

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
09/22/08

ITEM NO. 1: RMG to MU; .483 ACRES; 1420 CRESCENT ROAD (JCR)

Z-05-10-08: Consider a request to rezone a tract of land approximately .483 acres from RMG (Multi-Dwelling Residential-Greek Housing) to MU (Mixed Use), located at 1420 Crescent Road. Submitted by Jayhawk Bookstore for William P. Muggy, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of rezoning approximately .483 acres from RMG (Multi-Dwelling Residential-Greek Housing) to MU (Mixed Use) and forwarding it to the City Commission with a recommendation for approval based upon the findings of fact outlined in the staff report.

APPLICANT'S REASON FOR REQUEST

"To bring the property into the proper zoning district (MU) for its existing uses and structure."

KEY POINTS

- This is the first request to rezone to the MU (Mixed Use) District.
- The MU District was adopted by the City Commission on May 13, 2008.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The character of the area is a mixture of uses serving the university community including the university campus, fraternities and sororities, and the existing retail use transitioning to single-dwelling residential uses to the west with a high volume of pedestrian traffic and easy access to public transportation.

CONFORMANCE WITH *HORIZON 2020*

- The proposed rezoning conforms to the mixed-use district policies of *Horizon 2020*.

ASSOCIATED CASES

- TA-07-14-08; consideration of an amendment to the use standards for general retail sales and retail establishments in the MU District. The Planning Commission recommended approval of this amendment on August 27, 2008. The City Commission is scheduled to consider this amendment on September 16, 2008.

OTHER ACTION REQUIRED

- City Commission approval of the requested rezoning.
- City Commission adoption of rezoning ordinance.
- Publication of rezoning ordinance.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Staff has been in communication with the President of the West Hills Homeowners Association, a nearby neighborhood association, from time to time responding to requests for information regarding this application and general requests for information regarding the provisions of the MU District. Specific comment on this request by this individual has not been provided.
- Staff has met with members of the West Hills Homeowners Association to provide general information regarding the MU district and this application and to respond to questions about the

MU district and this application.

- Staff has responded to a request for information from the University of Kansas, Office of the Chancellor.

GENERAL INFORMATION

Current Zoning and Land Use:

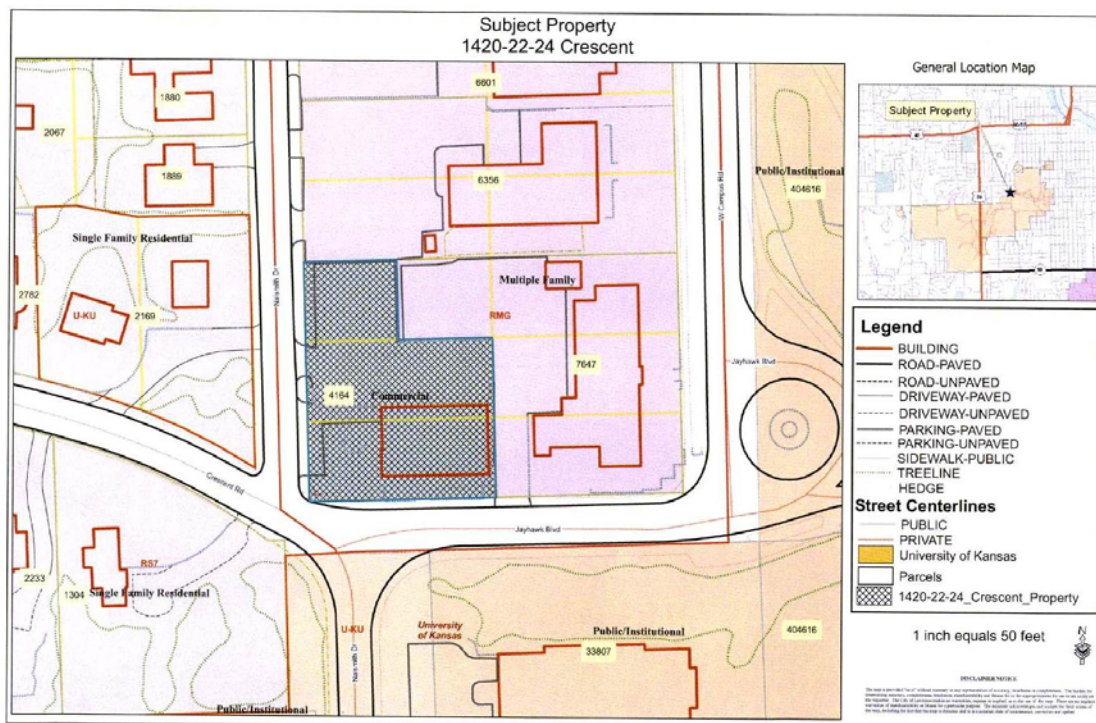
RMG (Multi-Dwelling Residential-Greek Housing) District;
general retail sales and non-ground floor dwellings.

