

FILE NO.: Z-2933-B

NAME: SM Investments Midtown LLC Short-form PCD

LOCATION: Located at 4520 West Markham Street

DEVELOPER:

Sean Miller
4210 East McCain Boulevard, Suite 108
North Little Rock, AR 72117

SURVEYOR:

DCI – Development Consultants Inc.
2200 North Rodney Parham Road, Suite 220
Little Rock, AR 72212

AREA: 0.51 acres NUMBER OF LOTS: 1 zoning lot FT. NEW STREET: 0 LF

WARD: 3 PLANNING DISTRICT: 4 – Heights Hillcrest CENSUS TRACT: 15.01

CURRENT ZONING: C-1, Neighborhood Commercial

ALLOWED USES: Retail

PROPOSED ZONING: PCD

PROPOSED USE: Restaurant/C-1, Neighborhood Commercial –
Redevelopment within the Mid-town Design Overlay District

VARIANCE/WAIVERS: None requested.

A. PROPOSAL/REQUEST/APPLICANT'S STATEMENT:

SM Investments Mid-town, LLC is requesting the rezoning of this site from the current C-1, Neighborhood Commercial to PCD, Planned Commercial Development. The property located at 4520 West Markham Street contains a 2,020 square foot building currently occupied by One Banc. The intent is to renovate the existing bank building for use as a fast casual restaurant with a drive-thru window. The existing canopy and drive-thru lanes for the bank will be removed. The proposed occupant is Jimmy John's Gourmet Sandwiches. The site plan includes the placement of 15 parking spaces. The business has

approximately 35 employees and is open for business from 11:00 am to 10:00 pm seven (7) days per week. The proposed site plan outlines a slight redevelopment of the parking lot by closing one (1) entrance on Beechwood Street.

B. EXISTING CONDITIONS:

The site contains One Banc located on the northeast corner of West Markham and Beechwood Streets. East of the site are two (2) restaurants, Slim Chickens and KFC/Taco Bell. West of the site, across Beechwood Street, is an office use and single-family homes. To the north of the site along Beechwood Street are single-family homes. To the south, across West Markham Street, is the UAMS Campus including the schools residential housing.

C. NEIGHBORHOOD COMMENTS:

As of this writing, staff has received several informational phone calls from area property owners and residents. A number of the callers have indicated concerns and/or opposition to the request. All property owners located within 200-feet of the site along with the Hillcrest Residents Neighborhood Association and the Capitol View Stiff Station Neighborhood Association were notified of the public hearing.

D. ENGINEERING COMMENTS:

PUBLIC WORKS CONDITIONS:

1. Due to the proposed use of the property, the Master Street Plan specifies that Beechwood Street for the frontage of this property must meet commercial street standards. Dedicate right-of-way to 30 feet from centerline.
2. A 20 foot radial dedication of right-of-way is required at the intersection of West Markham Street and Beechwood Street.
3. Repair or replace any curb and gutter or sidewalk that is damaged in the public right-of-way prior to occupancy.
4. The radius of the driveways cannot extend beyond the projection of the side property line to the adjacent street.
5. Appropriate handicap ramps are required to be installed at the intersection of Beechwood Street and West Markham Street in accordance with City of Little Rock Standard Details.
6. West Markham Street is classified on the Master Street Plan as a minor arterial with special design standards. A dedication of right-of-way 35 feet from centerline will be required.
7. Due to the proposed more intense use and the absence of a center turn lane on West Markham Street, the West Markham Street driveway should

be modified with an island and signage provided to restrict left turns into and out of the subject property.

8. Damage to public and private property due to hauling operations or operation of construction related equipment from a nearby construction site shall be repaired by the responsible party prior to issuance of a certificate of occupancy.
9. Due to high pedestrian traffic in the area, pedestrian access should be provided from the public sidewalk to the front door of the structure.
10. Insufficient drive aisle width is proposed on the southside of the building.
11. The radius is insufficient on the southeast corner of the building for a vehicle drive thru lane.

E. UTILITIES AND FIRE DEPARTMENT/COUNTY PLANNING:

Wastewater: Sewer main extension required with easements if new sewer service is required for this project. EAD, Environmental Assessment Division, pretreatment review required. Contact Little Rock Wastewater if additional information is required.

Entergy: Entergy does not object to this proposal. A 3-phase electrical line runs along the north side of West Markham Street in front of this property and a line also exists on the east side of the property. Electrical service may need to be reworked to the renovated structure. Contact Entergy in advance regarding any required service alterations required as the project develops. Future discussion may require decisions regarding desired line extensions and facilities locations as this project proceeds.

