

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
8/25/10

ITEM NO. 8-1 : CS & RM12 TO RM12; 3.92 ACRES; 2130 Silicon Avenue (DDW)

Z-6-11-10: Consider a request to rezone approximately 3.92 acres from CS (Commercial Strip) and RM12 (Multi-Dwelling Residential) to RM12 (Multi-Dwelling Residential), located at 2130 Silicon Avenue for Crosswinds East. Submitted by Bartlett & West, Inc., for Crosswinds L.L.C., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 3.92 acres from CS (Commercial Strip) District & RM12 (Multi-Dwelling Residential) District to RM12 (Multi-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.

REASON FOR REQUEST

The site is part of the Crosswinds Apartment Complex, which was originally platted in 1994. The property at 2130 Silicon Ave. was replatted in 2001 as Lot 1, Block One of Crosswinds East. The property has been determined to be a legal nonconforming use within a multifamily and commercial strip zoning district. There are no improvements planned at this time; the proposed rezoning is simply to make the subject property conform to the zoning district for the rest of the apartment complex. In addition, the commercial strip zoning and legal nonconforming status may make it difficult to sell the property in the future. 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 RM12 because the current use is nonconforming in the CS District.
- Multi-Dwelling Structures are permitted uses within the RM12 District and the CS District, per Section 20-403 of the Code, but are subject to use specific standards contained in Section 20-517 when located within the CS District, such as units being constructed as part of a mixed-use project.
- The property is platted.
- The property is not located within the regulatory floodplain.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The immediate surrounding area to the north, east, and west is residential use with a mixture of single- and multi-family developments. The property abuts the CS district to the south, which runs along 23rd Street (K-10).

CONFORMANCE WITH *HORIZON 2020*

- The proposed rezoning request to remove the CS (Commercial Strip) District designation and rezone to RM12 (Multi-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

- None.

GENERAL INFORMATION

Current Zoning and Land Use: CS (Commercial Strip) District and RM12 (Multi-Dwelling Residential) District; developed apartment complex.

Surrounding Zoning and Land Use:

To the north: RM12 & RM12D (Multi-Dwelling Residential) District; multifamily homes.

To the east: RMO (Multi-Dwelling Residential – Office) District containing the Sunshine Acres Montessori Center (child care facility); and CS (Commercial Strip) Districts containing an existing self-storage complex.

To the south: CS (Commercial Strip) District; commercial; existing commercial developments, including an auto-repair shop and a gym.

To the west: CS (Commercial Strip) District and RM12 (Multi-Dwelling Residential) District; existing multifamily development, part of Crosswinds Apartment complex and commercial parking lot and gym.

Project Summary

The subject property was built in 2001 as the eastern addition to the Crosswinds Apartment complex, which was built in 1994. In 2000, the City Commission approved a request [Z-10-45-00] to rezone the northern portion of the subject property from RS-2 (Single-family Residential) and C-4 (General Commercial) Districts to RM-1 (Multi-family Residential) District; and a request [Z-12-57-00] to rezone the southern 1.16 acres from C-4 (General Commercial) to the C-5 (Limited Commercial) District. The zoning districts converted from the RM-1 and C-5 Districts to the RM12 and CS Districts with the adoption of the Development Code in 2006.

Multi-dwelling structures are allowed in CS zones as part of mixed-use projects when at least 50% of the Gross Floor Area is developed with nonresidential uses. Therefore, the subject property has been determined to be a legal-nonconforming use. The property is a multi-dwelling residential use in a commercial strip, and as such, the current property owner

wishes to rezone the property to reflect the existing use so that it is a conforming use under today's regulations.

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 1 for Medium- and Higher- Density Residential Land Use: Criteria for Location of Medium- and Higher-Density Residential Development:

Policy 1.2: Protect Areas Planned for Medium- and Higher-Density Development: Avoid reducing medium- and higher-density residential areas designated on the Future Land Use Map (as depicted on Map 3-1) by allowing encroachment of nonresidential land uses which are not typically allowed in residential districts. (Page 5-23)

Policy 1.3: Identify Suitable Sites: Medium- and higher-density developments should be arranged in small clusters as transitions from more intensive land uses, or located at the intersection of major street/roads. (Page 5-23)

GOAL 3: Compatible Transition from Medium-Density and Higher-Density Residential Development to both More Intensive and Less Intensive Land Uses

Policy 3.2: Medium-Density Residential Development as Transitional Use: Encourage the integration of medium-density residential development through compatible design with low-density residential areas and more intensive land uses.

