

Memorandum
City of Lawrence
Douglas County
Planning & Development Services

TO: David L. Corliss, City Manager

FROM: Mary Miller, Planner

CC: Diane Stoddard, Assistant City Manager
Cynthia Boecker, Assistant City Manager
Scott McCullough, Planning and Development Services Director

Date: July 7, 2009

RE: Update on rezoning request Z-2-2-09 for 1725 New Hampshire
from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip)
District

I. Background

On April 14, 2009, the City Commission voted unanimously to approve the rezoning request from the RM24 District to the CS District for property located at 1725 New Hampshire Street. The property currently contains a 6 unit multi-dwelling residence which is proposed to be demolished to accommodate improvements to the Dillon's parking lot. Staff's recommendation for approval of the rezoning request was based in part on the determination that the proposed improvements would bring the Dillon's parking lot into compliance with the City Code. The applicant requested a deferral of the second reading of the ordinance on April 21, 2009 as the contract to sell the property to Dillon Companies expired on April 16th. The information below is from the applicant's letter requesting deferral:

"Under the circumstances (i) the landowner does not want the zoning to become final, unless Dillons commits to close on the purchase of the property, and (ii) Dillons does not want to start over with a new zoning request with the City, if they can close on the purchase of the property later this year. With the City's cooperation, we are requesting that the City defer the second reading of the ordinance to rezone this property until such time as Dillon's commits to close on the purchase of the property, or September 15, 2009, whichever is sooner.

If, for any reason, Dillons is not in a position to close on the purchase of the property by such deadline, then it is the intention of the landowner and Dillons that the zoning request be terminated at that time, and the zoning ordinance not be allowed to become final . It is our understanding that the proposed zoning will not become effective unless and until the second reading of the ordinance is approved, and publication of the zoning ordinance occurs, as set forth by Kansas statute, KSA 12-757(d) . We also appreciate that this is an unusual request but, given the current state of the economy, and Dillons

continued interest in remodeling and expanding the adjacent grocery store, we ask the City Commission to please consider and grant our request."

The City Commission considered the deferral request at their April 28, 2009 meeting and voted to defer the second reading to September 15, 2009 subject to the condition that an update memo be provided to the City Commission as part of the July 14, 2009 consent agenda.

II. Update

The property owner and applicant have indicated that they are interested in continuing with the rezoning; however, the status of the real estate purchase has not changed and it would not be appropriate to rezone at this time since the property is not currently under contract to be purchased by Dillon Stores. Planning Staff's recommendation for approval was based in large part on the proposal to demolish the structure and utilize the property to improve the Dillon's site. If the rezoning were approved at this time, the apartment building would become a non-conforming use in the CS district.

The applicant indicated they will continue to work with Dillon Stores. If the property is placed under contract to Dillon Stores the second reading of the approving ordinance will immediately be placed on an agenda for consideration and, in any event, the item will be set for the September 15, 2009 agenda for consideration of the second reading of the ordinance.