

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
01/26/09

ITEM NO. 5: RM24 TO CS; 37,500 SQUARE FEET; 1740 MASSACHUSETTS STREET (JCR)

Z-12-21-08: Consider a request to rezone approximately 37,500 square feet at 1740 Massachusetts Street from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip). Submitted by Wally Storey Associates Inc, for Dillon Companies Inc, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 37,500 square feet, from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip) based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

APPLICANT'S REASON FOR REQUEST

"In this particular case, the subject Property (Dillon's existing parking lot) had been purchased by Dillon's a number of years ago. At that time, they (Dillon's) had installed a parking lot under what was the correct zoning laws. Now these zoning laws have been changed and Dillon's wishes to be correct in their zoning with this existing parking lot."

KEY POINTS

- The subject property is comprised of four lots (Lots 4, 5, 6 and 29, Block 16 of Babcock's Enlarged Addition), owned by Dillon Companies.
- Lots 5 and 6 were zoned CP (Commercial Parking) under the 1966 Zoning Ordinance and were rezoned to RM24 with the adoption of the Development Code in 2006.
- Lots 4 and 29 were zoned RM-2 under the 1966 Zoning Ordinance. RM-2 converted to RM24 with the adoption of the Development Code in 2006.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The character of the area is comprised of commercial uses to the south and west with multi-dwelling residential uses to the northwest, north and northeast and single-dwelling residential uses to the east.

CONFORMANCE WITH *HORIZON 2020*

- The proposed rezoning conforms to the goals and policies for commercial land uses.

ASSOCIATED CASES

- DR-01-03-09; administratively approved by the Historic Resources Administrator.

OTHER ACTION REQUIRED

- Historic Resources consideration of the requested rezoning on January 15, 2009.
- City Commission approval of the requested rezoning following Planning Commission action.
- City Commission adoption of rezoning ordinance.
- Publication of rezoning ordinance.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Staff has communicated with two individuals that live in the surrounding neighborhood in an attempt to locate persons the applicant could contact in communicating with the neighborhood regarding the requested rezoning.

GENERAL INFORMATION

Current Zoning and Land Use:

RM24 (Multi-Dwelling Residential) District; parking lot for Dillon's Store.

Surrounding Zoning and Land Use:

RM24 (Multi-Dwelling Residential) District and RS5 (Single-Dwelling Residential) District to the east; multi-dwelling structure and single-dwelling structures.

RM24 (Multi-Dwelling Residential) District and CS (Commercial Strip) District to west; commercial uses and multi-dwelling structures.

CS (Commercial Strip) District to the south; existing grocery store and other commercial uses.

SUMMARY OF PROPOSAL

The applicant proposes a rezoning of the subject property from RM24 to CS to bring the zoning of the property into conformance with the existing land use. The existing land use is a parking lot for a Dillon's grocery store.

The current Dillon's store site is composed of Lots 4-10 and 25-29 (see right). Lots 7-10 and 25-28 are zoned CS (Commercial Strip). CS is an appropriate zoning district for grocery stores and supermarkets, defined by the Development Code as food and beverage sales uses. Lots 4, 5, 6 and 29 are zoned RM24, a zoning classification which does not permit food and beverage sales uses. The northern portion of the parking lot associated with the Dillon's store is located on these lots as is a small portion of the Dillon's building.

The subject property is within the environs of two historic properties, the Edward House house at 1646 Massachusetts and the Eugene F. Goodrich house at 1711 Massachusetts. The Historic Resources Administrator has reviewed and approved the rezoning request.



Lots 4-6 & 29 proposed to be rezoned to CS.

Prior to the adoption of the Development Code, Lots 5 and 6 had been zoned CP (Commercial-Parking). When the Development Code was adopted the CP District was not provided a new designation. As a result, all CP-zoned properties were rezoned to a new zoning district. Generally CP-zoned properties were rezoned to same zoning as adjacent properties. Lots 5 and 6 were adjacent to C-5 on the south and abutted RM-2 lots to the north and east which converted to CS and RM24, respectively with the adoption of the Development Code.



SITE HISTORY

A site plan was approved in 1974 for the reconstruction of the Dillon's store following a fire that had destroyed the previous building. This site plan shows a parking lot in the same location it is today on Lots 4-10 and 29. At that time, Lots 5 and 6 were zoned C-1 (Commercial Parking), which was converted to C-P in 1979. Portions of the parking lot and a small portion of the building exist on Lots 4 and 29. These lots were zoned RM-2 (Multi-Dwelling Residential), the predecessor of RM24 at the time the 1974 site plan was approved, a zoning which is inconsistent with the uses approved on the plan. This inconsistency forms the basis for this rezoning request as the applicant would like to rezone the property to an appropriate zoning designation for the existing use.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response – *"Approximately 90% of the entire block is commercially occupied, this parking lot would not prove to be a problem."*

