

Memorandum

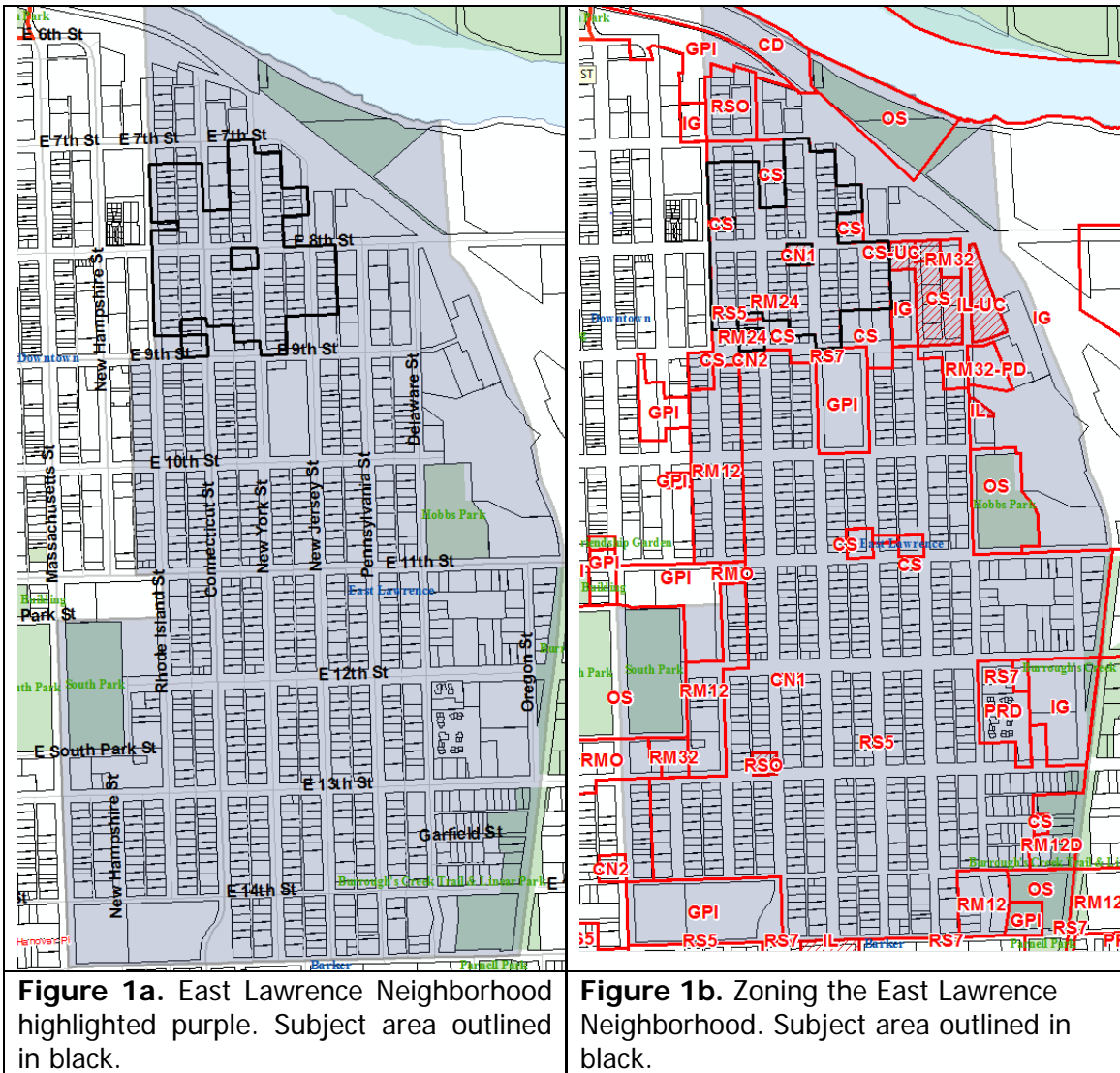
City of Lawrence

Planning & Development Services

TO: Thomas M. Markus, City Manager
FROM: Planning Staff
DATE: May 19, 2016
RE: East Lawrence Neighborhood Rezoning Initiation Memo

On August 18, 2015, the City Commission directed staff to prepare an initiation memo regarding the potential rezoning of the area north of E 9th Street in the East Lawrence Neighborhood. The subject area includes the properties zoned RM24 (Multi-Dwelling Residential) District located south of the Kansas River, west of ATSF Railroad tracks, north of E 9th Street, and east of Rhode Island Street (Figure 1). There are a variety of zoning districts within the broader area that include single-family, multi-family, commercial, and industrial; however, a large portion of the residential lots are zoned RM24 District but contain *Detached Dwelling* (single-family) uses. Representatives of the East Lawrence Neighborhood approached the city with the desire to change the RM24 zoning designation to a single-family zoning district as a means to protect the existing character of the neighborhood by maintaining the existing *Detached Dwelling* and single-family uses.

This initiation memo contains four sections which include Background, Policy, Process, and Staff Recommendation. First, the Background section explores the history of the land use planning and zoning in the area, provides data on the existing conditions, and discusses the feedback from members of the neighborhood that was received at a public engagement event. Second, the Policy section addresses the scope of the rezoning and the potential remedies for nonconformities created by the rezoning. Third, the Process section outlines the necessary steps associated with the rezoning. Fourth, a staff recommendation is provided in this final section.



1. BACKGROUND

A. History of Land Use Planning and Zoning of the East Lawrence Neighborhood

The section below provides an overview of the planning documents specifically related to the East Lawrence Neighborhood, as well as a timeline of applicable zoning within the neighborhood.

EAST LAWRENCE NEIGHBORHOOD PLAN

The *East Lawrence Neighborhood Plan* was adopted by the Lawrence-Douglas County Planning Commission on December 19, 1979. The purpose of the document was to provide an official guide to the future development of the neighborhood. The Plan designates most of the East Lawrence Neighborhood as low-density residential (Figure 2). This designation was based on the premise that the existing single-family homes were providing irreplaceable housing for low-income families. Individuals who participated in the development of the Plan expressed concern that a higher density designation would contribute to pressures for redevelopment that could displace the existing residents.

