



*A place where families and businesses thrive.*

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**Date:** July 20, 2020

**To:** Planning Commission

**From:** James Reitz (AICP), Senior Planner  
Dan Riordan, Senior Planner  
Bryan Pohl, Community Development Director

**Re:** Gales Creek NMU Work Session

**BACKGROUND:** Following rejection of the Dollar General project, staff was directed to develop alternatives for the Neighborhood Mixed Use (NMU) designated area located at the Thatcher Road / Gales Creek Road intersection, identified in the Development Code as the Gales Creek NMU (discussion of potential revisions to the Development Code NMU text will be the topic of a future memo and work session). The purpose of this work session is to discuss potential Development Code text and zoning map amendments that might better facilitate commercial development in that area.

The existing auto-repair buildings were constructed before the area was annexed to the city, but the area has been planned for a broader commercial mix since at least 1980. Under the 1980 Comprehensive Plan designation, this area was intended to become a Planned Shopping Center, which could have included “a neighborhood gas station, convenience grocery store, recreation center, laundry, restaurant, etc.” The concept of a shopping center never came to fruition, as commercial uses of all types have gravitated toward the area generally along Pacific Avenue east of Hawthorne Street.

In 2016 the City adopted a broader concept for this area, one that would “support the development of (a) pedestrian-friendly mixed use neighborhood with a diversity in the mix of housing types and neighborhood-scale retail uses and services, offices, civic or recreational uses.” In the NMU-zoned areas, non-residential uses would have to be located in a village center (which was not defined), and all site reviews processed as a planned development. That combination proved problematic for the 2019 attempt to construct a new commercial building in the Gales Creek NMU.

This memo considers two topics:

- Re-zoning a portion of the area as Neighborhood Commercial, and the balance as a residential zone.
- Potential text amendments to the CN zoning district standards.

Questions for the Commission to consider follow each section.

**NEIGHBORHOOD MEETING:** In January 2020, staff hosted an information-sharing meeting with the affected property owners in the Gales Creek NMU, to discuss what might come next. The consensus reached was that the NMU zoning provisions, and particularly the village center and planned development requirements, posed insurmountable hurdles to any new commercial development. The desire expressed by the attendees was for an approach that would allow additional commercial development, but with more specific standards and a more certain (i.e., less discretionary) review process.

The attendees further agreed that only those sites located closest to the intersection need to be reserved for commercial use; the balance could be residential. Possible residential housing types and density were not discussed.

**CODE COMPARISON:** The primary permitted uses in the Neighborhood Commercial (CN) and NMU zoning districts are largely the same. The significant differences are:

1. All types of residential are allowed in the NMU; only multi-family is allowed in the CN.
2. All commercial uses in the NMU have to be located in a village center.
3. Gas stations are not permitted in the NMU but are allowed in CN.
4. All projects in the NMU require planned development (Type III) review.

PERMITTED USES - CN	PERMITTED USES - NMU
<b>Residential Uses – CN</b>	<b>Residential Uses - NMU</b>
Residential allowed in mixed use development	Residential allowed
No minimum/maximum lot area for residential	Maximum 4K sf lot area for residential
SFR prohibited; only Multi-Family allowed	All residential allowed except manufactured homes/parks, ADUs
Day care OK	Day care OK in village center
<b>Commercial Uses - CN</b>	<b>Commercial Uses - NMU</b>
Restaurants – OK w/o drive-through	Allowed only in village center – could include drive-through
Indoor Entertainment - No	Allowed in village center
Retail – no marijuana	Marijuana OK in village center
Personal services OK	Personal services OK in village center
Repair OK	Repair OK in village center
Outdoor sales – plants only	All OK in village center
Animals – No	Animals – No
Car sales – No	Car sales - No
Car repair – No	Car repair - No (but existing OK to continue)
Car fueling – OK	Car fueling - No

The following table lists the dimensional requirements of the two districts. In the CN zoning district, specific dimensions must be met; in the NMU zoning district, every dimension except building height is variable, as would be expected in a planned development.

