

Reconsideration of Zoning Ordinance Amendment #21-03 for Tobacco Sales Near Schools

City Council
Meeting—
December 6, 2021

Kim Espinosa, Planning Manager

Request from Applicant

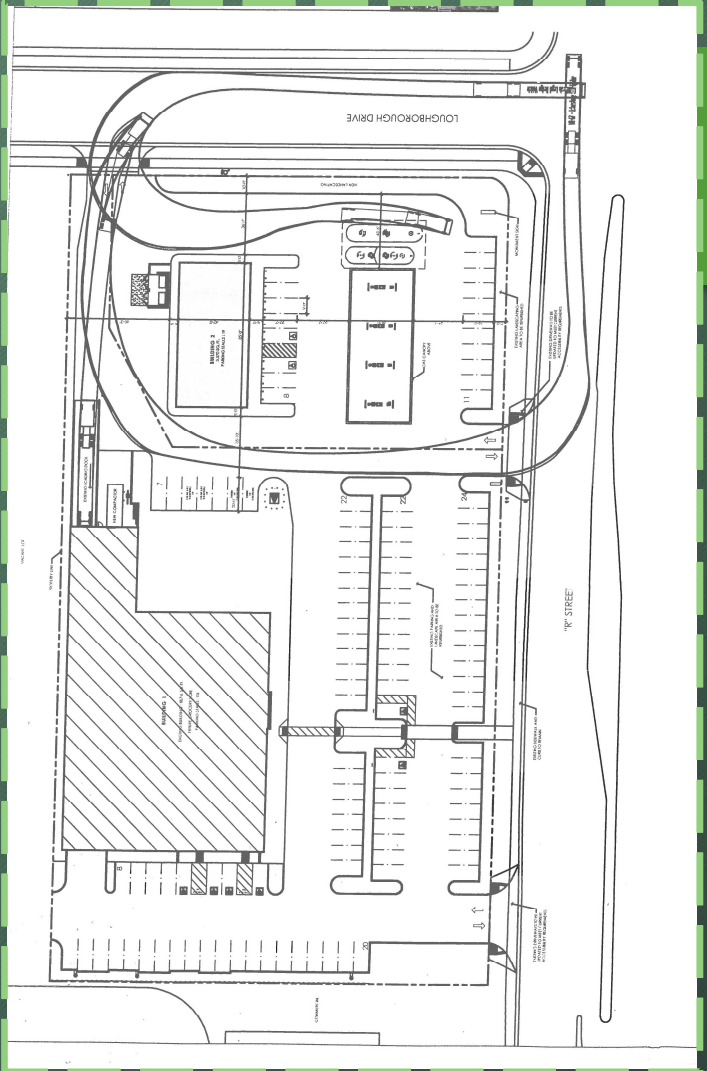
- Ashley Investments would like to develop a 2.8-acre parcel at the southwest corner of R Street and Loughborough with a gas station and convenience market, including tobacco sales.
- This property is **1,158 feet** away (over 1,000) from the nearest **school**, Rivera Elementary and Middle Schools, but is **472 feet** (less than 600 feet) away from **Fahrens Park**.
- The applicant has indicated that the development is unlikely to move forward without an option to allow tobacco sales.
- This Ordinance would NOT approve the applicant's project but would allow for the applicant to apply for an exception from the Planning Commission.
- One letter was received in opposition prior to the October 18 Council meeting.



Proposed
Development
at R &
Loughborough

472 Feet from
Fahrens Park

1,158 Feet
from Rivera
School



Reasons for Proposed Changes to Ordinance

- The proposed changes would more closely align with the City's regulations for Commercial Cannabis Business Permits
 - Concerns regarding exposure to cannabis and tobacco sales to school children are similar.
 - Web-based tool for Cannabis could be used for Tobacco.
 - Other tobacco retailers throughout the City have inquired about possible exceptions.
- The proposed changes would allow exceptions to be granted with a conditional use permit for tobacco uses within 600 feet from parks, day care centers, youth centers, and libraries.
 - Currently no exceptions except for existing tobacco businesses.
 - City allows for exceptions with a CUP for alcohol sales in buildings less than 20,000 square feet where the merits of each particular business can be considered.
 - Could allow the same option for tobacco businesses near other sensitive uses (but not schools).

Proposed Changes to Ordinance

Section 20.44.160(A) would continue to prohibit tobacco sales within 1,000 feet of schools (same as the current requirement) but would reduce the required distance from other “youth-oriented facilities” from 1,000 feet to 600 feet. The list of “youth-oriented facilities” would be modified to match those in the Commercial Cannabis Business Permits section (MMC 20.44.170) and the tobacco section would use the same list of “schools” adopted by the City Council for cannabis permits.

Section 20.44.160(B)(1) would be modified to use the same language as for cannabis permits in the measurement of the 1,000 feet and 600 feet.

Section 20.44.160(B)(2) would also be modified to allow for exceptions with a Conditional Use Permit granted by the Planning Commission for tobacco sales near other sensitive uses (not including schools).

Planning Commission & City Council Actions

On September 8, 2021, the Planning Commission held a public hearing, and Recommended Approval to the City Council by a 6-0 (6 eyes, 1 vacancy) vote.

On October 18, 2021, the City Council held a public hearing and the motion to approve failed by a 3-4 vote. On November 1, 2021, the City Council voted to bring the item back for reconsideration.

After the public hearing, the City Council can adopt a motion to:

- Adopt a Categorical Exemption (Environmental Review #21-24)
- Introduce Ordinance No. 2535 for Zoning Ordinance Amendment #21-03.