

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
06/22/2009

ITEM NO. Z-4-6-09: RS5 (Single-Dwelling Residential) District TO RSO (Single-Dwelling Residential Office) District; 15,625 SF (SLD)

STAFF RECOMMENDATION: Staff recommends approval of the request to **rezone** approximately 15,625 SF, from RS5 (Single-Dwelling Residential) District to RSO (Single-Dwelling Residential Office) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following condition:

1. Uses shall be restricted to only:
 - a. Household Living Uses allowed in the RS5 and
 - b. Community Facilities – Social Service Agency.

Reason for Request: *The existing single family home has been used for a student center approved in 1978 by a Special Use Permit Review. The existing use has outgrown the existing facility. Based on the new development code to come into compliance with that code the property must be rezoned to match the use.*

KEY POINTS

- Existing development pattern of neighborhood.
- Student center use since 1978.
- Development code does not define “student center”.
- Use is existing non-conforming activity.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- DR-4-45-09; Historic Resources Commission (HRC) at their meeting on May 21, 2009 approved with conditions.
- Demolition of existing structures and site plan for future redevelopment.
- Previous development project review
 - B-11-24-78
 - B-04-15-83; proposed building addition to rear of structure.
 - SP-5-23-83; Student Center of a religious organization for students of Haskell Indian Junior College.

PLANS AND STUDIES REQUIRED

- *Traffic Study* – No required for rezoning.
- *Downstream Sanitary Sewer Analysis* – not required for rezoning.
- *Drainage Study* – Not required for rezoning.
- *Retail Market Study* – Not applicable to residential request.

ATTACHMENTS

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| <ul style="list-style-type: none">• Area Map• Use table• Map of non-RS uses | <ul style="list-style-type: none">• HRC staff report• HRC minutes |
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PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Ronald Schneider, representing Marion Percival, 132 Pawnee Ave.
- Summary letter from Applicant
- Email from Stanley Sneegas
- Letter from Haskell Indian Nations University regarding parking agreement.
- Petition in support of rezoning
- My Kanohetlvidi (Testimony)
- Brenda Lee email

- Georgia Harvey email
- Erma (Fall) Walters email

Project Summary:

This proposed request for rezoning is to allow future redevelopment of the property as a “student center”. Redevelopment will require site plan approval. The current zoning, RS5, allows Neighborhood Institution – Religious Assembly but not Campus or Community - Religious Assembly uses. The facility does not function primarily as a place of worship. Current activities include meeting and study spaces as well as learning/life skill training. The facility has operated since 1978. Long term plans include demolition of the two existing structures and redevelopment of the site with a single facility as funding is made available.

The development code does not define the use or activity of a student center. This function is typically an accessory use to a more traditional church where the primary use of the property is for worship services. (Refer to definitions of Religious Assembly in Article 17 of the Development code for these uses.) In this application the student center is the primary activity. The use is a type of community facility defined in section in 20-1717 (2) of the development code as:

Social Service Agency

A service operated by a public, publicly funded, nonprofit, or charitable organization providing services undertaken to advance the welfare of citizens in need which typically includes supporting office uses. Typical uses include employment counseling, life skills training, counseling, food banks, and blood banks. Social Service Agencies shall not include Temporary Shelters, Group Homes, commercial uses such as medical, professional, financial, real, estate offices, or religious institutions providing these services as accessory to their religious assembly use.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *These properties are located next to the existing Haskell College. This change in zoning would conform to the basic Planned Unit Concept as a buffer zone between the Haskell College and the existing single family units.*

The plan reviewed with regard to this rezoning request is: *Horizon 2020*. The following General Plan Overview – Key Features can be applied to the proposed rezoning request.

- *Support of infill and redevelopment provides a range of resident, commercial, office, industrial and public uses, consistent and compatible with the established land use pattern in surrounding area. (Page 3-1)*
- *Plan supports a progression of land use to help achieve a transition in land use and intensity levels, and to help avoid major or abrupt changes in density and building type. (Page 3-1)*
- *The Future Land Use Map shows the area as designated for very-low and low-density residential development*

If approved, the applicant will be allowed to build a larger structure in a location characterized by single-family detached residential housing. Redevelopment must address building character, height, bulk, setback, and massing to provide continuity to the neighborhood character.

The developed residential pattern represents a density of 4.5 dwelling units per acres. Religious institution and related uses have been located at the boundary of the neighborhood since at least the 1970's.

The following residential policy may be applied to the proposed rezoning:

- *The character and appearance of existing residential neighborhoods should be protected and enhanced. Infill development, rehabilitation or reconstruction should reflect architectural qualities and styles of existing neighborhoods. (5-1)*

The property proposed for rezoning is located in the environs of multiple designated historic areas and properties. Redevelopment activity will be subject to Historic Resources Review. The key component to the project is the ability to redevelop with sensitivity to the surrounding development patterns. At this time there is no site plan that demonstrates how this would be achieved. Building setback, parking, orientation, and building massing and materials will be critical to comply with the recommended policies for neighborhood conformance.

Staff Finding –Restricting the zoning to the specific use will prohibit the redevelopment of the site for other office uses allowed in the RSO District. Additional development review of the site development will further ensure neighborhood compatibility through design.

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

Current Zoning and Land Use: RS-5 (Single-Dwelling Residential) District; existing residence and student center.

Surrounding Zoning and Land Use: RS5 (Single-Dwelling Residential) District to the north, south and west. Existing residential uses to the north and west. Existing church and residence to the south.

U-Haskell Indian Nations University District to the east; Cultural center, parking lot and open space.

