

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
04/24/2017

ITEM NO. 4 Z-17-00087 RM12 AND RS5 TO CS; 508 N. Michigan Street (SLD)

Z-17-00087: Consider a request to rezone approximately .52 acre from RM12 (Multi-Dwelling Residential) District & RS5 (Single-Dwelling Residential) District to CS (Strip Commercial) District, located at 508 Michigan. Submitted by The Johnson Group, for Jesson S. Ross, property owner of record.
STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately .52 acres, from RM12 (Multi-Dwelling Residential) District & RS5 (Single-Dwelling Residential) District to CS (Strip Commercial) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.
Reason for Request: <i>The property is currently zoned RM12 (west half – Lot 126) and RS5 (east half – Lots 125 and 127). The property has been utilized at least since the mid-1960s as a commercial business (contractor office/shop/yard). Zoning history indicates Lot 126 fronting on Michigan was zoned for business use from 1946 to 1966. There is no indication that the east lots (125 and 127) ever had a commercial zoning designation. Aerials over time seem to show a gradual expansion of the use of the east portion of the property for storage uses.</i>
KEY POINTS <ul style="list-style-type: none">• Property is located within the Pinckney Neighborhood.• Property is located within the boundary of the HOP District Plan.• Property includes existing commercial building with shared access on the north side of the property.• Use of rear property for exterior storage will be subject to site plan approval if approved.
ASSOCIATED CASES/OTHER ACTION REQUIRED <ul style="list-style-type: none">• NCR-17-00015 Registration of Non-conforming use for Lot 126.• Submission and approval of a site plan, if approved, for use of rear area for exterior storage.
PLANS AND STUDIES REQUIRED <ul style="list-style-type: none">• <i>Traffic Study</i> – Not required for rezoning• <i>Downstream Sanitary Sewer Analysis</i> – Not required for rezoning• <i>Drainage Study</i> – Not required for rezoning• <i>Retail Market Study</i> – Not applicable to residential request
ATTACHMENTS <ol style="list-style-type: none">1. Property History2. Neighborhood Area Map3. HOP Area Map4. Map of Uses5. Hope District Plan Current Land Use Map 2-1
PUBLIC COMMENT RECEIVED PRIOR TO PRINTING <ul style="list-style-type: none">• None received

Project Summary:

This application includes three platted lots located on the east side of Michigan Street. A commercial building, located on Lot 126, is immediately adjacent to Michigan Street. The rear two lots (Lots 125 and 127) are currently used for outdoor storage. The property includes split zoning with the front lot zoned RM12 and the rear lots zoned RS5. Both districts are restricted to

residential uses. The current business is registered non-conforming use. The use of the rear property for exterior storage is not compliant with the requirements of a non-conforming use per section 20-1502. The property must be rezoned to accommodate the full use of the property for non-residential uses.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *This property was included in the HOP (Hillcrest-Old West Lawrence-Pinckney) District Plan and shown as a commercial land use at the time (2005). The plan identified many nonconforming uses in the district and recommended a number of these properties to be rezoned to be consistent with the established uses. For some reason this property was not included in that recommendation and not sure why given its current and historical land use and proximity to the designated commercial area at 6th & Michigan.*

It appears Horizon 20/20 designated this area for office/commercial and/or med.-high density residential.

W. 6th Street between Alabama and Iowa Street is an existing commercial area described in *Horizon 2020*. The corridor includes portions of the Pinckney, Old West Lawrence, and Hillcrest Neighborhoods. The plan generally states: "Existing commercial areas in Lawrence will need to be upgraded in the future to remain viable in the market place." The segment of W. 6th Street between Alabama and Iowa Streets is the oldest section of the W. 6th Street corridor. The plan encourages the retention, redevelopment and expansion of established commercial areas. However, it does not recommend expanding the corridor beyond the property currently zoned commercial or office for this segment of W. 6th Street. This policy was further refined with the adoption of the *HOP Plan* in 2005. That plan recommends aligning land uses with appropriate zoning districts that reflect the use. Residential uses in the *HOP* area are to be protected and preserved and the commercial corridor enhanced.

A commercial goal of *Horizon 2020* is the use of compatible transitions from commercial development to less intensive uses. This is implemented through the Land Development Code (zoning) as well as other design requirements such as setbacks, screening, landscaping, and Commercial Design regulations. By rezoning the property to a suitable commercial district the property becomes subject to those related design standards as the property redevelops.

