

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

**PC Staff Report**  
**4/22/13**

**ITEM NO. 1: CS AND RS7 TO CS; 2.7 acres; 750 N 3<sup>rd</sup> Street (DDW)**

**Z-13-00057:** Consider a request to rezone approximately 2.7 acres, from CS (Commercial Strip) District and RS7 (Single-Dwelling Residential) District to CS (Commercial Strip) District, located at 750 N 3<sup>rd</sup> Street. James Slough, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request for approximately 2.7 acres, from CS (Commercial Strip) District and RS7 (Single-Dwelling Residential) District to CS (Commercial Strip) District 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.

**KEY POINTS**

- The property currently has split zoning with the majority of the property zoned CS and a smaller portion zoned RS7. Approval of the rezoning will zone the property entirely CS.
- The property is platted.
- A portion of the property is located within the regulatory flood plain.

**GOLDEN FACTORS TO CONSIDER**

**CHARACTER OF THE AREA**

- The surrounding area is developed with a mixture of residential and nonresidential land uses. The immediate area surrounding the property is developed with single-family uses to the south and east. There are commercial uses to the north and west, with one residential use also located to the west. The City has a pump station immediately north of the subject property.

**CONFORMANCE WITH *HORIZON 2020***

- The proposed rezoning request from CS (Commercial Strip) District and RS7 (Single-Dwelling Residential) District to CS (Commercial Strip) District is consistent with land use recommendations found in *Horizon 2020*.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- City Commission approval of the rezoning request and publication of ordinance.
- The applicant has also submitted a Site Plan application to build a storage building on the property.
- Building permits will be required for the new structure and any attempt to renovate the farmhouse as a habitable dwelling unit.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- No written comments received prior to the publishing of this staff report.

### **Project Summary**

The property currently has split zoning with CS for the majority of the property, including where a house is located, and RS7 on the remainder. Approval of the rezoning will zone the property entirely to the CS District.

The applicant wishes to construct a storage building on the property to be used to store items related to his property rental business. The existing house on the property is not habitable, but the applicant also wishes to preserve the ability to use the house as a residence in the future. Detached Dwellings are not permitted in the CS District. However, the subject property was platted in 1866 and annexed in 1867. It is believed that the house was constructed approximately in 1890. Therefore, staff has determined that the detached dwelling use of the property is considered to be a legal nonconforming use.

### **GENERAL INFORMATION**

Current Zoning and Land Use: CS (Commercial Strip) District and RS7 (Single-Dwelling Residential); single-family residence in disrepair.

Surrounding Zoning and Land Use: To the north: -- CS (Commercial Strip) District; City of Lawrence pump station.

To the east: RS7 (Single-Dwelling Residential) District; mobile home park.

To the south: RS5 (Single-Dwelling Residential) District; single-family residences.

To the west: CS (Commercial Strip) District and RS7 (Single-Dwelling Residential) District; single-family residence, vacant land, and commercial property.

## **REVIEW & DECISION-MAKING CRITERIA**

### **1. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

*Horizon 2020, Map 3-2 Lawrence Future Land Use*, designates N. 2<sup>nd</sup> Street and the portion of N. 3<sup>rd</sup> Street where this property lies as Commercial land use. In addition, *Horizon 2020 Chapter 6, Commercial Land Use* designates N. 2<sup>nd</sup> Street and N. 3<sup>rd</sup> Street as an existing Strip Commercial Area.

**Staff Finding** -- The proposed rezoning request conforms with *Horizon 2020*.

### **2. ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING**

**Staff Finding** -- The area contains a mixture of residential and nonresidential uses. Single-family residences are located south and east of the subject property on RS7 and RS5 zoned property. Commercial businesses are located west and north of the subject property,

on CS zoned property, along with one residential property to the west. The City operates a pump station immediately north of the subject property.

### **3. CHARACTER OF THE AREA**

The immediate character of the area is most recognizable as a mixture of residential and nonresidential land uses. The subject property abuts residential to the south and east but has one residence along with nonresidential land uses to the west and north.

**Staff Finding** – The area contains a mixture of residential and nonresidential uses.

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

*Horizon 2020* identifies future plans for the general area as appropriate for commercial land use. *Horizon 2020, Map 3-2 Lawrence Future Land Use*, designates N. 2<sup>nd</sup> Street and the portion of N. 3<sup>rd</sup> Street where this property lies as Commercial land use.

**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 subject property is zoned with two different zoning designations. The majority of the property is zoned CS and is suitable for this use; however, the remaining ground is zoned RS7 and the portion along the back of the property is not suitable for this use due to its small width. The remainder of the RS7 zoned property should be rezoned to correspond with the remaining property.

Staff's Response: The majority of the subject property is zoned CS with a smaller portion zoned RS7. The CS zoning is compatible with the area and is suitable for the property. The split zoning for the property is not appropriate and the remainder RS7 zoning should be rezoned to CS.

**Staff Finding** – The RS7 designation of a portion of the subject property is not suitably zoned given the existing CS zoning of the property and the adjacent nonresidential land uses.

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

**Staff Finding** – The subject property is zoned CS and RS7 and has been developed as a residential use since approximately 1890.

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

Applicant's Response: Nearby properties will not be affected due to the majority of the property already being zoned CS. This rezoning request is being made so the owners will only have one zoning designation on their land.

Staff's Response: The majority of the property is currently zoned CS and the area contains other nonresidential uses. Regulations mandate certain development standards for commercial developments meant to lessen impact on neighboring residential properties. Standards such as landscaping and buffer yards provide some measure of protection for nearby residential properties. In addition, access to the property will remain on N. 3<sup>rd</sup> Street.

**Staff Finding** – The anticipated impact on nearby properties is limited.

**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 will likely not notice a change to the property since the majority of the land will remain the same zoning use. The hardship imposed on the owner will be that the ground carries two different zoning designations which are randomly defined for unknown reasons.

Staff's Response: 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.

There would be no impact on the public health, safety and welfare as the majority of the property is currently zoned CS, and the immediate surrounding area is a mixture of residential and nonresidential uses. If the rezoning were denied, the property would continue to have a property zoned for commercial and residential 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 the CS District to the entire property rather than continuing with the split zoning.

**9. PROFESSIONAL STAFF RECOMMENDATION**

Staff recommends approval of the rezoning to the CS District as it is an appropriate zoning district for the subject property. The majority of the property is currently zoned CS. Zoning the entire property to the CS District is an appropriate for the property.