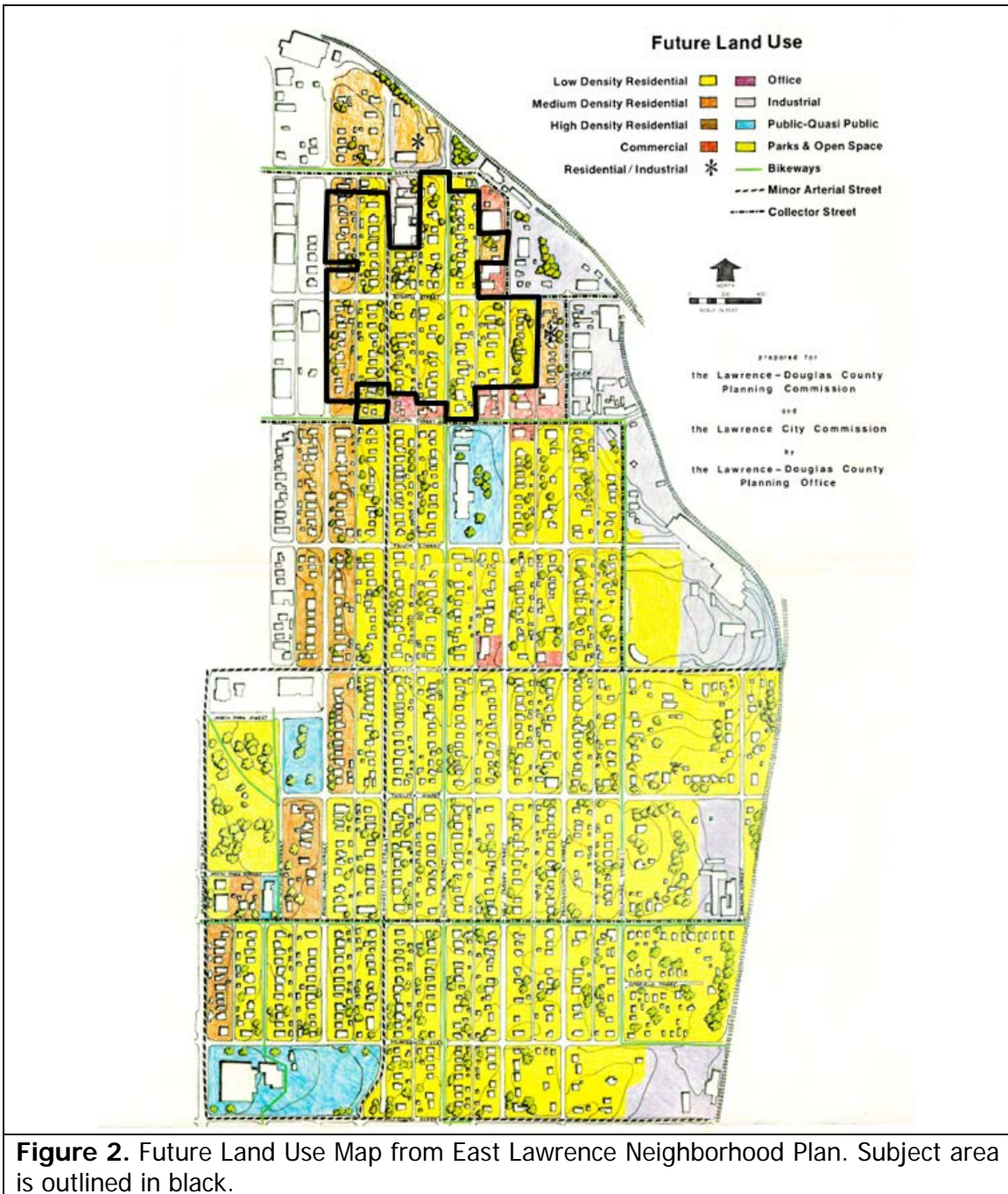


Figure 2. Future Land Use Map from East Lawrence Neighborhood Plan. Subject area is outlined in black.

At the time of the Plan's adoption, the subject area was zoned RM-2 (Multiple-Family Residence) District, which the applicable zoning code defined as "areas which contain single-family and two-family dwellings, are centrally located, and are appropriate to ultimate multi-family development."

The Plan emphasizes that it is a land use plan, and not a rezoning plan. It states that it does not recommend that all areas designated low-density residential be rezoned to a single-family designation, although it also states that it may be desirable if a large percentage of the property owners are in support of a rezoning.

ORDINANCE 5427

On January 18, 1983 the City Commission approved an ordinance providing for the rezoning of certain lots in the East Lawrence Neighborhood from RM-1, RM-2, M-2 (General Industrial) and C-4 (General Commercial) to RS-2 (Single-Family). The affected area was south of E 9th Street, east of Rhode Island, north of 15th Street, and west of the ATSF Railroad tracks (Figure 3). This Ordinance did not include the subject area north of E 9th Street and as such, the area remained zoned for multi-family uses.

