

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
9/26/2018

ITEM NO. 1 REZONING 0.150 ACRE FROM CS TO RS5; 829 MISSISSIPPI (BJP)

Z-18-00355: Consider a request to rezone approximately 0.150 acre from CS (Commercial Strip) District to RS5 (Single-Dwelling Residential) District, located at 829 Mississippi St. Submitted by Homes with Heart LLC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 0.150 acres, from (Commercial Strip) District to RS5 (Single-Dwelling Residential) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Applicant's Reason for Request: *The owner would like to separate the lot from the house located at 829 Mississippi to the north and at some point offer the lot for sale as a residential building lot. Rezoning this lot would correct the split zoning of the house and lot to make the zoning consistent.*

KEY POINTS

- The property contains two platted lots that are split zoned. The north lot contains a *Detached Dwelling* and is zoned RS5 (Single-Dwelling Residential) District. The south lot is vacant and is zoned CS (Commercial Strip) District.
- The intent of the rezoning request is to provide the property with a uniform zoning of RS5 District.
- The existing *Detached Dwelling* straddles the interior lot line between the two lots. As such, the south lot is encumbered and is not currently eligible for building permits. To make the south lot buildable, a minor subdivision will be necessary to adjust the interior lot line so that the existing *Detached Dwelling* is entirely contained on the north lot. Minor subdivisions are processed administratively.
- The property is located in the Old West Lawrence neighborhood.

OTHER ACTION REQUIRED

- City Commission approval of rezoning request and adoption/publication of ordinance.
- Submittal and approval of a minor subdivision to adjust the interior lot line creating a buildable lot.
- Submittal of construction plans to Development Services for processing of building permits. Building permits must be obtained prior to construction activity.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No public comment was received prior to the printing of this staff report.

Project Summary:

The subject parcel contains two platted lots with two different zonings. The north lot (Lot 6) is zoned RS5 (Single-Dwelling Residential) District and the south lot (Lot 7) is zoned CS (Commercial Strip) District. The property contains a *Detached Dwelling* on the north lot while the south lot is

vacant (Figure 1). The intent of the rezoning request is to correct the split zoning and provide the property with a uniform residential base zoning district.

The existing *Detached Dwelling* straddles the interior lot line between Lot 6 and Lot 7. As such, the south lot is not currently eligible for building permits as the lot is encumbered by the existing structure. If the rezoning is approved, the applicant has indicated that they will submit a minor subdivision application to move the interior lot line to the south to create an unencumbered lot that would comply with the dimensional standards of the RS5 District. With approval of the rezoning and a minor subdivision application, construction of a *Detached Dwelling* would be permitted on the south lot.



Figure 1. Subject property with current and proposed zoning shown.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *This request is consistent with the comprehensive plan, Horizon 2020. The fourth full sentence of page 5-4 states in its first sentence, "While existing single-family neighborhoods are essentially built-up, several vacant parcels are scattered throughout the existing community where new low-density residential development should occur in the future."*

The following section of *Horizon 2020* is applicable to this rezoning request:

Chapter 5 – Residential Land use:
Goal 3: Neighborhood Conservation

The character and appearance of existing low-density residential neighborhoods should be protected and improvements made where necessary to maintain the values of property and enhance the quality of life. (Page 5-15)

Policy 3.3. Encourage Compatibly Infill Development

- a. Encourage redevelopment and infill as a means of providing a variety of compatible housing types within the neighborhoods. (Page 5-15)

Staff Finding – *Horizon 2020* identifies future plans for the general area as appropriate for office and/or commercial uses for properties along 9th Street, and low-density residential uses for properties north of the 9th Street commercial area. Rezoning the subject property to RS5 would be in conformance with the Neighborhood Conservation goal in *Horizon 2020*. The intent of the rezoning is to provide a vacant lot with a residential zoning. By doing so, the lot would be eligible for development with a *Detached Dwelling* use (after approval of a Minor Subdivision). The rezoning will provide an opportunity for residential infill development within the Old West Lawrence neighborhood.

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

GENERAL INFORMATION

Current Zoning and Land Use: RS5 (Single-Dwelling Residential) and CS (Commercial Strip) Districts; *Detached Dwelling*.

Surrounding Zoning and Land Use: To the north:
RS5 (Single-Dwelling Residential) District; *Detached Dwellings*.

To the south:
CS (Commercial Strip) District; *Multi-Dwelling Structure* and *Gas and Fuel Sales*.

To the east:
RS5 (Single-Dwelling Residential) District; *Detached Dwellings*.

