



## MEMORANDUM

**To:** Mayor and City Council

**From:** Mindi Hurley, Director of Community Development

**Date:** September 24, 2019

**Reference:** Consider approval of an ordinance for PD-260R2-R, Trinity River Kayak, zoning change request from PD-260R-R (Planned Development-260-Revised-Retail) to PD-260R2-R (Planned Development-260-Revision 2-Retail) to amend the site plan to allow for a canopy and storage building, an accessory structure and to use the existing building as a live/work residence; by allowing variances to the Zoning Ordinance including: allowable use and encroachment into the required setback on 1.49 acres of property located 1601 E. Sandy Lake Road, and authorizing the Mayor to sign.

### 2030: Business Prosperity

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#### Executive Summary:

Approximately six years ago, this property was granted PD zoning to allow a convenience store and the kayak operation subject to nine variances to the *Zoning and Subdivision Ordinances*. The uses allowed within the Planned Development were changed in 2016 to a slightly modified retail district use list. These uses did not include residential or live/work.

The original request was to allow the legalization of: the existing front yard canopy and storage building, the storage/shipping container in the rear and a live/work use in the main structure.

At the September 10, 2019 continued public hearing, Council approved the live/work use, removal of the front yard canopy & storage building (to be relocated on the west side of the main structure), removal of the metal shipping container, a new 150 sq. ft. accessory structure 3' from the southern property line and six 3" cal. Live Oaks on the southern property line. The details of the motion are listed below in bold.

#### Introduction:

Staff could not support various components of the requested Planned Development, but was able to support others with required modifications. The canopy and storage building in the front yard does not meet the setback requirements of the platted lot (50' Front Yard) and was illegally installed without a building permit. Staff was opposed to granting this component. The shipping container in the rear of the site is not a permanent structure and is required to be removed after 45 days. Staff could not support this component. However, staff could support the construction of a storage building in this location setback approximately 3' from the property line as long as it is less than 150 square feet in area. Because this is such a unique site with a unique use, staff could support the live/work unit provided it meets the building and fire code requirements.

#### Analysis:

On July 18, 2019, the Planning and Zoning Commission (5-2) recommended approval of PD-260R2-R, Trinity River Kayak subject to the following conditions:

1. Approval of the live/work use in the main structure provided that:
  - a. Fire sprinklers and alarms are installed.
  - b. The building code requirements for both the commercial and residential components and space allocation (50% residential & 50% commercial) are adhered to.
2. Remove the front yard canopy and storage building. Relocate the personal assets stored in the front yard parking lot.
3. Remove the shipping container and allow for the replacement with an accessory structure less than 150 square feet setback from rear property line by a minimum of three feet. It shall be built in the same location as the metal shipping container.
4. The property must be brought into compliance with all applicable building codes, including obtaining building permits from the city for any work that has or will be done, within 60 days of zoning approval.

At the August 13, 2019, City Council Meeting, the public hearing was left opened and continued to September 10, 2019, allowing the applicant and neighbors to meet and see if an optimal solution could be achieved.

On August 27, 2019, Staff met with representatives from Trinity Shores HOA and Trinity River Kayak (TRK). Below is a summary of the meeting:

Homeowners within the Trinity Shores neighborhood have differing desires. Those on the south end aren't opposed to the existing canopy in the front yard. They would like trees to be planted along southern the fence line. The neighbors on the north end, closer to Sandy Lake Road, want the front yard canopy removed. At the end of the meeting, the HOA agreed they support P&Z's recommendation.

TRK agreed to plant trees along the south fence line. TRK said they will replace the shipping container with a permitted shed. TRK asked more clarification questions about the canopy: Was it the location? Was it a canopy in general the HOA was opposed to? Was it the fact that it was built without a permit? The HOA president said the HOA just wanted him to follow the city's rules and codes so they would not oppose it if he relocated it to a place that was approved by the City.

On September 3, 2019, new exhibits were submitted to reflect the removal of the canopy in the front yard and a modified canopy structure being placed on the west side of the main structure. The accessory structure that was previously located in the front yard under the canopy is now shown to be located south of the relocated canopy. A permanent accessory building is proposed to replace the metal shipping container. A new landscape plan was submitted with six proposed 3" cal. Live Oaks on the southern boundary. These will be irrigated and maintained by the property owner.

Subsequent to the meeting, Jeff Varnell followed up with the three northern property owners of Trinity Shores that about the property. According to Mr. Duncan, Leah Cady said: "She agrees with whatever the HOA members presented at the mediation meeting", Mr. Cameron said he had nothing to say, and Mr. Howard said he didn't care where the metal canopy went.

In summary, the HOA agrees with the P&Zs recommendation and an additional condition of planting 6 additional trees on the southern property line.

**At the September 10, 2019, City Council Meeting, PD-260R2-R was approved subject to the following conditions:**

- 1. Approval of the live/work use in the main structure provided that:**
  - a. Fire sprinklers and alarms are installed.**
  - b. The building code requirements for both the commercial and residential components and space allocation (50% residential & 50% commercial) are adhered to.**
- 2. Remove the front yard canopy and storage building. Relocate the personal assets stored in the front yard parking lot. Approval of the alternative location of canopy and storage building as shown on revised Site Plan.**

3. Remove the shipping container and allow for the replacement with an accessory structure less than 150 square feet setback from rear property line by a minimum of three feet. It shall be built in the same location as the metal shipping container as indicated on the revised Site Plan.
4. The property must be brought into compliance with all applicable building codes, including obtaining building permits from the city for any work that has or will be done, within 60 days of zoning approval.
5. Plant six 3" cal. Live Oaks on the southern boundary. These will be irrigated and maintained by the property owner as indicated on the revised Landscape Plan.

**Legal Review:**

The City Attorney reviewed this Ordinance

**Fiscal Impact:**

None

**Recommendation:**

The Planning Division recommends approval.

**Attachments:**

1. Ordinance
2. Exhibit A – Legal Description
3. Exhibit B – Revised Site Plan
4. Exhibit C - Revised Building Elevation Supplement (Floor Plan, Storage Building Elevations, Pictures)
5. Exhibit D - Sign Plan
6. Exhibit E - Revised Landscape Plan
7. Exhibit F - Existing Storage Building