

PLANNING COMMISSION REPORT

Regular Agenda – Public Hearing Item

PC Staff Report
06/20/16

ITEM NO. 4: IG to CS 1.56 ACRES; 706 E 23RD STREET (MKM)

Z-16-00154: Consider a request to rezone approximately 1.56 acres located at 706 E 23rd Street from IG (General Industrial) District to CS (Commercial Strip) District. Submitted by Lockwood Craft Brewing Co., LLC for Lawrence Brothers, LLC, the property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 1.56 acres from IG (General Industrial) District to (CS) Commercial Strip 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

Applicant's Response:

"The applicant desires to build a microbrewery with an attached taproom and other retail sales on the property. The current zoning IG (Industrial General) would permit the microbrewery but not the taproom or retail sales use. Rezoning to CS (Commercial Strip) allows General Retail Sales and Bar or Lounge uses with site plan approval and the Limited Manufacturing and Production use is permitted when approved with a Special Use Permit."

KEY POINTS

- The property had previously been used as a lumber yard but has been vacant, or partially utilized for a number of years. The last known tenant in the building vacated in 2009.
- The property is not located within the boundaries of a registered neighborhood association but is included in the planning boundary of the *Burroughs Creek Corridor Plan*.
- The property is unplatted. The property would need to be platted through the Major Subdivision Process prior to development.

OTHER ACTION REQUIRED

- City Commission approval of rezoning request and adoption/publication of ordinance.
- Platting of the property through the Major Subdivision process (preliminary and final plat).
- Submittal and approval of a Special Use Permit application and site plan for proposed site improvements and the change in use. Planning Commission recommendation and City Commission approval required for the Special Use Permit application and adoption/publication of ordinance.
- Submittal of construction plans to Development Services for processing of building permits. Building permits must be obtained prior to construction activity.

PUBLIC COMMENT

Staff received no public comment on this item prior to the publication of the staff report.

Project Summary

The property at 706 E 23rd Street is an unplatted parcel of approximately 1.56 acres. The property was originally developed with a lumber store and yard which is now vacant. There is no floodplain on the property and it is not located within the environs of any registered historic property. The property has an access on E 23rd Street which is shared with the property to the east. (Figure 1a)

The applicant proposes to add a secondary access on E 22nd Street and a parking area on the west side of the existing building. A micro-brewery would occupy the majority of the building with a tap room for the sale of alcohol for on-site consumption. They will also sell merchandise such as branded clothing. A small kitchen will be located in the building; however, the majority of the food will be provided by food trucks in the parking area. (Figure 1b)

Proposed Use/ Classification	Zoning Districts*
Micro-brewery/ <i>Limited Manufacturing and Production</i>	MU, IBP, IL, IM, IG With SUP in CD, CC, CR, CS
Tap Room/ <i>Bar or Lounge</i>	CD, CC, CR, CS With SUP in CN2, MU
Sale of merchandise/ <i>General Retail Sales</i>	CN1, CN2, MU, CO, CD, CC, CR, CS, IL

*The Districts that permit all the uses proposed with this project are listed in **bold**. The project will require Commercial Zoning.

Limited Manufacturing and Production is the only proposed use that is permitted in the current IG zoning. As shown in the chart above, *General Retail Sales* could be accommodated with a rezoning to IL (Light Industrial); however, the *Bar or Lounge* use requires commercial zoning. While the micro-brewery would be permitted in the current zoning by right, it will require approval through a Special Use Permit in the CS Zoning.

The subject property is adjacent to CS (Commercial Strip) Zoning. The Development Code notes that the CS District is primarily intended to provide for existing commercial strip development along the City's major arterial streets. The Code does not recommend rezoning undeveloped property to the CS District unless it is adjacent to an existing CS District, as in this case.



