



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
 Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 15-042	Contact	Jenn Reed Moses, jmoses@duluthmn.gov	
Application Type	UDC Map Amendment	Planning Commission Date	April 14, 2015	
Deadline for Action	Application Date	March 9, 2015	60 Days	May 8, 2015
	Date Extension Letter Mailed	March 25, 2015	120 Days	July 7, 2015
Location of Subject	213 N Arlington Avenue			
Applicant	Joseph Kleiman	Contact	218-722-9900, kleimanrealty@msn.com	
Agent	N/A	Contact	N/A	
Legal Description	Block 33, Duluth Heights Sixth Division - See Attached For Complete Legal			
Site Visit Date	April 8, 2015	Sign Notice Date	March 30, 2015	
Neighbor Letter Date	March 25, 2015	Number of Letters Sent	22	

Proposal

Applicant proposes to rezone property from R-1 to MU-C.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential (single-family)	Central Business Secondary
North	R-1	Residential (single-family)	Traditional Neighborhood
South	MU-C	Commercial	Central Business Secondary
East	R-2	Residential (multi-family)	Central Business Secondary
West	MU-C	Undeveloped	Central Business Secondary

Summary of Code Requirements (reference section with a brief description):

UDC Sec. 50-37.3.A: Any property owner may petition the planning commission to amend the district boundaries in which the property is located.

UDC Sec. 50-37.3.B: Planning commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.

UDC Sec. 50-37.3.C: The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that the application:

1. Is consistent with the Comprehensive Land Use Plan;
2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use;
3. Is required by public necessity, convenience, or general welfare, or good zoning practice;
4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

III. C-1

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Future Land Use - Central Business Secondary: An area adjacent to and supporting the primary central business area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary central business area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

Central Entrance - Miller Hill Small Area Plan: This 2009 plan envisioned this portion of Central Entrance as a development location for a mixture of residential, retail, and/or office uses. It recommended changing the land use in this area from Auto Oriented Commercial (as shown in the 2006 Comprehensive Land Use Plan) to its current designation of Central Business Secondary. The plan encouraged place-making initiatives along Central Entrance, including gateway statements and identity creation.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

- 1.) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or else be considered arbitrary and capricious.
- 2.) Good zoning practice requires that zone districts be consistent with the future land use category identified for the area. The purpose of the MU-C district is to provide for community and regional commercial development along commercial corridors and nodal centers. Intended non-residential uses include retail, lodging, service, and recreational facilities needed to support the community and region. This application is reasonably related to the future land use of Central Business Secondary.
- 3.) Applicant intends to develop the property consistent with uses and development standards per the UDC. Applicant owns several adjacent properties as well, and having a development parcel with unified zoning will allow for a coordinated redevelopment.
- 4.) In the MU-C district, development projects require Planning Review, with approval by the Planning Commission. Any future development will be required to meet all UDC standards, including those related to landscaping and buffering, screening, and lighting.
- 5.) Because the application does not contain a petition with the 2/3 required, this will require a super majority vote of the city council to approve it (as opposed to the standard requirement of a simple majority vote).
- 6.) One letter was received from the owner of a neighboring property. No other public, agency, or City comments have been received.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff recommends that Planning Commission recommend approval of the UDC Map Amendment, for the following reasons:

- 1.) This proposal is consistent with the Comprehensive Land Use Plan.
- 2.) The proposed MU-C zone district is consistent with the future land use category of Central Business Secondary.
- 3.) Material adverse impacts on nearby properties are not anticipated.

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Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