Dimensional Requirements - CN	Dimensional Requirements - NMU
Maximum floor area 2,000 sf; more sf OK with CU approval	No maximum (MUPD required)
Minimum lot area 5,000 sf	No minimum (MUPD required)
Minimum front setback 14 feet	No minimum (MUPD required)
Minimum side setback 5 feet	No minimum (MUPD required)
Minimum rear setback 15 feet	No minimum (MUPD required)
Maximum front setback 20 feet	No maximum (MUPD required)
Maximum bldg. height 35 feet	Up to 45 feet (MUPD required)
Minimum landscape 15%	No minimum (MUPD required)

Because the commercial floor area in the CN zoning district is limited to 2,000 square without conditional use permit approval, staff researched the floor areas of various small-scale commercial uses throughout the city to see which of those might be permissible in the CN district; the first list below is just of convenience markets:

- Thatcher Road Plaid Pantry 2,400 sf
- Sunset Market 1,190 sf
- Yew Street 7-11 2,400 sf
- Elm Street complex (inc. Plaid Pantry) 4,800 sf (market = 2,400 sf; plus two other tenants)

- Hello Market (19<sup>th</sup> Avenue) 2,199 sf (market = 1,099)
- ForestPlace market & laundromat 4,840 sf (market = 2,990 sf)
- Laurel/Pacific market/vet building 4,528 sf market = 2,400 sf)

Interestingly, the existing Plaid Pantrys and 7-11s each have 2,400 square feet; because they exceed 2,000 square feet, any new such store would require conditional use permit approval to be located in the CN zoning district.

Other smaller-scale commercial buildings throughout the city, the uses of which might be appropriate in a CN zone:

First Community Credit Union	2,252 sf	Taco Bell	2,250 sf
Liquor store	2,388 sf	Subway	1,736 sf
Papa Murphy’s building	3,000 sf (2 tenants)	Jim’s Automotive	6,240 sf (with mezzanine)
PacOak Dental/insurance bldg.	3,490 sf (2 tenants)	Brookwood Auto	7,140 sf

The floor areas of the existing commercial buildings located in the Gales Creek NMU area are listed below (note that all of these serve the greater community, not just the neighborhood). All are presently non-conforming uses, and have been since the area was annexed.

- Body shop @ 1213 Thatcher Rd 1,800 square feet
- Auto parts sales @ 1203 Gales Creek Rd 2,432 square feet
- Auto repair shop @ 1405 Thatcher Rd 1,200 square feet
- TOTAL SF 5,432 square feet

In the CN zoning district, commercial uses larger than 2,000 square feet of floor area require a conditional use (Type III) permit. This is a unique provision in the Development Code for commercial uses. In all other commercial and town center districts, a building would need to have at least 3,000 square feet of floor area before a Type III process (for Design Review, not Conditional Use) would be required.

**Conclusions:**

1. The uses permitted in the CN and NMU zoning districts are very similar.
2. Convenience stores tend to have a floor area of between 2,400 – 3,000 square feet.
3. Other commercial uses such as banks, offices, and restaurants can have a comparable floor area.
4. The existing auto-centric businesses in the Gales Creek NMU average 1,810 square feet each. They serve a greater market area than just the immediate neighborhood.
5. Newer auto-related businesses tend to construct larger buildings (exceeding 5,000 square feet).
6. The NMU zone dimensional standards are all flexible, but applications are required to undergo a more rigorous review process with no assurance of success.
7. Commercial development in the NMU zone must locate in a village center, which is not defined nor is there a process identified to establish its location.

**POTENTIAL DEVELOPMENT CODE TEXT AMENDMENTS:** As can be seen above, there is not a lot of difference in the uses permitted in the CN and NMU zoning districts. The more significant differences are in the dimensional requirements and review processes. With that in mind, and the desire expressed by the property owners for a more definitive review process (versus the discretionary planned development review process) staff has developed the following list of potential text amendments for the CN zoning district i.e. these changes would regulate development in both CN zoning districts –

1. **Allow new car repair buildings provided all activities are conducted indoors (repair and storage).**  
The existing buildings draw from a large market area, not just the neighborhood. They would become permitted uses for the first time since annexation, and would be allowed to expand or be replaced provided that all activities were conducted indoors. Existing outdoor storage would be allowed to

continue until a building expansion was proposed or there was a change in use. Given that the existing buildings have not been remodeled in over 40 years, it is speculative as to when or if they would be.

