

**PLANNING COMMISSION REPORT**  
**Regular Agenda - Public Hearing Item**

PC Staff Report  
01/23/2018

**ITEM NO. 13B REZONING 5.2 ACRES FROM CS & RM32 TO SMARTCODE T-5;  
1401 W. 23<sup>RD</sup> ST & 1300 W. 24<sup>TH</sup> ST (SLD)**

**Z-18-00536:** Consider a request to rezone approximately 5.2 acres from CS (Strip Commercial) District & RM32 (Multi-Dwelling Residential) District to SmartCode T-5, located at 1401 W.23<sup>rd</sup> St & 1300 W. 24<sup>th</sup> St. Submitted by Opus Development Company LLC, for George B. Leinmiller and Marlene J. Leinmiller, property owners of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the request to rezone approximately 5.2 acres from CS (Strip Commercial) District & RM32 (Multi-Dwelling Residential) District to SmartCode T-5 (Urban Center Zone) 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 project is to be designed to support and encourage the implementation of the policies of the SmartCode. These policies include infill development, pedestrian-oriented and mixed uses, and encourage living within walking distance of supportive amenity businesses. The project's form and massing will also contribute to the physical definition of thoroughfares.

**KEY POINTS**

- Use of the SmartCode is optional per Section 21-100.3.1. Once a developer makes application for the development of their property pursuant to the SmartCode they shall be bound by the provisions of the SmartCode and prohibited from using the Land Development Code unless stated otherwise in the SmartCode.
- The application is submitted concurrently with an Infill Community Plan (Section 21-300).
- Similar to a Planned Development, a request for SmartCode zoning must be accompanied by a plan unless one has been approved for the property included in the request.
- This property has not been previously included in any transect plan.
- The Infill Community Plan is included for context. The project number PDP-19-00537 refers to the Infill Community Plan.
- A developer may prepare a proposed Infill Community Plan.
- The developer shall submit the Infill Community Plan for required rezoning approval per Section 21-100.4 and 21-100.4.7 and for approval of the actual infill Community Plan to the City Commission per Section 21-400.1.1
- The City Commission must approve any Infill Community Plan.
- The existing *wireless communication facility* tower will remain and be incorporated into the development.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- MS-18-00535 – Variance from right-of-way width for W. 23<sup>rd</sup> Street
- PDP-18-00537 - Infill Community Plan

**Other Action Required**

- City Commission approval of rezoning and adoption of ordinance.
- Publication of rezoning ordinance.

- Acceptance of the easements as shown on the minor subdivision.
- Approval of the Infill Community Plan
- Submission and approval of preliminary and final site and building plans per Chapter 21, Article 5a and 5b.

**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 applicable to residential request

**ATTACHMENTS**

1. Area Map
2. 23<sup>rd</sup> & Louisiana Regulating Plan
3. 25<sup>th</sup> & Iowa Regulating Plan

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None prior to publication of staff report.

**Project Summary:**

Proposed request is for rezoning 5.2 acres to facilitate redevelopment of the property as a mixed-use development per the SmartCode.

**1. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response: This request conforms with the Comprehensive Plan goals for infill redevelopment, which provides a mix of uses consistent with the land use pattern in the surrounding area. It provides the desired progression of land uses and intensity levels to avoid major or abrupt changes in density and building type. The future Land Use Map designates the commercial and high-density residential uses used in the proposed plan. The proposed mixed-use development fulfills the objectives of Mixed Use redevelopments established under the Plan and will enhance an underutilized property, which has experienced high turnover. This request is also designed under the SmartCode, which is encouraged by the updated 2040 Comprehensive Plan.

Key features of *Horizon 2020* include supporting infill development, development of neighborhoods with a range of densities, and the progression of land use to help achieve transition in land and intensity levels (Chapter 3 General Plan Overview).

Chapter 5- Residential Land Use includes a discussion of the neighborhood concept. Neighborhoods are defined as the building blocks of strong communities both physically and socially. Physical elements include human scale development and connectivity.

