

PLANNING COMMISSION REPORT Regular Agenda - Public Hearing Item

PC Staff Report
8/25/10

ITEM NO. 9A RM32 TO MU; .13 ACRES; 502 W 14TH ST (MJL)

Z-11-21-09: Consider a request to rezone approximately .13 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 502 West 14th Street. Submitted by Paul Werner Architects, for Oread Villas, LLC, property owner of record.

ITEM NO. 9B RM32 TO MU; .05 ACRES; 414 W 14TH ST (MJL)

Z-11-22-09: Consider a request to rezone approximately .05 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 414 West 14th Street. Submitted by Paul Werner Architects, for D & D Rentals of Lawrence, LLC, property owner of record.

ITEM NO. 9C RM32 TO MU; .09 ACRES; 1346 OHIO ST (MJL)

Z-11-23-09: Consider a request to rezone approximately .09 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1346 Ohio Street. Submitted by Paul Werner Architects, for D & D Rentals of Lawrence, LLC, property owner of record.

ITEM NO. 9D RM32 TO MU; .13 ACRES; 1340-1342 OHIO ST (MJL)

Z-11-24-09: Consider a request to rezone approximately .13 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) including establishing a Bar or Lounge use as an automatic special use permit for The Hawk, located at 1340-1342 Ohio Street. Submitted by Paul Werner Architects, for HDD of Lawrence, LLC, property owner of record.

ITEM NO. 9E RM32 TO MU; .23 ACRES; 1403 TENNESSEE ST (MJL)

DEFERRED

Z-11-25-09: Consider a request to rezone approximately .23 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1403 Tennessee Street. Submitted by Paul Werner Architects, for DJC Holdings, LLC, p record.

ITEM NO. 9F RM32 TO MU; .14 ACRES; 1400 OHIO ST (MJL)

DEFERRED

Z-11-26-09: Consider a request to rezone approximately .14 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1400 Ohio Street. Submitted by Paul Werner Architects, for Wakarusa Partners, property owner of record. DEFERED

ITEM NO. 9G RM32 TO MU; .13 ACRES; 507 W 14TH ST (MJL)

Z-11-27-09: Consider a request to rezone approximately .13 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) including establishing a Bar or Lounge use as an automatic special use permit for The Wheel, located at 507 West 14th Street. Submitted by Paul Werner Architects, for John C. Wooden, property owner of record.

ITEM NO. 9H RM32 TO MU; .29 ACRES; 413 W 14TH ST (MJL)

DEFERRED

Z-11-28-09: Consider a request to rezone approximately .29 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 413 West 14th Street. Submitted by Paul Werner Architects, for Douglas J. Compton, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone from the RM32 (Multi-Dwelling Residential) District to MU (Mixed Use) District with all properties identified as a Primary Development Zone based on the findings presented in the staff report with the following condition and forwarding it to the City Commission with a recommendation for approval.

1. The entire MU District shall not contain over 50,000 square feet of retail space.

- Item 9A: Z-11-21-09 502 W. 14th Street
- Item 9B: Z-11-22-09; 414 W. 14th Street
- Item 9C: Z-11-23-09; 1346 Ohio Street
- Item 9D: Z-11-24-09; 1340-1342 Ohio Street including a Special Use Permit for the Bar or Lounge Use
- Item 9G: Z-11-27-09; 507 W. 14th Street including a Special Use Permit for the Bar or Lounge Use

Reason for Request:

This rezoning request is being submitted for the current commercial businesses known as The Wheel which is located at 507 W. 14th and The Hawk located at 1340 and 1342 Ohio in order to make these properties conforming. In addition, this request is also being submitted for the rezoning of the residential properties located at 1346 Ohio and 413 West 14th Sts in order update their zoning to match their historical commercial uses. Rezoning is also being requested for the residential properties located at 1400 Ohio St, 414, and 502 West 14th St. and 1403 Tennessee St. in order to provide continuity to this unique area of Lawrence.