Surrounding Zoning and Land Use:

RMG (Multi-Dwelling Residential-Greek Housing) District to the east and north; sorority homes.

U-KU (University – Kansas University) District to the south and west; college/university to the south and detached dwelling to the west.

RS7 (Residential – Single Dwelling) District to the southwest; detached dwelling.



CURRENT ZONING

With adoption of the Development Code in 2006 all RS-2 (Single-Dwelling Residential) zoned property was automatically converted to RS7 (Single-Dwelling Residential), and the zoning of the subject property should have converted in the same manner (RS-2 to RS7) or should have intentionally been rezoned to a district that corresponded to the actual use of the property. Instead the property was rezoned to RMG (Multi-Dwelling Residential–Greek Housing) along with the remainder of the block.

The RMG zoning designation had been created as a new zoning district in the Development Code specifically for fraternities and sororities. The intent of creating the new zoning district was to provide a zoning designation that matched the actual land use, whereas previously fraternities and sororities had been zoned RD (Residential-Dormitory). As a result of the new zoning designation, approximately

32 properties were rezoned to RMG to match the existing land use. In error, this rezoning included the subject property even though the subject property has never been used as a fraternity or sorority. This error does not impact the nonconforming use status of the property as the existing uses of the subject property are not permitted in either RS7 or RMG.



Figure 1 Zoning Under 1966 Zoning Ordinance



Figure 2 Zoning Under 2006 Development Code

SUMMARY OF PROPOSAL

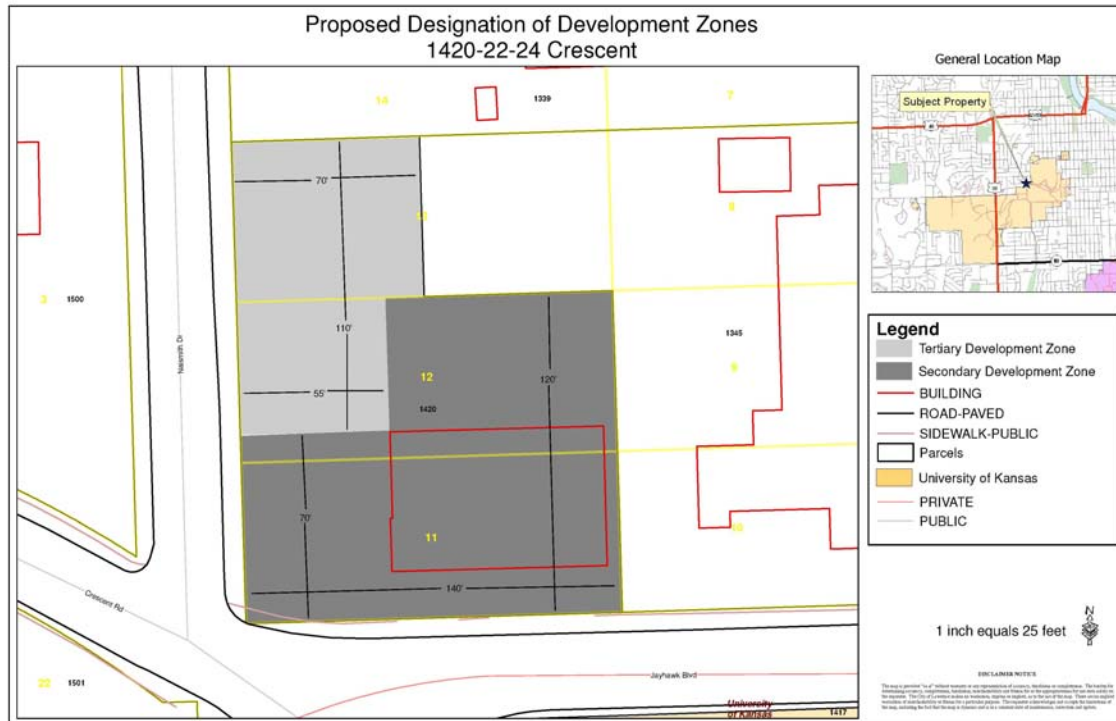
The subject property is located at the western edge of the campus of the University of Kansas and is the location of a KU On Wheels bus stop and is on a designated transit route for the Lawrence Transit System. The property is currently the site of a mixed use structure housing Jayhawk Bookstore, a general retail sales use, and two (2) non-ground floor dwellings. The existing uses are considered nonconforming because the current zoning (RMG) and the previous zoning (RS-2) does not permit general retail sales or multi-dwelling residential uses other than greek housing.

