

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
10/20/14

ITEM NO. 2: RSO TO CN2; 0.8 ACRES; 4101 W 6th ST (MKM)

Z-14-00300: Consider a request to rezone approximately 0.8 acre from RSO (Single-Dwelling Residential-Office) District to CN2 (Neighborhood Commercial Center) District, located at 4101 W 6th St. Submitted by Doug and Berniece Garber, property owners of record.

STAFF RECOMMENDATION: Staff recommends denial of the rezoning request from RSO (Single-Dwelling Residential) District to CN2 (Neighborhood Commercial Center) District and forwarding it to the City Commission with a recommendation for denial based on the findings of fact found in the body of the staff report.

REASON FOR REQUEST

Applicant's Response:

"Have been approach by coffee shop and restaurant. With the finish of the Sports Center, I believe there is a need to supply the number of people."

KEY POINTS

- The property is not located within the boundaries of an adopted area plan.
- The rezoning request is not compliant with the recommendations of the Comprehensive Plan for Neighborhood Commercial Centers.

OTHER ACTION REQUIRED

- If approved, City Commission approval of rezoning request and adoption/publication of ordinance.
- Submittal and administrative approval of site plan.
- Application and release of building permits prior to development.

ATTACHMENTS

Attachment A: Permitted Use Table

Attachment B: Communications

PUBLIC COMMENT

Mary S Mazingo, a nearby property owner, called to discuss the proposal and provided an email expressing her opposition to the proposed rezoning.

Project Summary

The property at 4101 W 6th Street was platted as Lot 1, Free State Veterinary Hospital in 1998. The property contains approximately 0.8 acres and is developed with two buildings. The building closest to

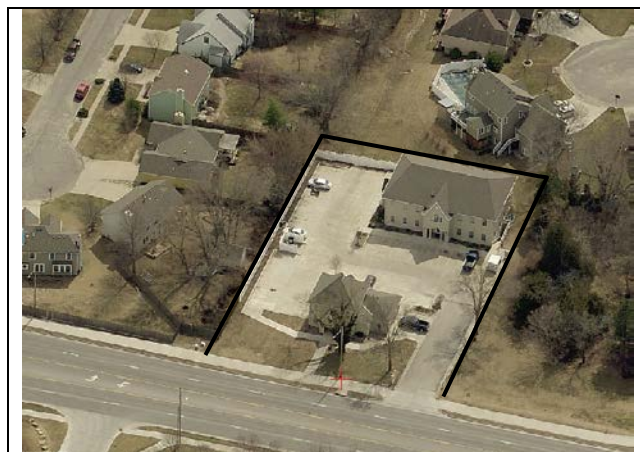


Figure 1. Subject property is outlined.

W 6th Street contains residential and office uses and the building to the rear of the lot contains office uses. The rezoning is being requested to expand the permitted uses to allow the development of a restaurant and/or coffee shop on the property. The uses being proposed may fit the classification of *Fast Order Food* and/or *Quality Restaurant*, depending on the nature of the establishments. Both uses are permitted within the CN2 District but are not allowed within the RSO District.

While these are the development proposals at this time, the rezoning would permit any of the uses allowed within the CN2 District to be developed on the lot pending site plan and building permit approval. The subject property and surrounding area are shown in Figures 1 and 3.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

A review of the Comprehensive Plan recommendations follows with staff's comments in red.

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

The office development is currently zoned RSO (Single-Dwelling Residential-Office) District. This district is intended to accommodate low to medium intensity office uses that are compatible with single dwelling residential uses. The proposed redevelopment would locate a restaurant use in the small office development which would increase the range of uses within the parcels; however, a restaurant is one of the more intense commercial uses and may not be compatible with the nearby residential uses. The established land use pattern in the surrounding area is low-density residential and office. In staff's opinion, the addition of the commercial use would not be consistent or compatible with the established land use pattern.