2. **Allow car wash with fuel station.** This would further expand the auto-centric uses permitted in the zone.
3. **Increase allowable per building floor area to 3,500 square feet (up from 2,000 sf); OR**
4. **Adopt a floor area ratio (FAR) of 0.25 minimum and 0.40 maximum. For example:**
  - 1121 Gales Creek Road has a lot area of 33,977 square feet (the proposed Dollar General site was larger, because it would have included a lot line adjustment). Under this concept, the existing lot could be developed with a building of between 8,494 and 13,591 square feet. The proposed Dollar General building would have had a floor area of 9,100 square feet.
  - 1203 Gales Creek Road: lot area = 20,038 sf. Floor area of between 5,009 and 8,015 sf (existing = 2,432 sf).
  - 1213 Thatcher Road: lot area = 14,375 sf. Floor area of between 3,594 and 5,750 sf (existing = 1,800 sf).
  - 1405 Thatcher Road: lot area = 8,712 sf. Floor area of between 2,178 and 3,485 sf (existing = 1,200 sf).

Rather than a specific maximum building floor area, using a FAR would allow a building to be sized proportionally to the lot upon which it sits: a larger lot would allow for a larger building. The maximum commercial square footage currently allowed in the Gales Creek NMU zoning district is 25,000 square feet. For the four parcels listed above, the maximum square building footage using a 0.40 FAR would total 30,841 square feet. More commercial floor area would be possible if additional land were designated CN.

5. **Change the allowed building height from 35 feet (potentially 2.5 to 3 stories) to 2 stories.** A reduction in height might be preferred if the properties to the west are zoned RML; if they are zoned RMH, the 35-foot building height would be appropriate.
6. **Reduce the minimum front yard setback from 14 feet to zero.** This would be the same front yard setback as in all other commercial and Town Center zoning districts.
7. **Reduce the maximum front yard setback from 20 feet to 14 feet.** This would be the same setback as the residential minimum setback. This would also eliminate the possibility of parking between the building and the street, thus making the commercial development more pedestrian-friendly. It might still allow enough space for a narrow (9-foot-wide) drive-through lane however.
8. **Reduce the minimum building side yard setback to zero if abutting another CN property.**
9. **Reduce the minimum rear yard setback to zero if abutting another CN property.** Due to minimum side and rear yard setbacks, buildings in the CN zoning district are currently required to be separated from one another, a unique and counter-productive standard for a commercial zoning district.
10. **Increase the minimum side yard setback to 10 feet if abutting a residential zone.**
11. **Decrease the minimum rear yard setback from 15 feet to 10 feet if abutting a residential zone.** These setbacks would equal the current minimum distance required for the landscape buffer by DC §17.8.425 Table 8-3.

Reducing the side and rear yard setbacks in the CN zoning district would allow for more efficient use of a parcel, as buildings could be sited zero lot line. This could also enhance pedestrian accessibility as the distance between buildings would be reduced, and less likely to be separated by surface car parks.

Increasing the side and rear yard setbacks where abutting a residential zone would further separate more intensive commercial uses from nearby residences.

### **Conclusions:**

1. The CN zone dimensional standards are clear and objective, and thus easy to understand and implement.
2. The CN zone setbacks require buildings to be separated, counter to contemporary commercial development practices.
3. The existing auto-centric businesses serve the Forest Grove market as a whole, not just the immediate neighborhood.
4. Whether the existing auto-centric businesses become permitted uses or remain non-conforming uses may be meaningless, as the existing buildings and uses may continue indefinitely.
5. The existing Gales Creek NMU businesses are auto-centric and are not neighborhood-oriented.
6. The existing Gales Creek NMU businesses are auto-centric and are not pedestrian friendly.
7. The neighborhood market area may be too small to support the construction of any new commercial buildings. Allowing larger buildings (> 2,000 sf) may encourage commercial development, but such uses would likely serve a larger market area.

### **Discussion Questions:**

Unlike the CC and TC zoning district regulations which have been amended several times, those of the CN district have not undergone any kind of review in about four decades, and still reflect the suburban-style auto-centric commercial model of the 1970s.

1. Should the specific limit on commercial floor area (currently 2,000 sf) be continued, or should an alternate method be used? OR -
2. Should there be a cap on floor area at all?
3. Should the uses permitted be broader to provide more market choice? If yes, what should those additional uses be?
4. Should auto-centric uses be permitted? If yes, what should those uses be? Gas stations are permitted uses; should the prohibition on restaurant (e.g. coffee kiosk) drive-through service be continued?
5. Should the Commercial Neighborhood standards be amended to adopt more commercial-style standards such as minimal setbacks?