KEY POINTS

- The area is and historically has been a mixed use area.
- The proposal is generally in conformance with the Comprehensive Plan Chapter 6 regarding the Mixed Use Districts.
- The proposed rezoning would make two currently nonconforming Bar uses, The Hawk and The Wheel, conforming and would establish automatic special use permits for these two properties.
- The proposed rezoning is consistent with the draft *Oread Neighborhood Plan*.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- DR-07-61-10 502 W 14th Street; Rezoning; Certified Local Government Review.
- DR-07-62-10 414 W 14th Street; Rezoning; Certified Local Government Review.
- DR-07-63-10 1346 Ohio Street; Rezoning; Certified Local Government Review.
- DR-07-64-10 1340-1342 Ohio Street; Rezoning; Certified Local Government Review.
- DR-07-65-10 1403 Tennessee Street; Rezoning; Certified Local Government Review.
- DR-07-66-10 1400 Ohio Street; Rezoning; Certified Local Government Review.
- DR-07-67-10 507 W 14th Street; Rezoning; Certified Local Government Review.
- DR-07-68-10 413 W 14th Street; Rezoning; Certified Local Government Review.

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 if approved with above condition

ATTACHMENTS

- Application materials

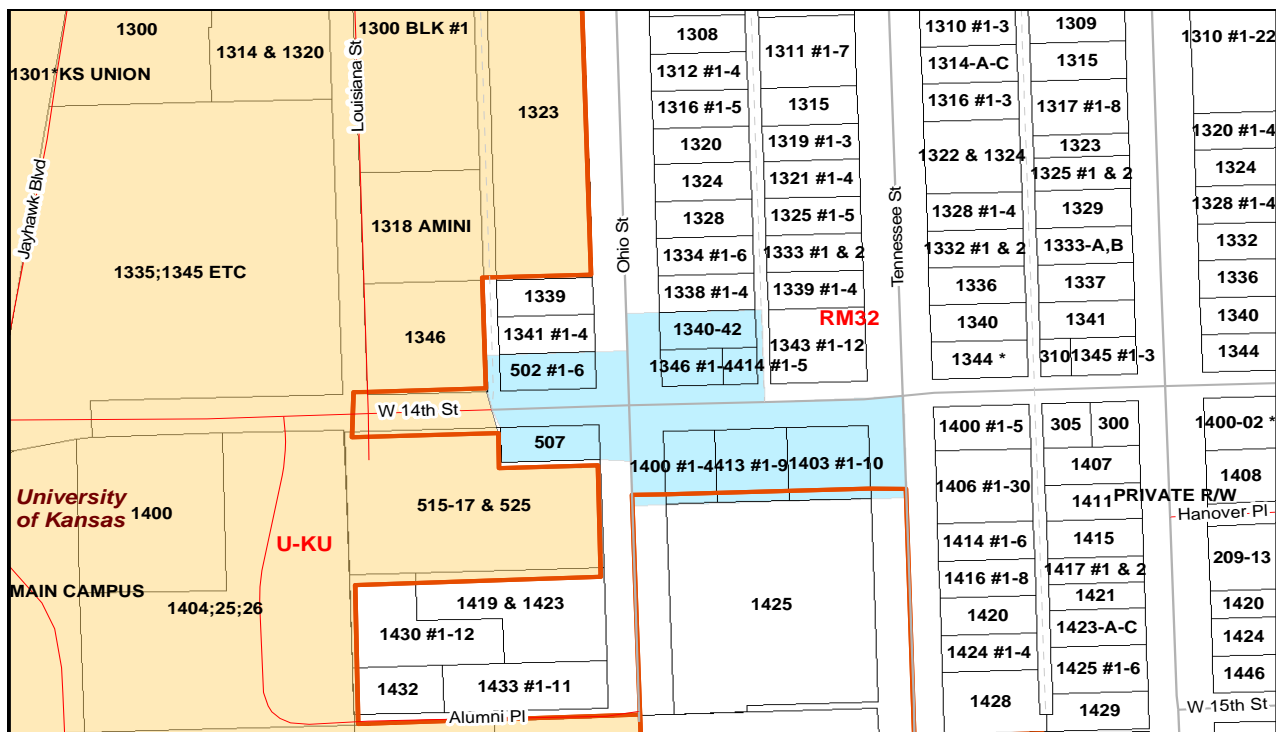
PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Kirk McClure email

Project Summary:

The request is to rezone the properties at 414, 502, 507, and 413 W. 14th St., 1340-42, 1346, and 1400 Ohio St., and 1403 Tennessee St. from the RM32 (Multi-Dwelling Residential) District to the MU (Mixed Use) District. The properties are generally located along W. 14th St., just east of the main KU campus. All the properties are developed and there are no plans for redevelopment at this time.