Commercial uses are intended to occur at nodes versus stripped along arterial streets. The property is part of the existing W. 23<sup>rd</sup> Street existing commercial area noted in *Horizon 2020* as needing to be upgraded in the future to remain viable in the marketplace. The plan calls for "incremental improvement of these existing developments through landscaping and aesthetic improvements as uses change" (Page 6-13).

*The 23<sup>rd</sup> Street corridor will remain an important commercial location in the city. For the segment of the corridor between S. Iowa Street and Tennessee Street, the plan emphasizes visual site improvement related to signage, landscaping and development design. A key*

*factor in the long-term stability of this area is the improvement of traffic access and operations as properties along this corridor redevelop. If access and circulation are not simplified and the area made more comfortable to the motorist, shoppers may seek other portions of the community in which to do business. In cooperation with property owners, the City should undertake parkway landscaping improvements. This action, coupled with placing utility lines underground (wherever practical), will help to improve the physical image of the area. All new development or redevelopment occurring along this corridor shall be required to consolidate curb cuts and provide access easements to adjoining properties (Page 6-16).*

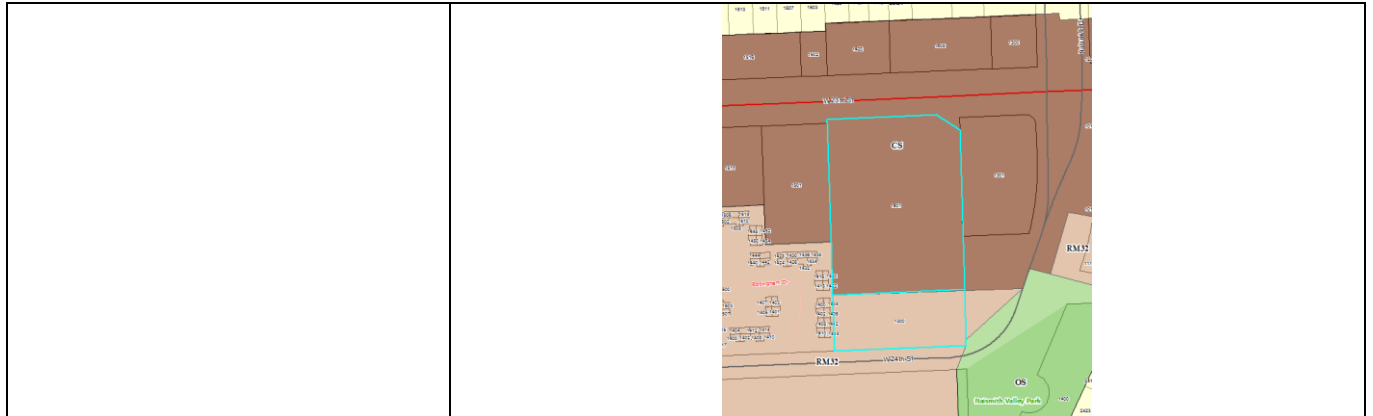
The City has been engaged in a multi-year program to consolidate driveways, establish cross access between properties, and generally improve the pedestrian experience of the corridor. *Horizon 20202* recognizes the W. 23<sup>rd</sup> Street corridor as a prevailing strip commercial area. The proposed change would moderately alter that characteristic with the possible addition of a mixed-use development. The property is not located at the intersection but is offset from the intersection by one property. Access management policies are applicable to any redevelopment regardless of the zoning.

Chapter 6 addresses *mixed use redevelopment centers (page 6-5)*. Mixed-use developments are generally less than 20 acres and shall “include a mix of uses designed to maintain the character of the surrounding neighborhood and achieve integration with adjacent land uses.” Mixed-use districts shall provide multi-modal services, allowing bicycle, pedestrian, vehicular, and transit options. These elements are key review considerations for the Infill Community Plan.