**POTENTIAL COMPREHENSIVE AND ZONING MAP AMENDMENTS:** In addition to the possible text amendments outlined above, map amendments to the Gales Creek NMU area should also be considered. At the meeting with the property owners, they expressed interest in retaining some kind of commercial zoning toward the east end of the area (those parcels closest to the intersection) and designating the balance for residential uses. No specific density or desired housing type was discussed. Possible options include:

1. **Re-zone the eastern Gales Creek NMU parcels to CN** (the existing Plaid Pantry at 2901 Thatcher Road is located in the CN zoning district; this concept would expand that zoning district to include additional parcels).
2. **Re-zone the balance of the NMU area to RMH** (in other words, enlarge the existing RMH designated area); OR
3. **Re-zone the remaining NMU area to RML; AND**
4. **Re-zone the current RMH area to RML**

The *Comprehensive Plan Locational Requirements* for the RML and RMH zoning districts are as follows (several are duplicates and are not listed; below are only those that are the most pertinent):

## RML

1. Sites located within ¼ mile of planned or existing transit service. The site is on a GroveLink route. It is not on a TriMet route, nor is a TriMet route planned for the area.

## RMH

1. Sites located within ¼ mile of planned or existing transit service. The site is on a GroveLink route. It is not on a TriMet route, nor is a TriMet route planned for the area.
2. Sites adjacent to existing or planned parks or open space. The site is located across Gales Creek Road from Talisman Park.
3. Sites within ¼ mile of designated employment areas. The site is not within a ¼ mile of a designated employment area.
4. Creation of nodes to facilitate transit extension. Creation of a commercial node at this intersection may facilitate a future transit extension, but that is purely speculative at this time.

The Comprehensive Plan Locational Requirements for the Commercial Neighborhood district is as follows:

*The Commercial Neighborhood district is established to provide for small to medium sized shopping and service facilities in close proximity to residential neighborhoods. The Neighborhood Commercial district is intended to meet the daily convenience shopping and service needs of the immediate neighborhood. CN districts should be located on arterial or collector streets, preferably at an intersection. CN zones should be spaced at approximately one-half (1/2) mile intervals and each district should be limited to a total size of approximately five (5) acres. There are 0.8 acres of land designated Neighborhood Commercial on the comprehensive plan map. (The two existing convenience markets noted here are located at 2901 Thatcher Road and 2830 Sunset Drive).*

The Development Code Neighborhood Commercial description is:

*The NC zone is established to provide for small to medium sized shopping and service facilities adjacent to residential neighborhoods. The district is intended to meet the convenience shopping and service needs of the immediate neighborhood and to have minimal negative impacts on surrounding residential uses. CN zones should be located on arterial or collector streets, preferably at an intersection. CN zones should be spaced at approximately one-half (½) mile intervals and each zoned area should be limited to a total size of approximately two (2) acres.*

The CN Locational Factors are-

1. Adjacent to residential areas. The site is surrounded by residential areas.
2. Within 1/8 mile of collector street or arterial street intersection. The site is located at an intersection of two arterial streets.
3. Maximum site size: 5 acres (CP) or 2 acres (DC). The four easternmost NMU parcels total 77,102 square feet, or 1.77 acres. Combined with the existing Plaid Pantry site of 0.52 acres, the grand total would be 2.29 acres.