This segment of W. 6th Street is defined as strip commercial development. The property included in this request is located in the most intensive part of the corridor, between Michigan Street and Maine Street north of W. 6th Street. The request does not extend to W. 5th Street which is the boundary between the commercial and residential uses of the neighborhood. Uses along W. 5th Street are residential and mark the transition into the lower density residential bulk of the neighborhood.

Staff Finding – *Horizon 2020* broadly addresses commercial development and includes two conflicting statements regarding commercial development as it pertains to the subject property. On one hand the plan recommends infill development and redevelopment of existing commercial areas. It also recommends that the commercial corridor of W. 6th Street between Alabama and Iowa Street be restricted to its currently zoned boundaries. The more recent *HOP Plan* identifies the subject property as part of the existing commercial land use inventory and noted that the use and zoning district do not align. The *HOP Plan* is silent on this specific property with regard to rezoning.

Approval of the request to a commercial district will facilitate the implementation of compatible design for the property where it interfaces with the residential uses to the north through the Development Code and Commercial Design Guidelines. This implements the recommendation to create appropriate land use transitions between commercial and lower-density residential development.

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

Current Zoning and Land Use:		RM12 (Multi-Dwelling Residential) District and RS5 (Single-Dwelling Residential) District. Existing commercial building and rear lots used for storage.
Surrounding Zoning and Land Use:		
To the north	RM12 (Multi-Dwelling Residential) District and RS5 (Single-Dwelling Residential) District. Existing duplex on the southeast corner of Michigan Street and W. 5 th St. Three detached residences on the south side of W. 5 th St.	
To the south	RM12 (Multi-Dwelling Residential) District and RS5 (Single-Dwelling Residential) District. Existing duplex immediately south of the subject property and undeveloped lot.	
To the west	RM12 (Multi-Dwelling Residential) on the west side of Michigan Street. Existing detached residential uses and an existing non-conforming commercial use on the southwest corner of Michigan Street and W. 5 th Street.	
To the east	RS5 (Single-Dwelling Residential) District and CO (Commercial Office) District to the east. Existing detached residential uses along W. 5 th Street and medical office uses and a monopole wireless communication facility) with frontage to W. 6 th Street and Maine Street.	

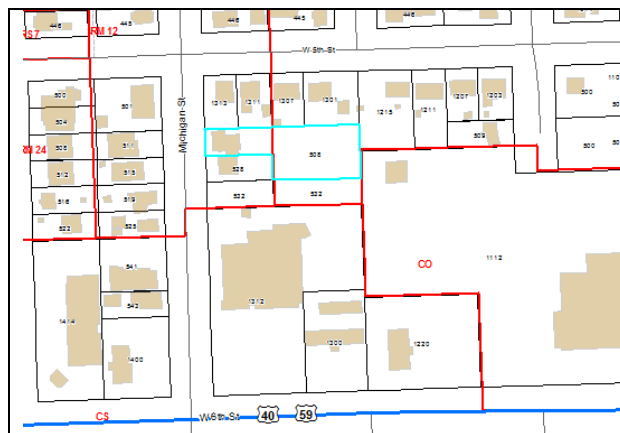


Figure 1: Existing Zoning

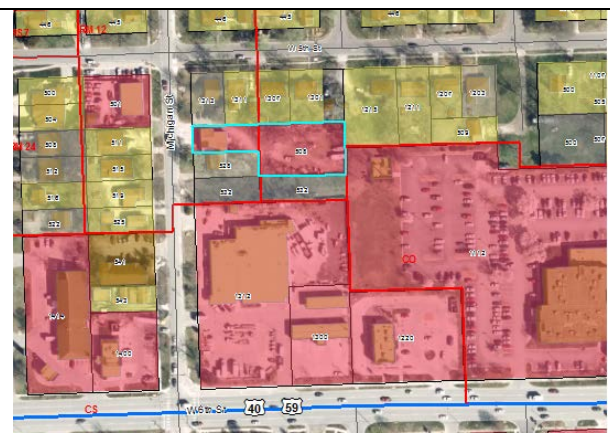


Figure 2: Existing Land Use

Staff Finding – The property is surrounded by existing residential zoning. Land uses include developed and vacant lots and commercial uses to the northwest and southeast. Residential uses include both detached and duplex structures.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *The neighborhood is comprised of mixed residential (Single family, duplexes, apartments), commercial and retail. In 2005, the HOP District Plan evaluated the existing conditions of individual properties and ranked them on 3 levels of condition – Good, Needs Work, or Dilapidated. The results found 71% good, 26% Needs Work, and 1% dilapidated (note – 1%*

had no structure). As of 2017, without re-evaluating all of the properties again, it is difficult to say with certainty if/how much any of the above percentages changed. Based on general overview, I believe there are more properties in need for repair/redevelopment than in 2005.