**Staff Finding** – The proposed rezoning is intended to facilitate a mixed-used development. *Horizon 20202* does not expressly articulate the SmartCode over the Land Development Code. They are equal options for possible developments. The SmartCode is inherently designed to achieve mixed-use, neighborhood-scale and pedestrian-scale development. Rezoning the property would allow the implementation of the SmatCode, which is consistent with the general land use policies in *Horizon 2020*.

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

<b>GENERAL INFORMATION</b>	
Current Zoning and Land Use	CS (Commercial Strip) District; existing commercial building, <i>Wireless Communication Facility</i> (tower), and vacant land.
Surrounding Zoning and Land Use	CS (Commercial Strip) District to the north, east, and west. Existing commercial development. RM32 (Multi-Dwelling Residential) District to the southwest and south. Existing multi-dwelling residential development.



The subject property is surrounded by conventional commercial zoning and existing developments. Regulatory floodplain is located to the southeast of the property. The corridor is developed with commercial uses along W. 23<sup>rd</sup> Street and residential uses along W. 24<sup>th</sup> Street.

The SmartCode defines ranges of development zones as transects. Article 200 establishes permissible land uses within the City “that has not been previously transect-mapped”. This applies to the majority of the City of Lawrence. These land uses are:

- O-1 – Preserved Open Space
- O-2 -- Reserved Open Sector
- G-1 – Restricted Growth Sector
- G-2 – Controlled Growth Sector
- G-4 – Infill Growth Sector
- SD - Special Districts

The G-4 infill growth sector is assigned to areas that are already developed (21-200.7.1). These areas include conventional suburban developments, greyfield and brownfield sites, and historic urban areas. The G-4 sector is the SmartCode equivalent of “existing zoning” in the Land Development Code. Land uses are specific to the building function set out in Table 11, Section 21-600.11 of the SmartCode. Permitted uses are defined as the following:

1. Residential Uses: *Open Residential*: The number of residential use on each lot is limited by the requirement of 1 assigned parking place per for each residential unit.
  - a. **Apartment Building, Rearyard House, Duplex, Sideyard House, Outbuilding, Live-Work/Work-Live unit.**
2. Lodging: *Open Lodging*: The number of bedrooms available on each lot for lodging is limited by the requirement of 1 assigned parking place for each bedroom in addition to the parking requirement for the residential unit. Food Service may be provided at all times.
  - a. **Hotel, no room limit, Inn up to 12 rooms, Inn up to 5 rooms, Hostel by warrant, School Dormitory**
3. Office: *Open Office*: The building area available for office use on each lot is limited by the requirement of 2 assigned parking places per 1000 square feet of net office space in addition to the parking requirement for each residential unit.
  - a. **Office Building**

4. Retail: *Open Retail*: The building area available for retail use is limited by the requirement of 3 assigned parking places per 1000 square feet of net retail space in addition to parking requirement of each residential unit.
  - a. ***Open-Market Building, Retail Building, Display Gallery, Restaurant, Kiosk, Push Cart by warrant.***
5. Civic: See table 10
  - a. ***Bus Shelter, Conference Center by warrant, Fountain or Public Art, Library, Theater, Museum, Outdoor Auditorium Parking Structure, Surface Parking Lot by warrant***
6. Other: See table 10
  - a. ***Kennel by warrant, Gasoline by warrant, Drive-Through Facility by warrant, Fire Station, Police Station, Funeral Home, Hospital by warrant, Medical Clinic, Collage by warrant, High School by warrant, Trade School by warrant, Elementary School, Childcare Center.***

Uses in the above list are permitted by right unless noted otherwise. A warrant is a deviation from the SmartCode that is "minor, technical deviation that would permit a practice that is not consistent with a specific provision of this Code, but is justified by its purpose (Section 21-200.2)". The Consolidated Review Committee<sup>1</sup> (staff) has the administrative authority to approve warrants.

The proposed building includes multi-dwelling residential uses (Apartment uses) along with space for retail/office uses. The project, as a T-5 development, must also include civic elements. A detailed discussion of uses is included in the preliminary development plan report.

