

ORDINANCE NO. 1099

AN ORDINANCE TO AMEND ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE,’ SO AS TO AMEND THE OFFICIAL ZONING MAP TO REZONE THE PROPERTY LOCATED AT 412 SOUTH CONGRESS PARKWAY FROM B-3 (INTENSIVE BUSINESS DISTRICT) TO R-2 (MEDIUM DENSITY RESIDENTIAL DISTRICT) SAID AREA BEING LOCATED WITHIN THE CORPORATE LIMITS OF ATHENS, TENNESSEE.

BE IT ORDAINED BY THE CITY OF ATHENS, TENNESSEE, AS FOLLOWS:

SECTION 1. That the Official Zoning Map of Athens, Tennessee, identified and referred to in Section 3.02 of said Zoning Ordinance, be amended to show the following described property and zoning designation as described within the body of this ordinance and shown on the attached illustration titled; “Rezoning Request by Tim Daugherty, for 412 South Congress Parkway (Tax Map 047N Group A Parcel 041.00) from B-3 (Intensive Business District) to R-2 (Medium Density Residential District)” said property being within the corporate limits of Athens, Tennessee:

Area Description (B-3 to R-2)

The parcel to be rezoned from B-3 to R-2 is shown on McMinn County Tax Map as Tax Map 047N Group A Parcel 041.00. The parcel is further described on the attached illustration that has been created from the Official Zoning Map of the City of Athens, Tennessee.

SECTION 2. Any Ordinance, Resolution, Motion, or parts thereof in conflict herewith are hereby repealed and superseded. If any sentence, clause, phrase, or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction, such holding will not affect any other portion of this Ordinance.

SECTION 3. BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon final passage and as provided by law. As required by TENNESSEE CODE ANNOTATED, Section 13-7-203, a Public Hearing subject to fifteen day's notice has been held, and this ordinance meets the requirements of TENNESSEE CODE ANNOTATED, Section 13-7-201 through 13-7-210, including the approval of all necessary agencies.

