

**PLANNING COMMISSION REPORT**  
**Regular Agenda - Public Hearing Item**

PC Staff Report  
07/20/09

**ITEM NO. 3: RS10 TO CS; 32,037 SQ FT; 1547 E 23<sup>RD</sup> ST (SLD)**

**Z-5-7-09:** Consider a request to rezone approximately .735 acres located at 1547 East 23<sup>rd</sup> Street from RS10 (Residential/Commercial) to CS (Commercial Strip). Submitted by Susan Hitz, for Melrose Properties, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of approximately 32,037 SQ FT from RS10 (Single-Dwelling Residential) District to CS (Strip Commercial) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval and subject to the publication of an ordinance.

**Reason for Request:** *Portion of existing structure is built on the lot which is currently zoned residential. We are requesting the residential portion of the lot be rezoned to commercial to represent the true picture as a commercial lot as is its current use.*

**KEY POINTS**

- Existing commercial development.
- Redevelopment with shared access to the west in process.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Publication of rezoning ordinance.

**PLANS AND STUDIES REQUIRED**

- *Traffic Study* – Not required for rezoning.
- *Downstream Sanitary Sewer Analysis* – Not required for rezoning.
- *Drainage Study* – Not required for rezoning.
- *Retail Market Study* – Not required. Development included in existing commercial database.

**ATTACHMENTS**

- Area map

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None received prior to completion of this staff report for inclusion in Commission packets.

Current Zoning and Land Use: RS10 (Single-Dwelling Residential) District; existing retail use.

Surrounding Zoning and Land Use: CS (Commercial Strip) District in all directions; north side of E. 23<sup>rd</sup> Street, and east and west of property; existing commercial development. Proposed Orscheln's redevelopment project to the west. Undeveloped commercial lot with existing cross access drive to the south.

RM12 (Multi-Dwelling Residential) District to the southeast; developing multi-family uses.

**Project Summary:**

The property is developed with an existing commercial building, access, and parking. During discussions with staff regarding future improvements to the property it was noted that the property is encumbered by single-dwelling residential zoning across the rear portion of the lot. The purpose of this request is to align the zoning district boundary with the land use.

Per Section 20-1303 (g) Review and Decision – Making Criteria: In reviewing and making decisions on proposed zoning map amendments, review and decision making bodies shall consider at least the following factors:

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *This unit is part of commercial corridor.*

A key feature of *Horizon 2020* states: *"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 (Chapter 3)." A commercial strategy noted in Chapter 6 of Horizon 2020 states: "Encourage infill development and/or redevelopment of existing commercial areas with an emphasis on Downtown Lawrence and existing commercial gateways."*

Strip commercial development is characterized by developments that do not meet current standards for lot dimensions and area, frontage, curb cut locations, or presence of internal frontage roads for cross access as described in *Horizon 2020*. The property located at 1547 E. 23<sup>rd</sup> Street is a fully platted lot with commercial zoning along E. 23<sup>rd</sup> Street to residential zoning encumbering the southern portion of the platted lot. The minimum lot width is 50' for existing CS lots and 100 feet for lots platted after the effective date of the ordinance. The existing lot exceeds the area and frontage requirements of the CS district.

*Horizon 2020* states: *"redevelopment within Strip Commercial Development areas shall be approved only when the redevelopment complies with any adopted redevelopment plan or access management plan for the area. Cross access easements and curb cut consolidation should be considered a standard element of any redevelopment plan, as shall a solid screen or buffer along all property lines adjoining residentially zoned or developed areas."* The property includes only one access to E. 23<sup>rd</sup> Street. Platted shared access exists along the north side of the lot. The redevelopment project to the west (Orscheln's) will further extend cross access between properties as part of its redevelopment.

There are no immediate plans for redevelopment of 1547 E. 23<sup>rd</sup> Street. Approval of the rezoning will facilitate future development applications by removing the non-conforming status of the property reflected with split zoning.

**Staff Finding** – The property is identified in *Horizon 2020* as an existing commercial strip development area.

### 2. ZONING AND LAND USES OF NEARBY PROPERTIES

The property is located within a developed commercial corridor of 23<sup>rd</sup> Street. The property to the west is included in an active redevelopment request including zoning, platting and site plan applications.