Figure 1. Subject property

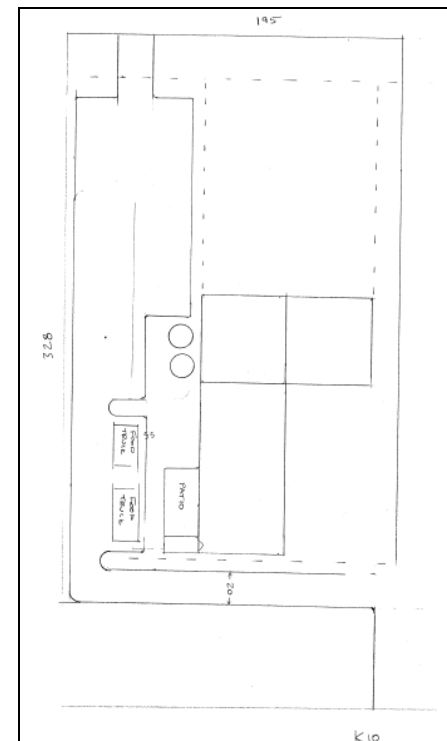


Figure 1b. Concept plan

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The request generally conforms to Horizon 2020 on both commercial and industrial uses within the East 23rd Street corridor. Plan encourages redevelopment of established compatible property. Given the size of the property, it is more compatible for CS than IG in addition to having direct access to 23rd."

Recommendations in *Horizon 2020* are discussed below, with staff comments in red.

"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." (Page 3-1, *Horizon 2020*)

The proposal is an infill redevelopment project which will reuse a vacant building. The proposed use will be consistent with the established land use pattern as shown in Figure 2b.

The plan discusses innovative tools that should be developed to assist owners of lots within the existing strip commercial areas to develop. One of these tools is the combination of access points and the creation of cross access between lots to minimize the need for individual lot access to arterial streets. (Page 6-11, *Horizon 2020*)

The property currently utilizes a shared access on E 23rd Street with the property to the east. This access will be maintained. In addition the development proposal includes an additional access point on E 22nd Street to remove some potential traffic from 23rd Street.

The plan identifies E. 23rd Street as an 'Existing Strip Commercial Development' and notes that infill opportunities are available along the entire corridor. The plan recommends that this area maintain a community commercial focus. (Page 6-16, *Horizon 2020*)

Policy 3.7(C): *Existing Strip Commercial areas shall not expand into surrounding lower-intensity zoning areas.* (Page 6-34, *Horizon 2020*)

The proposal will expand the CS District to the west and will replace IG zoning with CS. Properties on the north side of E 23rd Street/K10 Hwy from Learnard Avenue to the east are zoned CS (Commercial Strip) or IG (General Industrial) The subject property is located within an area that is developed with primarily industrial and commercial businesses. Rezoning the property to CS will expand the area that is zoned commercially, but will not expand the existing strip commercial area into a lower-intensity zoning area.

Staff Finding – The rezoning request is compliant with the recommendations of the comprehensive plan. E 23rd Street is identified in the plan as an existing commercial strip area. Rezoning the property from IG (General Industrial) to CS (Commercial Strip) is compliant with recommendations in the plan for infill redevelopment in this area that is consistent and compatible with the surrounding land use patterns.

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

Current Zoning and Land Use: IG (General Industrial) District; vacant lumber store and yard.

Surrounding Zoning and Land Use:

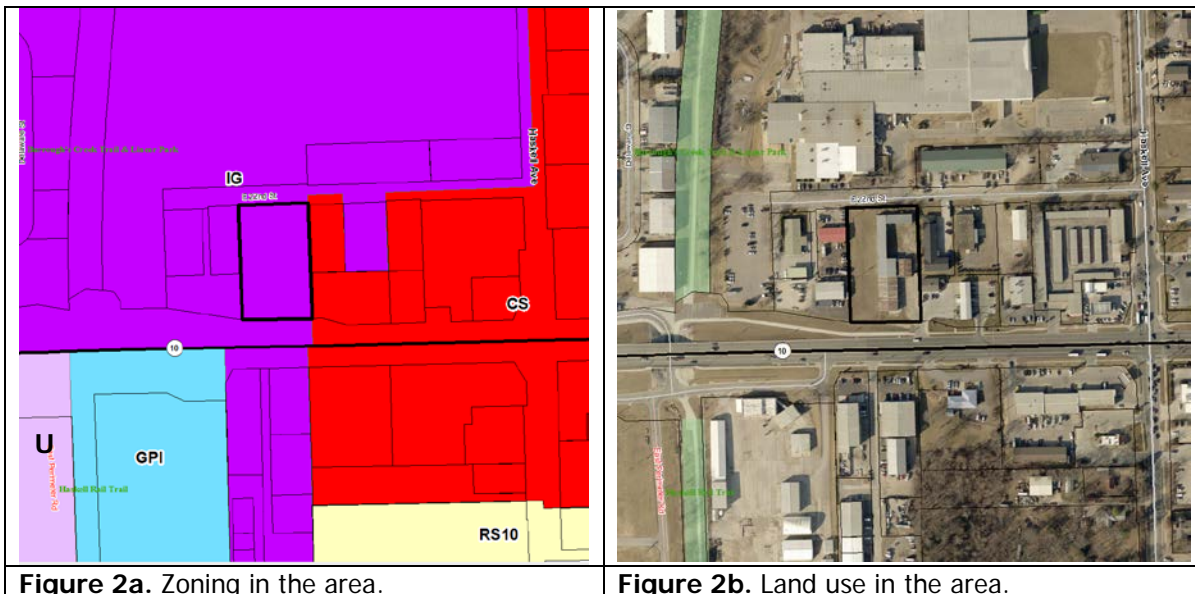
To the north:
IG (General Industrial) District; *Light Wholesale Storage and Distribution* and *General Industrial*

To the west:
IG (General Industrial) District; *Construction Sales and Services* and *Manufacturing and Production, Limited*

To the east:
CS (Commercial Strip) District; *Car Wash, Light Equipment Repair*

To the south: IG (General Industrial) and CS (Commercial Strip) south of K-10; *Veterinarian, Light Equipment Repair*

(Figure 2)



Staff Finding – The predominate zonings and land uses in this mixed-use area are industrial and commercial. The subject property is located at the boundary of the IG and CS Zoning. The GPI district shown in Figure 2a contains the former Douglas County Public Works facilities shop and yard. A rezoning request to the IG (General Industrial) District has been submitted for this property so that it can be used for the School District Operations and Facilities Headquarters.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"East 23rd Street is a well-used travel corridor and commercial business district. Second tier properties are mostly light industrial and small business offices."

E 23rd Street/K10 Highway, a principal arterial, passes through the area from the west to the east, and the Burroughs Creek Trail, a linear park, provides a bike/pedestrian connection to the north and south through the area. Properties to the west of the Burroughs Creek Trail are industrial and commercial in nature near the trail, but are primarily residential further to the west. Haskell Indian Nations University is located south of E 23rd Street/K10 and west of

Burroughs Creek Trail. The neighborhood area, an area of approximately one-half mile in all directions from the subject property, is shown in Figure 3 and the land uses in this area are shown in Figure 4.

The periphery of this neighborhood area consists of residential land uses and the Haskell Indian Nations University, with the exception of the Burroughs Creek Corridor which contains primarily industrial uses. The land uses along E 23rd Street/K10 Highway to the east of Learnard Avenue are a mix of industrial and commercial uses. The proposed rezoning and the proposed mix of commercial and industrial land uses on the subject property would be compatible with and would maintain the character of the area.