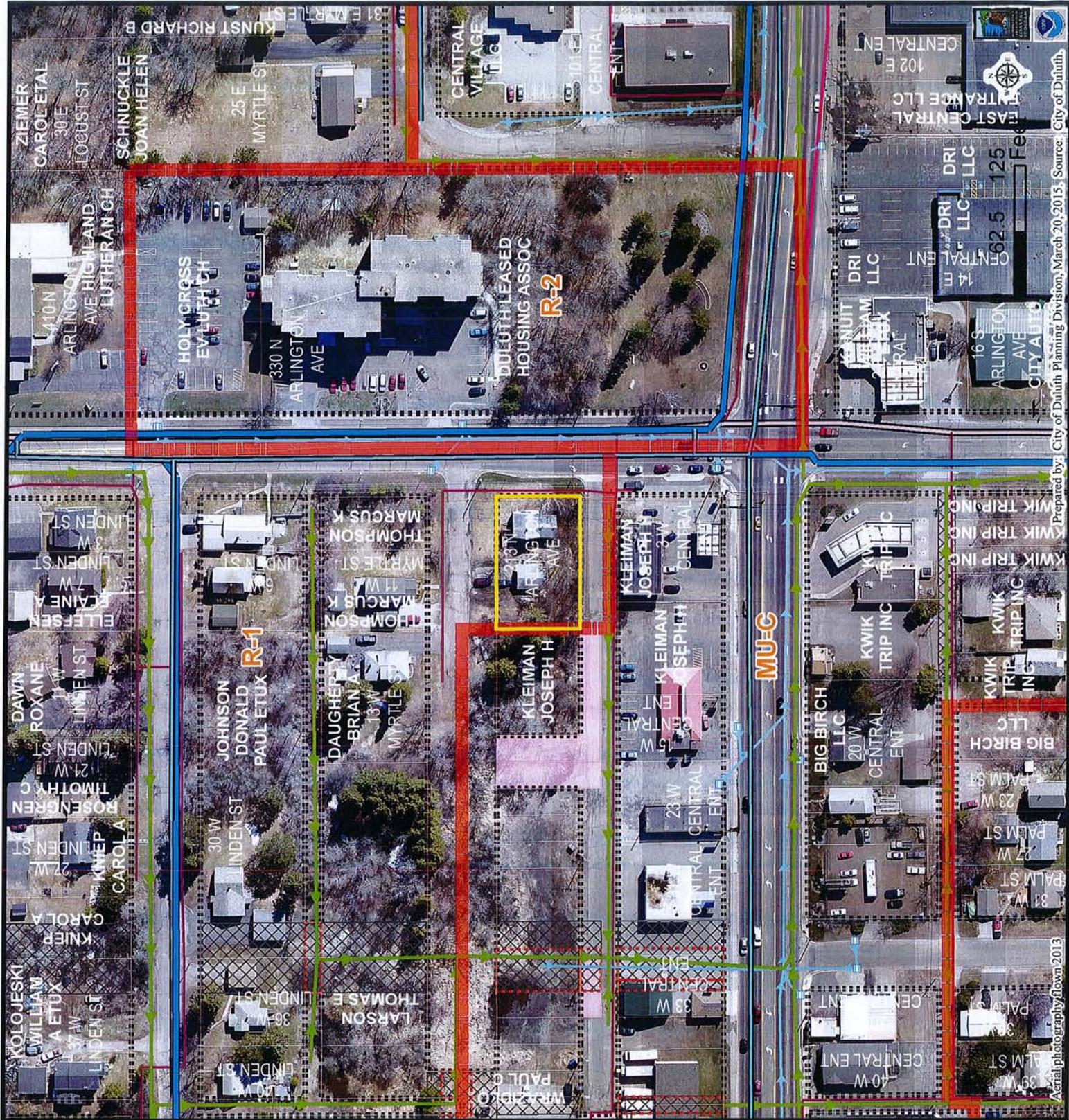
City Planning

PL 15-042

213 N Arlington

Legend

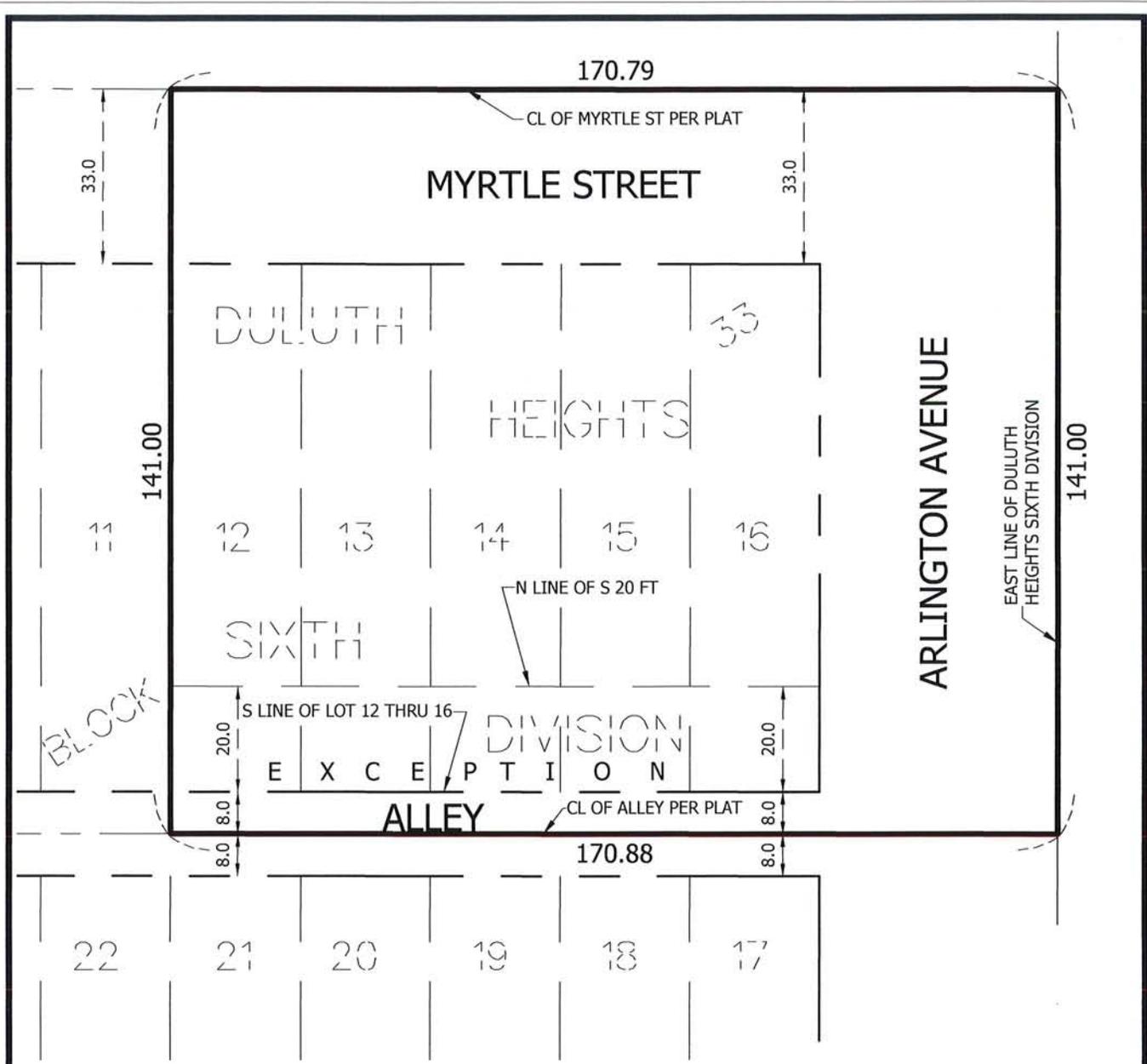
- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries**
 - Zoning Boundaries
- Water Distribution System**
 - 30 - 60" Water Pipe
 - 16 - 24" Water Pipe
 - 4 - 6" Water Pipe
- Sanitary Sewer Collection System**
 - Sanitary Sewer Collector
 - Sanitary Sewer Interceptor
 - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Gas Distribution Main**
 - 8" - 16" Gas Pipes
 - 4" - 6" Gas Pipes
 - 0" - 4" Gas Pipes
- Storm Sewer Collection System**
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
- Right-of-Way Type**
 - Road or Alley ROW
 - Vacated ROW
- Easement Type**
 - Utility Easement
 - Other Easement



The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

Aerial photography/flovn 2013

Prepared by: City of Duluth Planning Division, March 20, 2015. Source: City of Duluth.



BLOCK



LEGAL DESCRIPTION PER DOC. NO. 1250737

Lots 12, 13, 14, 15 and 16, Block 33, DULUTH HEIGHTS SIXTH DIVISION, Except: The Southerly 20 feet, St. Louis County, Minnesota.

THIS IS NOT A BOUNDARY SURVEY.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY.

PROPERTY EXHIBIT

CLIENT: JOE KLEIMAN	REVISIONS: XXX
DATE: 1-27-15	
ADDRESS: 213 N ARLINGTON AVE	
JOB NUMBER: 15-012	



LAND SURVEY COMPANY
 * LAND SURVEYING PHONE: 218-727-5211
 * LAND DEVELOPMENT FAX: 218-727-3798
 * PLATTING LICENSED IN MN & WI
 * LEGAL DESCRIPTIONS CERTIFIED FEDERAL SURVEYOR
 * CONSTRUCTION STAKING WWW.ALTLANDSURVEYDULUTH.COM