CHAPTER SIX, COMMERCIAL LAND USE

Map 6-1, Existing and Potential Commercial Land Use Location

The commercial development in this vicinity including the subject property is identified by *Horizon 2020* as an existing neighborhood commercial center. (Page 6-45)

Lawrence – Existing Commercial Areas (beginning on Page 6-13)

"The intersection of 19th Street and Massachusetts Street is an existing Neighborhood Commercial Center with a nodal development pattern. The Comprehensive Plan does not recommend expanding the commercial uses beyond the existing commercially-zoned property. New development and redevelopment proposals for this area shall include plans for the consolidation of curb cuts and provision of cross-access easements to adjoining properties." (Page 6-18)

Commercial Land Use Goals & Policies

Goal 1: Established Commercial Area Development

"Encourage the retention, redevelopment and expansion of established commercial areas of the community."

Policy 1.4: Redevelopment of Existing Commercial Areas

(A) *"Existing commercial areas should be improved and upgraded. Particular emphasis should be given to existing commercial gateways. Overall storm water management, vehicular and pedestrian access, and site maintenance shall be undertaken."*

Goal 3: Criteria for Commercial Development

"Provide regional, community and neighborhood shopping opportunities to meet the commercial and retail needs of the community."

Policy 3.5: Criteria for Neighborhood Commercial Centers

(D) *"Neighborhood Commercial Centers shall contain no more than 100,000 gross square feet of commercial space with the exception of Neighborhood Commercial Centers that include a grocery store. Neighborhood Commercial Centers with a grocery store of 60,001 or more gross square feet may have up to a total of 125,000 gross square feet of commercial space."*

(E) *"No one commercial use in a Neighborhood Commercial Center shall occupy an area larger than 40,000 gross square feet. The only exception is a grocery store, which may occupy an area up to 80,000 gross square feet."*

According to the *2006 Retail Market Study*, the 19th Street and Massachusetts Street Neighborhood Commercial Center comprises 93,892 gross square feet of commercial space within buildings. (Table 2.1, Page 5) The proposed rezoning would not increase the amount of commercial space as the subject property is currently used as a parking lot for an existing commercial use. The rezoning allows the parking lot to continue to be legally used to provide parking for an existing commercial use.

Staff Finding –The rezoning conforms to the goals and policies for commercial land use in *Horizon 2020*.

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

Staff Finding – The zoning of nearby property is CS to the south, RM24 to the north and west and RM24 and RS5 to the east. The subject property is surrounded on three sides by existing multi-dwelling residential structures with single-dwelling structures also located to the east, which existing commercial uses exist to the south of the subject property.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response – *"90% of the subject block is currently zoned and/or used by*

commercial uses with the surrounding neighborhood being occupied by a wide variety of residential properties ie; single family, six (6) plex apartment complexes and larger multi-family apartments."

Staff Finding – The neighborhood is comprised of commercial uses to the south and west with multi-dwelling residential uses to the northwest, north and northeast and single-dwelling residential uses to the east.

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

Staff Finding – The subject property is located in the Barker Neighborhood. The subject property and adjoining properties are not included in any adopted area and/or sector plans. *Horizon 2020* is the guiding plan for the neighborhood.

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

Applicant's Response – *"In regard to "suitability", we are requesting the zoning be brought up to the needed zoning as this Property has long since been a parking lot."*

Staff Finding – The subject property is zoned RM24 and is restricted primarily to multi-dwelling residential uses. While the subject property is near other multi-dwelling structures its existing use is commercial in nature and therefore the property is not suitable for residential uses. Approval of the zoning request will establish the property with a conforming zoning designation.

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

Applicant's Response – *"This property has been used as a parking lot for well over ten (10) years."*

Staff Finding – The subject property was developed as a parking lot for Dillon's prior to 1974.

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

Applicant's Response – *"Since this is an existing use, I don't [see] any problems that can and/or could be caused by the rezoning of the property to the correct zoning status."*

Staff Finding – The property is developed as a commercial use and therefore, approval of the rezoning will not detrimentally affect nearby properties. The rezoning will bring the existing use into compliance with the Development Code.

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 would be that the existing "parking lot" would be zoned as it has been used for a good number of years and it has helped with the parking matters of the Dillon's grocery store. However, should this rezoning be denied, this would, in my opinion*

create a whole new problem in the fact that now Dillon's would be in contradiction with the city's zoning in the fact that should the parking lot have to be removed, Dillon's would not [have] enough parking spaces to meet the city's requirements for parking in this area."

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 the rezoning request could be a hardship to the property owner because the current zoning would limit the development potential and use of the property which is part of an existing commercial development and is presently used commercially. The gain to the public would be that the use of the subject property nor the physical development may be altered in a manner that does not comply with the uses permitted and development standards of the RM24 District.

9. PROFESSIONAL STAFF RECOMMENDATION

Staff Finding - Staff recommends approval of the rezoning request based upon the findings of fact outlined above.