

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

PC Staff Report  
04/20/2015

**ITEM NO. 1 Z-15-00063 CS TO RS5; 832 Ohio Street (BJP)**

**Z-15-00063:** Consider a request to rezone approximately 0.2689 acres from CS (Commercial Strip) District to RS5 (Single-Dwelling Residential) District, located at 832 Ohio Street. Submitted by Old West Lawrence Properties LLC, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the request to rezone approximately 0.2689 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.

**APPLICANT'S REASON FOR REQUEST**

*"The property owners are requesting the rezoning to allow the joining of the two properties for a single family residence. This is a consistent pattern within the Old West Lawrence Neighborhood (OWL) and will help further reinforce the neighborhood edge. This request is for rezoning for two 50' x 117' residential sized lots from CS to RS5 which matches the adjacent properties to the north."*

**KEY POINTS**

- In the CS District, the detached dwelling located on the subject property is a nonconforming use.
- The intent of this proposal is to rezone the property to RS5 to make it a conforming use.
- A Minor Subdivision application has been submitted to combine Lots 108 and 106. Lot 106 contains a detached dwelling and Lot 108 is vacant.
- The proposed redevelopment of the subject property will demolish the existing detached dwelling and rebuild a new detached dwelling, the majority of which will be located on Lot 108.

**ASSOCIATED CASES**

**SP-1-2-99:** Site Plan for a drive-thru ATM machine and parking lot located at the northeast corner of Ohio and 9th Street (Lots 112, 110, and 108).

**MS-15-00107:** Minor Subdivision/Replat for 832 Ohio Street, Lawrence, Kansas.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

1. Phone conversation with Phil Hemphill who had questions regarding the rezoning and the possible implications on his property value (837-39 Tennessee). He asked for information on the protest petition process. Staff sent Mr. Hemphill a GIS map that showed the surrounding zoning districts and information on the petition process.

**Project Summary:**

The proposed request is for the rezoning of the property at 832 Ohio from the CS District to the RS5 District. A single-family residence has existed on the subject parcel since 1900. When the property was zoned CS, with adoption of the Development Code in 2006, the *Detached Dwelling* use became nonconforming. A Minor Subdivision/Replat application has been submitted to combine Lots 106 and 108. The property owner has proposed to demolish the existing house and rebuild a new single-family residence on the replatted lot. *Detached Dwelling* is not an allowed use. The zoning change to RS5 reflects the actual use of the property and makes the use conforming under the Land Development Code.

## 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

*"Consistent with Horizon 2020, the requested use is of the same compatible density and housing type with the neighborhood. Retaining the 100' of CS zoning will provide an appropriate transition zone between the low density residential land uses and the high use commercial 9<sup>th</sup> Street Corridor."*

The following section of *Horizon 2020* relates 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 Compatible 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** – Rezoning of the subject property to RS5 would be in conformance with the Neighborhood Conservation goal in *Horizon 2020*. Lot 108 associated with the subject property has been vacant for at least 20 years. Aerial photography from 1995 shows Lot 108 as vacant, with the exception of a parking area located adjacent to the alley. The aerial photography from 2000 shows that the parking lot had been removed and the entire lot was left vacant. The property owner has proposed building a new single-family residence on the newly replatted property. This redevelopment will provide infill within the Old West Lawrence neighborhood.

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

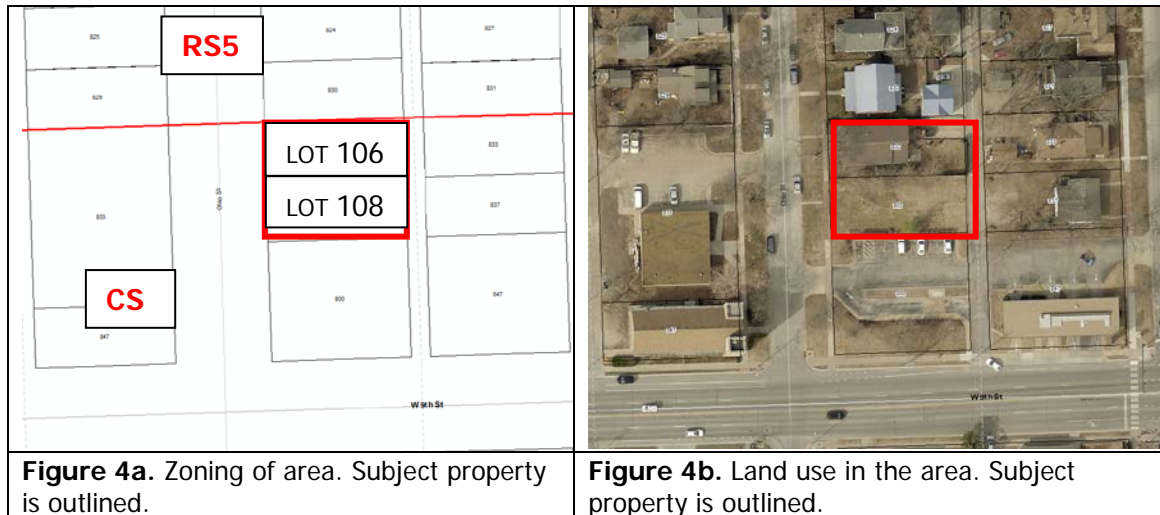
Current Zoning and Land Use: CS (Commercial Strip); *Detached Dwelling* (nonconforming) and vacant lot

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

To the east:  
CS (Commercial Strip); *Detached Dwelling*  
and *Duplex* (nonconforming)

To the south:  
CS (Commercial Strip); *Parking, Commercial*

To the west:  
CS (Commercial Strip); *Neighborhood*  
*Religious Institution*



**Staff Finding –** The area contains a mixture of residential and nonresidential uses. Single-family and duplex residences are located north and east of the subject property in CS and RS5 Districts. Commercial businesses are located to the south and west of the subject property, on CS District zoned property.