The transect zones are described in Table 1, Section 21-600.1. The proposed T-5 (Urban Center Zone) is intended for "higher density mixed use building types accommodating retail, offices, rowhouses, and apartments." The T-5.5 (Special Urban Center Zone)<sup>2</sup> zone is specific to an urban downtown district or the CD (Downtown Commercial) District in the Land Development Code. T-3 and T-4 zones are characterized as more suburban with lower density and predominantly residential uses.

It should be noted uses defined in the Land Development Code are different from those or defined in the SmartCode. If approved, some interpretation of future uses may be necessary.

**Staff Finding** – The surrounding zoning and land use will remain conventionally zoned and developed for the near future. The proposed zoning is consistent with the intended land use category as specified in the SmartCode.

### **3. CHARACTER OF THE NEIGHBORHOOD**

Applicant's Response: [The neighborhood character is strip commercial, grocery stores, fast food establishments along West 23th; there are multifamily apartments at the West 24th Street.](#)  
[Staff discussion.](#)

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<sup>1</sup> Section 21-1004.2 defines the Consolidated Review Committee (CRC) as representatives from Planning and Development Services, Fire, Parks, and Municipal Services and Operations. They are an administrative approval body.

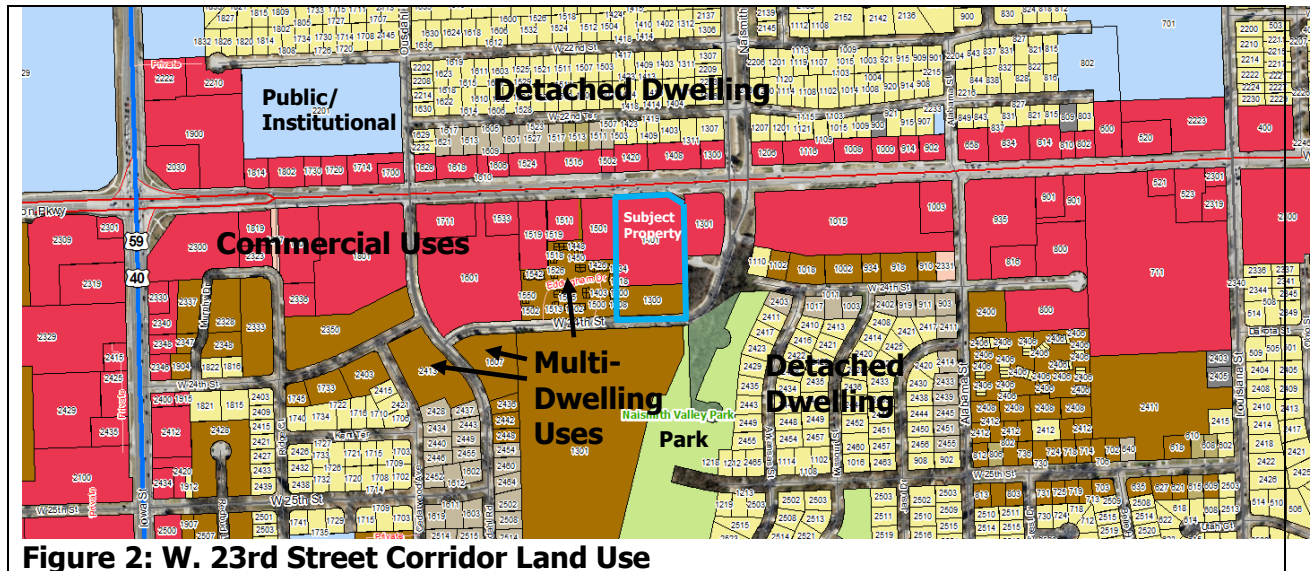
<sup>2</sup> The Special Urban Center Zone is the equivalent of the CD (Downtown Commercial) District in the Land Development.