PASSED ON FIRST READING: February 16, 2021

PASSED ON SECOND READING: March 16, 2021


DATE OF PUBLIC HEARING: March 16, 2021



C. SETH SUMNER, City Manager

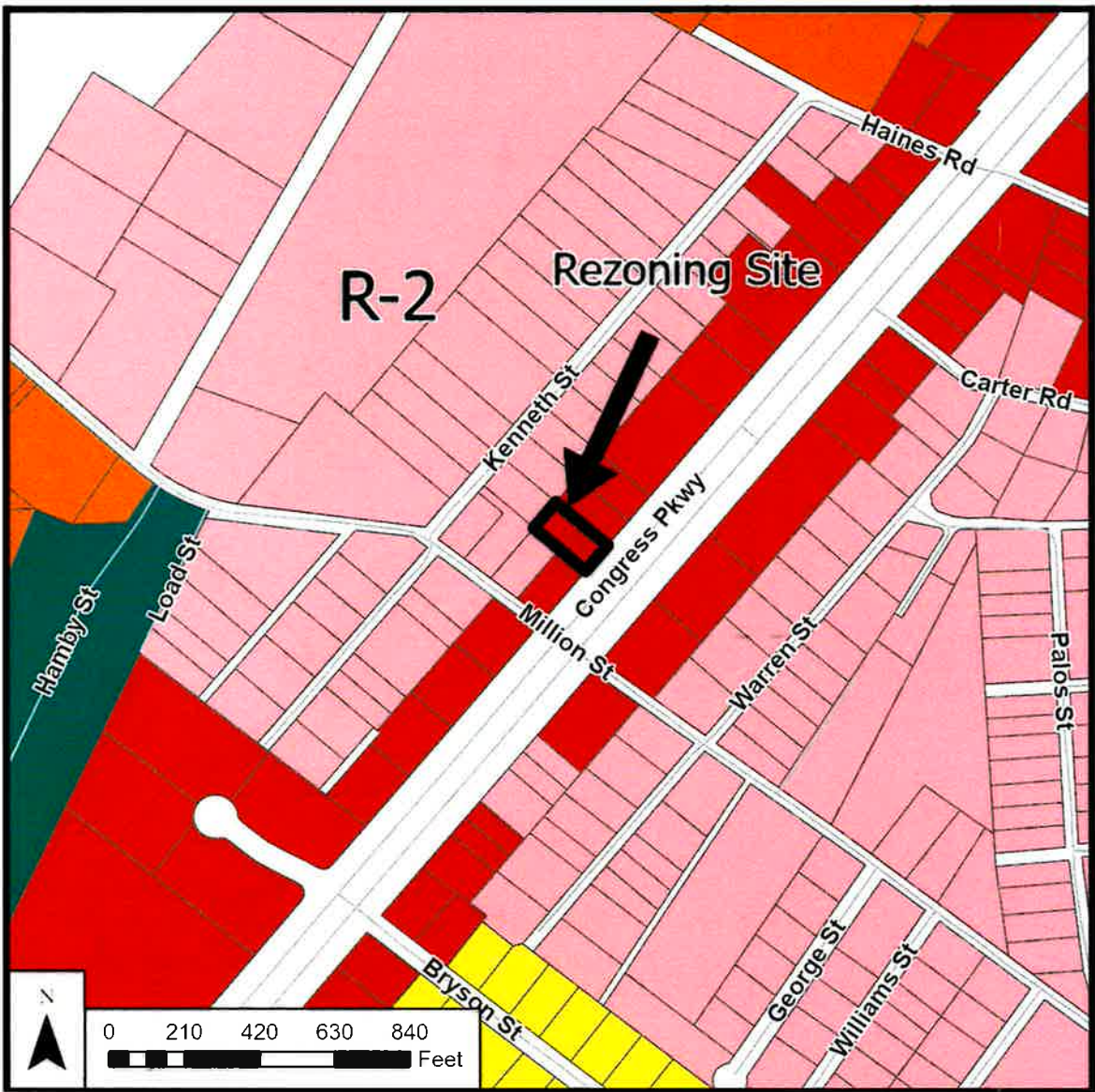
APPROVED AS TO FORM:


H. CHRIS TREW, City Attorney



WILLIAM BO PERKINSON, Mayor

Rezoning Request by Tim Daugherty for 412 South Congress Parkway (Tax Map 047N Group A Parcel 041.00) from B-3 (Intensive Business District) to R-2 (Medium Density Residential District)



Draft Minutes

ATHENS MUNICIPAL-REGIONAL PLANNING COMMISSION

February 1, 2021

3. **Recommendation on rezoning request by Tim Daugherty** to change parcel identified as Tax Map 047N Group A Parcel 041.00 located at 412 Congress Parkway from B-3 Intensive Business District to R-2 Medium Density Residential District containing approximately 0.27 acres.

Mr. Casteel said once again, they have another residential lot in a B-3 District (Intensive Business District) along Congress Parkway. It has been very difficult to market commercially. Mr. Daugherty has an owner under contract to buy it, but they want to use it as a single-family residence and a bank will not loan money on it to build it back if it is destroyed over 51%. That is the issue that they have run up against. Zoning is not a perfect science, the future land use still shows it as commercial, the existing land use shows it as residential (because that is what it is), and that is what it has been used as. It has been remodeled for a house, and not a business.

Mr. Daugherty said tried to sell it all last year. They put it in real estate, put a sign out and have not got any offers as far as real estate, just they way it is located, the property, and the parking, as a house. They put it in real estate last year and they had a couple of offers and the banks would not loan because it was commercial zoning. The one just before November and December, they could not wait, so that contract had to forgo. This contract they have now that was signed in January, but it was in the contract. They are aware, it is in the contract, they know it would have to be rezoned and it would be a while before the rezoning. The bank said they would wait until the rezoning, but they will not loan as commercial. He told the real estate, and they told the buyers, and it was in their budget because they wanted the house. They have it priced reasonable for that. They have it set up as residential to be lived in.