**Staff Finding** – The property is adjacent to commercial development on the east and west sides. The area to the southwest is developing is a developing multi-residential project.

### 3. CHARACTER OF NEIGHBORHOOD

Applicant's Response: *Commercial units surrounding the building and lot.*

23<sup>rd</sup> Street is described in the *23<sup>rd</sup> Street Corridor Study* as *"...a principal arterial street, a major destination as a commercial corridor, and a primary gateway into Lawrence."*<sup>1</sup> The property is located within the Barker Avenue to Harper Street segment of the study. The study notes the mix of uses along this segment as well as other architectural and signage irregularities and the lack of a continuous pedestrian pathway.

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<sup>1</sup> View Study at [http://www.lawrenceplanning.org/documents/23rd\\_existingcond.pdf](http://www.lawrenceplanning.org/documents/23rd_existingcond.pdf).

**Staff Finding** – The subject property is located within the E. 23<sup>rd</sup> Street commercial corridor. This area is characterized with automotive oriented commercial uses. Nearby residential neighborhoods include the Prairie Park Neighborhood to the south and Brook Creek Neighborhood to the north.

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

*Horizon 2020* addresses the need to redevelop properties in a more efficient manner along the E. 23<sup>rd</sup> Street Corridor. The current guiding document for the property is the adopted comprehensive plan, *Horizon 2020*. The property is also located within the boundary of the *23<sup>rd</sup> Street Corridor Study*.

**Staff Finding** – *Horizon 2020* contemplates redevelopment along the E. 23<sup>rd</sup> Street Corridor. This redevelopment is augmented by the *23<sup>rd</sup> Street Corridor Study*. Approval of the request will expand the footprint of the commercial district and allow easier redevelopment in the future.

#### **5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED**

Applicant's Response: *There are no restrictions due to zoning. This request is to rezone the property to its actual use and conform to surrounding commercial properties.*

The CS district was created to provide for existing commercial strip development along the City's arterial streets (Section 20-213, Land Development Code). The Development Code further states that "*new undeveloped parcels shall not be zoned CS except in the case where an undeveloped parcel is adjacent to an existing CS, then the adjacent undeveloped parcel may be zoned to the classification CS to allow for expansion of an existing CS use onto the undeveloped adjacent parcel.*" The Development Code addresses the condition of undeveloped parcels. The property at 1547 is improved with a building and parking area.

The property is encumbered by two different zoning districts. The existing improvements extend into the residentially zoned portion of the platted lot. The property can be described as non-conforming since commercial uses are not allowed in the residential district. Approval of the request will recognize the existing commercial character of the property. The current residential zoning is not suitable for this segment of the corridor.

**Staff Finding** – The existing residential zoning is not suitable for the rear portion of the property. Approval of the request will facilitate planned redevelopment of the subject property.

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

The property is developed with an existing retail building. Approval of the request corrects an existing non-conforming situation and allows for future redevelopment of the property unencumbered by the residential restrictions.

**Staff Finding** – The property is developed and has been used for commercial uses since 1966. The addition of the rear portion of the property to the existing CS District is consistent with the developed pattern of the corridor and use of the property.

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

Applicant's Response: *There will be no affect as the current use of property is commercial and is surrounded by commercial properties.*

The properties to the east and west are commercially zoned and developed as such. The property to the south is also zoned for commercial development but is currently vacant. The RS10 zoning is a remnant

single-dwelling residential designation likely resulting from annexation sometime after 1966. The property functions as part of the existing commercial corridor.

**Staff Finding** – No detrimental effects will result from approving the proposed change.

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

Applicant's Response: *There is no gain or hardship to the public. Currently the existing commercial structure is built on both the commercially zoned portion of the lot as well as the residential portion of the lot.*

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** – Approval of the request will result in amending the zoning map such that the land use and the zoning district will align. Approval also positions the property such that future redevelopment of the site will not be hindered by arbitrary residential boundaries across the property.

**9. THE RECOMMENDATION OF THE CITY'S PROFESSIONAL STAFF**

The key benefit of the rezoning is to provide a recognizable commercial corridor and facilitate future redevelopment of the area.

**Staff Finding** –The proposed change is an expansion of the existing CS district through a technical boundary adjustment to the district description. The continuation of property for commercial use is not likely to change. Staff recommends approval of the proposed zoning change to facilitate future redevelopment of the subject property.