The subject property includes land that fronts W. 23<sup>rd</sup> Street on the north and W. 24<sup>th</sup> Street on the south. This property is not included in any adopted neighborhood plans. The Schwegler Neighborhood is located to the north, Centennial Neighborhood to the northeast, and the Indian Hills Neighborhood is located to the southwest.



**Figure 1: Surrounding Neighborhoods**

W. 23<sup>rd</sup> Street is an existing developed commercial corridor. Lots located on the north side of the street are shallow. Lots located on the south side of W. 23<sup>rd</sup> Street generally are deeper. Within the corridor, residential uses are located as a second tier use. Auto oriented, commercial uses dominate the corridor frontage. Uses along W. 24<sup>th</sup> Street are developed with *multi-dwelling residential* uses.



**Figure 2: W. 23rd Street Corridor Land Use**

The proposed change would allow a greater mix of land uses than the current zoning permits. The proposed change, if approved and developed, as a mixed use, SmartCode development will alter the corridor by introducing an alternative development pattern that may or may not be extended to adjacent properties.

**Staff Finding** – The property is located within an established commercial corridor with conventional development patterns. Residential uses are located along W. 24<sup>th</sup> Street. This request is compatible with the character 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**

This property is not included in an adopted area or sector plans. At the time the SmartCode was adopted, several specific Infill Community Plans were prepared and adopted. Two plans included 23<sup>rd</sup> Street/Clinton Parkway segment; 23<sup>rd</sup> and Louisiana Street and Clinton Parkway and Iowa Street plans. A copy of the Infill Community Plans are attached for reference. As part



of this application the applicant was required to prepare and submit an Infill Community Plan per Section 21-400. The proposed infill plan is included as a Planning Commission agenda item concurrently with the rezoning request.

**Staff Finding** – This property is not included in an adopted area or sector plans. This application is submitted concurrently with a proposed Infill Community Plan in accordance with Chapter 21 requirements.

**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 well suited for the proposed mixed-use infill redevelopment. The transition of 23rd Street caused by the diversion of traffic to the South Lawrence Trafficway has created more approachable and useful setting for residential uses. The property will maintain the existing commercial setting at this property along the commercial corridor. The additional residential uses meets the requirements of the SmartCode and match the neighboring uses along the south side of the property along W 24th Street.

Through the implementation of the 23<sup>rd</sup> Street Corridor Access Management Plan and grant funding from KDOT, the city has completed several access control projects and constructed new public sidewalk along W. 23<sup>rd</sup> Street. These specific changes have improved the walkability of the corridor. The full impact of the South Lawrence Trafficway opening has not been evaluated. There are numerous active public improvement projects occurring within the corridor making evaluation of the changes difficult to assess at this time.

The property is partially developed with conventional commercial uses along the W. 23<sup>rd</sup> Street frontage. The rear portion of the property, fronting W. 24<sup>th</sup> Street is vacant. This development pattern is suitable for the conventional zoning.

Redevelopment of the property as a mixed-use development per the SmartCode requires rezoning. The existing zoning is not suitable for development as a SmartCode project.

**Staff Finding** – The property as zoned is suitable for continued use as a conventional development. Redevelopment of the property using the SmartCode requires rezoning into the SmartCode to facilitate the proposed development.

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

Applicant's Response: The subject property is currently occupied and in use. The proposed project uses are suitable and comparable to the uses of surrounding properties.

A site plan was approved in 1977 to include multiple buildings. Only two of the proposed six buildings were constructed. The main building (1401 W. 23<sup>rd</sup> Street) was constructed in 1978 with an addition to the east added in 1988. The smaller building (1411 W. 23<sup>rd</sup> Street) was constructed in 1988. The rear portion of the property is used for exterior storage of boats. A Use Permitted upon Review (URP) was approved in 1996 for a self-supporting wireless communication tower.

**Staff Finding** – The commercial portion property was developed in the late 1970's. The residential portion of the property has remained vacant.

