

FILE NO.: Z-5151-B

NAME: West Markham-North Monroe Street Short-form PCD

LOCATION: Located at 4908 West Markham Street

DEVELOPER:

Waldi Ismail
200 Vigne Lane
Little Rock, AR 72223

SURVEYOR:

White-Daters and Associates
24 Rahling Circle
Little Rock, AR 72223

AREA: 0.55 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-3, General Commercial District and O-3, General Office District

ALLOWED USES: Retail and Office

PROPOSED ZONING: PCD

PROPOSED USE: Restaurant

VARIANCE/WAIVERS: None requested.

BACKGROUND:

In 1967 a request was made to rezone a portion of this site identified as Tract 2, Block 5, Howard Adams Subdivision. The request was to rezone the site from B (R-3, Single-family residential) to E-1 (O-3, General Office District). The request was denied by the Little Rock Board of Directors. On February 6, 1975, a request to rezone the same area from B (R-3, Single-family residential) to E-1 (O-3, General Office District) was approved by the Little Rock Board of Directors. On February 16, 1982, the area was rezoned from O-3, General Office District to C-3, General Commercial District by the adoption of Ordinance No. 14,196.

The eastern portion of the site identified as Tract 1, Block 5, Howard Adams Subdivision was rezoned from R-3, Single-family to O-3, General Office District on November 7, 1989, by the adoption of Ordinance No. 15,771.

A. PROPOSAL/REQUEST/APPLICANT'S STATEMENT:

The applicant is proposing a rezoning of the site from O-3, General Office District and C-3, General Commercial District to PCD, Planned Commercial Development, to allow the construction of a fast food restaurant containing 2,791 square feet of floor area. The plan includes the placement of 13 parking spaces. The drive on West Markham Street is indicated as a right-out only drive. The drive on North Monroe Street is a full service drive. The site is located within the Mid-town Design Overlay District which has development criteria related to a number of issues including building placement, parking, building materials and massing of structures. Please see the Analysis Section of this report for the specific development criteria of the Overlay and the applicant's statement for intent with compliance with the Overlay standards.

B. EXISTING CONDITIONS:

The site currently contains a branch banking facility. To the west is a fast food restaurant and to the east, across North Monroe Street, are single-family homes. South of the site is the Arkansas Department of Health and War Memorial Park and Stadium. North of the site are single-family homes. West Markham has been constructed with two (2) lanes both east and west bound. There is curb, gutter and sidewalk in place along the frontage of this property.

C. NEIGHBORHOOD COMMENTS:

All property owners located within 200 feet of the site along with the Hillcrest Residents Neighborhood Association were notified of the public hearing.

D. ENGINEERING COMMENTS:

PUBLIC WORKS CONDITIONS:

1. A 20 foot radial dedication of right-of-way is required at the intersection of West Markham Street and North Monroe Street.
2. Due to the proposed use of the property, the Master Street Plan specifies that North Monroe Street for the frontage of this property must meet commercial street standards. Dedicate right-of-way to back of the existing sidewalk on the south side of the North Monroe Street driveway.
3. Repair or replace any curb and gutter or sidewalk that is damaged in the public right-of-way prior to occupancy.

4. The Markham Street driveway should be designed per Traffic Engineering design standards to prevent left turn movements.
5. The access ramps at the North Monroe Street/West Markham Street intersection should be replaced with new ramps that conform to ADA guidelines and City of Little Rock standard details.

E. UTILITIES AND FIRE DEPARTMENT/COUNTY PLANNING:

Wastewater: Sewer available to this site. EAD, Environmental Assessment Division, review required for grease trap. Contact Little Rock Wastewater Utility for additional information.

Entergy: Entergy does not object to this proposal. A three (3) phase power line exists along West Markham Street in front of the property. Contact Entergy in advance to discuss future service requirements, new facilities locations and adjustments to existing facilities (if any) 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. 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.
3. If there are facilities that need to be adjusted and/or relocated, contact Central Arkansas Water. That work would be done at the expense of the developer.
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. Fire sprinkler systems which do not contain additives such as antifreeze shall be isolated with a double detector check valve assembly. If additives are used, a reduced pressure zone back flow preventer shall be required.

