

ITEM NO. 3 RS5 TO RSO; 11,715 SQUARE FEET; 1245 CONNECTICUT STREET (SLD)

Z-11-18-08: Consider a request to rezone 11,715 square feet located at 1245 Connecticut Street from RS5 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential Office). Submitted by James Williams and Sara Hurd for Peaceful Rest Corp., Second Christian Church of Lawrence, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Commissioner Dominguez inquired about the parking.

Ms. Day said parking is an element of the site plan so she could not speak about the specifics of the parking. She said the parking area on the site is small. She said that some of the neighbors have expressed concern about parking. Ms. Day said the applicant is required to provide a certain number of off street parking. She stated that staff would encourage the applicant to work on a shared parking agreement at another location to meet the code requirement or seek a variance from the Board of Zoning Appeals.

Commissioner Dominguez asked if this is the normal way to do this.

Ms. Day said declaring the basic land use is the first step and then looking at a property in more detailed after that.

APPLICANT PRESENTATION

Mr. James Williams gave the history of the church and his family involvement with the building over the years. He said they feel like a mortuary would be a good fit for the neighborhood. He requested that the rezoning be approved.

Commissioner Dominguez said he appreciated the history on the property. He inquired about the parking when the building was used as a church.

Mr. Williams said that Trinity Lutheran Church shared their parking and people also parked along the street. He said they can probably do a parking agreement with Trinity Lutheran Church but that has not been discussed yet.

Commissioner Dominguez was concerned about Connecticut Street becoming crowded. He would prefer to keep traffic off of Connecticut Street and would rather see a parking agreement with Trinity Lutheran Church.

Mr. Williams said he will talk to Trinity Lutheran Church after the property is rezoned. He said Connecticut Street is not as busy with children today as it was when he was a kid.

Commissioner Moore said he was concerned about parking as well, but the use is a fairly low impact use and he felt this was a good way to utilize the existing building.

Commissioner Finkeldei asked how long the church building has been vacant.

Mr. Williams said a few months.

Commissioner Dominguez asked why the church left.

Mr. Billy Sims, a member of the former church said the church congregation dwindled.

PUBLIC HEARING

Ms. K.T. Walsh, East Lawrence Neighborhood Association, said the neighborhood was in support of the rezoning and they support adaptive reuse of buildings. She said they discussed concerns about parking. She also said they are trying to get the City to repaint the crosswalks on 9th and 11th cross streets of Connecticut Street. She said the neighborhood would like to have the use of 'check cashing' excluded as a use for the building as this was not in the best interest of the neighborhood.

Mr. Billy Sims, represents the church, said there are about 20-25 parking stalls at the site and that over the years the church has been good neighbors and worked with Trinity Lutheran Church for parking. He stated that they have had funerals and services at the location for many years and he hoped they could go forward with the rezoning and felt it would benefit the community.

COMMISSION DISCUSSION

Commissioner Finkeldei asked about the comment from the East Lawrence Neighborhood Association about 'check cashing.'

Ms. Day said check cashing would probably fall into the Financial Institution category. The Development Code does not define check cashing.

Commissioner Rasmussen arrived at the meeting at 7:11pm.

Commissioner Carter asked if the applicant was okay with the restriction.

Mr. Williams said yes, he was okay with that restriction.

Mr. Miller said since there is no definition of check cashing that it might be better to restrict the entire category of Financial, Insurance, & Real Estate.

Commissioner Finkeldei asked if the applicant was okay with limiting the entire category of Financial, Insurance, & Real Estate.

Mr. Williams replied, yes.

Commissioner Dominguez asked if they are going to go through a litany of things it cannot become and is that really going to stop it from becoming something different in the future.

Ms. Day said the proposed change is to RSO so it does not open it to all of the commercial opportunities that would be allowable in other districts.

Commissioner Dominguez inquired about a massage parlor.

Ms. Day said a massage parlor would probably fall under the Personal Improvement category.

Commissioner Harris said she was glad that the neighborhood talked about the uses and identified one that they would like to be excluded. She asked if a transient shelter was okay with the neighborhood.

Ms. Walsh said the neighborhood did talk about that and that their assumption is that it is a non-issue.

Mr. McCullough said that is a fair assumption but it could be considered a Special Use Permit. Ms. Day provided the Development Code use categories in her staff report. This does not include what could be in the future. The ordinance is still being reviewed and staff anticipates something different than what the Planning Commission recommended to the City Commission regarding the homeless facilities.

Ms. Walsh said the space is smaller than the current day shelter, so because of the site and size the neighborhood assumed it would not be an issue.

