

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
01/26/09

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 RECOMMENDATION: Staff recommends approval of the rezoning request [Z-11-18-08] for 11,715 SF 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 on the findings of fact found in the body of the staff report.

Applicant's reason for request: *"We plan to change the church into a mortuary."*

KEY POINTS

- Subject property is part of the East Lawrence Neighborhood.
- Proposed change will allow reuse of existing building.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- Existing urban neighborhood

CONFORMANCE WITH *HORIZON 2020*

- The Plan supports infill development and redevelopment which provides a range of residential, commercial, office, industrial and public uses within these parcels consistent and compatible with the established land use pattern in surrounding areas.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- DR-11-118-08; approved on 12/18/08 subject to two conditions.
- Site plan approval required prior to operation; analysis of the parking requirements may further require a variance from the Board of Zoning Appeals.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Greg Polk, resident, called to inquire about details of request.
- Jessie Hunter, resident, called to inquire about details of request.

GENERAL INFORMATION

Current Zoning and Land Use: RS5 (Single-Dwelling Residential) District; existing church.

Surrounding Zoning and Land Use: RS5 (Single-Dwelling Residential) District in all directions. Existing residential homes.

I. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *"It will sustain the character and quality of the building and this neighborhood."*

A key goal of *Horizon 2020* is the protection and preservation of existing neighborhoods. Chapter 14 incorporates various other planning documents including neighborhood plans by reference. A principal strategy for development found in Chapter 5 – Residential Land use states *"The character and appearance of existing residential neighborhoods should be protected and enhanced."* (Page 5-1)

Staff Finding -- The Plan supports the concept of a unique neighborhood identity and the overall preservation of neighborhood characteristics. Reuse of the subject property allows for the existing neighborhood form to be retained.

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

Staff Finding -- The subject property is surrounded by existing single-family residential development zoned RS5. The subject property is adjacent to the South Rhode Island Historic District, a National Register of Historic Places District. As such, development changes to the subject property are subject to review under the State Historic Preservation Statute by the Historic Resources Commission.

III. CHARACTER OF THE NEIGHBORHOOD

Applicant's response: *"This is a diverse neighborhood of primarily single family dwellings. There are churches, and a retail structure within blocks of this building."*

The subject property is located in the East Lawrence Neighborhood. This neighborhood is characterized as an existing urban neighborhood. It includes a range of residential, commercial and industrial uses frequently located side by side. The immediate area is characterized as a corner property with residential uses on the other three corners of the intersection. Approval of the request will allow for the building to be reused and maintain the current character of the immediate area.

Staff Finding -- The East Lawrence Neighborhood is accurately described in the East Lawrence Neighborhood Revitalization Plan (ELNRP) as unique and inclusive of many residential and non-residential uses found side by side.

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

The community approved a neighborhood plan, East Lawrence Neighborhood Revitalization Plan, in November 2000. One quality of the neighborhood described in the ELNRP is the commonality of commercial and residential uses adjacent to one another. The plan states *"It is not uncommon to find a flower shop or a printing shop operating next to a single-family residence. This interconnectivity between commercial uses and residential uses can be found throughout the neighborhood."*

Staff Finding -- An adopted area plan exists for the East Lawrence Neighborhood of which the subject property is a part. The subject property is not identified specifically as a neighborhood

institution within the Neighborhood Plan. The ELNRP seeks to preserved and conserve existing physical neighborhood landmarks and to protect and enhance neighborhood streetscapes and other physical assets. Approval of the request would allow for reuse of an existing structure for another non-residential use.

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

Applicant's response: *"The building is the perfect size, would need little or no change on the outside, leaving the character of the building much the same."*

The previous use of the subject property, as a church, is an allowed use in all residential districts. The current zoning allows residential use or redevelopment for single-family detached residential uses. The subject property is comprised of two platted lots. Each lot would be capable of redevelopment for construction of a single-family detached residence subject to HRC approval for new construction and demolition of existing improvements. The proposed RSO zoning retains the single-family residential use pattern by limiting the housing type and density. It further allows additional non-residential uses to be established within the context of the existing improvements.

The purpose of the existing zoning classification, RS5 district in Section 20-202 of the Development Code states: *"The primary purpose of the RS Districts is to accommodate predominantly single detached Dwelling Units on individual Lots. The Districts are intended to create, maintain and promote housing opportunities for individual households, although they do permit nonresidential uses that are compatible with residential neighborhoods."* The RS5 district allows lots of 5,000 SF. The corresponding Comprehensive Plan designation is classified as low to medium density residential development as described in Section 20-201 of the Development Code.