Fire Department:

1. Fire Hydrants. Maintain fire apparatus access roads at fire hydrant locations as per Appendix D of the 2012 Arkansas Fire Prevention Code Vol. 1 Section D103.1 Access road width with a hydrant. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet, exclusive of shoulders.
2. Fire Hydrants. Locate Fire Hydrants as per Appendix C of the 2012 Arkansas Fire Prevention Code. Section C101 – C105, in conjunction with Central Arkansas Water (Jason Lowder 501.377.1245) and the Little Rock Fire Marshal's Office (Capt. Tony Rhodes 501.918.3757 or Capt. John Hogue 501.918.3754). Number and Distribution of Fire Hydrants as per Table C105.1.

Parks and Recreation: No comment received.

County Planning: No comment.

Rock Region Metro: Location is served by METRO on Route 5 West Markham, one of the busiest in the system. As a key transit corridor we discourage any additional curb cuts along Markham Street to prevent further conflict between pedestrians and cars, especially when it has limited utility such as right turn only.

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 District. The Land Use Plan shows Office (O) for this property. 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-3 (General Commercial District) and O-3 (General Office District) to PCD (Planned Commercial District) to allow the construction of a new fast food restaurant. The application 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. East side of the property is North Monroe Street and it is a 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. 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 is a Class III Bike Route shown on North Monroe Street. Bike Routes require no additional right-of-way, but either a sign or pavement marking to identify and direct the route.

Landscape:

1. Site plan must comply with the City's landscape and buffer ordinance requirements and the Midtown Overlay District.
2. Street buffers will be required at six (6) percent of the average depth of the lot. The minimum dimension shall be one-half ($\frac{1}{2}$) the full width requirement but in no case less than nine (9) feet. The property is located in the City's Designated Mature area. A twenty-five (25%) percent reduction of the buffer requirements is allowed within the Designated Mature Area. The minimum dimension of the buffer shall be six (6) feet nine (9) inches. A street buffer is not provided between a portion of and the proposed parking area and the West Markham Street right-of-way. A variance will be required from the City Beautiful Commission.
3. A perimeter planting strip is required along any side of a vehicular use area that abuts adjoining property or the right-of-way of any street. In areas designated as "mature" this strip shall be a minimum of six (6) feet nine (9) inches wide. One (1) tree and three (3) shrubs or vines shall be planted for every thirty (30) linear feet of perimeter planting strip.
4. A large portion (approximately 55%) of the perimeter planting strip adjacent to the north property line is less than the required minimum of six (6) feet nine (9) inches. A variance will be required from the City Beautiful Commission.
5. Screening requirements will need to be met for the vehicular use areas adjacent to street right-of-ways. Provide screening shrubs with an average linear spacing of not less at three (3) feet within the required landscape area. Provide trees with an average linear spacing of not less than thirty (30) feet.
6. Eight percent (8%) of the vehicular use area must be designated for green space; this green space needs to be evenly distributed throughout the parking area(s). The minimum size of an interior landscape area shall be one hundred fifty (150) square feet for developments with one hundred fifty (150) or fewer parking spaces. Interior islands must be a minimum of seven and one half

(7 1/2) feet in width. Trees shall be included in the interior landscape areas at the rate of one (1) tree for every twelve (12) parking spaces.

7. Building landscape areas shall be provided between the vehicular use area used for public parking and the general vicinity of the building. These shall be provided at the rate equivalent to planter strip three (3) feet wide along the vehicular use area. One (1) tree and four (4) shrubs shall be planted in the building landscape areas for each forty (40) linear feet of vehicular use area abutting the building.
8. Menu board speakers for drive-through windows shall 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. This wall shall be constructed of masonry or wood with a textured finish to diminish sound deflection.
9. An irrigation system shall be required for developments of one (1) acre or larger.
10. For developments of less than one (1) acre there shall be a water source within seventy-five (75) feet of the plants to be irrigated.
11. 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: (April 27, 2016)

The applicant was present. Staff presented an overview of the item stating there were few outstanding technical issues associated with the request. Staff stated the site was located within the Mid-town Design Overlay District. Staff stated the site was a total redevelopment of the site with the removal of the existing bank and construction of a new fast food restaurant. Staff stated a portion of the property was zoned office and a portion was zoned commercial. Staff requested the applicant provide details of the proposed development as it related to the DOD. Staff requested the applicant provide the days and hours of operation and the days and hours of dumpster service.