The property is located in the Pinckney Neighborhood. The neighborhood includes a mix of residential uses and a core commercial area along W. 6th Street. Significant land uses in the neighborhood include Lawrence Memorial Hospital and the City's Water Treatment Plant. Other public facilities that have been established in the neighborhood include Bert Nash, Douglas County Health Department, Visiting Nurses, Healthcare Access and the School District Maintenance Building.¹ These uses are centrally located in the neighborhood.

Additionally, three historic district/properties have been designated since the 1978 plan and the *HOP Plan*. A portion of the Clinton Park environs extends into the east portion of the *HOP Plan* area. The subject property is not located within any historic environs in the neighborhood.

Commercial uses are located on both sides of W. 6th Street. Commercial uses and zoning extend deeper on the north side than the south side. Maine Street and Michigan Street extend north and south of W. 6th Street and are designated collector streets between W. 6th Street and the Hospital, located on the north side of W. 4th Street. The subject property abuts Michigan Street on the east side and has direct access to the surrounding collector/arterial street network in the neighborhood.

Several commercial properties along W. 6th Street have been improved since the adoption of the *HOP Plan*. The map below highlights the location of many of these improvements within the commercial corridor.



Figure 3: Commercial properties redeveloped since 2005.

W. 5th Street marks the north boundary of the commercial corridor. Residential uses are located on both the north and south sides of 5th Street with the exception of the body shop located at 501 Michigan Street, northwest of the proposed rezoning. Lots located east of Michigan Street front both sides of W. 5th Street. Lots west of Michigan Street generally face the abutting side streets. This development pattern establishes a “back to back” or “back to side” relationship between the residential and non-residential uses as the neighborhood transitions north from W. 6th Street.

¹ This use is being relocated to E. 23rd Street in the near future.

Within the Pinckney Neighborhood there are a variety of commercial zones that encapsulate the W. 6th Street corridor. At least two uses are located south of 5th Street but are not currently zoned commercial. This application addresses only the property located at 508 Michigan Street.

Staff Finding – The Pinckney Neighborhood includes commercial uses along the 6th Street corridor. Medical Office and Hospital uses along Maine Street and a variety of residential uses dominate the neighborhood.

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

The *Pinckney Neighborhood Plan* was completed in 1978. The *HOP Plan* focused on the W. 6th Street corridor and was completed in 2005. The southeast portion of the neighborhood was rezoned from RM (Multi-Dwelling) to RS (Single Dwelling) as part of the 1978 plan. The 2005 *HOP Plan* recommended rezoning of properties consistent with their land use.

The subject property was not part of the neighborhood rezoning efforts that changed some of the multi-dwelling district to a detached dwelling district in the 1980's. The *HOP Plan* was intended to establish conformity of land use and zoning within a specific area of the neighborhood. The plan states: *As the HOP District redevelops, the adjacent neighborhoods would like to see redevelopment projects designed to protect the eclectic and historic gateway character of the HOP District. In particular, the neighborhood would like to preserve existing single-family housing and revitalize the commercial W. 6th Street Corridor.*

Three primary goals were identified in the plan:

1. Establish design guidelines;
2. Update zoning to reflect use; and
3. Promote district as a medical entryway and promote district as a gateway to Downtown.

The plan identified three focus areas within the plan boundary. The subject property is identified in the plan as a non-conforming commercial use but was not included in any of the three focus areas. After adoption of

the plan several properties were rezoned in Area 2. All of those changes were located on the south side of W. 6th Street. No additional zoning changes have been implemented since the adoption of the plan other than the changes related to the adoption of the Land Development Code.