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**Uses Allowed in Mixed Use-Commercial (MU-C) Zone District
Revised January 5, 2015**

Permitted Uses

- Dwelling, multi family
- Dwelling, live-work
- Residential care facility/assisted living (7 or more)
- Rooming house
- Bus or rail transit station
- Club or lodge (private)
- Government building or public safety facility
- Museum, library or art gallery
- Park, playground or forest reserve
- Religious assembly, small (less than 50,000 sq ft)
- Religious assembly, large (50,000 sq ft or more)
- Business, art or vocational school
- School, elementary
- Medical or dental clinic
- Nursing home
- Veterinary or animal hospital
- Convention or event center
- Indoor entertainment facility
- Restaurant, small (less than 5,000 sq. ft.)
- Restaurant (5,000 sq. ft. or more)
- Theater
- Hotel or motel
- Bed and breakfast
- Bank
- Office
- Data center
- Preschool
- Day care facility, small (14 or fewer)
- Day care facility, large (15 or more)
- Funeral home or crematorium
- Personal service and repair, small (less than 10,000 sq. ft.)
- Personal service and repair, large (10,000 sq. ft. or more)
- Garden material sales
- Grocery store, small
- Grocery store, large
- Retail store not listed, small (less than 15,000 sq. ft.)
- Retail store not listed, large (15,000 sq. ft. or more)
- Automobile and light vehicle repair and service
- Automobile and light vehicle sales, rental, or storage
- Filing station
- Parking lot or parking structure (primary use)