Rezoning the property to RM12 would be consistent with the Future Land Use map, which indicates the subject property as an area of medium-density residential development. Furthermore, rezoning would be in conformance with the goals in Horizon 2020 regarding the reduction medium-density residential areas and with respect to the transition from low-density residential to more intensive nonresidential uses.

Staff Finding -- The proposed rezoning request conforms with the goals and policies of *Horizon 2020* related to medium-density residential development.

ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Staff Finding -- The area to the north, east, and west contains a mixture of single- and multi-family residential uses, with the latter being the predominant use. The original portion of the Crosswinds Apartment complex is zoned RM12 (Multi-Dwelling Residential) and is located to the west of the subject property across Silicon Avenue. There are other multi-dwelling developments also zoned RM12 located to north. Single-family homes zoned RS7 (Single-Dwelling Residential) are located directly to the north of the RM12 District. The abutting property to the east is zoned RMO and contains a daycare use. Existing CS (Commercial Strip) District developments are located to the south along 23rd Street / K-10.

CHARACTER OF THE AREA

The immediate character of the area is most recognizable as residential with multi-dwelling developments to the north, east, and west. The subject property abuts these uses as well as commercial uses to the south.

Staff Finding – The area contains a mixture of residential and nonresidential uses, but the immediate area is primarily multi-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 medium-density residential uses. Compatible densities and housing types should be encouraged in residential neighborhoods by providing appropriate transition zones between low density residential land uses and more intensive residential development, and between higher density residential uses and nonresidential land uses.

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 residential and commercial uses. According to Section 20-517 (4) of the Land Development Code for the City of Lawrence, Multi-Dwelling Structures within CS (Commercial Strip) Districts "*shall only be permitted in the CC and CS Districts provided that the residential units are constructed as part of a Mixed-Use project when at least 50% of the Gross Floor Area is developed with nonresidential uses.*"

If the subject property should need to be rebuilt for any reason, then under the current zoning the apartments could not be rebuilt as-is. Any development proposal would be required to include nonresidential uses in at least 50% of the Gross Floor Area. The subject property serves as an important buffer between the more intensive CS (Commercial Strip) District to the south along 23rd Street and the single-family RS7 (Single-Dwelling Residential) District to the north.

Staff Finding – Rezoning the subject property to RM12 would create a uniform zoning designation for the property as well as remove the nonconforming use status from the apartment complex.

LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Staff Finding – The subject property has been zoned for both commercial and multi-dwelling residential development since 2001; the multifamily housing is part of an apartment complex that has existed since 1994, which has been zoned for multi-dwelling residential since that time.

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 RM12 District within the overall neighborhood area. Nearby property will

not be detrimentally affected. The uses to the north, west and east include similar existing multifamily development. The area to the south includes commercial development, and if approved, the abutting lots with nonresidential zoning may be required to address screening of the multifamily residential lots in the future.

Staff Finding – The impact on nearby property is one of perspective given the surrounding residential and commercial uses. Approval of the proposed change would be beneficial for those properties currently used for multifamily housing in the immediate area. The proposed change will act as protection against encroachment of nonresidential activities in the immediate area.