Public Works comments were addressed. Staff stated the site plan as presented did not allow for adequate maneuvering room on the site. Staff stated there was not sufficient space to provide maneuvering for persons entering the parking lot and persons sitting in the drive-through lane. Staff stated a radial dedication of right of way was required at the intersection of North Monroe and West Markham Streets. Staff stated the driveway on West Markham Street should be designed to prevent left turn movements to and from the site.

Landscaping comments were addressed. Staff stated street buffers, perimeter planting strips and land use buffers were required for the redevelopment of the site. Staff stated the site was located within the designated mature area of the City which allowed the buffers and landscape strips to be reduced to six (6) feet nine

(9) inches. Staff stated screening was required along the sites northern perimeter where adjacent to property zoned or used as residential.

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.

SUBDIVISION COMMITTEE COMMENT: (June 8, 2016)

Mr. Steward Mackey was present representing the applicant. Staff presented an overview of the item stating the site plan had changed significantly from the previous Subdivision Committee meeting. Staff stated the building had been rotated to face North Monroe Street. Staff stated the applicant had also provided cross marked pedestrian access from the abutting streets to the building. Staff requested Mr. Mackey provide written responses to the comments provided previously with regard to the days and hours of operation, the dumpster service hours and the proposed signage plan.

Public Works and landscaping comments were noted. Staff stated they had been working with the developer to minimize their concerns related to driveways and landscaping. 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 and cover letter to staff addressing a number of the technical issues associated with the request raised at the April 27, 2016, and June 8, 2016, Subdivision Committee meetings. The revised site plan has indicated the minimum landscape strip along the perimeters of the site to comply with the minimum landscape strip required per the landscape and buffer ordinances. The perimeter planting strip including the area along West Markham and North Monroe Streets is indicated at 6-feet 9-inches, the minimum planting strip per the landscape and buffer ordinances.

The Mid-town Redevelopment District #1 Advisory Board met on the proposed site plan on April 29, 2016, and again on June 10, 2016. The Committee voted to support the applicant's proposal provided the maximum building height be reduced to 18-feet as typically allowed per the DOD and to provide a minimum of 60 percent openings along the street frontages.

The request is a rezoning from O-3, General Office District and C-3, General Commercial District to PCD to allow the redevelopment of the site with a restaurant with drive-through service. The lot has 154-feet of frontage along West Markham Street. The east 93-feet of the lot is zoned O-3, General Office District (60% of the site area) and the west 61-feet is zoned C-3, General Commercial District (40% of the site area). The applicant is proposing to raze the existing

bank building and redevelop the site with a Popeye's restaurant. The building will contain 2,791 square feet of space. The site plan indicates 13-parking spaces. The parking is located along the West Markham Street frontage and along the northern perimeter. The drive lanes will be a minimum of 10-feet wide. There is a drive lane located in front of the building, along North Monroe Street. With the drive lane and a landscaping strip, the building will be sitting 35-feet off the front property line. Entryways to the building are from the northern parking area and from the southern side of the building along West Markham Street.

The site is located within the Mid-town Design Overlay District, which requires new development to be reviewed through the planned zoning development process. The DOD states for new construction at least 60 percent of the ground floor level facing internal pedestrian public circulation areas or streets are to be glass-windows, entry features or displays. The elevation provided indicates the building height at 18-feet. The plan indicates the placement of windows and false windows along the south side, West Markham Street and on the east side, North Monroe Street of the building. The primary parking is located on the north side of the building. The elevation indicates decorative down lights on the exterior of the building and shutter panels in areas where windows are not provided. Staff does not feel the applicant has met the DOD requirement with regard to the placement of openings along the southern and eastern facades; the facades primary street frontage.

The primary entrance is located on the northern façade, within the northern parking lot. There are also pedestrian access from West Markham and North Monroe Streets. The service entrance will be on the west end of the building, adjacent to commercially zoned property.

The Mid-town DOD states exterior building materials and colors are to be aesthetically pleasing and compatible with materials and colors used in the neighboring developments. Predominate exterior building materials must be of high quality materials such as brick, wood, stone, tinted stucco, EIFS. Predominate exterior building materials may not be smooth-faced concrete block, tilt-up concrete panels or prefabricated steel panels. The applicant has indicated the building construction materials will be compliant with the typical materials of the Mid-town DOD.