The Code requires an SUP for the Bar or Lounge use in the MU District and also sets out provisions for an automatic SUP for existing Bar or Lounge use when rezoned to the MU District. If rezoned to the MU District, the Hawk and the Wheel would automatically receive SUPs for the use since they are existing bars. These uses would no longer be nonconforming.



1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

(Note: the original application for rezoning was for the CS District and based on discussion with staff and revisions to the MU district was revised to the MU District. Some responses remain geared towards the CS District but can still apply.)

Applicant's Response: *Horizon 2020, Chapter 3, page 5 states, "strip Commercial land use pattern is discouraged by directing the formation or expansion of existing areas to occur in a more clustered pattern," and "New commercial and office development is required to occur in nodes to avoid continuous lineal commercial development along the city's street corridors ... " The CS zoning designation would be new for the subject properties, however, for some of the properties the proposed use would not be. Commercial uses have existed in the area since 1906 causing this to be an unrecognized commercial node in the city for over 100 years. Rezoning these properties to CS is something that should have already occurred so that the current commercial areas would conform to the zoning to which they have been restricted.*

Horizon 2020, Chapter 3, pg 5 states, "In-fill development and redevelopment of existing commercial areas is encouraged ... " this same section goes on to state that, "... an emphasis on downtown Lawrence and the existing commercial gateways should be considered." This site does not fall into the downtown or commercial gateways categories however it is still existing historical commercial property with a portion of the subject site currently being used as residential property. The property owners would like to see the RM32 properties within this site area zoned CS to bring continuity to the area and allow it to exist as a commercial node as history has allowed. These properties provide an opportunity to serve as a historically sensitive commercial infill development and be an important area for the KU campus and the City of Lawrence as it has been for over 100 years.

Staff Finding – Staff finds that the proposal is generally in conformance with the comprehensive plan. Chapter 6 – Commercial Land Use includes a Mixed Use District under the Commercial Center Category. It states that areas that are currently mixed use in nature should be preserved. Policy 3.14 outlines the criteria for Mixed Use Districts which includes a mix of residential and non-residential uses, and multi-modal services. Currently the area is a mix of multi-family and bar uses and is within a quarter mile of various bus routes. Additionally it is identified on the bikeways map as a future bike route.