MOTION: Recommend to City Council that this rezoning request be changed from B-3 (Intensive Business District) to R-2 (Medium Density Residential).

Mr. Casteel asked the Commission to hold on a second for more discussion before a vote is made, because he wants Mr. Daugherty to understand this is a substandard lot of record based on the lot width only. It does meet the 10,000 square foot for the minimum lot size. This could be a problem if he were to try rezone it to a standalone property back to commercial because even though it meets the minimum lot size, it does not meet the minimum lot width. He told him personally he would recommend

him that he could go back to commercial if he ever wanted to do that, but with the troubles they had on the other side of the road, it sloped down; this side slopes up. It's not as bad a problem when it comes to commercial, but the size of the lot limits it being developed commercially or used commercially, that is why the market is not there. His feelings about this are, he tries to help the landowner with what market is doing now. So, when he says it can be rezoned back to commercial, it is not a given, it will be up to the five people who are there on Tuesday night (Council Members).

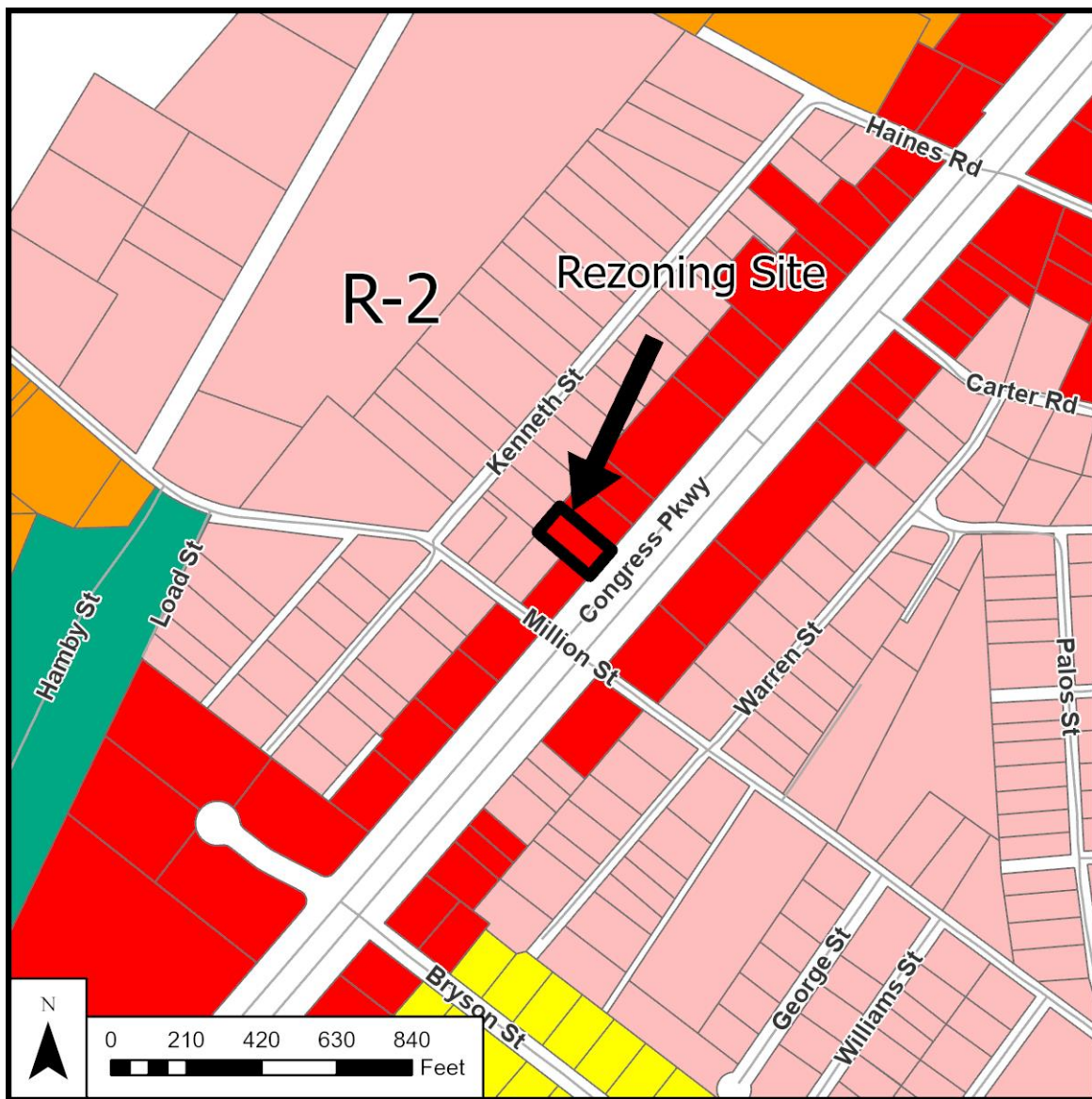
Mr. Newberry said that is not an issue for Mr. Daugherty if he sells it, it is an issue for the new property owner.