## Conclusions:

1. The existing commercial uses are of neighborhood-scale, but they are auto-centric and serve a larger market area.

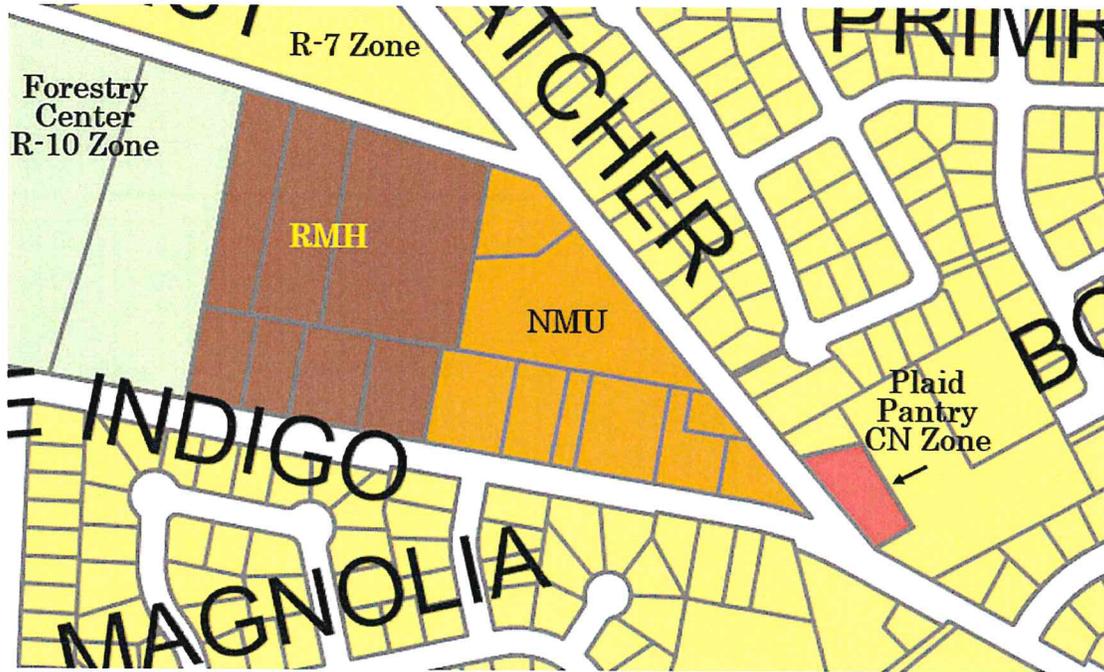
2. The CN zone would be appropriate if the intent is to only provide neighborhood-scale development. However, the neighborhood market area may be too small to support the construction of any new commercial buildings.
3. Allowing larger commercial buildings (> 2,000 square feet) might encourage commercial development, but those uses would likely serve a larger market area.

**DISCUSSION:** There are two primary policy questions to be considered:

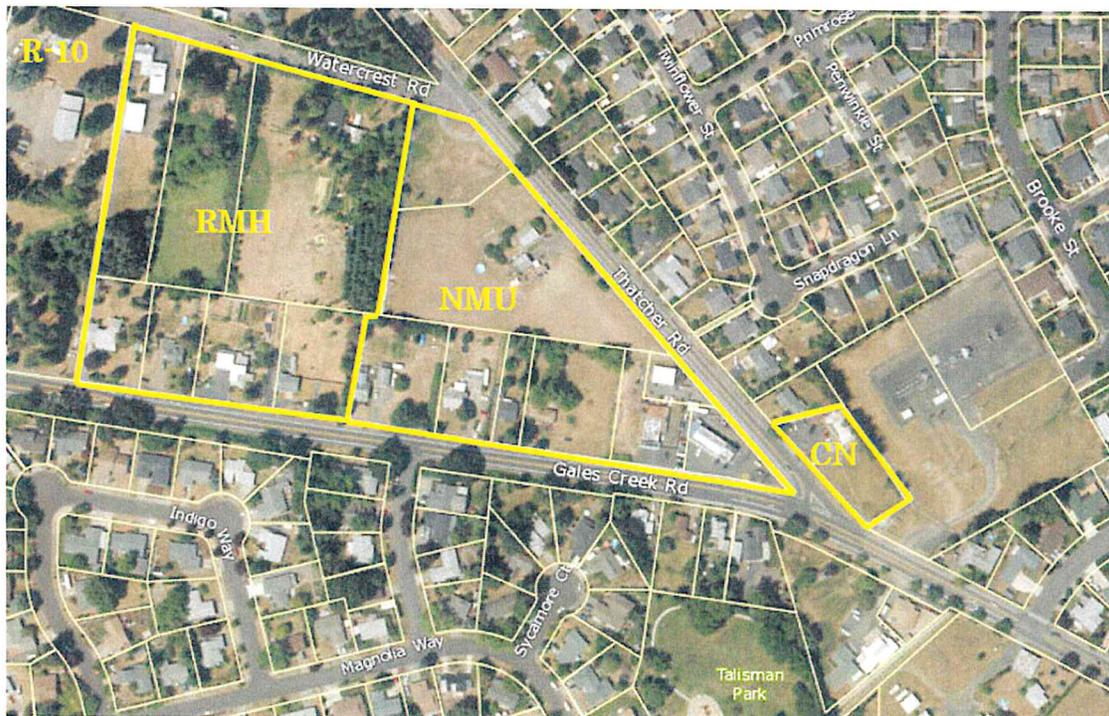
1. Should some of the Gales Creek NMU area be re-zoned to Neighborhood Commercial? It would appear based on the descriptions and Locational Requirements above that rezoning some of the area to Neighborhood Commercial could be appropriate, as they largely duplicate the uses already permitted in the NMU zoning district. However -
  - a. There appears to be a very limited demand for neighborhood-scale commercial uses. It may be that the existing convenience market satisfies that demand.
  - b. The existing auto repair uses serve a much greater market area than the "convenience shopping and service needs of the immediate neighborhood." Redevelopment of those sites to a different commercial use appear unlikely in the near term.
  - c. The existing floor area cap of 2,000 square feet per building may be too limiting, thus discouraging any new commercial development of any kind.
2. What zone would be most appropriate for the balance of the property? An argument could be made for either the RML or RMH zoning district.
  - a. An RML district would more likely result in the construction of single-family attached and detached homes, perhaps with some duplexes. Density would be at not more than 12.00 DUA and could be as little as 9.60 DUA. This density might be more acceptable to the neighborhood as it would more closely resemble existing residential development in the area, but this density might not be enough to facilitate development due to the expense of needed street improvements and utility extensions.
  - b. An RMH district would more likely result in the construction of at least duplexes and perhaps apartments. Density would be up to 20.28 DUA but could be as little as 16.22 DUA. A larger number of units would provide a more robust market for the adjacent commercial uses, thus perhaps hastening their construction to the benefit of the west side as a whole. More units would also provide a greater opportunity for a developer to pay for needed street construction and utilities. However, even though some of this area is already designated RMH (and has been since 1980) and even though the area is served by two arterial streets, an RMH zone is not indicated based on the Locational Factors listed above, and might be less acceptable to the residents of the existing single-family neighborhoods nearby.

