

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**

**June 20, 2013**



**Conditional Use Permit case no. CU13-05: Patrick Burkart and David Riddle**

**CASE DESCRIPTION:** request for approval of a Conditional Use Permit to allow a residence in a Commercial District (C-3)

**LOCATION:** 206 South Sims Avenue at the northwest corner of South Sims Avenue and West 28<sup>th</sup> Street

**LEGAL DESCRIPTION:** 35' of Lot 2 and Lots 3-5 in Block 158 of the Bryan Original Townsite

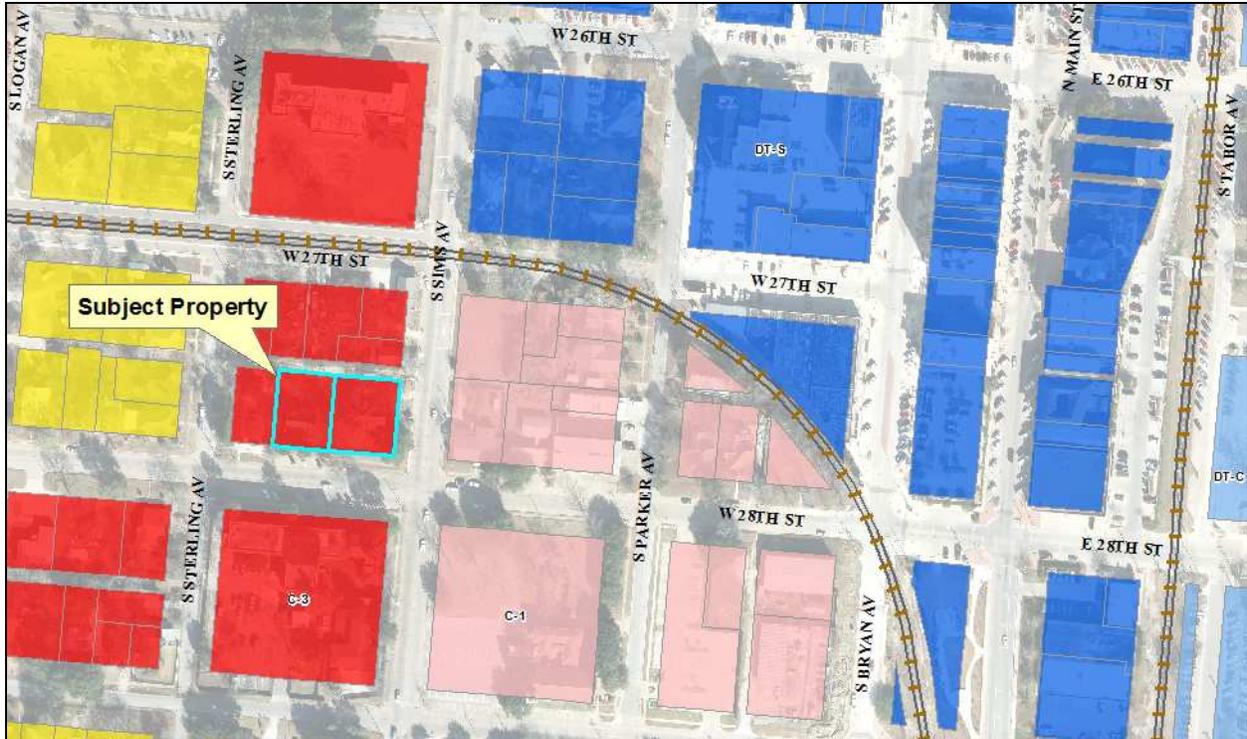
**EXISTING LAND USE:** single-family home

**APPLICANT(S):** Patrick Burkart and David Riddle

**STAFF CONTACT:** Randy Haynes, Project Planner

**SUMMARY RECOMMENDATION:** Staff recommends **approval of this request.**





## BACKGROUND:

The subject property is located in an area zoned Commercial District (C-3). There is an existing residence and an accessory structure on this site. Because of this zoning status, replacement of the residential use would not be permitted if more than 60% of the structure is destroyed.

The applicant is requesting approval of a Conditional Use Permit to ensure the right to residential use on this subject property. If approved, the structures could be restored to residential use if damaged or destroyed.

## ANALYSIS:

Approval of a Conditional Use Permit by the Planning and Zoning Commission shall be based upon the following criteria.

1. Whether the proposed conditional use conforms to applicable regulations and standards established by the Zoning Ordinance.

**If approved, the residential use will conform to all applicable regulations and standards established by the Zoning Ordinance. No variations from existing development standards are being requested.**

2. Whether the proposed conditional use is compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features.

**Staff contends that given the prominent placement in historical context and outstanding condition of the dwelling unit, residential use is compatible with surrounding land uses in this diverse area.**

3. Whether and the extent to which the proposed conditional use potentially creates greater unfavorable effect or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use.

**Residential use within a C-3 zoning district ranks among the least intense of all uses possibly permitted within that district. There is little (if any) chance that continued use as a residence could cause unfavorable effect or impact.**

4. Whether and the extent to which the proposed conditional use affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

**Staff contends that continuance of the existing residential use will not change the safety level of vehicular or pedestrian traffic in the area.**

5. Whether and the extent to which the proposed conditional use would reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

**No additional impact concerning erosion, flood or water damage, noise, glare, fire and other hazards are expected.**

6. Whether and the extent to which the proposed conditional use adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

**Staff contends that continuance of the existing residential use will not change the safety level of vehicular or pedestrian traffic in the area.**

7. Whether and the extent to which the proposed conditional use provides adequate and convenient off-street parking and loading facilities.

**Ample off-street parking is currently provided on the subject site.**

8. Whether the proposed conditional use conforms to the objectives and the purpose of the zoning district in which the development is proposed.

**Residential use generally does not conform to the objectives and purpose of commercial zoning districts such as the C-3 District. While the area is zoned C-3, the pattern of development in the area remains largely residential. Staff contends that in this case approval of the requested conditional use permit meets with the overall spirit of the Zoning Ordinance and the Comprehensive Plan.**

9. Whether the proposed conditional use will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

**Permitting the continuance of residential use at this location will have no negative impact upon properties or improvements in the vicinity.**

10. Whether the premises or structures are suitable for the proposed conditional use.

**The existing premises are currently in use as a residence and remain suitable for that use.**

**RECOMMENDATION:**

Staff recommends **approving** a Conditional Use Permit to allow the use as a single family residence to continue on the subject property.