Mr. Casteel said he just wants to make sure he understands, this is not a flip that turns on and off.

MADE: Eric Newberry
SECOND: Amy Goodin
VOTE: Unanimous
MOTION PASSED

ITEM 3 of the February 1, 2021 AMRPC STAFF REPORT

- 3. Recommendation on rezoning request by Tim Daugherty** to change parcel identified as Tax Map 047N Group A Parcel 041.00 located at 412 Congress Parkway from B-3 Intensive Business District to R-2 Medium Density Residential District containing approximately 0.27 acres.



This parcel was developed with a single-family detached dwelling in 1950 according to the Tennessee Real Estate Database. It may have predated zoning in the City of Athens or may have been an allowable use in the district in 1950. The owner has a sale contract and wishes to sell the house as a single-family residence. The single-family residential use raises the concern with financial institutions issuing mortgages on properties where the structure is destroyed beyond 51% of its value, it cannot be rebuilt under our current zoning code. The landowner has been trying to sell the property as commercial for some time, with no luck. This is why he is requesting to downzone the property to the R-2 Medium Density Residential District that adjoins the parcel to the west.

As I have mentioned in previous reports, Staff would not recommend to down zone property that fronts on a principle arterial, because the infrastructure in place is designed for high intensity uses. There are circumstances specific to this section of Congress Parkway that have historically limited its development commercially over time. There are multiple small, or non-conforming lots developed with single-family homes that are grandfathered-in along this section of Congress from Bryson Street to Haines Road that shows the difficulty of commercial development in this area.

This parcel is approximately 80 foot wide and 150 feet deep, which equates to 12,000 square feet in area. While this meets the minimum lots size threshold, it does not meet the 100-foot width requirement of the B-3 District. This makes it a legal non-conforming lot under the current zoning code. While this property has been used commercially in the past, there are a very limited number of commercial uses that could be located on this small lot. The owners lack of being able to sell it to a commercial entity over the past few years shows that difficulty. Staff feels that for this section of Congress to be developed with substantial commercial development, it would require additional property from the existing adjacent R-2 neighborhood to develop the site to its full potential. Because of the depth of these parcels along this section of Congress, combining existing B-3 properties would also be a difficult parcel to develop with a substantial commercial use (i.e. drive through restaurant, gas station, small retail store etc.). This area most likely would require a rezoning to some adjacent R-2 parcels to add to these existing commercial parcels that front Congress Parkway to create a viable commercial site. So, in the future if someone wishes, they can rezone these properties back to commercial if the situation arises.

Staff recommends approval of the rezoning request from B-3 Intensive Business to R-2 Medium Density Residential.