Figure 3. Neighborhood Area outlined in red

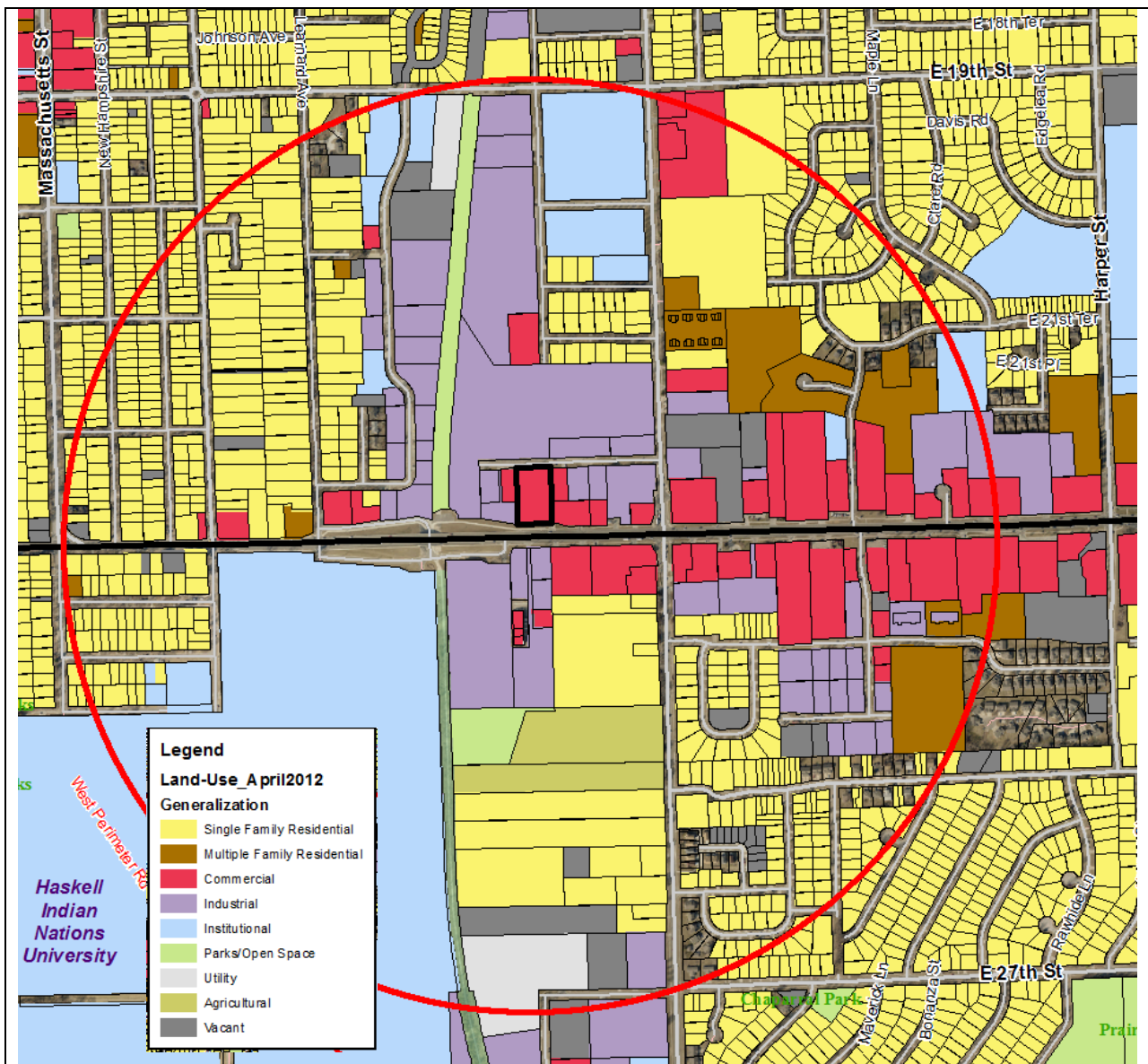


Figure 4. Land uses in the neighborhood area.

Staff Finding – This is a mixed use neighborhood with the predominate uses in the nearby area being commercial and industrial. The proposed rezoning and mix of commercial and industrial uses is compatible with the existing uses in the area and will maintain the established commercial/industrial nature of the area.

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

The property is located within the boundaries of the *Burroughs Creek Corridor Plan*. This plan was requested by the Old East Lawrence, Barker, and Brook Creek Neighborhood Associations. The plan notes that the neighborhoods would like to emphasize residential infill and neighborhood friendly redevelopment of industrial and commercial areas that are presently underutilized. (Page 1-2, *Burroughs Creek Corridor Plan*) Any redevelopment of the site will require site plan approval and the plans will be reviewed for compatibility with nearby uses and the character of the neighborhood.