Centerpoint Energy: No comment received.

AT & T: No comment received.

Central Arkansas Water:

1. All Central Arkansas Water requirements in effect at the time of request for water service must be met.
2. The Little Rock Fire Department needs to evaluate this site to determine whether additional public and/or private fire hydrant(s) will be required. If additional fire hydrant(s) are required, they will be installed at the Developer's expense.
3. Please submit plans for water facilities and/or fire protection system to Central Arkansas Water for review. Plan revisions may be required after additional review. Contact Central Arkansas Water regarding procedures for installation of water facilities and/or fire service. Approval of plans by the Arkansas Department of Health Engineering Division and the Little Rock Fire Department is required.

4. Due to the nature of this facility, installation of an approved reduced pressure zone backflow preventer assembly (RPZA) is required on the domestic water service. This assembly must be installed prior to the first point of use. Central Arkansas Water requires that upon installation of the RPZA, successful tests of the assembly must be completed by a Certified Assembly Tester licensed by the State of Arkansas and approved by Central Arkansas Water. The test results must be sent to Central Arkansas Water's Cross Connection Section within ten days of installation and annually thereafter. Contact the Cross Connection Section at 501.377.1226 if you would like to discuss backflow prevention requirements for this project.
5. The facilities on-site will be private. When meters are planned off private lines, private facilities shall be installed to Central Arkansas Water's materials and construction specifications and installation will be inspected by an engineer, licensed to practice in the State of Arkansas. Execution of a Customer Owned Line Agreement is required.
6. Fire sprinkler systems which do not contain additives such as antifreeze shall be isolated with a double detector check valve assembly. If additives area used, a reduced pressure zone back flow preventer shall be required.

Fire Department: No comment.

Parks and Recreation: No comment received.

County Planning: No comment.

Rock Region Metro: Location is served by METRO on route 5 the busiest route in Little Rock. Please provide pedestrian path to front door of the business. Sidewalks maintain a path for those using other modes of transportation such as transit, biking and walking.

F. ISSUES/TECHNICAL/DESIGN:

Building Code: Project is subject to full commercial plan review and approval prior to issuance of a building permit. For information on submittal requirements and the review process, contact a commercial plans examiner:

Curtis Richey at 501.371.4724; crichey@littlerock.org or
Mark Alderfer at 501.371.4875; malderfer@littlerock.org.

Planning Division: This request is located in the Heights Hillcrest Planning District. The Land Use Plan shows Office (O). The office category represents services provided directly to consumers (e.g., legal, financial, medical) as well as general offices which support more basic economic activities. The applicant has applied for a rezoning from C-1 (Neighborhood Commercial District) to PCO (Planned Commercial District) to renovate the existing bank building to be used as a fast food restaurant. The request is within the Midtown Design Overlay District.

Master Street Plan: South side of the property is West Markham Street and it is a Minor Arterial and west side of the property is Beechwood Street and it is Local Street on the Master Street Plan. A Minor Arterial provides connections to and through an urban area and their primary function is to provide short distance travel within the urbanized area. Entrances and exits should be limited to minimize negative effects of traffic and pedestrians on West Markham Street. The primary function of a Local Street is to provide access to adjacent properties. Local Streets that are abutted by non-residential zoning/use or more intensive zoning than duplexes are considered as "Commercial Streets". A Collector design standard is used for Commercial Streets. These streets may require dedication of right-of-way and may require street improvements for entrances and exits to the site.

Bicycle Plan: There are no bike routes shown in the immediate vicinity.

Landscape:

1. Site plan must comply with the City's landscape and buffer ordinance requirements and the Midtown Overlay District.
2. If building rehabilitation exceeds fifty percent (50%) of the replacement cost then the landscaping and buffer requirements must also come into compliancy accordingly.
3. Any exiting landscape or irrigation disturbed by construction shall be repaired or replaced before completion and final acceptance of the project.
4. The City Beautiful Commission recommends preserving as many existing trees as feasible on this site. Credit toward fulfilling Landscape Ordinance requirements can be given when preserving trees of six (6) inch caliper or larger.

G. SUBDIVISION COMMITTEE COMMENT: (March 16, 2016)

Mr. Sean Miller, the developer, was present representing the request. Staff presented an overview of the item stating there were additional items necessary to complete the review process. Staff stated the site was located within the Mid-town Design Overlay District which had specific site development criteria related to building placement, parking and architectural elements related to the building/massing/customer entrances. Staff requested the applicant provide the proposed building materials, the massing of the structure, the total height and the number of floors proposed for the building and the proposed color palette

Public Works comments were addressed. Staff stated right of way dedications were required along West Markham and Beechwood Streets to 30-feet from centerline. Staff stated a 20-foot radial dedication of right of way was required at the intersection of West Markham and Beechwood Streets. Staff stated due to the more intense use and the absence of a center turn lane on West Markham Street, the West Markham Street driveway was to be modified with an island and

signage provided to restrict left runs into and out of the site. Staff stated due to the high volume of pedestrian traffic in the area, pedestrian access should be provided from the public sidewalk to the front door of the building.

