

Discussion Topics for the Proposed Rezoning of Parcel 3009586 from D6 to D3
April 18, 2014

Summary of issues affecting three parcels west of the Prestige parcel that is proposed for rezoning:

1. If the three parcels are rezoned:
 - a. The property may be used for residential purposes. The existing residential uses would become conforming.
 - b. Existing nonresidential uses at 780 Boston Mills Road (Dougherty) would become nonconforming. Nonconforming uses may continue to be used and could be expanded with the approval of the Board of Zoning and Building Appeals up to 25% of the area they presently occupy.
 - c. New construction of nonresidential uses would not be permitted.
2. If the three parcels are not rezoned (status quo)
 - a. The properties may continue to be used for nonresidential purposes.
 - b. Existing residential uses would remain nonconforming. Nonconforming uses may continue to be used and could be expanded with the approval of the Board of Zoning and Building Appeals up to 25% of the area they presently occupy.
 - c. New construction of residential uses would not be permitted unless the existing structures were damaged by an act of God.
 - d. New construction would be subject to a 100 foot setback from residentially zoned land.

Summary of issues raised at the Public Hearing April 16 concerning the area to be rezoned:

Wetlands: It is well known that the subject area is affected by wetlands. The US Army Corps of Engineers has approved a wetland delineation of the property and has authorized very limited fills. Staff has requested additional information as to how the proposed plan may impact the wetlands and the City's required wetland setbacks. If the plan, application for which has not been submitted as yet, shows significant impact on the wetlands or the wetland setbacks, variances will be required. If the property is not rezoned the same analysis would be required. Although nonresidential development would be challenging, it may be possible. Staff predicts that the size and configuration of nonresidential buildings and parking could have a greater impact on the wetlands than the proposed residential development.

Wildlife: The property may be developed whether for office/industrial uses or for residential uses. Due to the wetlands and wetland setbacks the majority of the property will not be developed.

Traffic Impact: A traffic impact study was required for the present residential development. The study did not find impact great enough to require improvements such as turn lanes or traffic signals. The Engineering Department and Planning Commission concurred with this finding. A traffic impact study would be required for future development to account for additional homes if the rezoning is approved or for nonresidential uses if the rezoning is not approved. The developer would be responsible for the installation of any improvements required by the City.

Drainage: Any development, residential or nonresidential, will be required to meet the City's stringent standards for storm water management, soil erosion, and water quality.

Connectivity: The City has recently adopted a Connectivity Plan. The development provides the links recommended in the plan including along the south side of Boston Mills Road on property owned by the developer and widened sidewalks and a path that will link Boston Mills Road and SR303. The plans also include sidewalks along all streets. Staff may propose legislation that does not require sidewalks on both sides of the street or in short cul-de-sacs.

Eagles: The developer is aware of the eagle’s nest. According to an aerial photograph provided by the developer the nest is in the conservation easement area and is almost 2,000 feet from the nearest lot in the Reserve at River Oaks. The US Fish and Wildlife Service regulates the protection of eagles, not the City. To the best of staff’s knowledge the distance of the nest from the homes would not be an issue.

Timing of Rezoning Request: Questions were raised about why the request to rezone was being made now, well after the original preliminary plan for Reserve at River oaks was approved. The developer is in the best position to answer this question. Homes will allow use of the property that might not otherwise be practical. A secondary means of access must be constructed through the property for the north half of the River Oaks development, but without adjacent development would be very expensive. The additional homes will finance this road.

Key Zoning and Development Standards for Districts 3 and 6			
	District 6	District 3	District 3 Open Space Conservation Subs.
Land Uses	Office and industrial with some commercial. No residential except assisted lvg.	Residential with some Institutional. No office/commercial or industrial.	Residential with some Institutional. No office/commercial industrial.
Setbacks Generally	Case-by-case using starting point as follows using the criteria used to minimize site disturbance:	Case-by-case using starting point as follows and the criteria to establish the maximum impervious surface coverage:	Case-by-case using starting point below and criteria to establish the maximum impervious surface coverage:
Minimum Front Setback	Buildings: 50' Parking: 25'	Residential: 50' Nonresidential: 75' Arterial: 100' (Boston Mills Road is an arterial)	20' Arterial: 100' (Boston Mills Road is an arterial)
Minimum Side Setback	25'	Principal Residential: 15' Principal Nonres.: 30'	10'
Min. Rear Setback	25'	50'	25'
Sub. Perimeter Setback	NA	NA	100'
Setbacks from Adjacent Residentially Used or Zoned Property	Buildings from residentially zoned: 100'; Vehicles from residentially zoned: 50'; Buildings from residentially used: 50'; Vehicles from residentially used: 25'	NA	NA
Maximum Height	50'	Most residential: 35' Other uses: 40'	