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

Applicant's Response: [The project will not be detrimental to nearby properties. The proposed multifamily and commercial tenant spaces are comparable to surrounding properties.](#)

The proposed request is for a self-contained, mixed-use, redevelopment project. The requirements of the SmartCode demand a certain level of investment to the surrounding infrastructure. As such, public improvements will be required to enhance the public street and sidewalk network.

The existing zoning allows a wide variety of uses, but does not allow the mix of uses proposed by the T-5 (Urban Center Zone). Approval of the request will be the first application of the SmartCode since it was adopted in 2009. Direct detrimental effects are not expected by rezoning the property to T-5 (Urban Center Zone).

The T-5 (Urban Center Zone) is comparable to existing urban development that includes arterial streets with intensive commercial development. The CS (Commercial Strip) zone allows a wide variety of commercial uses. Residential uses are permitted in the CS district when 50 percent of the total floor area includes non-residential uses. The T-5 (Urban Center Zone) is more flexibility in allowing a mixed use development requiring only 30 percent of the development to include uses other than residential.

**Staff Finding** – The proposed project represents a reinvestment in the corridor. The change in zoning is required to use the SmartCode, Chapter 21 of the City Code.

**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: Approval of this request will facilitate the redevelopment of a property in immediate need of [reinvestment and redevelopment in an already established commercial area. The evolution of W. 23rd Street calls for more approachable and mixed use settings, and this project would provide an early example of that potential. The building and landscape design provide superior integration with the nearby commercial and multi-family neighbors. Residential and commercial investment at a key intersection will assist the viability and well-being of the surrounding properties and the corridor as a whole. The project will enhance the Naismith trail system with an additional resting area and a bike repair system. Denial of this request will perpetuate the deterioration of this property. It will bolster on-going vacancy and auto-related uses which seem to have momentum along the W. 23rd Street corridor.](#)

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.

This application is made in order to facilitate redevelopment of property as a mixed-use development. The primary component of the project will be multi-dwelling residential. Staff concurs with the applicant regarding the appropriateness of reinvestment in the property. The proximity to the university is desirable for student housing. Denial of the request would require redevelopment of the property as a conventionally zoned project.



The CS district allows residential uses, but requires 50 percent of the gross floor area to be developed with non-residential uses. There is no maximum residential density for the CS District. Density is limited by the ratio of non-residential uses provided within the development. The T-5 (Urban Center Zone) permits a maximum density of 24 dwelling units per acre and requires a minimum of 30 percent "Other Functions" per Section 21-600.14. This standard is more flexible than the Land Development Code in facilitating the mixed use redevelopment of the site.

**Staff Finding** – The property can be redeveloped as either conventional development or as a SmartCode project. The proposed request allows a more flexible option for redevelopment because the mix of uses can be more varied. Only 30 percent of the project must be used for "Other Uses" under the SmartCode compared to the 50 percent requirement per Section 20-517 for mixed uses in the CS District under the Land Development Code. The significant gain to the public is reinvestment of property along the W. 23<sup>rd</sup> Street Corridor.

## **9. PROFESSIONAL STAFF RECOMMENDATION**

The proposed request represents the first application to utilize the SmartCode. Staff concurs that the T-5 (Urban Center Zone) is the most suitable designation for the property. The rezoning request is subject to the approval of a Infill Community Plan by the City Commission for this property. The rezoning should only be approved with an ordinance published if the Infill Community Plan is approved.

## **CONCLUSION**

The request represents a unique opportunity to redevelop property with specific objectives regarding mixed-use and pedestrian scale development. Redevelopment challenges are unique for this property because of the existing development patterns. The site includes an existing *wireless communication facility* tower, and an exclusive gas line easement located along the east side of the property. These encumbrances have a direct impact on site design. Infill development will require certain allowances not appropriate for greenfield development.

This application includes two platted lots that are proposed to be consolidated for the purposes of redevelopment. The project does not, at this time, include any adjacent property within the immediate vicinity.