Commissioner Harris asked if the East Lawrence Neighborhood Association thought that there would not be a transient shelter at that location.

Ms. Walsh said that was correct.

Commissioner Harris was concerned that the neighborhood made some assumptions that may not be true for that space in the future. She asked if a transient shelter could technically be placed there with a Special Use Permit.

Mr. McCullough said that was correct, with a Special Use Permit.

Commissioner Dominguez asked if the applicant could condition the rezoning and exclude the use of transient shelter.

Mr. McCullough said yes, the Commission could condition the rezoning to exclude categories such as the financial category and homeless/transient shelters.

Commissioner Carter asked if the applicant would be okay with excluding both of those uses.

Mr. Williams replied, yes.

Commissioner Finkeldei said he was excited to see some use in that facility again but was not a big fan of limiting uses. He said that if everyone was happy then he would go along with it, but as a general policy he did not think it was the best way to go.

Commissioner Moore agreed with Commissioner Finkeldei and wondered how future land owners would know.

Mr. McCullough said it was difficult to administer but it would show up in the adopted ordinance and that one of things on staff's checklist is to look at the adopting codes on a property.

Commissioner Moore asked if the conditioning would be included on the site plan.

Mr. McCullough said yes, notes could reference the restrictions on the site plan.

Commissioner Hird felt there should be a separate category for predatory businesses such as check cashing, but not excluding legitimate banks that would cash checks.

Mr. McCullough said that if the Planning Commission would like to exclude those uses, it would mean that a bank would have to go through the rezoning process to have those restrictions lifted.

Commissioner Carter asked if a Special Use Permit for a homeless shelter would allow opportunity for neighborhood comments.

Mr. McCullough said that was correct.

Commissioner Rasmussen asked if he should abstain from voting on the item since he came in late to the meeting.

Commissioner Finkeldei said that was correct, he should abstain from voting.

Commissioner Dominguez was concerned about the parking but felt that the applicant could work it out.

Commissioner Moore said he believed there was already a check in place that if a transient shelter was sought there would be a review process.

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to approve the rezoning with the conditions of removing the two use categories of Financial Insurance & Real Estate and Transient & Homeless Shelter.

Commissioner Hird asked about taking out the entire category of Financial, Insurance & Real Estate.

Mr. McCullough said they are all one use category and that a future owner could submit a rezoning request to use that category.

Commissioner Hird said the property would probably be more valuable to the applicant by not restricting uses and he did not think the neighborhood would mind if there was a real estate or financial institution at that location in the future.

Mr. McCullough said there is no category for predatory lending agencies so they have to use what the Code language provides them.

Commissioner Hird asked if there was a definition of check cashing facilities in the Development Code.

Mr. McCullough replied, no.

Ms. Walsh said that perhaps they could be referred to as 'payday loans.'

Commissioner Finkeldei said that 'payday loans' would still fall in the same category.

Mr. Miller said it would be safer to exclude the entire category because that is the term that is defined in the Development Code.

Commissioner Harris asked if the term 'other' is anything other than a financial institution and would a payday loan operation be a financial institution. She suggested maybe excluding 'other.'

Mr. McCullough said those are the types of things staff would like to do research on and make a formal determination on. He stated that this is the first time staff has heard of this issue with this request so he did not want to give comment or decisions about the Code without doing research.

Commissioner Singleton said all the applicant wants is to be able to use the building for funeral and interments. She said that the applicant does not care about all the other uses that fall under the RSO category so if we want to accomplish what the applicant wants and not worry about all these other things happening then why don't we just approve this for funeral and interment usage. If someone in the future wants to use the building for something else then they can submit a rezoning request for Planning Commission to review.

Commissioner Dominguez wanted to be proactive to strike the transient shelter.

Commissioner Hird wanted clarification and restated the motion; approval of the rezoning with the conditions of removing the two use categories of Financial Insurance & Real Estate and Transient & Homeless Shelter.

Commissioner Harris said that was correct and if there was a way to exclude just payday loans she would be in favor of that.

Commissioner Finkeldei said this is not the end of the decision process so he suggested moving forward with the staff recommendation and have staff review the restrictions before City Commission sees it. He stated he is not a big fan of restricting uses.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to approve the rezoning request [Z-11-18-08] for 11,715 square feet at 1245 Connecticut Street from RS5 (Single-Dwelling Residential) District to RSO (Single-Dwelling Residential Office) District and forwarding it to the City Commission with a recommendation for approval based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Remove use category of Financial, Insurance & Real Estate
2. Remove use category of Homeless or Transient Shelter

Motion carried 8-0-1, with Commissioner Rasmussen abstaining due to his late arrival at the meeting.