Future Land Use Map, Map 3-2, (Page 3-4, *Horizon 2020*) designates this area as 'very low density residential/low density residential' (Figure 2)

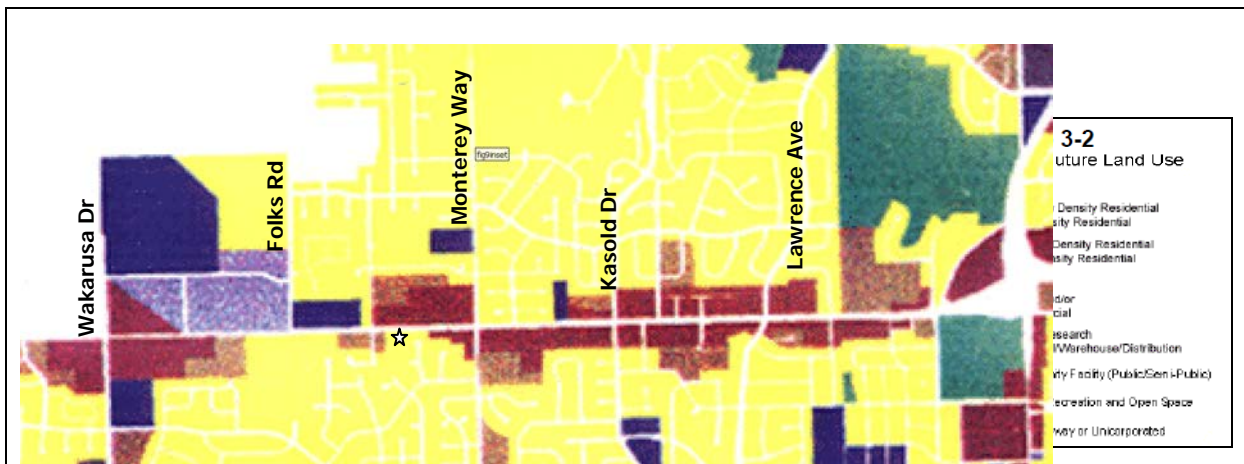


Figure 2. Future land use designations in *Horizon 2020*. Approximate location of subject property marked with star.

The proposed commercial use does not comply with the Future Land Use Designation.

(Page 6-1, *Horizon 2020*) *Require commercial development to occur in 'nodes', by avoiding continuous lineal and shallow lot depth commercial development along the city's street corridors and Douglas County roads."*

(Page 6-2 *Horizon 2020*) *"Strip Development' is characterized by high-intensity, auto-oriented uses, shallow in depth and extending linearly along a street corridor, with little consideration given to access management and site aesthetics. The Nodal Development concept requires the clear termination of commercial development within near proximity of an intersection. Commercial development that does not occur directly at the corner of an intersection must be integrated, through development plan design and platting with the property that is directly at the intersection's corner."*

(Page 6-20, *Horizon 2020*) *"New commercial, retail and related uses shall be developed as a node with shared parking areas, common access drives, and related design and appearance."*

The mid-block location of the property is not compatible with the recommendations of the Comprehensive Plan for nodal commercial development.

(Page 6-21, *Horizon 2020*) provides a list of recommended intersections as potential locations for new Neighborhood Commercial Centers. The subject property is not included in the list; the intersections recommended within the City limits are Franklin Road and E 28th Street (extended), Clinton Pkwy and K-10, and W 15th St and K-10. (Figure 3)

The subject property is not identified in the Comprehensive Plan as a potential location for commercial development.

(Page 6-33, *Horizon 2020*) *Policy 3.6: Criteria for Neighborhood Commercial Centers*

- A. *Neighborhood Commercial Centers shall be located at the arterial/arterial or arterial/collector street intersections.*
- B. *Limit the commercial uses in neighborhood centers to one corner of the intersection.*
- C. *New Neighborhood Commercial Centers shall be at least one (1) mile from any existing or new Commercial Center.*

The proposed rezoning is not in conformance with the locational criteria for Commercial Neighborhood Centers.

(Page 6-45, Map 6-1 Existing and Potential commercial Land Use Locations, *Horizon 2020*) (Figure 3)



Figure 3. Detail of Map 6-1, *Existing and Potential Commercial Land Use Locations*. The approximate location of subject property is marked with star.

