

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

**PC Staff Report**

**ITEM NO. 1 :     **IG TO RS7; 17,949 square feet; 302 Perry Street (DDW)****

**Z-5-6-10:** Consider a request to rezone approximately 17,949 square feet, from IG (General Industrial) District to RS7 (Single-Dwelling Residential) District, located at 302 Perry Street. Denise Copp, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends:

- 1.) Approval of the rezoning request for approximately 17,949 square feet, from IG (General Industrial) District to RS7 (Single-Dwelling Residential) 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.
- 2.) If appropriate, the Planning Commission may further direct staff to contact the adjacent property owner at 312 Perry Street regarding rezoning to RS7 or may wish to initiate this property for consideration of RS7 at a future public hearing.

**REASON FOR REQUEST**

The subject parcel has been a single-family use since the late 1800's. The property has been determined to be a legal non-conforming use within an industrial zoning district. However, the industrial zoning and the legal non-conforming status make it difficult to sell the property. The applicant is requesting the zoning change to reflect the actual use of the property and make it a conforming use under the Land Development Code.

**KEY POINTS**

- The intent of the applicant is to rezone the property to RS7 to make it a conforming use.
- The property is platted.
- The property will be within the X, Levee Protected Flood Zone as of August 5, 2010. The property is not located within the regulatory floodplain.
- The south side of the 200 block of Perry Street was rezoned from IG to RS7 in 2005 (Z-05-34-05).

**GOLDEN FACTORS TO CONSIDER**

**CHARACTER OF THE AREA**

- The surrounding area is developed with a mixture of residential and nonresidential land uses. The immediate area surrounding the property developed with single-family uses to the west, north and east. Industrial uses are south of the subject property.

**CONFORMANCE WITH *HORIZON 2020***

- The proposed rezoning request from IG (General Industrial) District to RS7 (Single-Dwelling Residential) District is consistent with land use recommendations found in *Horizon 2020*.

### **ASSOCIATED CASES/OTHER ACTION REQUIRED**

- City Commission approval of the rezoning request and publication of ordinance.

### **PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- Letter of support for the rezoning submitted by the North Lawrence Improvement Association on June 30, 2010.

### **GENERAL INFORMATION**

Current Zoning and Land Use: IG (General Industrial) District.

Surrounding Zoning and Land Use: To the north:  
-- IG (General Industrial) District; single family homes and an adult day care use – approved through SP-9-42-09.

To the east: IG (General Industrial) and RS7 (Single-Dwelling Residential) Districts; single family homes.

To the south: IG (General Industrial) District; industrial uses.

To the west: OS RS7 (Single-Dwelling Residential) District; single family homes.

### **Project Summary**

The subject property has been a single-family use since the late 1800's. The property has been determined to be a legal-nonconforming use. The property is a residential use in an industrial district, and as such, it has proven difficult for the current property owner to sell because it is not a conforming use under today's regulations. The property owner wishes to rezone the property to reflect the existing use so that she is in better position to sell the property. The south side of the 200 block of Perry Street was rezoned from IG to RS7 in 2005 to eliminate the non-conforming status of those properties.

### **REVIEW & DECISION-MAKING CRITERIA**

#### **CONFORMANCE WITH THE COMPREHENSIVE PLAN**

The following section of *Horizon 2020* relates to this rezoning request (staff comments are in italics):

#### **Chapter 5 – Residential Land Use:**

Goal 3: Neighborhood Conservation:

The character and appearance of existing low-density residential neighborhoods should be protected and improvements made where necessary to maintain the values of property and enhance the quality of life. (Page 5-15)

*Rezoning the property to RS7 would be in conformance with the Neighborhood Conservation goal in Horizon 2020.*

Policy 3.2: Protect Existing Housing Stock:

(b) Preserve existing dwellings. (Page 5-15)

**Staff Finding** -- The proposed rezoning request conforms with *Horizon 2020* goals and policies related to neighborhood conservation.

### **ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING**

**Staff Finding** -- The area contains a mixture of residential and nonresidential land uses. Single-family residences are located west of the property on RS7 zoned property and north of the property on IG zoned property. An adult day care use that has received site plan approval will be located north and east of the property on IG zoned property. Residences in the IG and RS7 Districts are also located to the east of the subject property. Industrial businesses are located south of the subject property on IG zoned property.