Special Uses

- Cemetery or mausoleum
- School, middle or high
- Kennel
- Other outdoor entertainment or recreation use not listed
- Building materials sales
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Solar, geothermal, or biomass power facility (primary use)
- Water or sewer pumping stations/reservoirs
- Recycling collection point (primary use)



413 N Arlington Ave

Print Date: 04/06/2015
Image Date: 05/12/2013
Level: Neighborhood

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413 N Arlington Ave

Print Date: 04/06/2015
Image Date: 05/12/2013
Level: Neighborhood

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To: City of Duluth Planning Committee
From: Marcus Thompson
Date: 4/06/2015
Subject: 213 North Arlington Avenue Commercial Zoning Request

Introduction: I am one of the two residents that are within 300 ft. of the property that has been requested to be rezoned. This is a brief memo to highlight my concerns and list recommendations to help make the new development coexist with the residential neighborhood. I hope these recommendations are considered as the property's future moves forward.

Concerns:

Devalue – Housing Devalue

1. Housing next to commercial developments can make the residential properties become less valuable. I have been told by two lawyers, two real estate agents and one commercial appraiser that the value of my house will decrease. While I have a modest home, I cannot afford to take a loss on this property. With good planning and your help I am hopeful we can avoid this.

Neighbor considerations for light and noise pollution

1. It would be helpful to face all lights on the development away from the homes on West Myrtle Street
2. Offset any incoming entrances on Myrtle street from the front of the 2 houses and driveways to eliminate light disturbances in the evening
3. Limit the number of incoming entrances on Myrtle Street to 1.
4. Add a 8' tall fence 15' back from the property line with coniferous trees to muffle the sound and view (usually back walls and loading doors) from the new development

Corner Redesign – West Myrtle Street and Arlington Avenue Intersection

1. Safety – The intersection between Arlington Avenue and West Myrtle Street is located on an incline. The incline will increase the risk of accidents within the intersection during the winter months. The majority of the risk will be to the residents that use the street on a daily basis and go in and out throughout the day. This intersection already has vehicles sliding into the 213 North property during slippery conditions. Place signs in this area to address the slippery roads in the winter months.
2. Current Road Condition – The road condition is still in rough shape with potholes. It becomes worse each year.

Parking

1. This area should remain a residential parking area and not a street to park on for the commercial development.
2. Depending on ingress and egress locations the location may not allow for lawful calendar parking with relationship to stops signs, curb cuts and intersections.

Increased Traffic



1. Increased traffic will cause noise pollution in the area
2. Increased traffic should also be considered with the safety and well-being of residents in the area.

Recommendations to Address Above Concerns

1. Redesign Entrance from Arlington Avenue to West Myrtle Street to prevent accidents on intersection.
2. Make West Myrtle Street a Residential Parking area only.
3. Increase signage to raise awareness of residential area.
4. Fix the road to prevent vehicles from swerving into residential vehicles or people exiting driveways.
5. Ensure that ingress and egress onto West Myrtle Street is truly needed.
6. Minimize the amount to 1 if possible, and offset it from all entrances from the front of the houses and driveways on West Myrtle Street to minimize all light disturbances in the evening.
7. Face all lights away from houses on West Myrtle Street
8. Add a buffer to dampen sound, view and light throughout the day
9. Mandate that the developer follow the residential improvement plans that are set forth in the building permit.

Closing Remarks

I want to thank the Planning Committee for taking their time to read and understand my concerns. I can support the project as long as major concerns are addressed and the development is mindful of the residential characteristics of West Myrtle Street. I do understand that 213 North Arlington Avenue does have a high probability of including an ingress and egress or through road to West Myrtle Street, I would like to ensure ingress and egress locations are mindful of the properties across the street. I would also think the Planning Committee will make recommendations to minimize the risk around the corners and additional traffic to prevent residents from getting injured because of the difficult travel ways in the winter months. Again, I appreciate the time taken to read and think about my concerns. My main hope is that you will also make recommendations to keep the residential area a safe place to live in the future and minimize the impact on the residential area.

Thank you,

Marcus Thompson
11 West Myrtle Street
(218) 290-1615