Staff Finding – The rezoning request for a Neighborhood Commercial Center does not comply with the Future Land Use Recommendations of the Comprehensive Plan shown in Map 3-2 or with the recommended locations for future Neighborhood Commercial Centers in Map 6-1. As the property is located within the middle of the block rather than at the corner it is not compliant with the recommendation for nodal commercial development to avoid the ‘commercial strip’ development, a shallow linear commercial development that lines the street and it does not comply with the locational criteria for Neighborhood Commercial Centers provided in Policy 3.6.

Rezoning the property to the CN2 District would not be in compliance with the recommendations of the Comprehensive Plan.

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

Current Zoning and Land Use: RSO (Single-Dwelling Residential and Office) District; *Duplex Residential and Office*.

Surrounding Zoning and Land Use: To the west: UR (Urban Reserve) District and RMO (Multi-Dwelling Residential Office); *Detached Dwelling* in the UR District and *Multi-Dwelling residences* in the RMO District.

To the north: PCD-[Monterey Center] (Planned Commercial Development) District; *Financial Institution, Office, Fuel and Gas Sales and General Retail Sales* (part of the Hy-Vee Shopping Center).

To the east and south: RS7 (Single-Dwelling Residential) District; *Detached Dwellings*

(Figure 3.)

Staff Finding – Zonings and land uses in the area are divided north and south by W 6th Street. Property to the north of W 6th Street in this area is zoned PCD (Planned Commercial

District) and is used for *Office* and *General Retail Sales* uses. Nearby properties to the south of W 6th Street have a mix of residential zonings including Single-and Multi-Dwelling Districts as well as Multi-and Single Dwelling Residential-Office Districts.

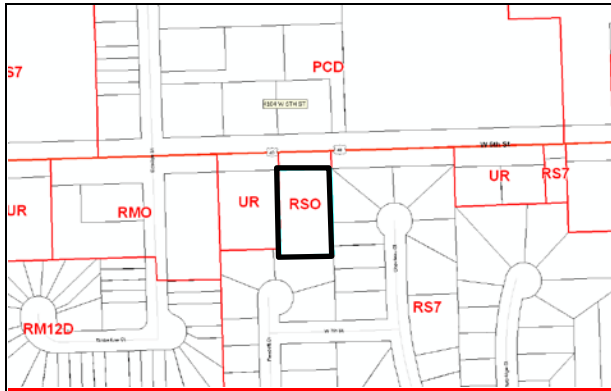


Figure 3a. Zoning in the area. (Subject property outlined.)

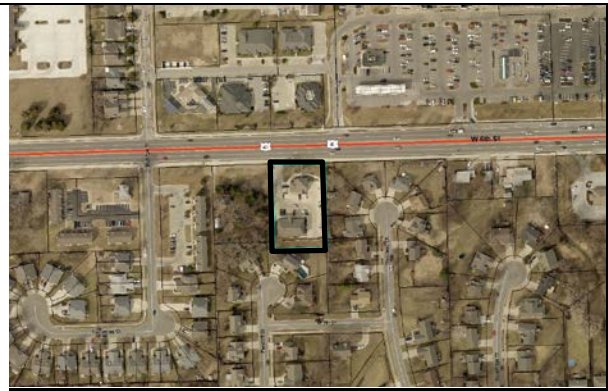


Figure 3b. Land use in the area.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant’s Response:

“To the west, it is to be determined. The property is for sale at this time.”

The subject property is located on W 6th Street/Hwy 40 which is classified as a principal arterial in the Future Thoroughfares Map. Monterey Way and Folks Road, Major Collectors, pass through the area north to south. The area contains predominately residential, office, and commercial uses with the commercial uses at the intersection of W 6th Street and Monterey Way, primarily in the northwest corner of the intersection. The northwest and southeast corners of this intersection are zoned PCD (Planned Commercial District) which permits a mix of retail, office, and residential uses. The land use pattern is illustrated in Figure 4.