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

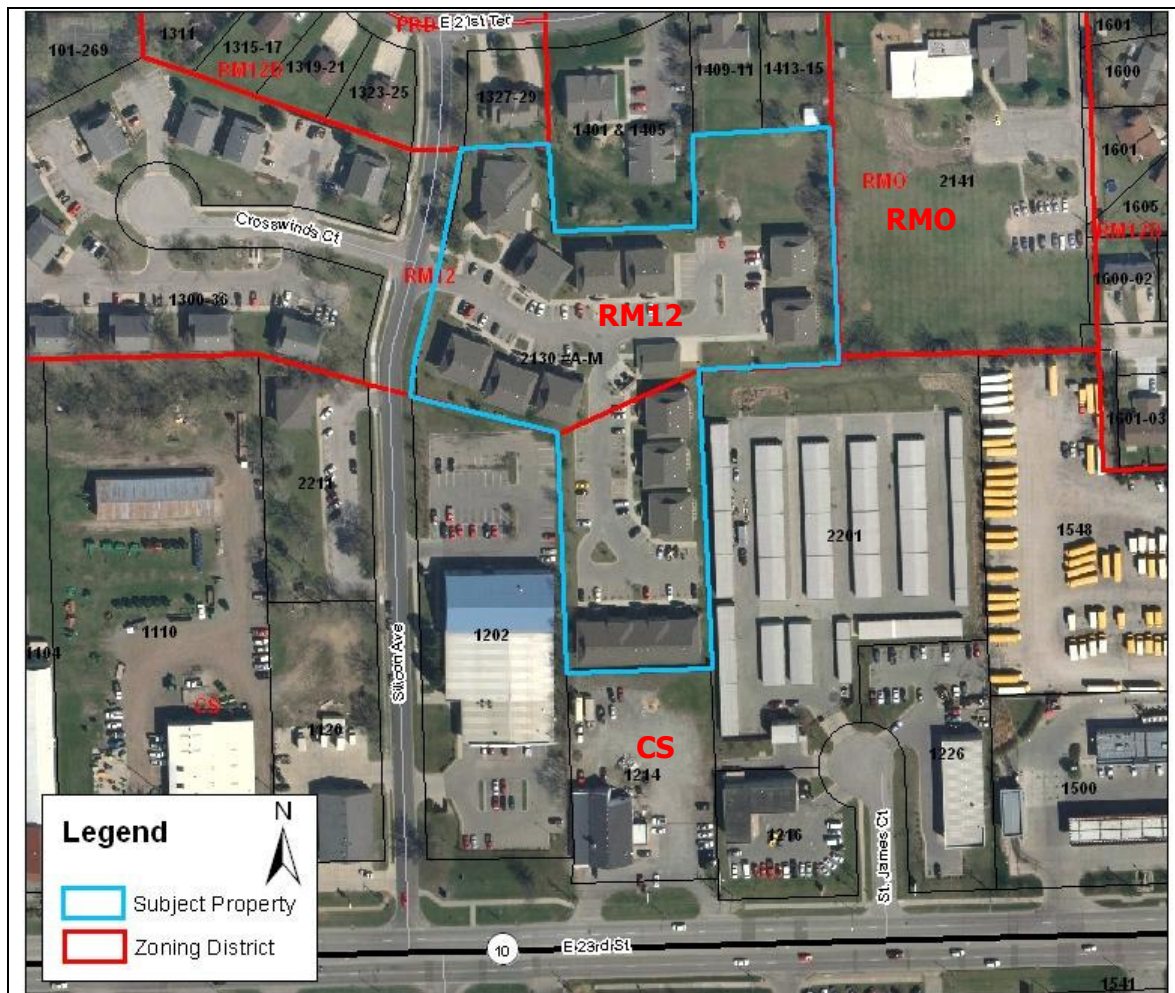
Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

If the rezoning were denied, the property would remain legal nonconforming as zoned for commercial uses. The property is surrounded to the north, east, and west by predominately multifamily developments, while existing commercial development occurs to the south. Redevelopment of the property would result in either an increase in commercial uses or a loss of multifamily housing. The key point is that the multi-dwelling residential zoning will insure that the property will become a legal uses under today's regulations.

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 zoning designation to the property for its current and intended land use as an apartment complex.

PROFESSIONAL STAFF RECOMMENDATION

Staff recommends approval of the rezoning to the RM12 District as it is an appropriate zoning district for this property. The multi-family zoning district matches the existing, and long-term, use of the property. Therefore, this is an appropriate zoning district for this property.



Map 1. Base Zoning Districts outlined in red of nearby area. This map indicates the subject property, outlined in blue, is zoned as both CS (Commercial Strip) and RM12 (Multi-Dwelling) Districts.