Specific guidelines for this commercial corridor and neighborhood have not been adopted. However, the City has adopted Community Design Regulations that are applicable to all commercial areas unless they are otherwise governed by either the Downtown Design Guidelines

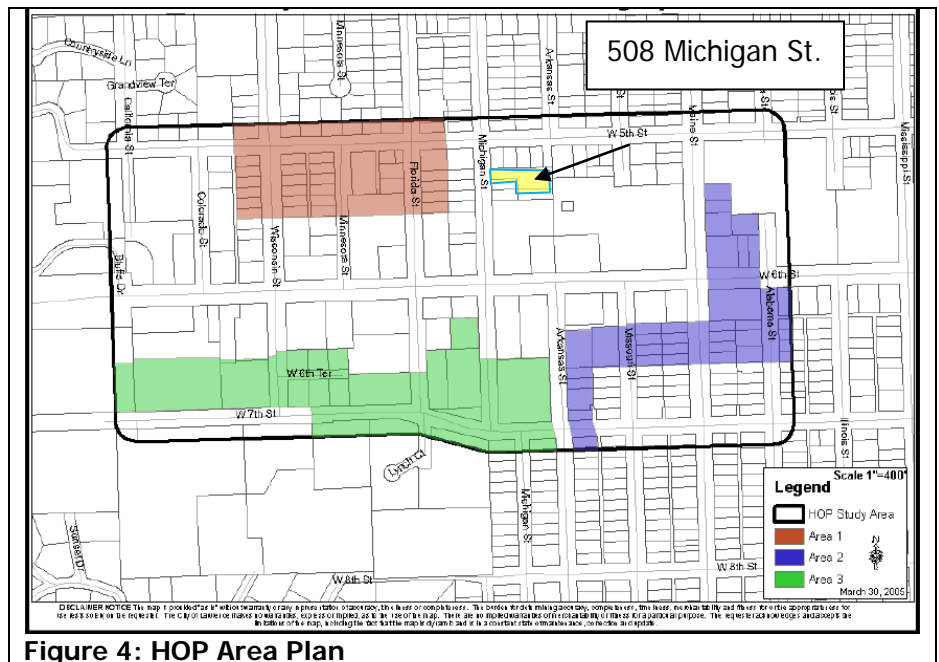


Figure 4: HOP Area Plan

or other specific set of design guidelines or overlay district requirements. Commercial redevelopment and new development is subject to the Community Design Guidelines.

Regarding updating zoning to reflect land uses the plan noted there was a “*predominance of single-family detached dwellings in multiple-family residential and commercial zoning districts.*” In some cases the uses are non-residential (commercial/office) located in residential zones. The existing land use map (2-1) and Development Code and Existing Land Use Map (2-3) and the supporting table 2-5 all identify the property at 508 Michigan Street as an existing commercial (non-conforming) use. The plan states “*where possible and consistent with the plan’s goals, properties abutting the commercial zones should be a form of mixed use, multiple-family residential, and office uses and zonings.*” Page 4-2. The plan does not address the commercial corridor other than to identify non-conforming uses as noted above. The plan also does not include a future land use map as typically found in similar documents.

Both Michigan Street and Maine Street are designated in the plan as “Medical Entryways”. The subject property is located along Michigan Street. Other north-south streets that intersect W 6th Street are typically more residential.

Key goals of the *HOP Plan* are to revitalize the commercial corridor and to protect existing residential uses. The proposed request would align the use and the zoning district and will not remove any residential uses from the neighborhood.

Staff Finding – This request is consistent with the stated objective of the plan to align land use and zoning.

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

Applicant’s Response: *The property is very suitable. The property has been used as commercial for over 50 years. I believe we have found sufficient information to request that Lot 126 (Michigan Street frontage) as a legal, nonconforming commercial land use. However, the parcel addressed as 508 Michigan also includes Lots 125 and 137 along with vacated right-of-way for Arkansas Street (The eastern portion of the property). While this property has been used as a storage yard accessory to a commercial business in the past (i.e. Comet Corp and Apex Fence Company), it’s our understanding there isn’t any zoning authority for the establishment of a commercial use on these two lots. Therefore, we need to seek rezoning to commercial in order to conform to the code.*

The property included in this rezoning request includes three platted lots. The lot immediately adjacent to Michigan Street has been determined to be non-conforming. Business uses were allowed in the mid 1940’s. The rear two lots (with no direct access to a public street) appear to have been incrementally used for storage uses associated with the building over time. The commercial zoning from the 1940’s did not extend to these two lots thus they are ineligible for non-conforming status. Regardless, the property has operated during the intervening time as a commercial use within the neighborhood.