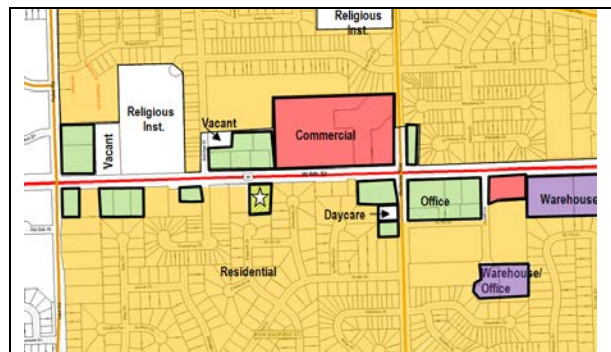


Figure 4. Land use pattern in the area, Subject property marked with a star.

Staff Finding – The area contains a mix of uses, with commercial uses in the northwest and southeast quadrant of the intersection of W 6th Street and Monterey Way. Office uses are located on both the north and south side of W 6th Street with residential uses being the predominate use on the south side.

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

Staff Finding – No area or neighborhood plans have been adopted for this area. The Comprehensive Plan is the guiding plan for this area.

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

The property is currently zoned RSO which permits detached, duplex, and attached dwellings in addition to low intensity uses which have been determined to be compatible with residential uses. These uses include *Assisted Living, Adult Day Care Home, Neighborhood Religious Institutions, Personal Improvement and Office uses.*

The uses which are permitted in the RSO (existing) and CN2 (proposed) Districts are included in Attachment B.

The subject property is currently developed with residential and office uses which are permitted in the RSO District. The property is suitable for the residential and low impact uses permitted in the RSO District due to the close proximity of residences, see Figure 4.

Per Section 20-208 of the Development Code, the CN2 District provides for the sale of goods and services at the neighborhood level. The District is intended to be located at Collector/Arterial or Arterial/Arterial Street intersections to insure an adequate transportation network for the higher intensity uses. As the subject property is not located at an intersection, it is not suited for the uses which would be permitted with the CN2 zoning.

Staff Finding – The subject property is currently developed with office and residential uses which are permitted in the RSO District. The property is well suited to the uses to which it is restricted with the RSO zoning due to the location of the subject property in the mid-block and the close proximity of single-dwelling residential uses. These same factors make the property unsuitable for many of the uses permitted in the CN2 District which would be better served with the access that could be provided at an intersection location.

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

Applicant's Response:

"None."

The property is not currently vacant. An existing residence was converted to a Veterinary Hospital in 1996. Additional office and residential uses have been developed on the site since that time.

Staff Finding – The property is not vacant. Rezoning is being requested to allow a change of use on a developed property.

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

Applicants Response:

"It has already been fenced off. It is already site planned and minor changes."

The removal of restrictions through the rezoning will allow a restaurant to be developed on the property and will also open up the property for other uses permitted in the CN2 District in the future. Uses permitted in the CN2 District are generally considered to be compatible with residential uses when located appropriately. The uses permitted in the CN2 District such as restaurants, general retail sales, and car sales could impact nearby properties with additional traffic, late night hours/activity, and exterior lighting which are typically associated

with a restaurant use. These impacts would need to be minimized through site planning of the use.

Installing a higher intensity use that is permitted in the CN2 District within the center of the block, rather than at the intersection, may create traffic issues on W 6th Street.

Staff Finding – Uses permitted within the CN2 District are typically considered to be compatible with residential uses when appropriately located; however, the mid-block location of the property may result in negative impacts to the traffic flow in the area due to the need to cross W 6th Street to access the property.

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:

"I want the city to look good by being able to supply good food in a timely manner."

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

The applicant indicated that the Rock Chalk Park and City Sports Pavilion to the west would create a demand for more restaurant uses in the area and feels this property would be a suitable location for a restaurant and/or coffee shop. The public health, safety, and welfare may benefit from the denial of the CN2 zoning request as it would not allow the installation of high intensity uses in the middle of the block and possibly creating traffic issues on W 6th Street.

Denial of the request would not alter the suitability of the property, as it has been developed, for those uses which are permitted in the RSO District.