Front yard setbacks maybe reduced to zero (0) but should not be more than 20-feet. Side yard setbacks may be zero (0) except when adjacent to single-family which should then be set at four (4) feet. Rear yard setbacks are to be zero (0) except where adjacent to single-family detached, in which case the rear yard setback is to be 25-feet. This site does not abut single-family zoned property. The front setback along North Monroe Street is 35-feet. The setback along West Markham Street is 44-feet.

Parking per the DOD is fifty percent (50%) of the required parking of the zoning ordinance article VIII. The maximum parking allowed is the minimum standard established in this article. In this case the ordinance would typically require 27-parking spaces to serve a restaurant use. The site plan indicates 13-parking spaces. The parking as proposed does comply with the typical standards of the DOD.

Signage per the DOD is limited to six (6) feet in height and twenty-four (24) square feet in area. The sign is to be incorporated into the landscaped area of the parking lot. No pole signage is allowed. Building signage is allowed per article X of the zoning ordinance. The building signage allowed is a maximum of ten (10) percent of the façade area abutting a public street. Signage would be allowed on the south and east facades of the building. The plan indicates the placement of signage on the northern, eastern and southern facades.

No street buffer or landscaping is required along streets classified less than an arterial. When the structure is not built to the property line, landscaping is required in the area between the building and property line up to that required in the Landscape Ordinance. In this case, since the site is located within the Designated Mature Area of the City, the required landscape strip is 6-feet 9-inches adjacent to the paved areas. The site plan as submitted meets the minimum requirement along the perimeters of the site including West Markham Street and North Monroe Street.

The applicant is proposing to maintain the existing light fixtures on the site. The applicant has indicated all site lighting and utilities will comply with the minimum standards of the DOD.

The hours of operation are from 10 am to 10 pm seven (7) days per week. The hours of dumpster service are from 7 am to 10 am Monday through Friday.

Section 36-297 states for the purpose of location of menu board speakers for drive-through windows of restaurants the following criteria apply: Each speaker shall be so mounted that it is baffled on all sides in a manner which will direct the sound produced to the vehicle served and each speaker location shall 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. This wall shall be constructed of masonry or wood with a textured finish to diminish sound deflection. The order board is located along the western perimeter of the building adjacent to the commercially zoned and used property. The property to the north is zoned O-1, Quiet Office and is being used as a residence. The depth of the lot is a 150+ feet but the home is located near the street with a storage building located within the rear yard area. The building will act as the screen between the homes to the east and the order menu board.

Overall staff is not supportive of the request. The development is proposed within an area which has been identified on the City's Future Land Use Plan as Office. The commercial uses have primarily been located nearer the intersections of West Markham and University Avenue, West Markham and Fair Park Boulevard/North Van Buren Street and West Markham and Pine/Cedar Streets. Staff has concerns with the existing residential uses located across North Monroe Street from this site and the single-family residence located to the north of this site (the property is currently zoned O-1, Quiet Office District but is occupied as a single-family residence). This site is one (1) of the primary entrances into the Hillcrest Neighborhood. Although there is C-3, General Commercial District zoned property to the west and a portion of this site is zoned C-3, General Commercial District staff feels the intent of the Land Use Plan was to maintain this area as office to act as a transition between the commercial uses to the east and west while allowing this area to remain as single-family.

I. STAFF RECOMMENDATION:

Staff recommends denial of the request.

PLANNING COMMISSION ACTION:

(MAY 19, 2016)

The applicant was present. There were no registered objectors present. Staff presented the item stating the applicant had submitted a request dated May 6, 2016, requesting deferral of the item to the June 30, 2016, public hearing. Staff stated they were supportive of the deferral request. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff by a vote of 11 ayes, 0 noes and 0 absent.

PLANNING COMMISSION ACTION:

(JUNE 30, 2016)

The applicant was present. There were registered objectors present. The Chair stated it was the Commission's practice that when there were eight (8) or few members present the Commission offered to the applicant the ability to defer their item to a later hearing date to allow for more Commissioners to be present to hear the request. The Chair stated it took six (6) positive votes to move an item forward to the Board of Directors with a recommendation of approval.

Mr. Stuart Mackey stated the owner was requesting to defer the item to the August 11, 2016, public hearing. There was no further discussion. The Chair entertained a motion for approval of the deferral request. The motion carried by a vote of 8 ayes, 0 noes and 3 absent.