The proposed change would extend the commercial district in this area farther north but stops short of including property along W. 5th Street, the traditional boundary of the start of residential uses north of W. 6th Street.

If approved, three lots south of the subject property, two adjacent to Michigan Street and one not, would be sandwiched between commercial zoning. One property is an existing residence (528 Michigan Street); the other two properties (532 Michigan Street) are currently vacant land. It is reasonable to anticipate a future request for these properties to also be incorporated into the commercial district.

Staff Finding – The property included in the request has continued to operate as a commercial business since the 1940s with the rear area functioning as an exterior storage yard. The property can be considered as part of the commercial corridor but does not benefit from a similar zoning designation. The current zoning, residential, is not suitable for the existing commercial use. Approval of the request would align the use and zoning district.



Figure 5: 528 and 532 Michigan Street

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

Applicant's Response: *It is currently occupied. The property has been used as commercial (i.e. Apex Fence and Comet Corp., etc) for over 50 years. It is unknown if/how long the property was vacant prior to recent purchase by the current owner.*

The history of the property is attached to this staff report. The property has been zoned RM12 and RS5 since the adoption of the Land Development Code in 2006. The property is not vacant but includes a commercial building located along Michigan Street, Lot 126. The rear lots are unimproved but used for exterior storage associated with the business operations.

The entire area was zoned RM-1 (Multi-Family Residential) District in 1966 with the eastern portion rezoned to RS-2 (Single-Residence) District in 1978 with the Pinckney Neighborhood downzoning. At that time right-of-way for Arkansas Street still existed and the lots could have been developed as residential uses with the construction of Arkansas Street south of W. 5th Street. The street was later vacated in 1991 as part of the Lawrence Medical Plaza expansion. The east lots were assembled over time beginning in the 1980's.

Staff Finding – The property included in this request is developed with a building along the Michigan Street frontage and undeveloped property to the east. The building was constructed in the late 1960's. Lots 125 and 127 no longer have frontage on a public street.

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

Applicant's Response: *We do not believe there will be any detrimental effect to the nearby properties. The property's current use is commercial as well as the historical use dating back to at least 1960. Future land use plans designate the area directly to the south as commercial. The*

immediate neighborhood area has operated and existed with this commercial use for more than 50 years.

Nearby properties include residential uses fronting W. 5th Street and a duplex residence immediately south of the property. Residential uses include a mix of rental and owner occupied structures. An existing non-conforming automotive related use is located to the northwest at the intersection of Michigan Street and W. 5th Street. The east portion of the property abuts existing CO (Commercial Office) District zoning. The property owner of the office at 1112 W. 6th Street also owns multiple properties in the immediate area. It is unlikely this property owner will be impacted by this proposed zoning change. The proposed request will not alter the existing use but align the use and the zoning district. Both the residential and non-residential uses have co-existed for more than 40 years.

If approved, it is reasonable to anticipate additional commercial requests for other lots in the immediate area. Lots along W. 5th Street should remain residential as a transition between the commercial corridor and the lower density residential portion of the neighborhood. See figure 5.

Staff Finding – Approval of the request is not anticipated to result in detrimental impacts to the adjacent 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

Applicant's Response: *The gain to the public would be economic (increase tax base) due to commercial vs. residential tax rate. Public health, safety, and welfare could possibly improve due to the code/zoning/permit requirements, restrictions, process that is required of a commercial property. As a small business owner, if the application is denied, the owner would experience hardship due to the fact this is the location of his business.*

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.

The property included in the request is both established non-conforming and not. The location of the business operation in the building at 508 Michigan Street, Lot 126, can continue to function as a commercial use with the non-conforming determination. The use of the rear property, Lots 125 and 127, are not included in the non-conforming determination and therefore cannot be used in association with the commercial business with the current zoning. The vacation of Arkansas Street makes the development of the lots for residential use unlikely. The only access to these lots is from Michigan Street through Lot 126. The logical and historic use of the lots has been associated with the commercial use on the property since the 1980's.

Approval of the proposed zoning aligns the use and district. Redevelopment of the site will be subject to commercial design guidelines. Creation of an appropriate buffer between the residential and non-residential uses will be required in the future. Approval of the request provides more assurance to the property owner and the neighborhood regarding what land uses are allowed. This improves the ability of the City to administer and enforce the Land Development Code as it applies to the property.

