

**ITEM NO. 4      PCD-1 TO CS; 11.99 ACRES; 1025-1035 NORTH 3<sup>RD</sup> ST (SLD)**

**Z-4-5-10:** Consider a request to rezone approximately 11.99 acres from PCD-1 (Planned Commercial Development) to CS (Strip Commercial), located at 1025-1035 North 3<sup>rd</sup> Street. Submitted by KDL, Inc. for I-70 Business Center, LLC., property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

Commissioner Harris asked why the uses were restricted in the first plan.

Ms. Day said the first plan went back to discussion and concern about what an outlet mall would do to the downtown. The concern was that the traffic would get off I-70 and then not continue into the downtown core.

Commissioner Liese inquired about the signage requirements.

Ms. Day said she did not know what the status was of those particular signs.

Commissioner Liese said the site maintenance was not well kept.

Ms. Day said when a new use goes into a site part of staff review would be site compliance with existing conditions. She said the lack of tenants in that building has probably also had an effect on that issue. She said the applicant could probably provide more detail on the property maintenance issues.

Commissioner Burger inquired about potential uses in the Commercial Strip district.

Ms. Day said such uses as mini warehouse, restaurant, garden supply sales, dental supply, and reading room. She said a wide variety of retail and office uses would be allowed that are currently restricted.

Commissioner Burger asked if a nightclub would be allowed.

Ms. Day said yes, that would be a use that would be allowed but would require a site plan change and would be reviewed by staff.

Commissioner Hird asked if a strip club would be an allowed use.

Ms. Day said it is possible.

Commissioner Hird asked if anyone has talked about restricting those uses.

Ms. Day said restricting uses was not discussed.

Commissioner Harris asked if the new uses would have to comply with the Commercial Design Guidelines.

Ms. Day said if the exterior to the building is changed, yes. She said the mini warehouse would be on the backside and the storefront would not change.

**APPLICANT PRESENTATION**

Mr. Kelvin Heck, Grubb & Ellis, said there would be a change of ownership and hopefully that would address some of the issues regarding the maintenance and care of the property. He stated early on they visited with Ted Boyle of the North Lawrence Improvement Association and that he was excited about this project. He said they also visited with the surrounding property owners and met with the major tenants of the site. He said the applicant would be happy to restrict strip clubs or sexually oriented businesses. He said he has not talked to

the applicant about the nightclub use yet but he did not anticipate that being a use the applicant wants. He said the applicant would ultimately like to see retail use in that space.

Commissioner Carter inquired about occupancy of the building.

Mr. Heck said the applicants intention is to gate each end of the building so it's gated access from behind the property. The storefronts would stay the same as today.

Commissioner Liese asked if it is two buildings.

Mr. Heck said that was correct.

Commissioner Liese inquired about the signage requirements.

Mr. Heck said he was involved in those discussions in 1992 and there was a concern about competition with downtown and part of the tradeoff was to provide signage pointing folks to the downtown area who were there shopping for retail goods. He said it is not really a retail center today so he did not know that those same amenities should be there but that it can certainly be discussed.

Commissioner Rasmussen asked if there was no objection to restricting sexually oriented businesses.

Mr. Heck said that would be fine. He said he has not discussed nightclubs with the applicant yet.

Commissioner Hird asked if gating both ends of the back would allow emergency access.

Mr. Heck said that was correct.

Commissioner Harris made a comment about the signs. If it is rezoned to Commercial Strip and commercial development is put there then it could look a lot different than a storage facility in the future and could very well compete with downtown. She was not necessarily saying there should be signs but wanted them to keep it in mind.

## **PUBLIC HEARING**

Ms. Marliyn Bittenbender, Grubb & Ellis, said the rooftop count in North Lawrence does not rise to the level needed for major retail. She felt there was opportunity for more investment in the property and help with upkeep.

## **COMMISSION DISCUSSION**

Commissioner Singleton asked if a strip club wanted to go in they would need to get a Special Use Permit.

Mr. McCullough said it is a permitted use but it does come with use standards. They cannot be located on the same block as property with an R zoning district (residential), religious assembly, school, daycare, community recreation, cultural exhibits and library use.

Commissioner Rasmussen asked if it was okay to restrict certain uses out of the rezoning request.

Mr. McCullough said conditional zoning is a permissible process.

Commissioner Rasmussen asked if fireworks sales would be an allowed use. He said he did not want to see Lawrence become like Interstate 70 in Missouri with sex shops and fireworks stands.

Mr. McCullough said one of the differences is that Lawrence does not allow billboards. He said this is an important gateway to the city.

Ms. Day said fireworks sales are not allowed in the city limits.

Commissioner Singleton said they had similar discussions with the Oread Neighborhood Plan regarding nightclubs/bars and multiple uses. She said it seems they need to make those separate and not include in basic strip zoning. She felt that sexually oriented stores or activities probably need more restrictions than what they are discussing.

Mr. McCullough said staff recently did an exercise where they reviewed locations that would allow the sexually oriented theatre. One of the things the Legal Department was concerned with is do the codes allow it at all or do they need to be restricted out. He said if they go down the path of conditionally zoning out one specific use where it is otherwise allowed by standards it is something that needs to be watched. He said this is one of the streets in the city where someone could potentially accommodate the use.

Commissioner Singleton said the restrictions are narrow in finding a place in Lawrence that doesn't abut a residential neighborhood or near a church.

Commissioner Burger asked what the area north of the Kansas River bridge was zoned.

Ms. Day said that has a variety of zoning, including Industrial and Commercial.

Commissioner Hird said the area needs a good jump start and with some responsible development it could be a real improvement.

Commissioner Singleton said this gateway to Lawrence should have conditional zoning to not allow sexually oriented uses.

Commissioner Carter said as long as the applicant was okay with the restriction he would support it. He expressed concern about too many restrictions.

Commissioner Rasmussen said by restricting it at this location would not restrict it everywhere and an example of that would be Allstars down the street that demonstrates that the use is not being completely restricted. There have been viable opportunities on the same street.

#### **ACTION TAKEN**

Motioned by Commissioner Rasmussen, seconded by Commissioner Hird, to approve the rezoning request for approximately 11.99 acres from PCD-1 (Planned Commercial Development) to CS (Strip Commercial), located at 1025-1035 North 3<sup>rd</sup> Street and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report, with the added condition:

The use of the property as a Sexually Oriented Businesses, as defined and prescribed by Chapter 20, the Development Code of the "Code of the City of Lawrence, Kansas, 2009 Edition," and amendments thereto, shall be prohibited.

Unanimously approved 8-0.