**RECOMMENDATION:** Following this meeting, draft text and map amendments will be developed as per the Commission's discussion. Depending on their extent, the draft will either be further reviewed and refined in another work session, or scheduled for public hearing.

# Area Zoning



# Aerial Photo



# Thatcher Road LLC

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Subject: Rezoning of the Thatcher Road triangle

This is in response to the staff report about the potential issues in new zoning for the triangle at the Northwest corner of Thatcher Road and the Gales Creek Highway. The staff report is an excellent summary of the history and the zoning issues at this location. It has many useful facts and possibilities as related to the zoning code of Forest Grove. We would like to expand on some of the report with information we have due to the failed effort to locate the Dollar General project on part of the site.

Most of our comments are related of the size of potential building uses at the location.

The opponents to the Dollar General project suggested they would be very happy if someone like Trader Joe's might locate on this site. Their stores are usually in the size range of 10,000 to 15,000 square feet. So if stores of that type are in fact something the opponents think might be useful adopting a zone that only allows buildings in the 2,000 to 2,500 foot range would preclude them entirely.

I have been advised by staff that the code does not allow the economics of users as a valid criteria. But I think the data we collected from the Dollar General Store is a valid source of information about what is possible at this general location. Here is the data we gathered.

The "fees" that would have been required by current development codes had the Dollar General proposed permit been given would have been \$233,885.77. Let that sink in. They would have paid well over \$200,000 in fees just to get a permit to build. Of those fees \$162,216.60 would have been Traffic Impact Fees. Much testimony was about the lack of curbs, sidewalks and other safety issues where children have to walk to get to local schools. These impact fees are in fact the method that the City and Washington County use to build the needed safety features into locations like this, where 100 years of county development have left roads with no sidewalks and curbs. It is truly a chicken and egg dilemma. Without development, the chicken, no improvements, the egg, ever happen.

Also related are the offsite costs over the fees needed to develop at this location. The extension of Water, Sewer and Storm Sewer and street improvements at this site were estimated to be \$165,000 additional in cost before any activity could be done on the site itself.

So in summary there would have been around \$400,000 in costs before any building was built at the site. The point is that building smaller buildings in the range of 2,000 to 5,000 square feet does not allow the ability to cover costs like this. It will take buildings larger like a Trader Joe's or a Whole Foods or some other use that generates enough income, to pay off these costs.

Finally, the owners of most of the vacant land in the old Town Center-Mixed Use zone met with the planning officials. There was broad consensus that the owners want the area on the east side of the old zone including the current conforming commercial uses to be zoned commercial and the land more to the west to be zoned residential.

We would ask that the landowner's desires be considered and that buildings large enough to be financially viable be included in the zoning adopted. We think the staff suggestion of something like 40% of the area of the site be allowed as a building size limit makes some sense.

Sincerely,

Tim Schauer  
Thatcher Road LLC Member