

INTEROFFICE MEMORANDUM

Sensitivity: COMPANY CONFIDENTIAL

Date: 04-Mar-1999 12:02pm
From: Marion Radson
Dept: 750-CITY ATTORNEY
Tel No: 334-5011

To: See Below

Subject: Legislative Item No. 980874 - Rezoning - 7600 Blk of SR 121; City Commission Agenda Item for March 8, 1999

The department of community development asked us to review their determination that the rezoning of the property at 7600 SR 121 that appears on Monday's agenda is legislative. For your information this rezoning is a companion to a land use change under item no. 980873 that also appears on Monday's agenda.

After researching this matter and in consultation with the department, it is our advice that the rezoning petition (Legis Item No. 980874) be stricken from the agenda. We reach this recommendation on the following information:

- 1) the land use change is clearly a legislative matter that must be transmitted to the state for their review and comment.
- 2) Based upon the state's review and comment, the city commission may or may not approve and adopt the land use change on second and final reading.
- 3) There is no harm in not hearing the zoning change on March 8 pending the receipt of the state's comments - at most there would be a 2 week delay in approving the zoning change.
- 4) the zoning petition may be quasi judicial in nature and it could be difficult for the commission to consider the land use change as a legislative matter under the fairly debatable standard versus the zoning change that may be quasi judicial under the standard of competent substantial evidence to support the change in the zoning.

For this reason I would advise commissioners to avoid any ex parte communications until this matter is concluded. This may cause some difficulty for the commissioners because they were not made previously aware that the zoning matter was quasi judicial. In the meantime this office will reach a final opinion on whether the zoning petition should be considered as a quasi judicial matter.

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