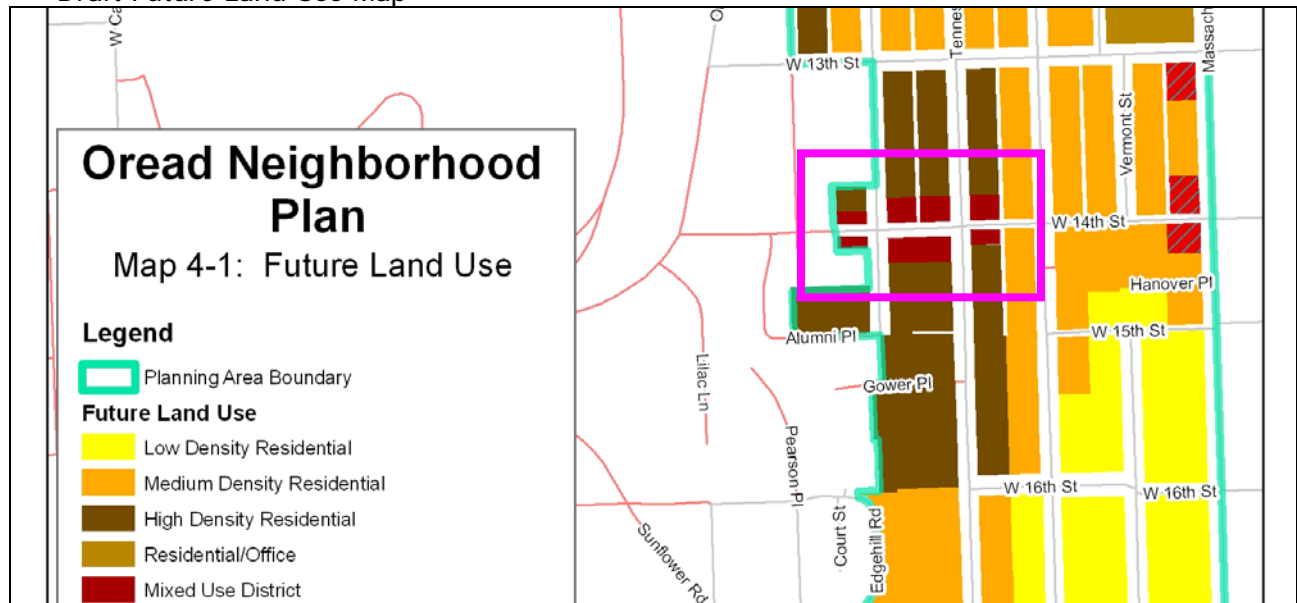
2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Current Zoning and Land Use:	RM32 (Multi-Dwelling Residential) District; 414 W. 14 th St.: Boarding House 502 W. 14 th St.: Apartments 507 W. 14 th St.: The Wheel (bar) 413 W. 14 th St.: Apartments 1340-42 Ohio St.: The Hawk (bar) 1346 Ohio St.: Apartments 1400 Ohio St.: Apartments 1403 Tennessee St.: Apartments
Surrounding Zoning and Land Use:	North: RM32 District; apartments West: U-KU (University-University of Kansas) District; Art studios, and Crawford Community Center South: RMG (Multi-Dwelling Residential-Greek Housing) District; Beta Theta Pi Fraternity (John Palmer and Margaret Usher House-National Register of Historic Places) East: RM32 District; apartments

3. CHARACTER OF THE NEIGHBORHOOD

Staff Finding – The subject area is currently within the planning area of the *Oread Neighborhood Plan* which was approved in 1979. Currently there is a draft of an updated *Oread Neighborhood Plan* which the PC recommended approval 7-0 on January 27, 2010 and is awaiting City Commission consideration. In the 1979 plan the area is identified as high-density residential and in the draft plan the subject area is identified as a mixed use district. The identification of the area as a mixed use district in the draft future land use plan has not been a contentious issue. The draft plan identifies a larger mixed use district than the subject area including approximately the next half block to the east.

Draft Future Land Use Map



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

Applicant's Response: *The subject commercial properties are not suitable to the uses to which they have been restricted. The existing residential properties are suitable to their current zoning restrictions however, if the existing commercial uses had been appropriately zoned it would be beneficial to zone the residential properties to fit in with the existing commercial lots.*

Staff Finding – The subject properties are currently zoned for high-density residential uses. Two of the properties are currently developed with nonconforming commercial uses. Historically this area has been a mix of uses. In the past there have been restaurants, barbers, bookstores and various types of residential uses. The residential uses are suitable for the current zoning but the drinking establishments are not suitable for the RM32 District. If damaged past a certain threshold, the bar uses would need to comply with the RM32 uses.

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

Applicant's Response: *These properties are not vacant.*

Staff Finding – The subject properties were developed in the late 1800's and early 1900's and have been a variety of commercial and residential uses overtime. The property was zoned RD (Residence- Dormitory) with the adoption of the 1966 Zoning Ordinance and then converted to the RM32 District with the adoption of the *Land Development Code* in 2006.

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

Applicant's Response: *The foreseen detrimental affects to the public by allowing commercial uses to exist on the proposed site could possibly be an increase in traffic and a need for more parking locations. With future development this site would serve as a unique area of Lawrence and parking for new commercial uses would conform to current requirements. Instead of this development becoming a detriment to the public it could instead serve as a gathering place for students, alumni of KU and the citizens of Lawrence and the possible increase in traffic and parking may not be an issue. The surrounding properties and their uses are of a nature that the proposed MU zoning would not detrimentally affect them but would serve them. In addition, Horizon 2020 states in Chapter 6, Policy 2.3, "Use higher density residential development as a transitional land use between commercial developments and the surrounding low-density residential neighborhoods." The surrounding uses of this site already meet those requirements.*

Staff Finding – The rezoning could result in redevelopment of the district into more intensive uses causing an increase in traffic, both pedestrian and vehicular, in the area.

