. Morrissey to explain whether a variance could be obtained just for this request.

Mr. Gotto moved to disapprove the request to rezone to CS and approve an SP district that allows all of the uses of the OR20 zoning district and to allow an electronic sign. Mr. Ponder seconded the motion. Mr. Gotto then offered that even if the Commission were to send a disapproved recommendation to Council, it would not prohibit Council from approving a CS district for this area and offered additional explanation on a recommendation for Council.

Mr. Gee requested additional information from the applicant on the type of sign they were requesting to place on the site.

The applicant responded, however, his comments were inaudible.

Mr. Gee then questioned the height and size limitations for signs currently located on this parcel.

Mr. Swaggart explained the sign limitations to the Commission.

Mr. Gee requested that the applicant provide additional information for their plans on the requested sign.

Mr. Perry gave additional details on their requested sign.

Mr. Gee then suggested that if the Commission were to approve an SP district, then parameters for the requested sign should be included as part of the SP approval.

Mr. Ponder moved to amend the motion by including a condition that the electronic sign is no taller than the height of the existing sign, and no larger than 110% of the existing sign area.

Mr. Gotto then questioned whether the proposed sign could contain the same square footage of the existing sign.

Mr. Perry explained additional details on the square footage to the Commission.

A brief discussion took place regarding the square footage of the existing and the proposed sign, as well as the electronic regulations currently enacted through the sign ordinance.

Mr. Clifton expressed his concerns with approving the motion as discussed due to the issue of allowing an electronic sign by means of SP zoning. He acknowledged the intent of the applicant as well as the support by Councilmember Craddock. However, with the Sign Committee currently studying the issue and the fact that residents are opposed to electronic signage, the current motion would allow future requests similar to this to be passed by Council.

Ms. LeQuire expressed her concern with proposing SP zoning to allow an electronic sign and its precedence for any future requests.

Mr. Gotto did not agree that the motion would set a precedent and agreed with Mr. Ponder to amend the motion.

Ms. Jones seconded the motion made by Mr. Ponder to amend the current motion on the floor.

Mr. Ponder restated his motion, which was seconded by Ms. Jones to amend the existing motion by adding the condition on the sign that does not allow the sign to be taller than the height of the existing sign and no larger than 110% of the existing sign area. **(10-0)**

Prior to voting, Mr. Gee requested that Mr. Morrissey, Legal Counsel, address whether the Commission should include in the motion that the request is related to institutional uses.

Mr. Morrissey offered his legal opinion on the motion being made by the Commission.

Mr. Gotto offered that his motion was made due to the fact that the application contains an existing sign, and that it would only approve the same size of the existing sign, and finally, that it would not affect any residential neighborhood.

Ms. LeQuire offered her concern that the requested sign was an electronic sign.

Mr. Gotto moved and Mr. Dalton seconded the motion, to disapprove the request to rezone to CS and approve an SP district that allows all of the uses of the OR20 zoning district and to allow an electronic sign, no taller than the height of the existing sign and no larger than 110% of the existing sign area. **(7-3) No Votes – Clifton, Cummings, LeQuire**

Resolution No. RS2009-11

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009Z-007PR-001 is **DISAPPROVED REQUEST TO REAZONE TO CS, APPROVE AN SP DISTRICT that allows all of the uses of the OR20 zoning district and permits one electronic sign that is no taller than the height of the existing sign and no larger than 110% of the existing sign area. (7-3)**

There are no residential districts within the immediate area and with the conditions included in the SP it will not be inconsistent with the Madison Community Plan Office Concentration policy.”