

ITEM NO. 3 IBP TO IL; 2.11 ACRES; 1300 RESEARCH PARK DR (BJP)

Z-16-00215: Consider a request to rezone approximately 2.11 acres from IBP (Industrial/Business Park) District to IL (Limited Industrial) District, located at 1300 Research Park Drive, Lot 3, Block 3. Submitted by Wallace Engineering, for Lydia L. Neu and Robert M. Neu, property owners of record.

STAFF PRESENTATION

Ms. Becky Pepper presented the item.

APPLICANT PRESENTATION

Mr. Tim Herndon, Wallace Engineering, said he reached out to property owners in the area and informed them of the proposal. He agreed with the staff report.

PUBLIC HEARING

Mr. Tiraz Birdie, Lawrence Montessori School, expressed concern regarding decreased property values. He said he would feel better if he knew what the design/layout would look like. He said he supported the rezoning in general.

Mr. Max Bruce, 4911 Legends Drive, said he did not have an issue with the rezoning or with the property owner, but was concerned about increased water flow coming down hill. He stated that development at the site would increase water drainage.

APPLICANT CLOSING COMMENTS

Mr. Herndon said Oread West had restrictive covenants associated with the plat as well as the Industrial Design Guidelines for site development. He showed a concept sketch on the overhead. He said the site plan would include notice to property owners within 200' of the site. He said the City Stormwater Engineer would be onsite tomorrow. He offered to meet later with the neighbors as the project developed.

COMMISSION DISCUSSION

Commissioner Carpenter inquired about the restrictive covenants on the property.

Mr. Herndon said the covenants limited certain uses in the way things were stored or displayed on the property. He said the covenants were more about the building materials used.

Commissioner Carpenter asked if the covenants were more design than land use.

Mr. Herndon said that was correct.

Commissioner Carpenter expressed concern about conditional zoning and notice to future property owners. He was concerned that if a Court determined in the future that conditional zoning was invalid and if determined so, then there would be IL in the middle of IBP with all uses available to this property.

Mr. Herndon said he understood Commissioner Carpenter's concerns. He was reluctant to commit his client to do something that was in excess of what the laws and statutes required for this project. He felt it would be unfair. He said he would be reluctant to place a deed restriction that would state what the ordinance already stated for the property. He felt it would be redundant and supercilious.

Commissioner Kelly asked staff to talk about the conditional zoning.

Mr. McCullough said conditional zoning was a great tool to create compatibility for projects. He said it was the City's position that conditional zoning was a legal method.

Commissioner Britton asked if nearby neighborhoods had restrictive covenants.

Mr. McCullough said he was unsure since covenants were private.

Mr. Herndon said he did not know of any other properties that have been awarded conditional zoning. He said the area was mostly zoned IBP. He said every property within Research Park was subject to the same general covenants.

Commissioner Carpenter asked if this property would be the only property in Research Park zoned IL.

Mr. Herndon said yes.

ACTION TAKEN

Motioned by Commissioner von Achen, seconded by Commissioner Sands, to approve the request to rezone approximately 2.11 acres from IBP (Industrial/Business Park) District to IL (Limited Industrial) District, with use restrictions, and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report subject to the following condition:

1. Permitted uses are limited to those listed below:
 - a. *Work/Live Unit*
 - b. *Cemetery*
 - c. *College/University*
 - d. *Day Care Center*
 - e. *Event Center, Small*
 - f. *Event Center, Large*
 - g. *Postal & Parcel Service*
 - h. *Public Safety*
 - i. *Funeral and Interment*
 - j. *Social Service Agency*
 - k. *Health Care Office, Health Care Clinic*
 - l. *Active Recreation*
 - m. *Participant Sports & Recreation, Indoor*
 - n. *Participant Sports & Recreation, Outdoor*
 - o. *Passive Recreation*
 - p. *Nature Preserve/Undeveloped*
 - q. *Kennel, provided that the use be accessory to the Veterinary use*
 - r. *Veterinary*
 - s. *Restaurant, Quality*
 - t. *Administrative and Professional*
 - u. *Financial, Insurance & Real Estate*
 - v. *Payday Advance, Car Title Loan Business*
 - w. *Office, Other*
 - x. *Parking Facility, Commercial*
 - y. *Building Maintenance*
 - z. *Business Equipment*
 - aa. *Business Support*
 - bb. *Construction Sales and Service*
 - cc. *Maker Space, Limited*
 - dd. *Maker Space, Intensive*
 - ee. *Manufacturing & Production, Ltd.*
 - ff. *Manufacturing & Production, Tech.*

- gg. *Research Service*
- hh. *Wholesale Storage & Distribution, Light*
- ii. *Agriculture, Crop*
- jj. *Broadcasting Tower*
- kk. *Communications Service Establishment*
- ll. *Recycling, Small Collection*

Commissioner Britton said he would be interested in talking further about conditional zoning at a future Mid-Month meeting.

Commissioner Carpenter said he was going to vote in favor of the rezoning but was concerned about creating an individual lot of land in Research Park that had an extended list of possible uses. He would like Planning Commission to have a discussion about policy review so as not to run into legal issues in the future.

Commissioner Culver said he would support the motion. He said he would like to see the applicant and neighbors work together to make sure it was compatible with the surrounding uses.

Unanimously approved 10-0.