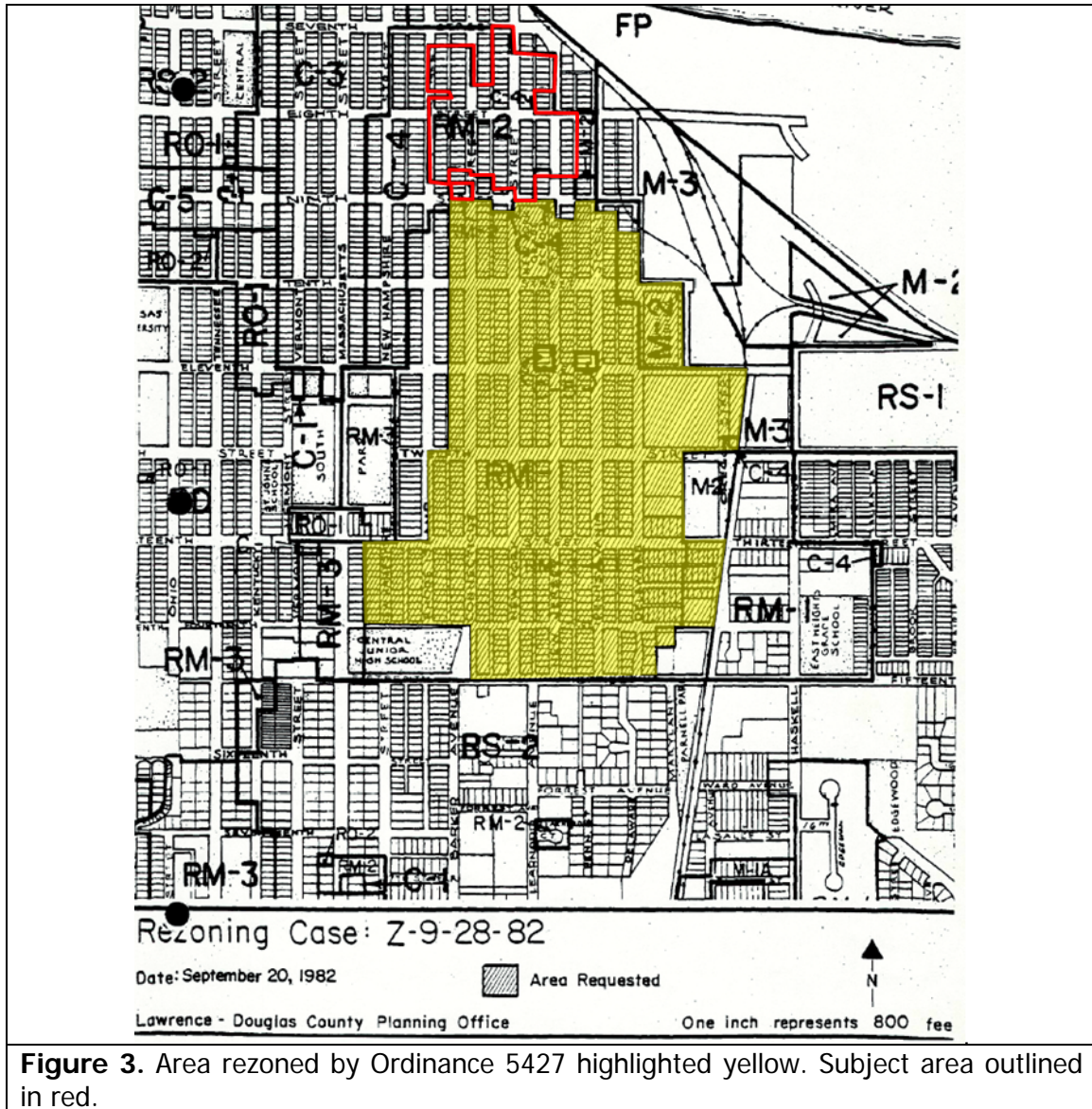


Figure 3. Area rezoned by Ordinance 5427 highlighted yellow. Subject area outlined in red.

EAST LAWRENCE NEIGHBORHOOD REVITALIZATION PLAN

Created with the purpose of preserving the important features of the neighborhood, the *East Lawrence Neighborhood Revitalization Plan* was adopted by the City Commission on November 21, 2000. The Plan states that it is “not a land use plan but a preservation and social action strategy to maintain features that are most important to the homeowners, property owners, business owners, and tenants.” The first goal of the six identified in the plan is “Encourage effective code enforcement, maintain appropriate land use and zoning and develop a true sensitivity to housing issues.”

The Plan does not discuss rezoning as a potential implementation option; however, it does recommend the creation of a 'Single Family Strategies Task Force'. The stated objective of the task force was to work with the City to develop mechanisms to limit the illegal conversion of single-family units into multi-family housing.

The Plan also recommends the creation of a 'Planning and Design Standards Task Force' to revise construction and planning standards to reflect the unique character of the neighborhood, and to protect the single-family zoning.

LAND DEVELOPMENT CODE

The City of Lawrence adopted the current Land Development Code on July 1, 2006. With the adoption of the new code, the zoning associated with the subject area was converted to reflect the new zoning designations. The Code included a new single-dwelling district to accommodate many of the smaller Original Townsite properties that were zoned RS-2. Many of these properties were zoned to RS5 (5,000 square feet minimum lot area). The properties within the subject area that had previously been zoned RM-2 were converted to RM24, a multi-dwelling district with similar density to that permitted in the previous RM-2 District .

Conclusion of Land Use Planning and Zoning History

A review of the previous land use plans and zoning pertaining to the East Lawrence Neighborhood shows that the request to rezone the portions of the RM24 District would comply with these land use plans. Given this, staff would support rezoning to a Single-Dwelling Residential District.

B. Existing Conditions

The information below is provided to facilitate a better understanding of the existing conditions of the East Lawrence neighborhood north of E 9th Street. This section includes information on the existing land uses, the active rental licenses in the area, a residential density comparison, and a summary of the neighborhood public engagement.

EXISTING LAND USES

With the current RM24 zoning, a variety of multi-family housing options are permitted by right, while a single-family house is permitted with approval of a Special Use Permit. Because the area was developed prior to the adoption of the current Land Development Code the subject area contains multiple nonconforming single-family uses (*Detached Dwellings*). While the single-family dwellings came into existence legally, they do not meet the standards of the RM24 District zoning. To determine how many nonconforming single-family uses exist in the subject area, data was collected via the County Appraiser and field research. Table 1 shows the number of *Detached Dwellings*, *Duplexes*, *Multi-Dwelling*, and *Accessory Dwelling Units* located within the subject area. According to this data, 67% of the existing properties zoned RM24 District within the subject area do not comply with the current zoning.

Street Name	Detached Dwelling – No ADU	Detached Dwelling – With ADU	Duplex	Multi-Dwelling Structure	Total
Rhode Island	11	1	1	6	19
Connecticut	22	3	4	5	34
New York	31	1	4	3	39
New Jersey	9	0	8	0	17
E 8 th Street	1	0	0	0	1
Total	74	5	17	14	110
Percentage	67%	5%	15%	13%	100%

Table 1. Housing types north of E 9th Street zoned RM24 District.