CS (Commercial Strip) District; *Office* and *Retail, General*.

To the west:
RS5 (Single-Dwelling Residential) District; *Detached Dwellings*.

CS (Commercial Strip) District; *Retail, General* and *Bar or Lounge*.

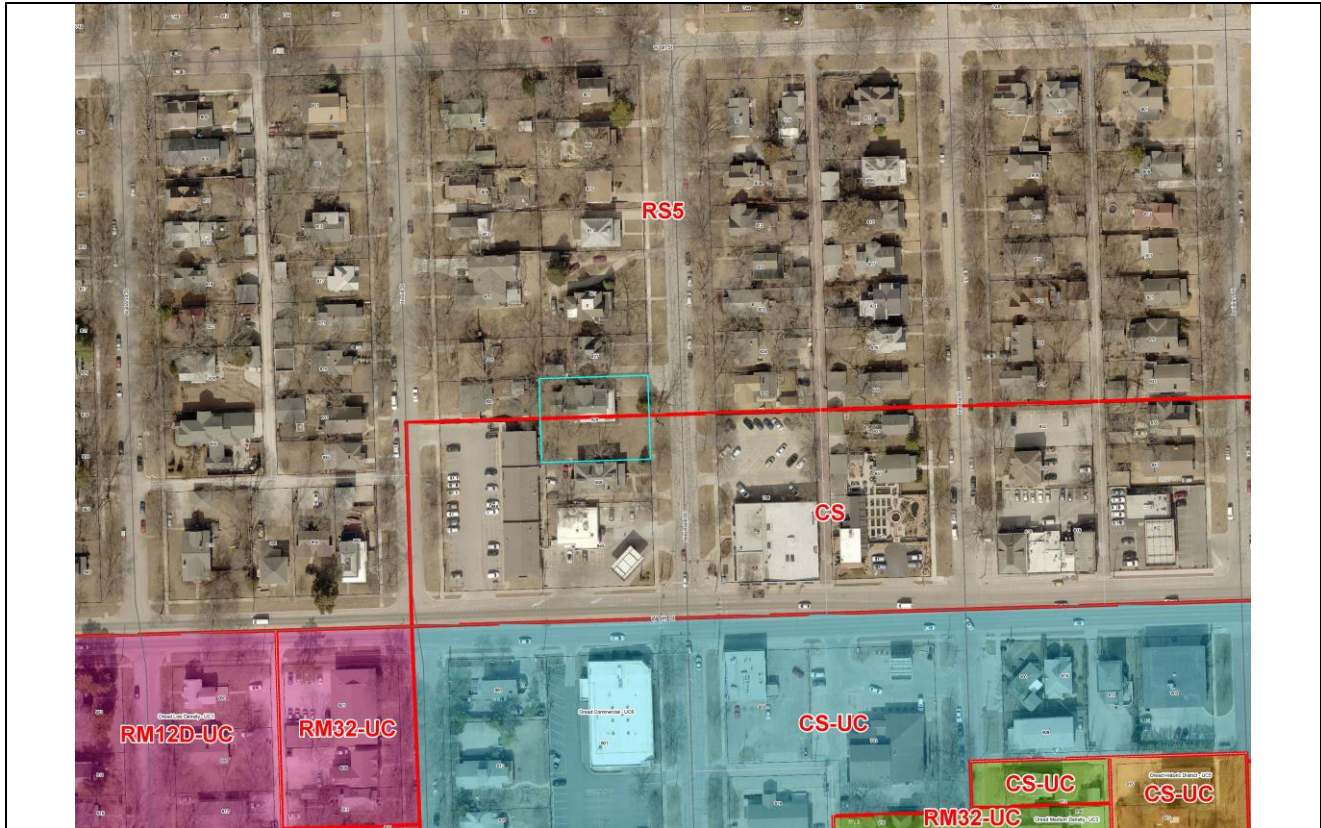


Figure 2. Zoning of the surrounding area. Subject property outlined in blue.



Figure 3. Land use of the surrounding area. Subject property outlined in blue.

Staff Finding – The area contains a mixture of residential and nonresidential uses. *Detached Dwellings* are located to the north, east, and west of the subject property. According to the Douglas County Appraisers, a multi-family residence is located immediately south of the subject property, which provides a transition to the commercial uses are located adjacent to W. 9th Street.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *The neighborhood, Old West Lawrence, is a core residential neighborhood containing older and historic homes.*

The subject property is located to the north of W. 9th Street. Along the 9th Street corridor, the character of the area is commercial. However, the properties to the north, east, and west of the subject property are most recognizable as residential with *Detached Dwellings*. The subject property is currently split zoned, with a *Detached Dwelling* located on the northern portion of the parcel, which is zoned RS5 district. The southern portion of the property, which is zoned CS district, is vacant.