Landscaping comments were addressed. Staff stated if the building rehabilitation cost exceeded fifty percent (50%) of the replacement cost then the landscaping and buffer requirements were to come into compliancy accordingly. Staff stated the site plan indicated the northern edge of the paving to be moved to the property line eliminating the existing land use buffer along this perimeter. Staff requested the four (4) parallel parking spaces be removed thus allowing the land use buffer to remain.

Rock Region Metro comments were addressed. Staff stated the site was served by METRO Route #5 which was the busiest route in the City. Staff requested sidewalks be provided for a pedestrian path to the front door of the business.

Staff noted the comments from the various other departments and agencies. Staff suggested the applicant contact the departments or agencies directly with any questions or concerns. There were no more issues for discussion. The Committee then forwarded the item to the full Commission for final action.

H. ANALYSIS:

The applicant submitted a revised site plan to staff addressing a number of the technical issues associated with the request. The applicant has provided the proposed color palette for the remodeling of the building and provided the height of the building.

The request is a rezoning of this site from the current C-1, Neighborhood Commercial zoning district to PCD, Planned Commercial Development to allow the remodeling of an existing branch bank into a fast food restaurant with an order board and pick-up window. The building contains 2,020 square feet and 17 parking spaces. The site is located within the Mid-town Design Overlay District which states the minimum parking typically required per the zoning ordinance is the maximum parking allowed per the Overlay. Based on the 2,020 square foot restaurant 20 parking spaces would typically be required.

The DOD states for new construction a minimum of 60 percent glass-windows, entry features or displays are required and the primary façade of the building is to be oriented parallel with the street. The buildings are to maintain a distinction between upper and lower levels; any elevation greater than eighteen feet in height should contain an architectural treatment, which visually divides the structure into stories. The building is a single story building with windows and openings along the street frontages but the rear of the building is a solid face wall. The applicant is not proposing any modifications to the windows or doors at the site. A parapet wall will be extended upward to conceal the existing raised roof. The existing canopy and drive-thru lanes for the bank will be removed.

The primary entrances to the building should be oriented to the street or to the principal vehicular or pedestrian route of travel within a development and have a clearly defined and visible customer entrance with features to define the entrance. The primary street at this location is West Markham Street. The primary entrance to the building is from Beechwood Street.

Exterior building materials and colors shall be aesthetically pleasing and compatible with materials and colors used in neighboring developments. Predominate exterior building materials shall be high quality materials such as brick, wood, stone, tinted stucco, EIFS, concrete masonry units. Façade colors should be low reflectant, subtle, neutral or earth tone with trim and accents brighter colors. Predominant exterior building materials shall not be smooth faced concrete block, tilt-up concrete panels or prefabricated steel panels. The applicant has indicated the colors and materials will comply with the typical DOD standards.

All driveways and internal streets shall have minimum 5-foot sidewalks on both sides located away from the back of curb. The applicant is proposing to dedicate an additional 5-feet of right of way on West Markham Street and Beechwood Street but is not proposing to relocate the existing sidewalk in place. Pedestrian walkways will be added to the site through the parking lot from Beechwood Street.

The applicant has not provided details concerning the proposed signage plan. Per the Overlay signage is limited to six (6) feet in height and 24 square feet in area for lots less than 1-acre. All signs are to be monument signs. Building signage is allowed on the facades with public street frontage. The size of the building signage is limited to a maximum of ten (10) percent of the façade area.

Landscaping and land use buffers are to be provided per ordinance requirements. The site is located in the designated Mature Area of the City which allows a reduction in the street buffer requirement. The landscape strip width along the abutting streets may be reduced to six (6) feet nine (9) inches. The development is required to provide a land use buffer along the northern perimeter of the site. In this area the buffer is indicated at 10-feet with the fence located on the commercial side of the buffer area. The buffers as indicated appear to comply with the typical minimum requirements.

The Zoning Ordinance requires each speaker to be mounted so that it is baffled on all sides in a manner which will direct the sound produced to the vehicle served and each speaker location is to be designed to provide for a solid wall at least six (6) feet in height and twenty (20) feet in length along the opposite lane line. The wall is to be constructed of masonry or wood with a textured finish to

diminish sound deflection. The applicant has not provided the location of any proposed order menu board screening.