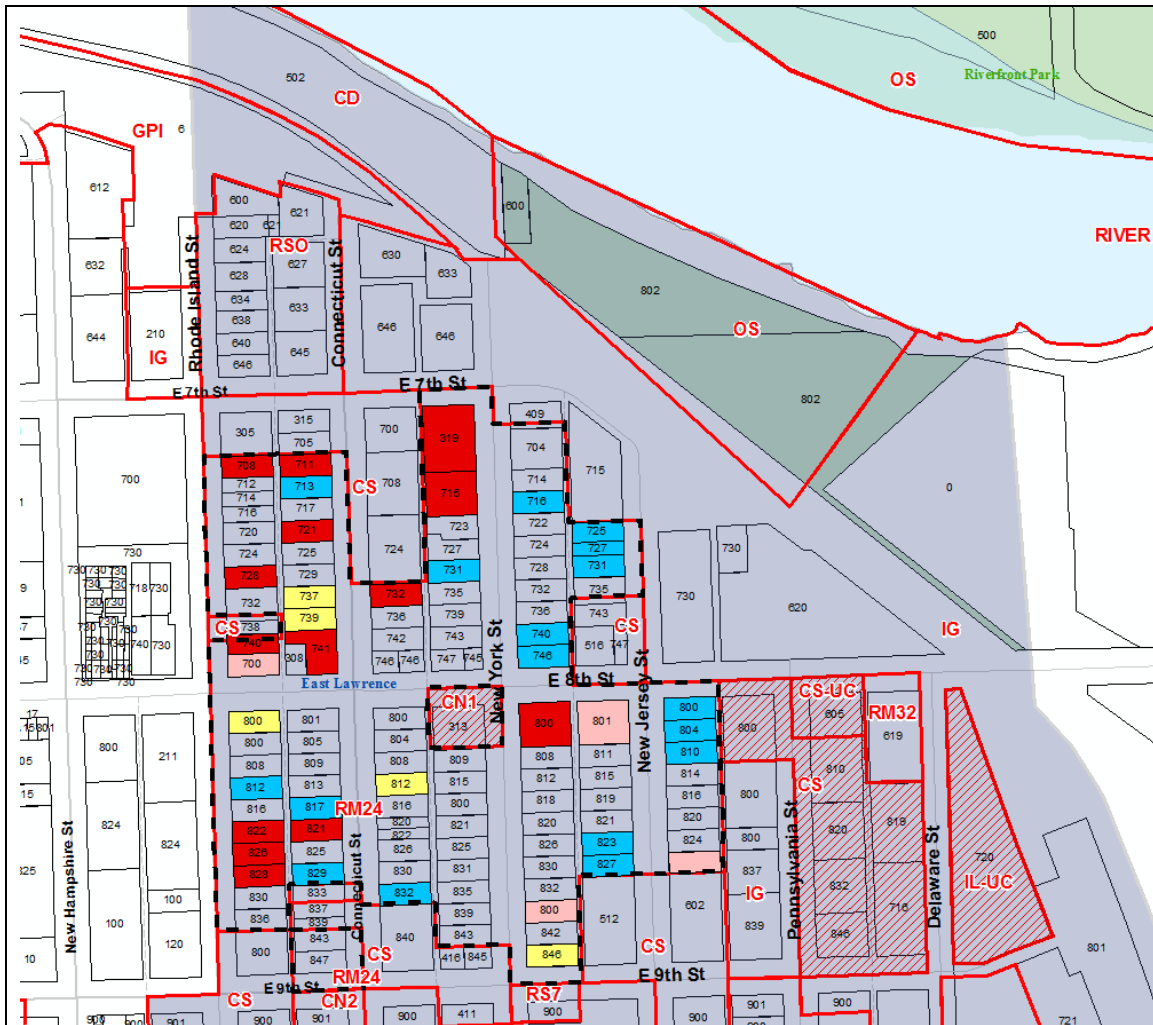


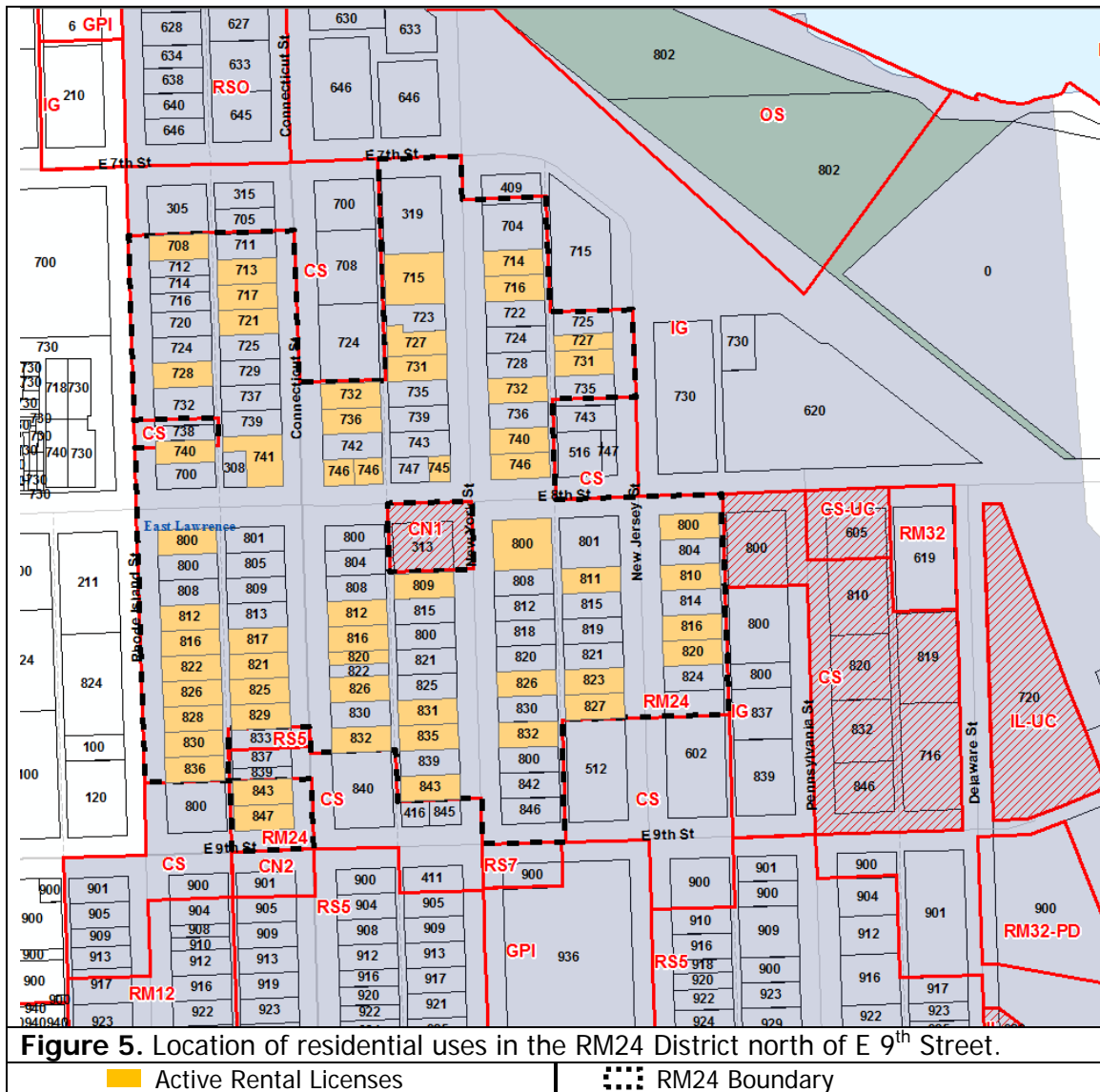
Figure 4. Location of residential uses in the RM24 District north of E 9th Street.

 ADU	 Duplex	 Multi-Dwelling Residential	 Vacant	 RM24 Boundary
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Properties within the RM24 District boundary not highlighted contain Detached Dwellings