Staff Finding – Approval of the request provide assurance to both the property owner and the surrounding residents regarding permitted land uses and applicable development requirements. Approval of the request unites the properties under a single zoning designation and allows for full use of the property with the access to Michigan Street.

9. PROFESSIONAL STAFF RECOMMENDATION

This request has been reviewed in context with the *HOP District Plan* as well as assessing existing land uses in the immediate area. The area between Michigan Street and Maine Street is expectantly, the most intensive portion of the commercial corridor with both streets designated as collector streets and primary routes to Lawrence Memorial Hospital.

Land uses along the south side of W. 5th Street are uniformly residential with the single exception of 501 Michigan Street, which is also a non-conforming use. The proposed request would not encroach on the boundary of the residential transition that occurs along W. 5th Street. The subject property was identified in the *HOP District Plan* as a commercial land use, as was one of the vacant lots to the south in Map 2-1 (Attached).

Previous land use decisions in the area, especially the vacation of Arkansas Street, south of W. 5th Street, removes the likelihood of future development of the rear lots for residential uses. The north property line is a natural boundary of the commercial corridor within the segment between Michigan Street and Maine Street (depicted with the teal dashed line in figure 7). As the corridor extends to the east and west the depth of the corridor should be held to the current boundaries. There are still several isolated properties within the plan boundary that do not align with the base zoning district. If other properties in the immediate area along Michigan Street seek a similar rezoning each must be considered independently. Approval of this request does not necessarily support a future request for adjacent and nearby properties. The subject property can reasonably be incorporated into the 6th Street Corridor of this area.

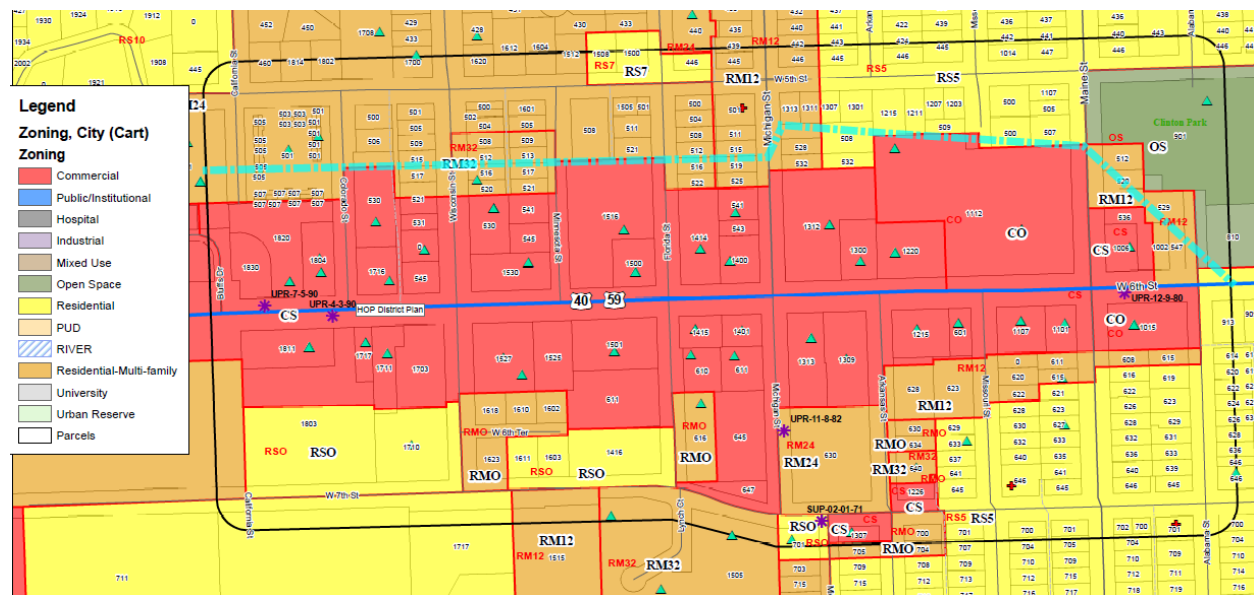


Figure 6: Commercial Corridor

CONCLUSION

Staff recommends approval of the proposed zoning from RM12 and RS5 to CS.