The purpose of the RSO district in Section 20-203 of the Development Code states: *"The primary purpose of the RSO District is to accommodate low to medium-intensity administrative and professional offices that are compatible with the character of low and medium-Density residential neighborhoods. The District is also intended to be used as a transitional Zoning District between higher intensity commercial areas and residential neighborhoods. The District allows Detached Dwellings, duplexes, Attached Dwellings and administrative and professional office uses, which may be combined in the same Structure (e.g., office on the Ground Floor or at the front of the Building with Dwelling Units on upper floors or toward the rear of the Building)."*

If approved, the RSO district will accommodate the low to medium-intensity and professional office activities described above.

Staff Finding – The existing RS5 zoning is limited to residential uses and a few community uses such as a daycare, nursing home, or religious institution. The proposed RSO zoning retains the low to moderate intensity of land use of the current district and allows for reuse of existing land improvements.

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

Applicant's response: *"Approximately six months."*

Staff Finding – The subject property is developed with a 4,141 SF structure and parking area to the north. The church was built in 1955 according to Douglas County Appraisal records. The RS5 zoning has been in place since 2006. The property is no longer used as a church.

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

Applicant's response: *"No Negative Impact. Rezoning will not detrimentally affect nearby properties. It will improve land site and bring stability to the area. Parking needs will remain the same."*

The greatest concern of the proposed zoning change is the increase of land use possibilities for the property. The Development Code allows for an option to limit or restrict land uses to further assure compatibility.

- Both the RS5 and the RSO district have comparable lot area and dimension standards.
- The RSO district allows additional Public and Civic uses including community facility and medical uses and commercial uses specifically a veterinary office, administrative and professional office and personal improvement uses.
- Additional use restrictions for the RSO district are stated in Article 5 of the Development Code and specifically prohibit the use of a drive-up window as would be found at a bank.

Two attachments to this staff report are provided to show the allowed uses described in Article 4 and definitions of uses listed in Article 17 of the Development Code.

Approval of the rezoning is an initial step in the development process. Prior to use of the property as a mortuary, site plan approval (administrative process) will be required. This process will address the details of the use including any site changes and parking requirements for the proposed use. Noted in the HRC review are conditions that require approval before any exterior changes are made.

Staff Finding -- In general the proposed zoning is intended as a low to medium intensity use district. To ensure compatibility use restrictions could be considered.

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

Applicant's response: *"The property is at risk. The sale and conversion of this property at this time will save the property. The church has dissolved and the current owners have no funds to continue upkeep. The new owners will improve and maintain it."*

Extended vacancies of properties lead to deterioration and blight. Approval of the request will allow for reuse of existing improvements as a planned mortuary (intended use by applicant) or another use allowed in the RSO district including office space. Denial of the request limits the ability for the structure to be reused. Most recently developed churches seat well over 300 to 500 individuals. The subject property is not sufficiently large to accommodate building expansion and provide required off-street parking for a Religious Assembly Use (Neighborhood Institution) based on recent development patterns for similar uses.

Staff Finding -- Approval of the request allows greater flexibility of the subject property for adaptive reuse.

STAFF REVIEW

The Development Code allows for use restrictions to be placed on rezoning requests. Approval of the request allows some additional uses that are generally low to moderate intensity activities consistent with the existing RS5 zoning. Financial institutions, such as banks, would be allowed but a drive-thru window or ATM would be prohibited through development standards in Article 5. Community Facilities such as a Transient Shelter, Community meal programs, or Public Safety use, School, Library, Lodge and similar uses, would be allowed only subject to the approval of a special use permit. All changes of use would require a site plan approval that must address Historic Resources design standards and minimum parking requirements. Based on staff's analysis, no additional restrictions are needed to limit uses within the proposed RSO zoning district.

Two similar examples of funeral home uses can be found in the community. The Warren McElwain Mortuary located at 120 E. 13th Street is zoned RMO and abuts an area zoned RM32 developed with a range of residential uses including single-family detached homes in the Oread Neighborhood. The second example is the Rumsey-Yost Funeral Home located at 601 Indiana Street. This property is zoned CS and abuts RS5 zoned properties developed with single-family detached homes in the West Lawrence Neighborhood. Both examples demonstrate the co-location of residential and non-residential uses that are immediately adjacent.

IX. PROFESSIONAL STAFF RECOMMENDATION

With regard to the preservation of the existing neighborhood pattern, the proposed request provides the greatest flexibility for reuse of the existing improvements while limiting the intensity of activity at the corner. Both *Horizon 2020* and the East Lawrence Neighborhood Revitalization Plan support concepts of retaining the unique neighborhood characteristics.