The general retail and multi-dwelling residential uses pre-date the adoption of the 1966 Zoning Ordinance and have been considered legal nonconforming since that time.

Development Zones

A request to rezone to MU must be accompanied by proposed development zones. Development zones govern development intensity and scale as a means of achieving compatibility with adjacent development. The Development Code offers the applicant three development zones; primary, secondary and tertiary with the primary development zone permitting the greatest scale and development intensity. The request proposes designating two of the three development zones across this site; secondary and tertiary. The secondary development zone is proposed to encumber that portion of the site containing the existing structure as well as the area directly north and directly west

of the existing structure. This area of the subject property is that portion of the site nearest the university campus and greek housing. The tertiary development zone is proposed to encumber the remaining portion of the site which is that portion of the site most proximate to the detached residential structures north and west of the subject property.



Though the applicant is not proposing physical site development at this time, the development zones designated with this rezoning request will control future development that may occur. The following table provides a snapshot of the development controls that are applicable to mixed use developments with secondary and tertiary development zones.

EXAMPLES OF DEVELOPMENT INTENSITY CONTROLS		
Control	Secondary Development Zone	Tertiary Development Zone
Maximum Residential Density	15 dwelling units per acre	12 dwelling units per acre
Maximum Building Height	36 feet	24 feet
Maximum Building Coverage (of lot)	85%	75%
Permitted Structure Form	Detached structures are permitted but not required.	Detached structures required on property where the surrounding existing structures are the same form.
Permitted Uses	Any use permitted by the zoning district.	Nonresidential uses only permitted if existing surrounding development contains such nonresidential uses. If surrounded by existing residential uses, only those residential use types found in existing surrounding development are permitted.
Development Review	All mixed use development requires site plan review and approval.	
Landscape Bufferyard	Type 2 Bufferyard required for development in the MU District when adjacent to RS-zoned properties.	

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response – "It conforms to the mixed use district policies of Horizon 2020 and the Land Development Code."

Horizon 2020 promotes the preservation of existing areas of mixed uses and mixed use structures through mixed use zoning. *Horizon 2020* encourages maintenance of neighborhood character by accomplishing transition between mixed use areas and surrounding development through variations in development intensity, the provision of landscape buffers, and structure spacing, scale and massing. *Horizon 2020* also requires that mixed use areas feature multi-modal transportation options for residents and visitors.