Staff Finding – Denial of the rezoning request may benefit the public health, safety, and welfare by removing the potential for high intensity uses in this location and possible traffic issues on W 6th Street resulting from the need for visitors to the site to make left-turns across W 6th Street in mid-block.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning request is not compliant with recommendations for Neighborhood Commercial Centers in *Horizon 2020* or with the recommendations for commercial development to occur in nodes at intersections. The proposed uses may be compatible with nearby residential uses, but the mid-block location may impact the public health, safety, and welfare by creating traffic issues with the increase in left-turns across W 6th Street.

Staff recommends denial of the rezoning request for approximately 0.8 acres from RSO (Single-Dwelling Residential-Office) District to CN2 (Neighborhood Commercial Center) District and forwarding it to the City Commission with a recommendation for denial based on the findings of fact found in the body of the staff report.

RSO	CN2
HOUSEHOLD LIVING	
Attached Dwelling (SUP)	--
Cluster Dwelling	--
Detached Dwelling	--
Duplex	--
Mfg Home	--
--	Multi-Dwelling
Non-ground Floor Unit	Non-ground Floor Unit
Work/Live Unit	Work/Live Unit
Zero Lot Line Dwelling	--
GROUP LIVING	
Assisted living	--
Group Home (SUP)	Group Home (SUP)
Group Home Ltd.	--
COMMUNITY FACILITIES	
Adult Day Care Home	--
Cemeteries	Cemeteries
College/University(SUP)	College/University
School (SUP)	School
Cultural Center/Library (SUP)	Cultural Center/Library
Day Care Center (SUP)	Day Care Center (SUP)
Day Care Home	Day Care Home
Lodge Fraternal and Civic Assembly (SUP)	Lodge Fraternal and Civic Assembly (SUP)
--	Postal Service
Public Safety (SUP)	Public Safety
Funeral & Internment	Funeral & Internment
Temporary Shelter(SUP)	Temporary Shelter(SUP)
Social Service Agency	Social Service Agency
Community Meal Program (SUP)	Community Meal Program (SUP)
Utilities (Major -- SUP)	Utilities (Major -- SUP)
MEDICAL FACILITIES	
Extended Care (General requires SUP)	Extended Care (General requires SUP)
Health Care Office	Health Care Office(SUP)
Outpatient Facility	Outpatient Facility
RECREATIONAL FACILITIES	
Active Recreation (SUP)	Active Recreation
--	Entertainment & Spectator Sports (Ltd.)
--	Participant Sports & Recreation (Indoor)
Passive Recreation	Passive Recreation
Nature Preserve	Nature Preserve
Private Recreation	Private Recreation
RELIGIOUS ASSEMBLY	
--	Campus/Community Institution
Neighborhood Institution	Neighborhood Institution

RSO	CN2
ANIMAL SERVICES	
--	Animal Sales &Grooming
Veterinary	Veterinary
EATING AND DRINKING ESTABLISHMENTS	
--	Accessory Bar
--	Bar or Lounge
--	Brewpub
--	Fast Order Food
--	Fast Order Food w Drive In (SUP)
Private Dining Establishment (SUP)	Private Dining Establishment
--	Quality Restaurant
OFFICES	
Admin and Professional	Admin and Professional
Financial, Insurance & Real Estate	Financial, Insurance & Real Estate
Other	Other
PARKING FACILITIES	
Accessory	Accessory
--	Commercial (SUP)
RETAIL SALES & SERVICE	
--	Building Maintenance
--	Business Equipment
--	Business Support
--	Food & Beverage
--	Mixed Media
--	Personal Convenience
Personal Improvement	Personal Improvement
--	Repair Service, Consumer
--	Retail Sales, General
--	Retail Establishment, Medium
--	Retail Establishment Specialty
TRANSIENT ACCOMMODATIONS	
Bed and Breakfast	
VEHICLE SALES & SERVICE	
--	Cleaning/Car Wash (SUP)
--	Gas & Fuel Sales (SUP)
	Light Equipment Repair (SUP)
	Light Equipment Sales/Rental
AGRICULTURE	
Crop Agriculture	Crop Agriculture
COMMUNICATIONS FACILITIES	
No difference in permitted uses	
RECYCLING FACILITIES	
	Small Collection