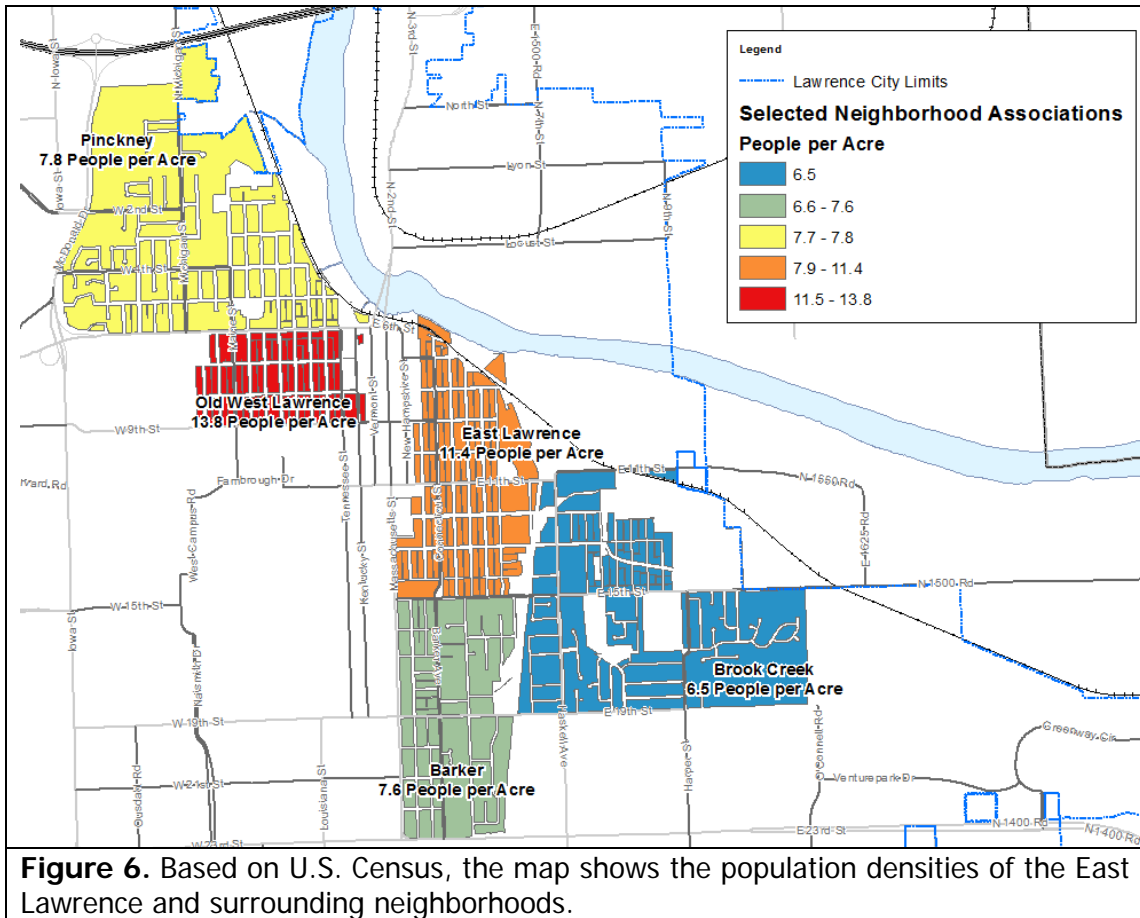
ACTIVE RENTAL LICENSE

Figure 5 below shows the location of active rental properties within the RM24 District of the East Lawrence Neighborhood. Currently, there are 55 active rental licenses. Of those, 28 belong to properties with *Detached Dwellings*. Of the 55 active rental licenses, 51% are associated with a single-family use.



NEIGHBORHOOD DENSITIES

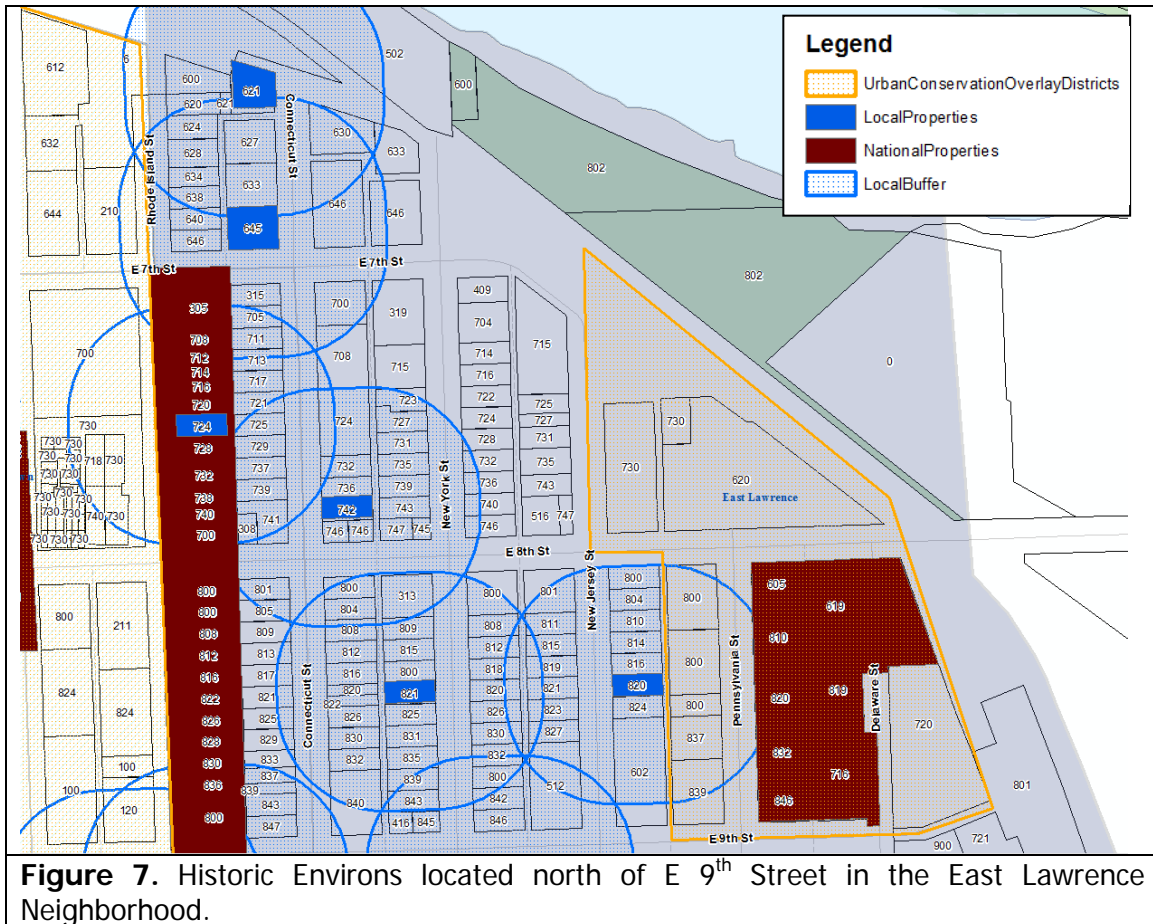
At the public meeting held on March 28, 2016, a question was asked related to the population densities of the East Lawrence neighborhood and adjacent neighborhoods. Figure 6 below provides a comparison of the residential density, based on the U.S. Census, of the East Lawrence neighborhood to the surrounding neighborhoods, which include Barker, Brook Creek, Old West Lawrence, and Pinckney. In this sample, the Brook Creek neighborhood has the lowest population density with 6.5 people per acre, and Old West Lawrence has the highest with 13.8 people per acre. The East Lawrence neighborhood has 11.4 people per acre. This data represents the entire East Lawrence neighborhood and is not specific to the subject area north of E 9th Street.



HISTORIC ENVIRONS

In the East Lawrence neighborhood, north of E 9th Street, there are six properties listed on the Lawrence Register. Properties within 250' of these listed properties are considered to be within the historic environs. As shown in Figure 7 below, the majority of the properties zoned RM24 District are located within historic environs. Also, the properties located on Rhode Island Street are in the North Rhode Island Historic District.