Commercial Land Use Goals and Policies

Goal 3: Criteria for Commercial Development

Policy 3.12: Criteria for Mixed-Use Districts

- A. *Encourage preservation of areas that are mixed use in nature, as well as development and redevelopment of areas with vacant land, or where existing structures are underutilized, have experienced a high turnover rate, or have remained vacant for an extended period of time.*
- C. *Mixed-Use Districts shall include a mix of the following uses within the subject area and where possible, in mixed-use structures:*
 - a. *Residential;*
 - b. *Non-residential.*
- D. *Mixed-Use Districts shall maintain the character of the surrounding neighborhoods by:*
 - a. *Achieving integration with adjacent land uses by providing transitions through alleyways, variation among development intensity, and implementation of landscape buffers;*
 - b. *Incorporating existing structures wherever possible;*
 - c. *Maintaining general structure spacing, massing, scale, and street frontage relationship when incorporating new structures.*
- E. *Mixed-Use Districts shall provide multi-modal services to include the following options:*
 - a. *Pedestrian oriented public spaces, which shall include pedestrian-scaled street furnishings, and plantings;*
 - b. *Bicycle, including bicycle parking;*
 - c. *Vehicular; and*
 - d. *Transit.*

Staff Finding – The subject property is located immediately adjacent to an active KU On Wheels bus stop and is located on the Lawrence Transit System bus line. Due to the location of the bus stop as well as nearby uses and general character of the area there is a significant amount of pedestrian traffic adjacent to the subject property. The proposed development zones ensure integration with surrounding existing development. The subject property contains an existing mixed use structure. The rezoning request and proposed development zone designations conforms to *Horizon 2020*.

2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Staff Finding – The surrounding property is a mix of uses and zoning districts. The property to the north and east is zoned RMG and features sorority houses and the parking lots that serve

these uses. The area to the south consists of U-KU zoning and is the location of the University of Kansas campus. The area to the west consists of detached residential structures on property zoned RS7 and U-KU.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response – "Large institutional University of Kansas buildings, Greek housing and lower density residential."

Staff Finding – The neighborhood is characterized by a mix of high density residential uses (sororities), university facilities and activities to the south, east and north transitioning to lower density residential uses to the west with the existing general retail use and multi-dwelling residential uses located in the described area of transition.

4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

Staff Finding – There are no specific area or neighborhood plans including the property or adjoining property.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's Response – "It is currently non-conforming in the RMG district, which is not very suitable."

Staff Finding – The subject property is zoned RMG, a zoning district intended to be a special purpose district for greek housing. The subject property is suitable for use as greek housing considering its proximity to other greek housing and the university campus. However, the property is more suitable for a mixture of residential uses and nonresidential uses, particularly multi-dwelling residential and retail uses, given the surrounding uses, the presence of a high volume pedestrian traffic, and the relative lack of other property zoned for retail and multi-dwelling uses available in the area. The subject property is most suitable for the uses permitted in the MU zoning district.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response – "Not vacant."

Staff Finding – The property is not vacant.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response – "None. The rezoning will simply make the legal non-conforming use and structure a conforming use and structure that is compatible with the neighborhood."

Staff Finding – The rezoning would permit expansion of the building and would permit a variety of uses not currently permitted. The rezoning requires the designation of development zones concurrent with the zoning which provides nearby property owners a level of expectation as to

what extent the building may be expanded. This designation of development zones provides a level of security to nearby property owners that other zoning districts do not provide. Rezoning the subject property to MU will not detrimentally affect nearby properties.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicant's Response – "The gain is assuring the neighborhood what the allowed size and shape of the structure is. If it is denied and the business remains non-conforming it has a less certain, secure and economically viable future."

Evaluation of this criterion includes weighing the benefits to the public versus the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

Staff Finding – Denial of this request eliminates an opportunity to provide nearby property owners a level of expectation as to the potential development scale and intensity of the site in the future. Denial of this request eliminates an opportunity to bring the existing uses into conformance with the Development Code. Denying this request requires any future building expansion to be processed as an expansion of a nonconforming use. Approval of this request makes the existing uses conforming with the Development Code and requires that any proposed future development be compliant with the standards of the MU District.

9. PROFESSIONAL STAFF RECOMMENDATION

Staff Finding - Staff recommends approval of rezoning approximately .483 acres from RMG (Multi-Dwelling Residential-Greek Housing) to MU (Mixed Use) and forwarding it to the City Commission with a recommendation for approval based upon the findings of fact outlined in the staff report.