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: *The gain to the public would be a unique historical commercial area to serve the surrounding neighborhoods, KU and Lawrence. The hardship that would be imposed on the commercial property owners if the rezoning is denied would be that if their businesses should ever*

be destroyed by a natural disaster or a fire they would not be allowed to rebuild their existing businesses. The hardship that would be imposed on the owners of the existing residential property should rezoning be denied is that these properties would not have the opportunity to be developed to fit in with the surrounding commercial uses causing the incompatibility that currently exists in this small area to remain.

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 – The potential gain to the public health, safety and welfare if the rezoning was denied could be that the area remains as is with the potential future elimination of existing nonconforming uses. There would be less impact as far as a potential increase in traffic and potential uses that could develop with the MU District. The property owners could have a hardship imposed on them if not rezoned and the property is destroyed and not able to be redeveloped with the existing uses.

9. CONCLUSION

Historically this area has been a mix of uses. Currently the uses are multi-dwelling structures and two bars directly adjacent to the KU campus. The area is zoned RM32 but abuts U-KU and RMG Districts.

The subject area is within the historic environs of the John Palmer and Margaret Usher House which is located directly south at 1425 Tennessee St., the William Priestly House located at 1505 Kentucky St., and Spooner Hall on campus. Because these properties are within the historic environs, the Historic Resources Commission must also review and make a determination on the proposed rezonings. Staff will provide a summary memo from the August 19th Historic Resources Commission meeting on Monday, August 23rd. The Historic Resources Administrator has recommended the same primary and secondary zones to the HRC as in the report.

MU District

The MU District is a relatively new zoning district and is currently utilized in only one location in the city located at 1420 Crescent Rd. (Jayhawk Bookstore) on the west side of campus. The MU District is primarily intended to permit a variety of land uses together in one or more structures on a site including governmental, retail, office, public and community facilities, institutional, religious, and residential uses in a pedestrian-oriented and transit-oriented setting. The MU District zoning classification may not be appropriate in all areas of the city. The Code states that to be eligible for rezoning to the MU District, a site proposed for mixed use development shall be:

1. Within one-quarter of a mile of designated transit route at the time the rezoning is initiated; and (meets)
2. Near or adjacent to the intersection of arterial streets as per the adopted major thoroughfares map; or (does not meet)
3. Within one-quarter of a mile of university campuses; or (meets)
4. Within one-quarter of a mile of downtown, the boundaries of which are described in Chapter 6 of Horizon 2020; or (does not meet)
5. Immediately adjacent to public parks or open space; or (does not meet)
6. An existing nonresidential development proposed for redevelopment. (potentially meet in the future)

The Code requires the proposal meet number 1 above and any of number 2-6. This proposal is within one-quarter of a mile of several bus routes, one on Mass St. and several on campus, and within one-quarter of a mile of the university. Additionally the Code requires a minimum of 20,000 square feet of site area for a district. Below is a site summary.

District Area Summary (square feet)		
	Lots	Lots w/ROW
Primary Zone	23,299 (.5 ac)	44,952 (1 ac)
Secondary Zone	25,072 (.6 ac)	45,824 (1 ac)
Total	48,371 (1 ac)	90,776 (2 ac)

Development Zones

The as part of the application, the applicant must designate development zones for the district. Development zones govern permitted density on the site as well as building height, scale and form. The three development zones (primary, secondary and tertiary) are hierarchical in terms of development intensity permitted. A proposal to rezone to the MU District need not designate all three development zones. Development zones shall be designated to ensure compatibility with surrounding existing development. The code defines the development zones as follows:

1. Primary Development Zone

The Primary Development Zone is that area of land within a Mixed Use development which is designated for the most intense development allowed by the District. Primary Development Zones shall contain Vertical Mixed Use Structures with a mixture of both residential and nonresidential uses and no interruption of Building Frontage along the Public Frontage. Where a Primary Development Zone fronts upon a Public Frontage, such area shall be designated as Primary Public Frontage. A Primary Public Frontage shall be designed to accommodate heavy pedestrian traffic and ground-level nonresidential uses. Residential uses shall not be permitted on the ground level of Structures in the Primary Development Zone.