The site is zoned C-1, Neighborhood Commercial which allows an eating place inside. The zoning ordinance defines an eating place inside as an establishment where food is available to the general public for consumption within a building on the premises. The design of the building shall not include provision for the sale of foods by the use of a drive-through window, nor the consumption of foods by customers within vehicles parked on-site.

Staff is not supportive of the applicant's request. Although the site is zoned C-1, Neighborhood Commercial which would allow for a restaurant the type of restaurant is not as intense as the restaurant being proposed by the applicant. The applicant is requesting to rezone the site to allow for a fast food restaurant with an order menu board and pick up window. The pickup window is proposed along the Beechwood Street side of the building which is directly across the street from single-family homes. To the north of the site there are also single-family homes. This site is one (1) of the primary entrances into the Hillcrest Neighborhood. Staff does not feel the placement of a fast food restaurant at this location is appropriate.

I. STAFF RECOMMENDATION:

Staff recommends denial of the request.

PLANNING COMMISSION ACTION:

(APRIL 7, 2016)

Mr. Sean Miller was present representing the request. There were registered objectors present. Staff presented an overview of the item with a recommendation of denial.

Mr. Miller addressed the Commission on the merits of his request. He stated the drive-through window had been moved from the western side of the building as currently existed to the eastern side of the building. He stated the speaker would also be located on the east side of the building which would buffer the noise from the order board. He stated the current zoning allowed for a restaurant with no limits on hours. He stated based on the size of the building the site could easily seat 120 customers. He stated his business did not generate near the volume as a typical fast food restaurant.

Mr. Miller stated the request for the rezoning was triggered by the need for a drive-through window and the investment of more than 50 percent of the value of the building with renovations to improve the lot and improve the look of the building. He stated 80 percent of his business was generated Monday through Friday and 53 percent of the business was from 10 am to 2 pm. He stated the business served approximately 60 cars from 10 am to 2 pm with 13 percent of the business from 7 pm to 10 pm. He stated the average transaction rate was 221 tickets per day. He stated the

business averaged 113 cars per day with drive through sales. He stated the average time to serve a vehicle was less than one (1) minute.

Mr. Stewart Mackey addressed the Commission in support of the request. He stated his firm was looking along West Markham for locations for the placement of eating places. He stated the site was zoned for a restaurant use. He stated this business and the bank would have similar traffic patterns. He stated this facility would not be a 24-hour facility. He stated the bank had an ATM machine which generated traffic even after the bank was closed. He stated the fast food industry was looking at this location because of the daytime population. He stated many of the customers would walk up to the business from the adjacent medical facilities. He stated he felt this was a good location for the proposed use.

Ms. Neilann Brown addressed the Commission in support. She stated she was a 30+ year resident of Hillcrest. She stated she felt Jimmy John's was a good addition to the neighborhood because of the food served. She stated the food was a health alternative to fast food allowing for an option other than fried. She stated young mothers with children would welcome the chance to provide their family with a healthy alternative and not have to get the children in and out of the car to pick up dinner on their way home. She stated she loved Hillcrest and would not welcome anything that would detract from the neighborhood.

Mr. Paul Charton addressed the Commission in opposition of the request. He stated his home was on the west side of Beechwood within 50 feet of the site. He stated along Beechwood there was an architectural office on the corner of Beechwood and West Markham Street and the remainder of the street was single-family homes. He stated directly north of the site on the east side of Beechwood there was a single-family home. He stated traffic exiting the site would be within 50-feet of his child's bedroom window. He stated the traffic, lights, sound, music, loud mufflers and just noise in general as customers were waiting to pick up their food would be an impact on the area. He stated the logo on the delivery vehicles stated the service was "Freaky Fast". He stated his concern was drivers exiting the site to make these freaky fast deliveries would potentially speed through the neighborhood streets. He stated there were a number of small children on Beechwood and Palm Streets. He stated the Commission had been provided a petition from the area residents stating their opposition to the rezoning request.

Ms. Karina Clemmons addressed the Commission in opposition. She stated the site was covered under the Mid-town and the Hillcrest DOD's. She stated the purpose and intent section of the Midtown Design Overlay District focused on the creation of a medium-density urban neighborhood that offered people the opportunity to live, work, shop, and recreate in a compact, pedestrian-friendly environment. She stated the DOD was intended to encourage compatibility of existing and proposed land uses, the protection of established neighborhoods and the creation of strong linkages between major developments. She stated the business was proposed to be open 35 hours more than the existing bank. She stated most of the homes did not have parking on-site. She stated street parking for the residents was the only options. She stated C-1 was

compatible with the neighborhood. She stated a restaurant without a pick up window was not compatible.