STAFF UPDATE:

There has been no change to the application request since the previous write-up and staff update. Staff continues to recommend denial of the request.

PLANNING COMMISSION ACTION:

(AUGUST 11, 2016)

The applicant was not present. There were a number of registered objectors present. Staff presented the item with a recommendation of denial.

The chair stated the item would be deferred to the September 22, 2016, public hearing to allow the applicant to be present to present the merits of their request. A motion was made to defer the item to the September 22, 2016, public hearing. The motion carried by a vote of 9 ayes, 0 noes and 2 absent.

STAFF UPDATE:

There has been no change to this application request since the previous public hearing. Staff continues to recommend denial of the request.

PLANNING COMMISSION ACTION:

(SEPTEMBER 22, 2016)

Mr. Stuart Mackey was present representing the request. There were registered objectors present. Staff presented the item with a recommendation of denial.

Mr. Mackey addressed the Commission on the merits of the request. He stated the request was to allow a restaurant, as allowed by right in the C-3 zoning district, and as an accessory use within the O-3 zoning district. He stated the request included the placement of a restaurant with a pick up window. He stated the development had been tailored to allow the order board next to a commercial use and the pickup window along West Markham. He stated the plan included parking and landscaping to comply with the Hillcrest Design Overlay District. He stated the property to the west was much deeper and more of an encroachment into the neighborhood than this development. He stated the property to the north was zoned O-1 which allowed an office use and the property to the west was zoned C-3, commercially and allowed a restaurant use. He stated he had worked with staff to develop a site plan that was amenable to staff and would have the least impact on the nearby homes. He stated the Mid-town Advisory Board had reviewed the request and had approved the proposed site plan on two (2) occasions. He stated the owner had flown to Atlanta to secure approval from Popeye's Corporate to allow the building to be placed as proposed by the applicant which was at the recommendation of staff. He stated the layout and design of the building were not typical of Popeye's. He stated the development would restrict left turns onto Markham from the site. He stated the drive on West Markham would be better constructed as a right in/right out only drive. He stated it was best to cluster commercial uses in an area.

He stated there were only four (4) businesses located between this development and the Fair Park intersection. He stated he and the owner had met with the Hillcrest Residents Association and had received no negative feedback. He stated they did not vote to oppose the request. He stated there were 225 residents who signed a petition in support of the request. He stated although all the persons signing the petition did not live in the immediate area they were employees of the nearby businesses and institutions. He stated the daytime occupants of the area should have the ability to walk across the street to have lunch or dinner. He stated most of Popeye's business dropped off after 8:00 pm. He stated with the additional restaurant the congestion of the existing eatery's would be reduced. He stated with the PCD zoning more restrictions were allowed on the proposed development plan than if the property was developed under the current C-3 zoning district guidelines. He requested the Commission approve the request to allow the placement of the restaurant as currently allowed in the commercial zoning district and as an accessory use in the O-3 zoning district.

Monica Jarrell addressed the Commission in opposition of the request. She stated the development would not improve congestion in the area. She stated at noon the fast food traffic was very congested and traffic on West Markham typically backed up. She stated within the area there were a number of alternatives for fast food as well as other types of restaurants. She stated there were a number of forms of pollution including air, noise and trash. She stated trash from the fast food restaurant would make its way into the many tributaries which all flowed into the Fourche Creek. She stated there would be noise pollution from the drive through and pick up window. She stated even though orders were completed within three minutes that did not prohibit persons waiting for orders from blaring their radios and racing their motor. She stated Arkansas was rated one of the most obese communities. She stated the area did not need another fast food restaurant.

Rosalind Utley addressed the Commission in opposition of the request. She stated her home was located across Monroe Street from the development. She stated this was a very busy intersection with a great number of accidents. She stated the fast food restaurant would increase traffic in the area and increase litter and yard waste. She stated there was a great deal of foot traffic in the area and with the fast food restaurant this would only increase. She stated she and her children liked to play in the front yard and with the fast food restaurant across the street this would no longer be a safe activity.