Staff Finding – The rezoning will allow for the reuse of the former lumber yard site. The *Burroughs Creek Corridor Plan* recommended the development of neighborhood friendly commercial uses. Any site plan submitted for changes to the site will include a review for neighborhood compatibility.

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

Applicant's Response:

"The subject property is highly suitable for the CS designation due to its location on East 23rd Street. Most properties on East 23rd Street are currently zoned CS. The property is of adequate size for the proposed retail establishment and parking and the East 23rd Street frontage favors retail and commercial over industrial uses."

Various uses are permitted in the IG (General Industrial) District. These include limited Commercial uses such as animal services, construction sales and service, building maintenance, building equipment, and all Vehicle Sales and Services Uses: car wash, fleet storage, gas and fuel sales, heavy and light equipment repair, sales, and rentals, as well as all industrial uses that are permitted in the City.

The Development Code notes that the purpose of the IG District is primarily to accommodate moderate- and high-impact industrial uses, including large scale or specialized industrial operations requiring good transportation access. The subject property has access on E 23rd/K10 but this is limited to one shared access point. The limited access and the size of the lot, approximately 1.5 acres, would not be suitable for the heavy industrial uses which are allowed in the IG District.

Staff Finding – The property is not suited to the uses to which it is restricted with the current IG Zoning due to the limited access on the Principal Arterial Street and the small size of the parcel.

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

Applicant's Response:

"Greater than 12 months."

Staff Finding – Our records do not indicate when the building was vacated; however, the lumberyard stopped business in about 2001 and the building has been vacant or only partially utilized since then. Planning files indicate the last tenant vacated the building in 2009. The rezoning will permit the redevelopment of a site that has been underutilized for several years.

7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicants Response:

"There is no foreseen detrimental affect to nearby properties. The parcels on east boundary line are currently zoned CS which is consistent with the use and development of the East 23rd Street corridor. The parcels on the west and north boundary are currently zoned IG. The mixed use of IG and CS has been consistent on the East 23rd Street corridor over time."

The removal of restrictions will allow commercial uses on the property that were not permitted with the IG Zoning. The rezoning will also prohibit some of the heavy industrial uses that are currently permitted on the property. The commercial uses may generate more traffic than the industrial uses. The amount of traffic generated will be evaluated with a Traffic Impact Study with the site plan review and mitigation measures, if needed, will be determined at that time. The property is located on a Principal Arterial and is surrounded by industrial and commercial uses; in staff's opinion, the removal of restrictions through the rezoning to the CS District should not detrimentally affect nearby properties.

Staff Finding – The property is surrounded by industrial and commercial uses and is located on a principal arterial street; the removal of restrictions through the rezoning to the CS District should not detrimentally affect nearby properties.

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

Applicants Response:

"The public benefits by the conversion of a vacant, blighted, property into a vibrant and growing business use. A microbrewery would create 10 to 20 new jobs in Lawrence as well as provide an entertainment option and positive cultural experience. The microbrewery and taproom would increase tourism and generate substantial tax revenues for the community. Rezoning allows the property to pass into new ownership and payment of back taxes at closing."

Approval of the rezoning request would benefit the public health, safety, and welfare by allowing the reuse of the former lumberyard. This site has been vacant or partially utilized for several years. The redevelopment will enhance the aesthetics of E 23rd Street and will effectively utilize the property. Denial of the rezoning request will leave the building vacant or underutilized. The hardship of denial on the future landowner is that they would need to find another location for their business.

Staff Finding – Denial of the rezoning request would require the applicant to find another suitable site for their business. Denial would not benefit the health, safety, or welfare of the public as it would prevent the redevelopment and reuse of the vacant site and would leave

the site vacant or underutilized until another development was proposed. With the limited access to E 23rd Street/K10 Highway and the small size of the lot, it is not well suited for industrial uses and it may be some time before another development is proposed.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, adopted plans for the area, the Golden Factors, and compatibility with surrounding development. The rezoning complies with recommendations in *Horizon 2020*, and with the Burroughs Creek Corridor Plan.

Staff recommends approval of the rezoning request for approximately 1.56 acres from IG (General Industrial) District to CS (Commercial Strip) 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.