Staff Finding – The existing neighborhood is predominantly residential. Several religious institutions are represented in the neighborhood as shown in the inset map. The student center located at 120 Indian Avenue was recently demolished. The surrounding property other than the University is zoned for low-density residential use.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *The neighborhood is a mix of old single family residential use with churches in the neighborhood and rental property. A large portion of the property is owned by Haskell College to the east of the property.*

The property is located in the Breezedale Neighborhood in the south section adjacent to Haskell Indian Nations University. This neighborhood was platted in 1908 as a Lawrence's first restricted residential subdivision with 50' lots. This subdivision and subsequent residential structures built in 1910 predate the majority of the historic listed properties located on Haskell Indian Nations University. This area developed with residential uses directly abutting the University property.

Pawnee and the north side of Indian Avenue are developed with predominantly single story ranch style homes. Religious institution and related uses are located within the neighborhood. Catholic, Baptist, Lutheran, and Church of Jesus Christ Latter Day Saints organizations have facilities or property in the immediate neighborhood. Larger, double lots can be found throughout the neighborhood predominantly along Massachusetts Street and E. 23rd Street.

Massachusetts Street and Barker Avenue both provide access for the Community to the University. The Haskell Cultural Center is located adjacent to the southeast corner of the neighborhood.

Staff Finding – The Breezedale Neighborhood is an established residential area. The neighborhood provides direct access to the university. Nonresidential/ religious institution related activities have been part of the neighborhood fabric for more than 30 years.

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

There is no separate neighborhood plan for this area. The guiding land use policies are found in *Horizon 2020* as they pertain to neighborhood uses.

Staff Finding – There is not a separately adopted neighborhood plan for the Breezedale Neighborhood.

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

Applicant's Response: *The proposed RSO zoning is to accommodate low to medium intensity administration and professional offices. The existing zoning allows this use under a special use permit.*

The RS5 zoning is a low or medium density district depending on the development pattern. It is characterized by minimum lot sizes of 5,000 SF. The primary purpose of the RS Districts is to accommodate predominantly *single detached dwelling units on individual lots*. The RS 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 (20-202 (a)). Nonresidential uses allowed in this district include some community facilities (typically requiring a special use permit), limited extended care facility, limited recreational facilities, and bed and breakfast uses. A social service agency (student center) is not one of the allowed uses in the RS5 district.

The primary purpose of the RSO District is to accommodate low to medium-intensity administrative and professional offices that are compatibility 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 offices uses, which maybe 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) (20-203).

The current student center use is a non-conforming activity. Approval of the request will remove the non-conforming use status. Approval will also allow a larger facility to be constructed on the property at some future date. The existing platted lots are developed with residential structures, one of which is being used for the student center.

Staff Finding – The current zoning is not suitable for the existing use of 137 Pawnee. The property at 135 Pawnee accurately reflects the land use in the zoning district. Approval of the request will bring the existing student center into conformance with the base zoning and allow for redevelopment of both lots.

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

Staff Finding – The property was rezoned from RS2 to RS5 as part of the adoption of the Development Code that became effective in July 2006. The property has been zoned for single-family residential use since the adoption of zoning in 1966. The student center was started in 1978. Both properties are developed with residential structures. The property located at 137 Pawnee was converted from a residence to a student center.

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

Applicant's Response: *This use has been in this location beginning in 1978 with no problems or affect to the existing nearby properties. This property has an existing Special Use Permit that has been reviewed and has been maintained with the City of Lawrence.*

The nearby properties are residential with a church to the south and the University Cultural Center to the southeast. The student center is an existing non-conforming use. The property immediately to the south is developed with a small church and residence.

Staff Finding – If approved, the applicant will be in a position to redevelop and expand the use. Additional development code regulations would be applicable to address building setback, parking requirements, building design and building orientation. These regulations would mitigate detrimental affects on nearby properties. Additionally restricting the zoning to permit only a Social Service Agency

use or single-family detached residential use would protect the existing land use pattern of the neighborhood.

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: *This would allow this use under the new code to be in compliance. The hardship if denial of the application would be the loss of a student center for the Haskell College Students.*

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.

The student center is a social service agency providing service to the students of Haskell University. The use exists in the neighborhood currently. Approval of the request would allow the applicant to redevelop the property in compliance with the Development Code with a specifically designed facility. The impact on the neighborhood would be potentially increased activity at the site. Adequate parking for the new facility will be a significant issue to be addressed with a future site plan application.

If denied the applicant would be limited to the current arrangement of providing services using only the property at 137 Pawnee Avenue.

Staff Finding – While the proposed use requires rezoning under the current zoning code, the use of the Haskell Light student center has been ongoing for approximately 30 years. The use has been compatible with the environs of the listed historic properties. In effect, the rezoning request will allow the compatible use to continue. However, the rezoning of the property to an unrestricted RSO District could also result in other uses that would not be as compatible to the environs of the Breezedale Historic District or the listed historic properties on the University campus. (DR-4-45-09, pg4)

9. PROFESSIONAL STAFF RECOMMENDATION

As noted in the HRC review the proposed change would allow uses that would not be compatible with the surrounding area. There is no proposed concept or site plan yet for the site. The applicant has provided documentation to indicate that shared parking is available with the University thus reducing the impact to the neighborhood.

CONCLUSION

Approval of the rezoning will first bring the existing use into compliance with the base zoning district and secondly allow future redevelopment of the property to accommodate a more efficient use of space. The applicant has indicated that fundraising is needed to plan and construct the new center. The interim plan is to use the existing building as is and potentially use the property at 135 Pawnee Avenue as a residential rental property.

Recommended land use restrictions for this property are limited to Community Facility – Social Service Agency and Household Living uses permitted in the RS5 District.