Ms. Judy Nelson addressed the Commission in opposition of the request. She stated there were already a number of fast food options in the neighborhood. She stated the fire truck used Beechwood Street to access Lee and Kavanaugh. She stated she had been in contact with two (2) real estate agents which sold new homes in the area. She stated both had indicated a fast food restaurant would hurt property values. She stated the Mid-town and Hillcrest DOD's provided peace of mind to the home buyers when weighing their decision to purchase a home in the Hillcrest Neighborhood. She stated according to Mr. Selva a change in the zoning of the property would directly violate the purpose and intent of the overlay districts. She stated a quiet business was more in keeping with the area.

Mr. Gregory Ferguson addressed the Commission in opposition of the request. He stated his home was at 204 Beechwood Street. He stated this was in the first block north of West Markham Street. He stated he had lived in the area for near 30 years and had watched as business and commercial establishments had eaten away the south edge of the neighborhood. He stated where was once was a nice neighborhood bar was now a Taco Bell. He stated where once were single-family homes was now a Wendy's and a Slim Chickens. He stated what was locally owned businesses was not giving way to regional and national franchises with high volumes of traffic. He stated the intersection of West Markham and Beechwood was a dangerous intersection. He stated cars traveled at great speeds along West Markham Street and there has a hill half a block west of the intersection which created additional conflicts. He stated some spots were not conducive to certain activities and the corner of West Markham and Beechwood was one that should not be allowed to have a drive-through. He stated a doctor's office, walk in clinic or other quiet office or quiet retail would be a good addition and not a disruption to the neighborhood. He stated the building style was out of character with the neighborhood. He stated litter from the site was a concern. He stated he felt the rezoning should not be granted nor should the property ever be rezoned to include such an obvious safety/traffic hazard at this location.

Ms. Margaret McLellan addressed the Commission in opposition of the request. She stated her home was located at 310 Beechwood. She stated the intersection of Beechwood and West Markham was very dangerous. She stated there were a number of accidents at this intersection on a regular basis. She stated within four (4) blocks there were four (4) sandwich shops. She stated considering a larger area within one (1) mile there were a great many more. She stated it was not good planning to place a high concentration of fast food restaurants within one location.

Ms. Ruth Bell, League of Women Voters, addressed the Commission in opposition of the request. She stated due to traffic concerns on West Markham a number of the vehicles exiting the site would turn right and go through the neighborhood to access Kavanaugh and or Lee. She stated residents of the area typically only had one (1) parking space in their driveway and the remainder of the cars were delegated to

the street. She stated families were no longer one (1) car families but most were two (2) and three (3) car families. She stated the business was located to near residential homes. She stated the order board, drive through stacking lane and the pick-up window were all located in an area that would impact the adjacent residential homes both to the north and to the west. She stated headlights waiting to pick up orders and the vehicles exited the site would shine directly into the homes across Beechwood. She stated the bank was a low volume traffic generator. She stated the hours of operation were not conducive with the adjacent residential homes nor the neighborhood.

Mr. Miller stated the property was zoned for a restaurant. He stated his business model required cleaning of the parking lot a minimum of five (5) times per day. He stated the dumpster would be kept clean and all attempts would be made to keep the odor at a minimum. He stated the area was in high demand for fast food and restaurants. He stated the site would become a restaurant even if the current request was not approved.

There was a general discussion by the Commission concerning the request. Commissioner Bubbus questioned if a grease trap would be required. Mr. Miller stated he would be installing a grease trap with the renovations of the building. Commissioner Bubbus cautioned Mr. Miller as to the cost of remodeling the building. Mr. Miller stated he was leasing the building and the owner was not in favor of allowing the building to be removed.

There was a general discussion concerning the bank and if the bank was still in operation. Mr. Mackey stated the bank had been put on notice that the lease would not be renewed. Mr. Mackey stated the owners did not want to sell the building and would only offer a lease of the property.

There was once again a general discussion by the Commission concerning the location the potential impact of the use on the nearby homes and the potential for overflow parking into the neighborhood. Staff noted per the DOD the site contained ample parking to meet the criteria of the overlay district. Staff stated the minimum parking per the zoning ordinance was the maximum parking allowed per the overlay and the parking could be reduced to 50 percent of the typical minimum parking requirement.

There was no further discussion of the item. The chair entertained a motion for approval of the item including all staff recommendations and comments except that of denial. The motion failed by a vote of 1 ayes, 7 noes and 3 absent.