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts														Use-Specific Standards (Sec. 20-)
		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
RESIDENTIAL USE GROUP																
Household Living	Accessory Dwelling Unit	A*	A*	A*	A*	-	-	-	-	-	-	-	-	-	-	534
	Attached Dwelling	-	-	S*	S*	S*	S*	S*	P*	P*	P*	P*	P*	-	P*	503
	Cluster Dwelling	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	702
	Detached Dwelling	P*	P*	P*	P*	P*	P*	P*	S*	S*	S*	S*	S*	-	S*	508
	Duplex	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	-	P*	503
	Manufactured Home	-	-	-	-	-	-	-	S	S	S	S	S	-	-	
	Manufactured Home, Residential-Design	P*	P*	P*	P*	P*	P*	P*	S*	S*	S*	S*	S*	-	S*	513
	Mobile Home	-	-	-	-	-	-	-	-	S	S	S	S	-	-	
	Mobile Home Park	-	-	-	-	-	-	-	-	-	S*	S*	S*	-	-	514
	Multi-Dwelling Structure	-	-	-	-	-	-	-	P*	-	P*	P*	P*	-	P*	517
	Zero Lot Line Dwelling	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	531
	Home Occupation, Type A or B	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	537
Group Living	Assisted Living	S	S	S	S	S	S	P	P	P	P	P	P	P	P	
	Boarding Houses and Cooperatives	-	-	-	-	-	-	-	P	-	P	P	P	-	P	
	Dormitory	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
	Fraternity or Sorority House	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
	Group Home, General [11 or more]	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Group Home, Limited [10 or fewer]	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
PUBLIC AND CIVIC USE GROUP																
Community Facilities	Adult Day Care Home	S	S	S	S	S	S	P	P	P	P	P	P	P	P	
	Cemeteries	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	505
	College/University	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	School	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Cultural Center/ Library	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Day Care Center	S*/A*	S*	P*/A*	S*	507										
	Day Care Home, Class A	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	507
	Day Care Home, Class B	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	-	S*	507
	Detention	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Lodge, Fraternal & Civic Assembly	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	512
	Postal Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Public Safety	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Funeral and Interment	-	-	-	-	-	-	-	P*	-	-	-	-	-	P*	505
	Homeless or Transient Shelter	-	-	-	-	-	-	-	S	-	-	-	-	-	S	
	Community Meal Program	-	-	-	-	-	-	-	S	-	-	-	-	-	S	
	Utility, Minor	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*
Utility and Service, Major	S	S	S	S	S	S	S	S	S	S	S	S	-	S		

**ADDITIONAL USES ALLOWED IN THE RSO DISTRICT AND
NOT ALLOWED IN THE RS5 DISTRICT**

PUBLIC AND CIVIC USE GROUPS

COMMUNITY FACILITIES	
SECTION 20-1729 FUNERAL AND INTERMENT SERVICES	<p>Provision of services involving the care, preparation or disposition of the dead. The following are funeral and interment services use types:</p> <ul style="list-style-type: none"> (1) Cemeteries Land used for burial of the dead. (2) Cremating Crematory services involving the purification and reduction of the bodies by fire. Typical uses include crematories and crematoriums. (3) Interring Interring services involving the keeping of human bodies other than in cemeteries. Typical uses include columbariums and mausoleums. (4) Undertaking Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries.
SECTION 20-1717 COMMUNITY FACILITIES	<p>Uses of a public, nonprofit, or charitable nature providing ongoing education, training, counseling, Day Care, or utility service to the general public on a regular basis.</p>
SECTION 20-1763 TRANSIENT HABITATION	<p>Provision of lodging services on a temporary basis with incidental food, drink, and other sales and services intended for the convenience of guests. The following are transient habitation use types:</p> <ul style="list-style-type: none"> (1) Campground Transient habitation areas for travelers in recreational vehicles or tents. Typical uses include recreation vehicle parks. (2) Bed and Breakfast An establishment located within a Detached Dwelling that is the principal residence of the operator, where short-term lodging is offered for compensation and that includes the service of one or more meals to guests. (3) Lodging Provision of room or room and board. Typical uses include hotels and motels.
MEDICAL FACILITIES	
SECTION 20-1701 TERMS	<p>Extended Care Facility (Dependent Living or Nursing Care Facility), General A long term facility or a distinct part of an institution occupied by nine (9) or more persons with a disability who require the provision of health care services under medical supervision for twenty-four (24) or more consecutive hours and who need not be related by blood or marriage. An Extended Care Facility must be licensed by one (1) or more of the following regulatory agencies of the State: Department of Social and Healing Arts, Behavioral Sciences Regulatory Board, State Board of Healing Arts, or Kansas Department on Aging. Disability means, with respect to a person: (a) a physical or mental impairment which substantially limits one (1) or more of such person's major life activities; (b) a record of having such impairment; or (c) being regarded as having such impairment. Such term does not include current illegal use or addiction to a controlled substance, as defined in Sec. 102 of the Controlled Substance Act (21U.S.C.802). Extended Care Facilities include facilities for the provision of skilled nursing care, hospice care and similar services</p>
SECTION 20-1732 HEALTH CARE OFFICE; HEALTH CARE CLINIC	<p>Medical facilities containing space for waiting rooms, patient rooms, laboratory space, or other necessary accommodations for use by physicians, dentists, therapists, and other similar health personnel in the provision of health services related to the prevention, diagnosis, treatment, rehabilitation, testing and analysis of medical conditions. Services provided in these facilities are typically rendered and completed in three (3) hours or less.</p>
SECTION 20-1745	<p>Medical facilities containing space for waiting rooms, patient rooms, operating rooms, recovery rooms, sleep clinics,</p>