2. Secondary Development Zone

The Secondary Development Zone is that area of land within a Mixed Use development which is designated for less-intense development, relative to that permitted by a Primary Development Zone. Secondary Development Zones may contain Vertical Mixed Use Structures, Horizontal Mixed Use Structures or single-use Structures with interruption of Building Frontage along the Public Frontage allowed only for Access to Parking Areas, for Alleys or service lanes. Where a Secondary Development Zone fronts a Public Frontage such area shall be designated as Secondary Public Frontage. A Secondary Public Frontage shall be designed to accommodate moderate amounts of pedestrian traffic, and if planned, vehicular Access to Parking Areas and service lanes in a manner that minimizes pedestrian-vehicular conflict. Secondary Development Zones may contain both nonresidential ground-level uses as well as ground level residential uses.

3. Tertiary Development Zone

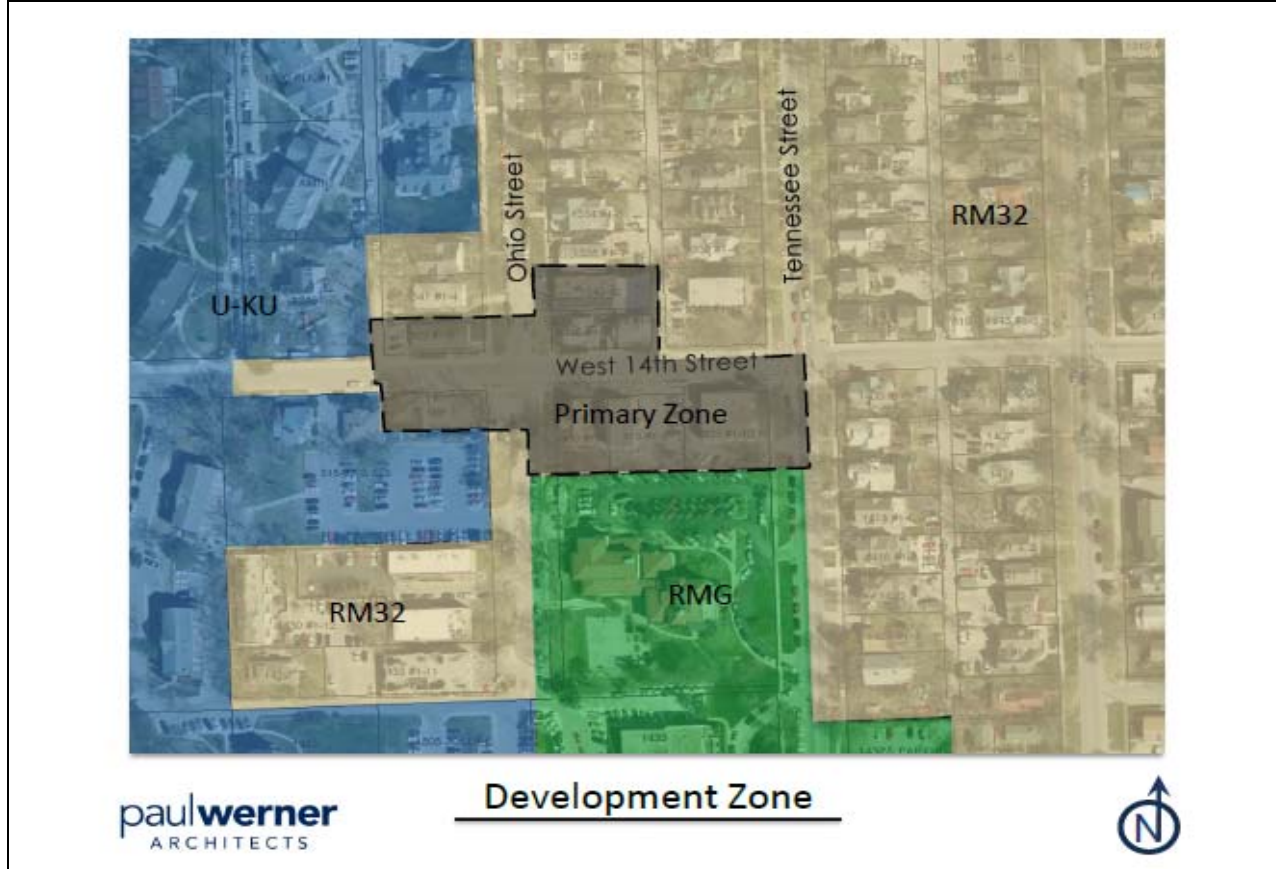
The Tertiary Development Zone is that area of land within a Mixed Use development which is designated for the least-intense development, relative to that permitted in the other zones. Tertiary Development Zones shall permit a