Staff Finding – The area contains a mixture of residential and nonresidential uses, but the area north of the 9th Street corridor is developed primarily with *Detached Dwellings*. Given this, the character of the neighborhood will not be affected.

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

The subject property is included in the *Old West Lawrence Neighborhood Plan*, which was adopted in 1981. Given that the plan was adopted 17 years before *H2020* was fully adopted, the plan is not included in Chapter 14 – Specific Plans in the comprehensive plan. However, the plan can still be used to provide guidance on planning applications that could affect the neighborhood.

In Chapter 2 of the *Old West Lawrence Neighborhood Plan*, General Goal A states, "Enhance and maintain Old West Lawrence as a low-density residential neighborhood that has proximity to business, cultural, and educational centers in Lawrence." Rezoning the RS5 will help to maintain the residential character of the neighborhood.

Other goals and objectives listed in the *Old West Lawrence Neighborhood Plan* also support this application.

Staff Finding – Approval of the request is consistent with land use plans for the area.

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

Applicant's Response: *The vacant lot is better suited to residential use than commercial use given that it is located in Old West Lawrence.*

The subject property is currently split zoned with residential zoning on the north lot and commercial zoning on the south lot. The property is developed with a *Detached Dwelling*. Approval of the rezoning (and a minor subdivision) would create a lot that would support infill residential development.

While the south lot is currently zoned for commercial, it is not suitable for those uses. The subject property is surrounded by residential uses with *Detached Dwellings* located to the north, east, and west, and a multi-family residence located to the south. Because of this, the property is better suited for uses permitted in the RS5 District.

Also, regardless of the outcome of the rezoning request, the south lot would not be eligible for a building permit without approval of a minor subdivision. Currently, the existing *Detached Dwelling* straddles the interior lot line and encumbers the south lot. A minor subdivision would adjust the interior lot line to create an unencumbered buildable southern lot. The CS district requires a 50 foot lot width while the RS5 district requires a 40 foot width. The existing lot width of the south lot is 50 feet which meets the requirements of the CS district. Moving the interior lot line to the south would reduce the width of the south lot and make it incompatible with the lot width requirements of the CS district; however, if after the adjustment the lot width equaled 40 feet or more it would comply with the RS5 standards.

Staff Finding – The southern portion of the subject property is not suitably zoned given the surrounding residential land uses and the dimensional requirements associated with the CS district.

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

Applicant's Response: *Previous to my purchase of the land in 2000.*

Staff Finding – The subject property is developed with a *Detached Dwelling* and the south lot is vacant. Aerial photography indicate that the property has been developed in this manner since at least 1995.

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

Applicant's Response: *The rezoning could result in a slightly denser block, with one additional home located on the west side of the 800 block of Mississippi Street.*

Approval of the proposed request will result in a reduction of allowed uses and increase the number of properties zoned RS5 within the overall neighborhood area. Nearby properties will not be directly affected.

Staff Finding – Approval of the proposed rezoning would be beneficial for those properties currently used for single-family housing in the immediate area. The proposed change will act as protection against potential encroachment of nonresidential activities in the immediate 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 is the lot would be downzoned from commercial use to residential, which benefits the character of the Old West Lawrence neighborhood. Denial of the application would result in economic detriment to the landowners.*

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.

As discussed earlier in this report, in order to make the south lot eligible for building permits, approval of a minor subdivision to move the lot line is required. Under the existing CS zoning, the south lot would not meet the dimensional requirements without approval of a lot width variance, which would be heard by the Planning Commission. Without those approvals, the south lot would remain vacant under the existing CS zoning.

There would be no gain to the public if the rezoning were denied. Approval of the rezoning provides a uniform residential zoning to the parcel and provides an opportunity for infill development compatible with the RS district and existing neighborhood development pattern.

Staff Finding – There would be no gain to the public and there would be a hardship to the property owner in the denial of the rezoning request. The rezoning request will correct the split zoning of the subject property and allow the vacant lot to be developed with a *Detached Dwelling*.

9. PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed request for its compliance with the comprehensive plan, the Golden Factors, and compatibility with surrounding development.

Staff recommends approval of the request to rezone approximately 0.150 acres, from CS (Commercial Strip) District to RS5 (Single-Dwelling Residential) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.