The properties located within the historic environs are subject to review by the Lawrence Historic Resources Commission when exterior construction, alteration or removal requires a city permit; or when demolition is proposed that requires a city demolition permit. No review is required for ordinary maintenance or repair of a structure or building, or for interior maintenance that does not require exterior alterations.



C. Neighborhood Public Engagement

Staff held a public meeting on March 28, 2016 at the Lawrence Public Library to discuss the potential rezoning with interested members of the public. The purpose of the meeting was for staff to share the data collected and obtain feedback regarding the analysis and the potential rezoning. The meeting was attended by approximately 30 people.

The comments provided during the discussion indicated that there is not a consensus regarding the potential rezoning. Some members of the public expressed the need to prevent further intensification of the neighborhood. They stated that the existing rental properties in the subject area presented no issues, but they worried that the RM24 zoning would allow property owners to consolidate lots and build *Multi-Dwelling Structures* that would increase the density of the area. Other members of the public stated that given the proximity to downtown, the area was suited for higher density. These individuals stated that gentrification of the area and its effects on property taxes was a concern. A concern for maximizing structure size under the current RS5 standards was also noted as a cause leading to the potential for gentrification.

Other questions that were discussed during the meeting included:

- What will be the scope of the rezoning? Will it only include the RM24 properties? Would the properties zoned RSO (Single-Dwelling Residential – Office) located to north of E 7th Street be included?

- Would the rezoning only include properties that contain *Detached Dwellings* or would properties with *Duplex* and *Multi-Dwelling Structures* be rezoned to an applicable district?
- How will nonconformities created by the rezoning be handled?
- How will the rezoning affect undeveloped lots?
- Can property owners ask to be excluded from the rezoning?
- How will rezoning affect the owner occupancy limits of the existing rental properties?

Many of these questions are discussed further in the Policy section below.

2. POLICY

A. Scope of the Rezoning

As seen above, many of the questions and comments received at the public meeting centered on the scope of the rezoning. When considering a possible rezoning of the area, the scope should be clearly defined. Given this, below are questions that when answered can help provide direction on a rezoning.

- i. Should participation in the rezoning be voluntary or mandatory?
- ii. Should the rezoning include only the *Detached Dwelling* properties currently zoned RM24 or should other properties be included in rezoning properties to RS5? An example would be including the properties north of E 7th Street that are currently zoned RSO District.
- iii. Should the rezoning include only the *Detached Dwelling* uses or should all properties be zoned to a zoning district that better corresponds to their existing use (See 'Nonconforming Land Uses' below for further explanation)?

B. Nonconforming Remedies

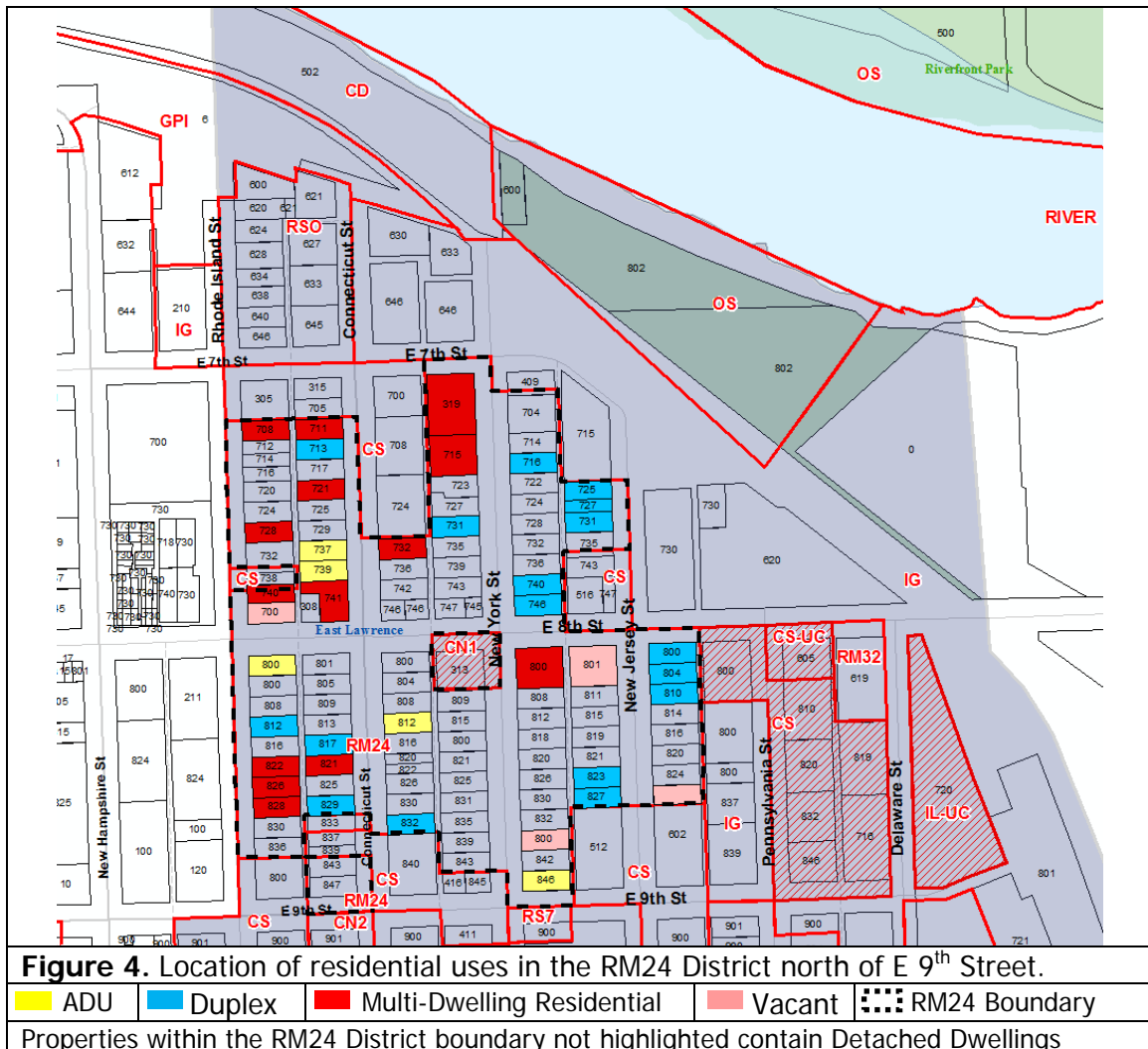
NONCONFORMING LAND USES

There are multi-family developed and single-family converted structures within the subject area that would become nonconforming if the entire RM24 District was rezoned to a single-family zoning district. Rezoning only the RM24 properties that contain detached dwellings would alleviate the properties developed as multi-family from becoming nonconforming.