development intensity which is no greater than that of surrounding existing development. Such zones shall permit a development form which is consistent with that of surrounding existing development (i.e. two-story detached residential Dwellings across the street from existing Structures which are of the same form, etc.). Nonresidential uses shall only be permitted in a Tertiary Development Zone if the existing surrounding development contains such nonresidential uses. A Tertiary Development Zone shall only permit a residential use type which exists in surrounding development.

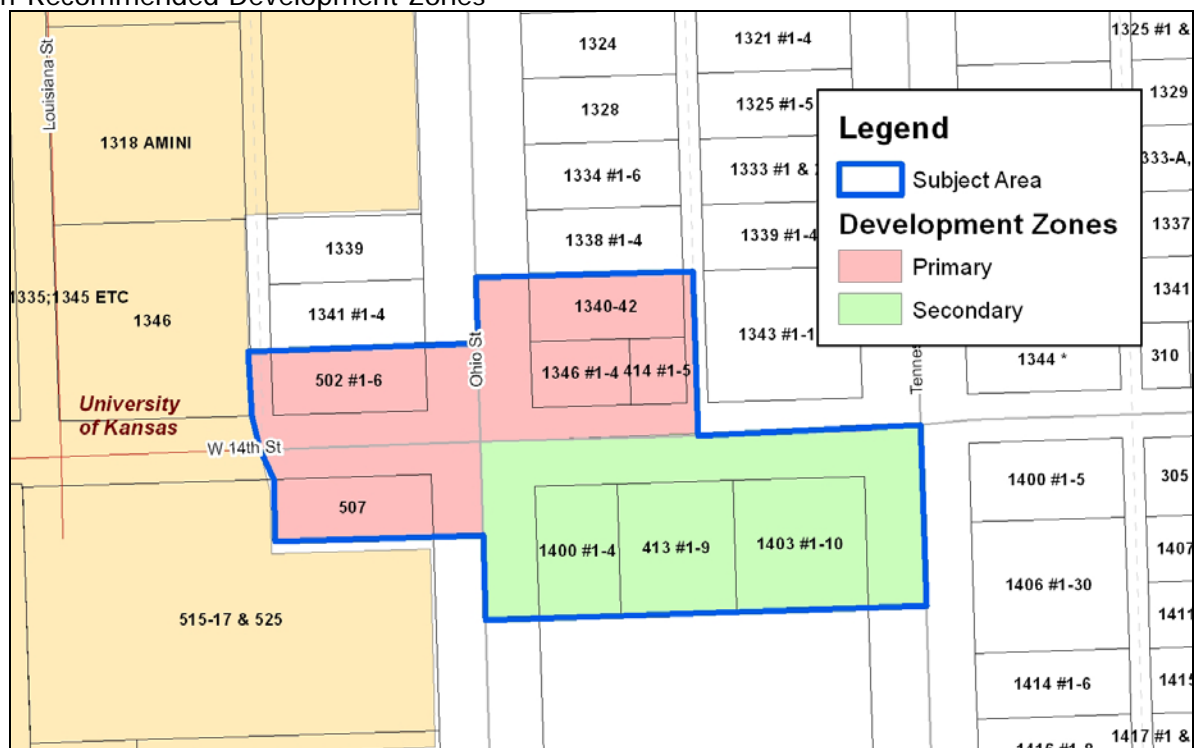
Additionally the Code lays out public frontages for each development zone which can be found in Section 20-1008. These descriptions and diagrams show how these frontages shall be planned and are urban form. These standards must be followed when redeveloping or developing with a Major Development Project.