The south side of Perry Street is not encumbered by any portion of the regulatory floodplain.

### **CHARACTER OF THE AREA**

The immediate character of the area is most recognizable as residential with single-family homes on individual lots. The subject property abuts other single-family homes.

**Staff Finding** – The area contains a mixture of residential and nonresidential uses, but the immediate area is primarily single-family residential uses.

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

*Horizon 2020* identifies future plans for the general area as appropriate for low density residential uses. A neighborhood plan was completed for North Lawrence in 1981 and an area wide drainage study was completed in January 2006.

In **Chapter 3** of the North Lawrence Neighborhood Plan, **General Goal C.** is *"To solicit and encourage the participation of North Lawrence residents and property owners in the planning, development, and maintenance of the neighborhood"*. The property owner has initiated this rezoning which will help to maintain the residential character of the neighborhood.

In the same chapter, Residential Objective B. is "Encourage the preservation of the structurally sound older housing stock". The applicant has stated that with the industrial zoning classification, it has proven difficult for to sell her home since the residential use in industrial zoning district is listed as non-conforming.

Other goals and objects listed in the North Lawrence Neighborhood Plan also support this application.

**Staff Finding** – Approval of the request is consistent with land use plans for the area.

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

The subject property is currently zoned for industrial uses. According to the Land Development Code for the City of Lawrence, the purpose of the IG (General Industrial) District is "*primarily intended to moderate- and high-impact industrial uses, including large scale or specialized industrial operations requiring good transportation Access and public facilities and services. The District is generally incompatible with residential areas and low-intensity commercial areas.*"

This part of North Lawrence was platted with small lots which do not easily support industrial land uses. Further, the current zoning does not reflect the existing land use. The property is an existing single-family dwelling. The property is also surrounded on three sides by single-family dwellings.

**Staff Finding** – The subject property is not suitably zoned given the existing use of the property and the surrounding residential land use.

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

**Staff Finding** – The subject property is zoned IG and developed as a residential use since the late 1800's.

## **EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES**

Approval of the proposed request will result in a reduction of allowed uses and increase the boundary of the RS7 district within the overall neighborhood area, which restricts land use to single-family homes on individual lots. Nearby property will not be directly affected. If approved, redevelopment of abutting lots with nonresidential zoning may be required to address screening of residential lots in the future. The uses to the north, west and east include similar existing single-family homes. The area to the south includes industrial development.

**Staff Finding** – The impact on nearby property is one of perspective given the surrounding residential uses. Approval of the proposed change would be beneficial for those properties currently used for single-family housing in the immediate area. The proposed change provides the ability to obtain reasonable home insurance and will act as protection against encroachment of non-residential activities in the immediate area. Regulations added as a result of this rezoning would include the review and regulations applicable to any parcels used as rental housing.

## **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**

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

If the rezoning were denied, the property would remain non-conforming as zoned for industrial uses. As the property has a very long history as a single family use and the

immediate surrounding area is predominately single-family homes, encroachment of industrial development allowed by the current zoning would not be appropriate. The residential zoning will insure that the property will remain a single family home, which will minimize any negative impacts on the neighborhood that could occur with the industrial zoning.

**Staff Finding** – There would be no gain to the public and there would be a hardship to the landowner in the denial of the rezoning request. The rezoning request will assign an appropriate land use designation to the property for its current and intended land use as a single family home.

**Staff Analysis**

Rezoning this property will result in the property immediately to the east (312 Perry Street) being the only property left on the south side the 300 block zoned as IG. It would be reasonable to suggest that this property also be rezoned to remove its non-conforming status and the Planning Commission may either consider initiating the rezoning or instructing staff to contact the property owner to see if the owner has an interest in having their property rezoned.

**PROFESSIONAL STAFF RECOMMENDATION**

Staff recommends approval of the rezoning to the RS7 District as it is an appropriate zoning district for this property. The single-family zoning district matches the existing, and long-term, use of the property. Therefore, this is an appropriate zoning district for this property.



**Figure 1.** Base Zoning Districts in nearby area. The block rezoned to the RS-7 District in 2005 is outlined with in yellow. The boundary of the property which is the subject of this rezoning request is outlined in blue.