### 3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

*"The character and appearance of Old West Neighborhood will be protected and enhanced. The infill development and reconstruction will reflect architectural qualities and styles of the existing neighborhood."*

The subject property is located to the north of 9<sup>th</sup> Street. Along the 9<sup>th</sup> Street corridor, the character of the area is commercial. The properties to the north and east of the subject property, however, are most recognizable as residential with single-family homes. The subject property is currently developed with a single-family dwelling, which is a nonconforming use in the CS District.

**Staff Finding –** The area contains a mixture of residential and nonresidential uses, but the area north of the 9<sup>th</sup> Street corridor is primarily single-family residential uses. 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

Applicant's Response:

*"The rezoning reflects the neighborhood plans and goals to continue the rehabilitation of the OWL. The development of the two properties as one reflects the diversity of the OWL with a mix of single and double lot homes."*

*Horizon 2020* identifies future plans for the general area as appropriate for office and/or commercial uses for properties along 9<sup>th</sup> Street, and low density residential uses for properties north of the 9<sup>th</sup> Street commercial area.

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 close proximity to business, cultural, and educational centers in Lawrence". Rezoning to RS5 will help to maintain the residential character of the neighborhood.

Other goal 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:

*"Currently the existing house on the north lot is a non-conforming use and the south lot is undeveloped. Obviously the CS zoning does not allow the single family residence and therefore limits the development of the properties because of the lack of interest in commercial or retail development along the 9<sup>th</sup> Street Corridor. This request will retain 100' commercial CS zone along the 9<sup>th</sup> Street Corridor which is similar to the area's existing commercial/retail buildings."*

The subject property is currently zoned for commercial uses. According to the Land Development Code for the City of Lawrence, the purpose of the CS District, in part, is "primarily intended to provide for existing commercial strip development along the City Major Arterial Streets."

The subject property is located within the neighborhood of Old West Lawrence, which consists primarily of single-family residences. The *T2040 Major Thoroughfares Map, Douglas County, Kansas*, identifies 9<sup>th</sup> Street as a Minor Arterial. The subject property does not have frontage along 9<sup>th</sup> Street, rather, it is located north of properties that front 9<sup>th</sup> Street. Finally, the current zoning does not reflect the existing land use. The property contains an existing single-family dwelling.

**Staff Finding** – The subject property is not suitably zoned given the existing use of the property and the surrounding residential land use.

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

Applicant's Response:

*"The south lot has been vacant for over 15 years. The 2000 city aerial maps show the property undeveloped at that time."*

**Staff Finding** – Lot 106 of the subject property has been developed as a residential use since 1900, Lot 108 has been vacant for at least 20 years.

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

Applicant's Response:

*"The existing historic neighborhood of Old West Lawrence is a great example of mostly historic homes that is bordered on the south of 9<sup>th</sup> Street and on the north by 6<sup>th</sup> Street, of small commercial development that mainly serves the OWL and surrounding neighborhoods. The commercial development tends to be a mix of small to medium business as well as community-oriented facilities such as the Baptist Church and the Missionary Outreach Program Building."*

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, which restricts land use to single-family homes on individual lots. Nearby property will not be directly affected.

**Staff Finding** – The impact on nearby property is one of perspective given the surrounding residential uses. Approval of the proposed change would be beneficial for those properties currently used for single-family housing in the immediate area. The proposed change provides the ability to obtain reasonable home insurance and will act as protection against encroachment of non-residential 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 public benefit is that the development will improve a vacant lot and an existing residence that was built inconsistently with the neighborhood's architectural qualities and style. The vacant lot was purchased in 2009 from US Bank (property ownership is filed as First National Bank of Lawrence) which retains ownership of the lots on 9<sup>th</sup> Street from Tennessee and Ohio Streets (800 Ohio and 847 Tennessee)."*

If the rezoning were denied, the property would remain nonconforming as zoned for commercial uses. As the property has a long history as a single family use and the immediate surrounding area is predominately single-family homes, encroachment of commercial development allowed by the current zoning would not be appropriate. The residential zoning will insure that the property will remain a single family home, which

will minimize any negative impacts on the neighborhood that could occur with potential commercial uses.

**Staff Finding** – There would be no gain to the public and there would be a hardship to the landowner in the denial of the rezoning request. The rezoning request will assign an appropriate land use designation to the property for its current and intended land use as a single family home.

## **9. PROFESSIONAL STAFF RECOMMENDATION**

Staff recommends approval of the proposed rezoning of approximately 0.2689 acres from CS to the RS5 District as it is an appropriate zoning district for the subject property. The single family zoning district matches the existing, and long-term, use of the property. Therefore, this is an appropriate zoning district for the property.



**Z-15-00063: Rezone Approximately 0.269 acres from CS District to RS5 District  
Located at 832 Ohio Street**



**From:** Jim Jeans [<mailto:jimjeans@outlook.com>]

**Sent:** Thursday, April 16, 2015 4:44 PM

**To:** Becky Pepper

**Subject:** Re Z-15-00063

I live at and own 830 Ohio Street, right next to the property in question. I strongly support Dan Shriner's request for the change of zoning. If you have any questions, I can be reached at 785-979-2128.