

**Subject: Adding conditions on a re-zoning application**

**Chairman,**

On the question of conditioning a re-zoning, staff along with discussions with our legal team have determined the following:

While conditions could be placed on a re-zoning application, the commission must consider the following challenges. If conditions are placed on a re-zoning, and the re-zoning with conditions is approved by the City Council, the applicant would be expected to meet those conditions with all applicable City permits and codes. If the applicant does not meet those conditions, decides on another use allowed under the new zoning (in which some of those conditions may or may not apply), staff would then be compelled to begin a staff-initiated rezoning to move the property back to a C-2 zoning. This however may create legal pitfalls if the property is no longer owned by the original applicant or changes the conditioned use to another allowed use within the new zoning district years later. Staff currently does not have a method to track conditions placed on a re-zoned property. Trying to enforce a condition on a rezoning in future years with potentially different owners with different uses may be difficult and legally challenging.

For the question of guidance for determining re-zoning of any particular property, the best guidance we have is the 2018 Image Independence Comprehensive Plan. The plan also references the 24 Hwy Corridor Study, along with other plan areas such as Truman and Winner, Englewood, Fairmount, and Noland Road. We must consider that although the comprehensive plan did not consider every individual lot in their current state, the broader purpose of the plan is to provide a vision for Independence through 2040, and it was not a recommendation by any single group but was a culmination of months of community engagement from members of the public, local officials, steering committees, and staff.

In regard to Case # 22-100-05, 8712 E. Winner Road, the application is for a re-zoning and should be evaluated based on the appropriateness of the applicants requested zoning to a C-3 and all the potential uses that a C-3 zoning would allow.

As an alternative, If the Commission feels the requested use is appropriate for this site but is not comfortable with up-zoning to a C-3, the Commission could recommend the applicant follow the PUD re-zoning application process. In the PUD rezoning process, additional uses may be allowed within the existing zoning district (Section 14-902-04-A of the UDO), therefore the Commission could allow an additional use in the existing C-2 zoning with conditions. In this process the applicant would be required to provide a preliminary development plan that can contain conditions by staff or the Commission. The applicant would then submit all necessary engineering drawing for review by staff for conformance to City code. Once all plans are complete and approved, the applicant would conclude with approval of the final development plan.

It is important to note that while staff would not charge an additional fee for the change in application, the applicant would be required to submit a surveyed site plan with approved engineering drawings necessary to meet all applicable City codes and permits for the business requested.