Justin Nickels addressed the Commission in opposition of the request. He stated a number of his concerns had been addressed. He stated the neighborhood received a great deal of trash from Wendy's. He stated there was a bus stop at Markham and another at Lee. He stated there was a lot of foot traffic accessing the bus stops which was understandable. He stated a number of the homes in the area did not have driveway parking and relied on street parking. He stated the restaurant was proposed with 13 parking spaces which with the business having four (4) to five (5) employees did not leave much parking for customers. He stated the patrons would then over flow on the adjacent streets impacting the nearby homes. He stated the neighborhood did not want the additional traffic from the restaurant.

Misty Bowen Eubanks addressed the Commission in opposition of the request. She stated she was opposed because of the potential trash and appearance. She stated her family had bought a home adjacent to office zoned property not commercially zoned property. She stated she had spent a sizable amount of money purchasing and remodeling her home and felt the commercial activity would impact her property value. She stated no left turns from the site onto West Markham would only force traffic into the neighborhood. She stated parking for the restaurant was also a concern.

Scott Richardson addressed the Commission in opposition of the request. He stated the use was a terrible fit for the neighborhood. He stated Monroe Street was a direct route for the neighborhood to the Health Department, the Zoo, the Dailey Fitness Center and the Children's Library. He stated the intersection was a dangerous intersection. He stated traffic was frequently backed up on West Markham from Fair Park to Monroe. He stated safety of the children was a primary concern. He stated there was little off street parking being provided by the restaurant and felt the neighborhood would be impacted by the traffic generated from the restaurant and parking overflowing on the City streets. He stated the persons who signed the petition would not have to live with the burden the fast food restaurant would create on the neighborhood. He stated they were only there during the day and then went elsewhere to their homes. He stated the former McDonalds space was now a bank. He stated office uses were more conducive to the neighborhood. He stated this location was a primary entrance into the neighborhood. He requested the Commission deny the request.

Ms. Ruth Bell, League of Women Voters, addressed the Commission in opposition of the request. She stated the League had concerns with the application. She stated Hillcrest was a unique area with the various amenities. She stated there were a number of users south of this site which drew a great deal of day time traffic and the impact was cars parking within the neighborhoods. She stated for a quick in and a quick out of the site customers would cut through the neighborhood. She stated to go east the traffic would cut through to Lee to access Kavanaugh for ease of leaving the site. She stated this was an intense change to the current pattern of the neighborhood. She stated the volume of traffic from an office use and the volume of traffic from a fast food restaurant were not the same. She stated the area had sufficient restaurants. She stated the neighborhood was bracketed with fast food and felt the addition of this fast food restaurant would negatively impact the neighborhood.

Mr. Mackey stated adding a restaurant would not increase traffic but would relieve the current congestion of traffic on the existing restaurants. He stated the bank had three (3) drive-through windows and the restaurant would only have one (1). He stated the volume of traffic would be similar to the former bank. He stated the Commission had recently approved two (2) similar requests and on the consent agenda at this meeting the Commission approved a Zaxby's with a similar layout which was located across the street from single-family homes and located on an O-3 zoned lot. He stated the parking provided by this plan met the current DOD requirements. He stated he had met with the neighborhood association and they did not object to the request. He stated the developer could not control trash within the neighborhood but he could control the trash within his development. He stated the office uses which were and had been built down the street

were office uses which located within areas of high traffic volumes. He stated the "Doc in a Box" was more of a retail operation. He stated the business functioned on in and out high volume turn overs of patients for the basis of the business. He stated the former user of this site was a motor bank. He stated this use of a restaurant was an acceptable use and a less intensive use for the property.

There as a general discussion by the Commission concerning the Mid-town DOD requirements, the proposed use of the property and if in fact within the O-3 zoning district a restaurant was allowed. Staff stated a restaurant was allowed within O-3 as an accessory use for an office building and the restaurant could not occupy more than ten (10) percent of the floor area of the office building.

Commissioner Berry questioned when the land use plan for the area was updated. Staff stated within the last year. Commissioner Berry named a number of uses which could occupy the C-3 portion of the site. He stated parking was always an issue with restaurants in the area. He stated when visiting the Oyster Bar parking was on Booker. He stated a number of the restaurants on Kavanaugh also were located with no parking and patrons parked on residential streets.

The Chair entertained a motion for approval of the item. A motion was made to approve the request including all staff recommendations and comments except that of denial. The motion failed by a vote of 5 ayes, 5 noes, 0 absent and 1 open position.