The designation of the development zones is made by looking at the context of the neighborhood around the proposed district and taking into consideration the subject properties' existing uses and building heights along with the adjacent properties' uses and building heights. The Code states that the developments "shall be compatible with existing development which surrounds the proposed mixed use development." Compatibility is best achieved through a transition in building form, scale and intensity rather than through uses, peripheral buffers or landscaping. Adjacent to the subject area are apartments, KU facility buildings and a fraternity. All of these buildings are 2-3 stories in height. The applicant has designated the entire district as a Primary Development Zone and submitted the supporting information. See attached application packet. This could create a district similar to the feel of downtown with structures abutting each other and no breaks between buildings. The longest block face in the subject area are the 3 lots on the south side of W. 14th St. between Ohio and Tennessee Sts. a comparison, a building developed there could be approximately 50' shorter than Hobbs-Taylor Lofts. Because the surrounding neighborhood is individual structures with front and rear yards, staff believes the largest uninterrupted block face along W. 14th St. between Ohio and Tennessee Sts. should be designated as a Secondary Development Zone. This allows greater setbacks, building breaks and less lot coverage than in the Primary Development Zone in order to be more compatible with the adjacent properties development form. The remaining subject properties staff feels comfortable being designated as Primary Development Zones as requested.

Applicant Proposed Development Zones



Staff Recommended Development Zones



Historic Resources staff believes that a large building with an uninterrupted facade is not consistent with the pattern of the other structures or the historical building pattern of the area. It has been determined that a structure of that type would not meet the Secretary of the Interior Standards and Guidelines for Rehabilitation and would the Standards and Guidelines for Evaluating the Effect of Projects on Environs and would be difficult to obtain approval from the Historic Resources Commission to construct. Therefore, designating the properties as 1400 Ohio St., 413 W. 14th St., and 1403 Tennessee St. as Secondary Development Zone would result in more compatible redevelopment.

Nonconforming Structures

If the subject properties are rezoned to the MU District, some of the structures may become nonconforming, if they are not already nonconforming. The nonconforming structures are permitted by Code to remain until proposed to be modified to the extent of a Major Development Project. Any modifications that qualify as a Minor or Standard Development Project are permitted and the project would not be required to meet the standards of the MU District.

Retail Limit

Section 20-1107 of the Code requires a Retail Market Study for any application for site plan or zoning that could result in 50,000 square feet or more of additional floor area for retail businesses in the City. Because there is the potential for this district to develop with 50,000 square feet or more of retail, a Retail Market Study is required. In place of this requirement, since no redevelopment is proposed, a condition is being requested to be placed on each property that as a whole, the district can not contain more than 50,000 square feet of retail space.

Bars in the MU District

Currently the existing bars are nonconforming uses in the RM32 District and permitted with a Special Use Permit (SUP) in the MU District. The bars, if rezoned to the MU District, would automatically be granted a SUP and the public hearing for the rezoning would also be a public hearing for the SUP. At the public hearing, the Planning Commission has the opportunity to place any conditions on that SUP that are deemed appropriate. This use then is regulated under the SUP section of the Code and the City Commission is able to revoke, suspend, or change the SUP if there are violations of the conditions of the SUP, City Code, or State or Federal Law. At this time, staff is not recommending any conditions be placed on either of the bars located at 507 W. 14th St. or 1340-42 Ohio St.

PROFESSIONAL STAFF RECOMMENDATION

The applicant has requested deferral of item 9E (Z-11-25-09 1403 Tennessee), 9F (Z-11-26-09 1400 Ohio), and 9H (Z-11-28-09 413 W. 14th) to try to work out some issues related to the maximum density in the Secondary Development Zone.

Staff recommends approval of the remaining items of the request (noted below) to rezone from the RM32 (Multi-Dwelling Residential) District to MU (Mixed Use) District with all properties identified as a Primary Development Zone and forwarding it to the City Commission with a recommendation for approval. The recommendation is based on the findings presented in the staff report and made with the following condition.

1. The entire MU District shall not contain over 50,000 square feet of retail space.
 - Item 9A: Z-11-21-09; 502 W. 14th Street
 - Item 9B: Z-11-22-09; 414 W. 14th Street
 - Item 9C: Z-11-23-09; 1346 Ohio Street
 - Item 9D: Z-11-24-09; 1340-1342 Ohio Street - including a Special Use Permit for the Bar or Lounge Use
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