Options related to the properties with *Duplex* and *Multi-Dwelling Structures* could include maintaining the current RM24 zoning or down-zoning them to a district that more accurately corresponds with the existing use and its intensity of dwelling units per acre. Some of these properties may be nonconforming, though staff has not completed a detailed analysis of all properties and has made no declaration of such for any property in the neighborhood. As mentioned previously, during the public meeting with the neighborhood the question was raised on whether density intensification of the subject area was appropriate. There was not a consensus on this question among the meeting attendees. One concern mentioned was that if the multi-family properties were not zoned to a district that better reflected their current use, there would be an opportunity for lots to be combined and higher density *Multi-Dwelling Structures* could be developed.

Another land use that would be nonconforming if rezoned to RS5 is the *Accessory Dwelling Unit* (ADU) component of a single-family district. Based on field research, it is estimated that there are 5 properties within the RM24 District that contain a *Detached Dwelling* with an ADU. The single-family zoning districts that permit this land use are RS7, RS10, RS20, and RS40. ADUs are not permitted in the RS5 District. Given the existing lot sizes, it is unlikely that the subject area would be rezoned to any of these zoning districts (see 'Nonconforming Lots' below). Therefore, rezoning to the RS5 District that corresponds with the existing lot sizes of the area would create a nonconforming situation for properties that contain a *Detached Dwelling* with an ADU. Staff attempted twice to amend the code to allow ADUs in the RS5 District but was met with opposition from neighborhood groups. Therefore, staff would not recommend changing the code to accommodate this condition. Instead, staff recommends maintaining those uses as nonconforming in the RS5 District by registering their use. Under the current code, the use would cease if the structures are damaged past 60% of their fair market value.

Figure 8 below shows the location of *Detached Dwellings* with an ADU, *Duplex* and *Multi-Dwelling Structures* located within the subject area. Of the 114 addresses located within the RM24 District, there are 5 *Detached Dwellings* with an ADU, 14 *Multi-Dwelling Structures* and 17 *Duplex* uses.



NONCONFORMING LOTS

Section 20-601(a) of the Land Development Code provides the Density and Dimensional standards of the residential zoning districts. The lot area associated with a large portion of the properties zoned RM24 within the subject area would meet the dimensional requirement of RS5 zoning, which requires a minimum lot area of 5,000 square feet per dwelling unit. Based on data obtained from the parcel layer maintained by the County and used in the GIS mapping software, Figure 9 below shows the location of the 10 properties that would not comply with the required lot area associated with the RS5 district. If rezoned to RS5, these properties would become nonconforming. The process to remedy these nonconforming lots could include requesting variances from the Board of Zoning and Appeals.

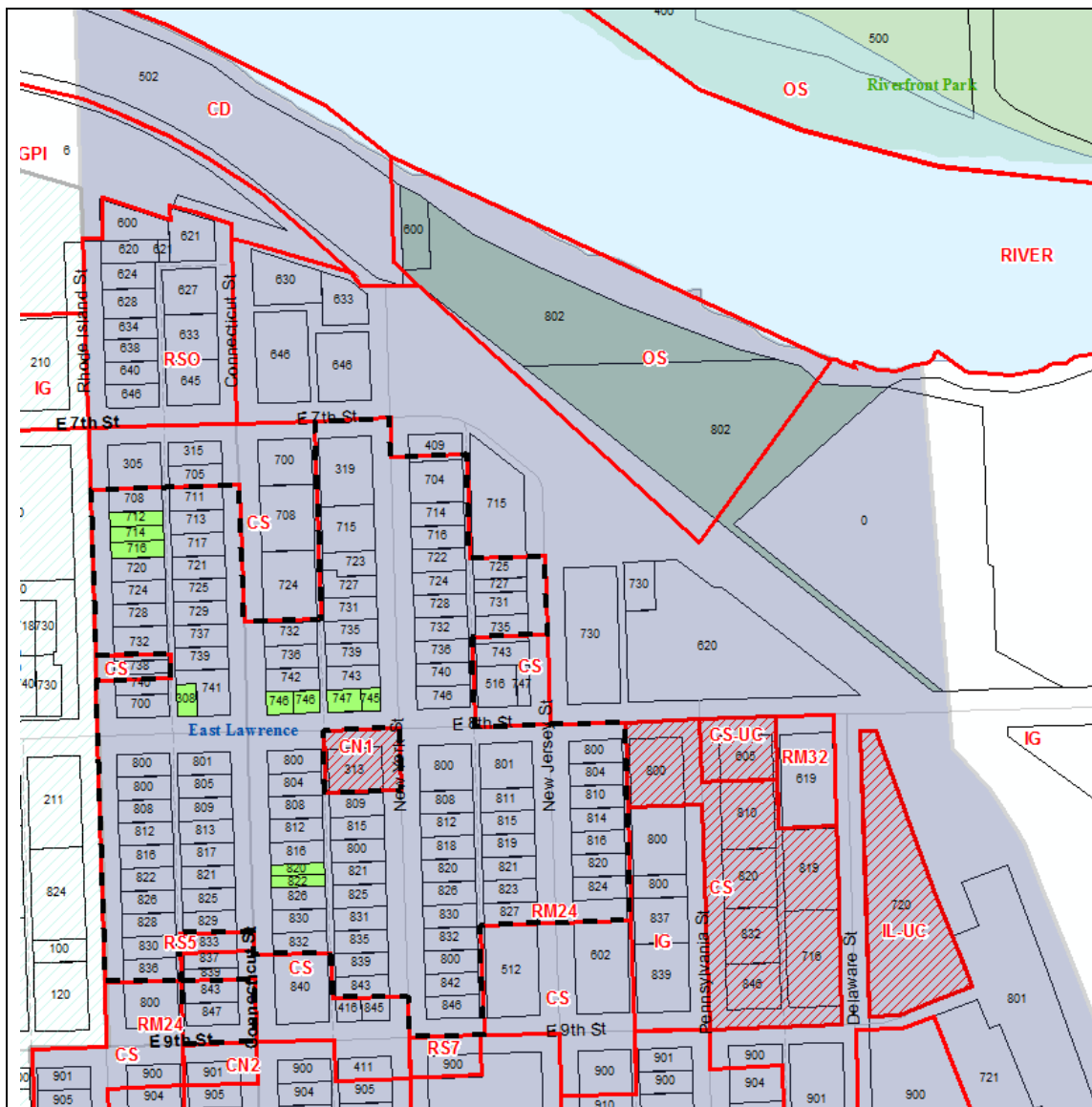




Figure 9. Location of the properties with nonconforming lot sizes, and properties with Accessory Dwelling Units in the RM24 District north of E 9th Street.

 Nonconforming Lot Size	 RM24 Boundary
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OCCUPANCY LIMITS

Per Section 20-601(d) of the Development Code, the maximum number of unrelated occupants per dwelling unit permitted in an RM district is 4, while the maximum number permitted in an RS district is 3. As discussed earlier, there are currently 55 active rental licenses in the RM24 District. Rezoning these properties to a single-family district will lower the occupancy limits from 4 unrelated occupants to 3 and will potentially reduce income for these owners. There is precedent for reducing occupancy. In 2001, the city reduced occupancy limits in the RS districts from 4 unrelated occupants to 3 and provided three years for owners to comply with the new standard. Staff recommends employing a similar program if the area is rezoned to RS5.