<p>OUTPATIENT CARE FACILITIES</p>	<p>laboratory space or other necessary accommodations for use by physicians, dentists, therapists, nurses, technicians and other similar health personnel in the provision of health services related to the prevention, diagnosis, treatment, rehabilitation, testing and analysis of medical conditions. Services provided in these medical facilities are typically more intense than those provided in a Health Care Office; Health Care Clinic, but are less intense than those available in a hospital. Services provided in these medical facilities are typically rendered and completed in more than three (3) hours, but in twelve (12) or less hours, and may include one (1) night of overnight care.</p>
<p>COMMERCIAL USE GROUPS</p>	
<p>ANIMAL SERVICES</p>	
<p>SECTION 20-1710 ANIMAL SERVICES</p>	<p>The following are Animal Services use types:</p> <p>(1) Sales and Grooming Sales, grooming and day time care of dogs, cats, and similar small animals. Typical uses include pet stores, dog bathing and clipping salons and pet grooming shops. No overnight boarding is allowed.</p> <p>(2) Kennels/Day Care Kennel services for dogs, cats, and small animals, including Day Care and overnight care. Typical uses include boarding kennels and dog training centers.</p> <p>(3) Veterinary Typical uses include veterinary offices, pet clinics, and animal hospitals.</p> <p>Livestock Sales Typical uses include Livestock auction sales.</p>
<p>OFFICE</p>	
<p>SECTION 20-1744 OFFICE, ADMINISTRATIVE AND PROFESSIONAL</p>	<p>Professional, governmental, executive, management or administrative offices of private organizations or government agencies. Typical uses include government offices, administrative offices, legal offices and architectural, engineering or other professional consulting firms.</p> <p>(1) Administrative and Professional Professional, governmental, executive, management or administrative offices of private organizations or government agencies. Typical uses include government offices, administrative offices, legal offices and architectural firms.</p> <p>(2) Financial, Insurance and Real Estate Services</p> <p>(3) Financial, insurance, real estate or securities brokerage services. Typical uses include banks, insurance agencies and real estate firms.</p> <p>(4) Other Office uses for businesses that primarily provide administrative, consulting or other professional services that do not include construction space or equipment/storage yards. This use includes Community Facilities that are public, non-profit or charitable in nature and provide education, training and counseling services.</p>
<p>SECTION 20-1727 FINANCIAL, INSURANCE AND REAL ESTATE [F.I.R.E.] SERVICES</p>	<p>Financial, insurance, real estate or securities brokerage services. Typical uses include banks, insurance agencies and real estate firms.</p> <p>(1) Financial Institutions Banks, savings & loan banks, credit unions, and other similar facilities open to the public and engaged in deposit banking and related functions such as making loans and fiduciary activities.</p> <p>(2) Other All Financial, Insurance, and Real Estate Services that are not a Financial Institution.</p>
<p>SECTION 20-1749 PERSONAL IMPROVEMENT SERVICE</p>	<p>Informational, instructional, personal improvement, and similar services of a nonprofessional nature. Excludes services classified as "Spectator Sports and Entertainment", "Sports and Recreation, Participant" or "Transient Habitation." Typical uses include fine arts studios, martial arts centers, yoga meditation or diet centers.</p>