

AGENDA REPORT

DATE February 7, 2006

ITEM Ordinance No. 2929 to Rezone Lots 1 through 5, Block 806, Eleventh Addition

INITIATED BY Hawkins Companies

ACTION REQUESTED Commission Accept Ordinance No. 2929 on First Reading and Set Hearing

PREPARED BY Bill Walters, Senior Planner

APPROVED & PRESENTED BY Benjamin Rangel, Planning Director

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RECOMMENDATION:

The City Zoning Commission, which consists of the same membership as the Planning Board, has recommended the City Commission deny the request to rezone Lots 1 through 5, Block 806, Eleventh Addition, from R-3 Single-family high density district, to C-2 General commercial district.

MOTION:

“I move the City Commission accept Ordinance No. 2929 on first reading and set a public hearing for March 7, 2006, to consider Ordinance No. 2929.”

SYNOPSIS:

Ordinance No. 2929 rezones Lots 1 through 5, Block 806, 11th Addition, from R-3 Single-family high density district, to C-2 General commercial district. Subject Lots 1 – 5 are addressed as 2300, 2304, 2308, 2312 & 2316 9th Avenue South and the purpose of the rezoning is to accommodate construction of a Walgreens Pharmacy.

BACKGROUND:

The owners of Lots 1 – 5, Block 806, Eleventh Addition, have applied through their representative, the Hawkins Companies, to rezone subject lots from R-3 Single-family high density district to C-2 General commercial district. The applicant intends to remove the existing residential structures on subject Lots 1 – 5 and combine subject lots with adjoining property to the south to accommodate a proposed 14,820 sq ft Walgreens Pharmacy.

Attached is a vicinity/zoning map, a preliminary site plan and a preliminary section and elevation.

On January 10, 2006, the City Zoning Commission, which consists of the same membership as the Planning Board, conducted a public hearing to consider the rezoning for Lots 1 - 5, Block 806, 11th Addition. Mr. Colby Halker from the Hawkins Companies explained the proposed project and what procedural steps they had undertaken to date. Speaking in opposition to the rezoning were Mr. Phil Faccenda, 2104 4th Avenue South, Ms. Lee Withrow, 2301 3rd Avenue South, Mr. Don LeBar, 2300 5th Avenue South, Dr. Shel Ivers, 2808 Bonita Drive, Ms. Linda Bennetts, 2304 6th Avenue South, Ms. Kim Jones, 2213 9th Avenue South, Mr. Marty Johnson, 2305 9th Avenue South, and Mr. Steve Wadsworth, 2212 9th Avenue South. Most of the individuals speaking in opposition expressed concerns about the potential increased traffic that could result from the proposed project. Some expressed concerns with depreciation of property values. In addition, the Planning Board was provided copies of numerous petitions protesting the rezoning signed by parties involved in the businesses which would be displaced by the new development resulting from the rezoning and by the

owners and occupants of residential property in the vicinity. At the conclusion of the Hearing and after considering several different motions ranging from approval of the request with conditions to tabling the request until a traffic study could be conducted, the Zoning Commission passed a motion recommending the City Commission deny the request to rezone Lots 1 - 5, Block 806, 11th Addition, from R-3 Single-family high density district, to C-2 General-commercial district. During the hearing, it appeared that most Zoning Commission members did not oppose the Walgreens project but were uncomfortable voting in favor of the rezoning without more information being available about possible traffic volume increases and ways to mitigate any potential traffic volume problems. Nonetheless, its official motion was for denial.

Although there is no amount of protest that can automatically terminate a rezoning request, Montana Code Annotated, Section 76-2-305, provides that a zoning amendment may not become effective except upon a favorable vote of two-thirds of the present and voting members of the city council if a protest against the change is signed by the owners of 25% or more of those lots 150 feet from a lot included in a proposed change. Staff has determined 45% of the owners of lots within the 150 foot legal protest area have objected to the rezoning. Therefore a super majority vote of the City Commission will be needed to approve the rezoning ordinance. Otherwise it fails.

After the Zoning Commission Hearing, the applicant hired the firm of Robert Peccia & Associates of Helena to conduct a traffic analysis for the proposed project. The analysis is expected to be done by about the third week in February, so that the results can be made available to the City Commission. As such, the applicant has requested the City Commission hearing on the rezoning be scheduled for March 7, 2006.

It is anticipated a copy of the Staff Report and Recommendation on the rezoning, copies of protest petitions regarding the project received to date, minutes of the January 10, 2006, Zoning Commission Hearing, and the results of the above mentioned traffic analysis will be provided to the Commission prior to the March 7, 2006 hearing.

Attach: Ordinance No. 2929
Vicinity Zoning Map
Preliminary Site Plan
Preliminary Section and Elevation

cc w/Ord 2929: Hawkins Companies, 8645 W. Franklin Rd., Boise, ID 83709