3. PROCESS

The process related to rezoning is outlined below.

1. **Initiation:**

A rezoning can be initiated by the City Commission or the Planning Commission. Staff provides a motion to initiate this effort at the end of this memo.

2. **Notification:**

The process would include a Planning Commission public hearing, of which the public would be notified via newspaper and sign posting, and property owners located in the rezoning area and within 200 feet of the proposed rezoning boundary would receive mailed notification. Staff recommends that the notification boundary be extended to 500 feet, however, given the size of this project and the many property owners it would affect.

3. **Neighborhood Meeting:**

Staff would work with the East Lawrence Neighborhood Association (ELNA) to facilitate a neighborhood meeting to discuss the rezoning with property owners and tenants. Input gathered from this meeting would be considered during the staff review and included in the report findings.

4. **Staff Review:**

Planning staff would review the rezoning request based on the criteria found in the Development Code and provide a report of findings to the Planning Commission and the City Commission.

5. **Historic Resource Commission:**

The Historic Resource Commission (HRC) would review the rezoning request based on the criteria found in Chapter 22 Conservation of Historic Resources of the City Code and would provide a recommendation to the City Commission.

The HRC would also perform a state law review using the Secretary of the Interior Standards and Guidelines for Rehabilitation to make a determination.

6. **Planning Commission:**

The Planning Commission will conduct a public hearing, after which the body will make a recommendation to the City Commission to approve, approve with conditions, or deny the rezoning request.

7. Protest Petition:

A protest petition may be submitted within 14 days of the conclusion of the Planning Commission's public hearing. To be considered valid, a protest petition would need to contain signatures of a minimum of 20% of the property owners within the proposed rezoning boundary, or a minimum of 20% of property owners surrounding the boundary.

8. City Commission:

Following the 14 day waiting period, the City Commission will receive the Planning Commission's recommendation and will then consider the request. If approved, the rezoning would become effective upon publication of the adopting ordinance.

4. STAFF RECOMMENDATION

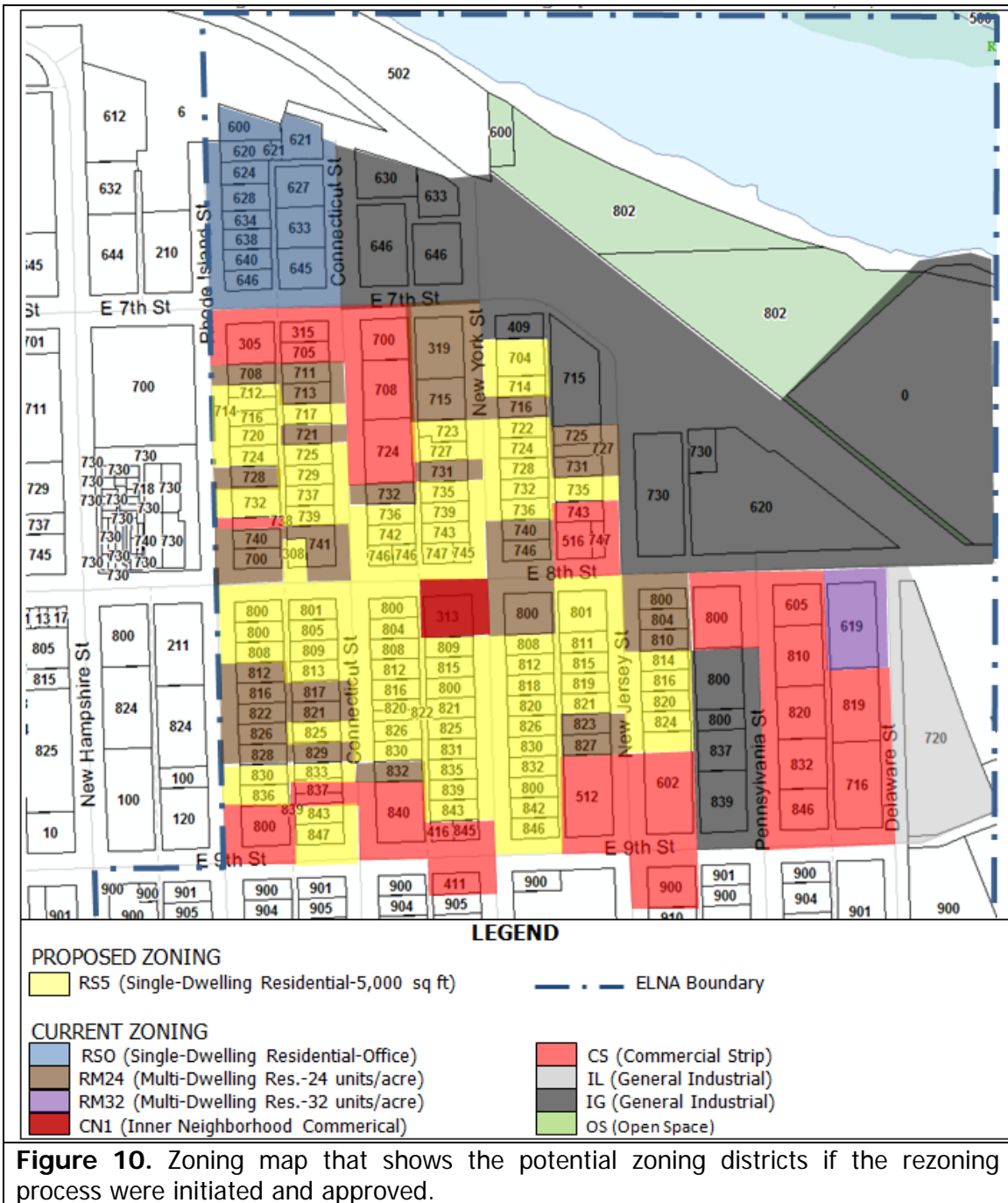
Staff recommends the following scope for this rezoning.

Do:

1. Rezone only the *Detached Dwellings* in the RM24 District to RS5 District.
2. Initiate the rezoning as a non-voluntary rezoning.
3. Initiate a text amendment to create a three year period for bringing properties into alignment with the 3 unrelated occupant standard of the RS5 District.
4. Direct staff to submit nonconforming lots to the Board of Zoning Appeals for lot size and setback variance considerations.
5. Register known *Accessory Dwelling Units* as legal nonconforming uses.

Do not:

1. Rezone uses other than *Detached Dwelling* to the RS5 District or to their corresponding district unless property owners volunteer to do so.
2. Amend the Code regarding allowing *Accessory Dwelling Units* in the RS5 District.



Action

Initiate the rezoning process for the properties zoned RM24 District within the East Lawrence Neighborhood, north of E 9th Street, that contain *Detached Dwelling* uses to the RS5 District.