PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
02/21/18

ITEM NO. 2A: RS10 TO CS; 1.768 ACRES; 1105 E 23RD STREET (MKM)

Z-17-00694: Consider a request to rezone approximately 1.768 acres from RS10 (Single-Dwelling Residential) District to CS (Commercial Strip) District, located at 1105 E 23rd St. Submitted by Grob Engineering Services LLC on behalf of Hedge Tree, LLC, property owner of record.

STAFF RECOMMENDATION:
Staff recommends approval of the rezoning request for approximately 1.768 acres from RS10 (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.

REASON FOR REQUEST
Applicant's Response:

"The present zoning is RS10 which was carried over from previous zoning designations. RS10 zoning is not appropriate for the location of the property. The property is mostly surrounded by CS zoning with a small portion being RM12D. Rezoning would allow the owner to develop the property for commercial use as it presently does. Part of the property is already zoned CS."

KEY POINTS
- The subject property currently contains split zoning, with the northern portion, approximately 1.0 acre, zoned CS (Commercial Strip) District and the southern portion, approximately 1.77 acres zoned RS10 (Single-Dwelling Residential) District.

- The southern portion of the property was rezoned to the RS-1 District following annexation. The RS-1 District was used as a placeholder district for property that was annexed prior to development being proposed. The 2006 Development Code added the UR (Urban Reserve) District as a placeholder district for newly annexed properties; however, it wasn't possible to identify the previous placeholder districts to convert them to the UR District. The RS-1 District converted to the RS10 District with the adoption of the 2006 Development Code.

- No development is being proposed at this time; however, the northern portion of the property is developed with a *Light Equipment Sales and Rentals* facility, which is currently vacant.

- The property is not currently platted; however, a preliminary plat was submitted concurrently with this rezoning application and will also be considered at the February Planning Commission meeting.

OTHER ACTION REQUIRED
- City Commission approval of rezoning request and adoption/publication of ordinance.

- Completion of the platting process with the recording of Final Plat with the Register of Deeds.

- Submittal and approval of a site plan application for any proposed site improvements.

- Submittal of construction plans to Development Services for processing of building permits. Building Permit must be obtained prior to construction activity or change of use.

PUBLIC COMMENT
No public comment was received prior to the printing of this staff report.

Project Summary
The subject property is located along the E 23rd Street corridor. The corridor contains primarily commercial zoning in this block, with some industrial zoning to the east. The area contains a mix of commercial, industrial, and residential uses. The subject property is 600 ft deep and extends to E 24th Street to the south.

Figure 1a Current site

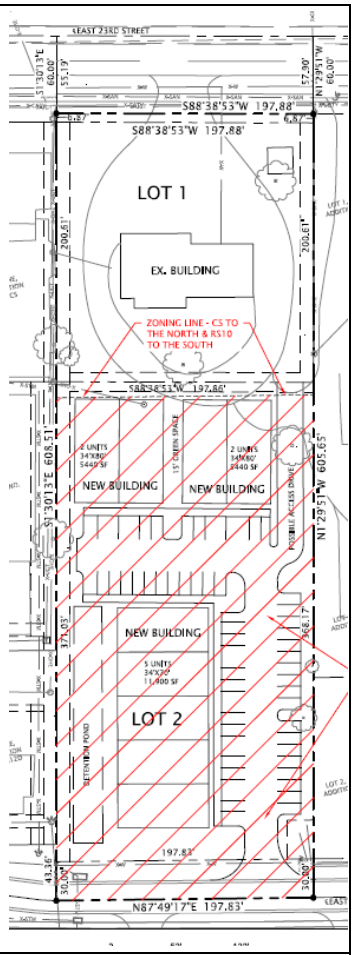

Figure 1b Concept

The rezoning will accommodate the redevelopment of the property at 1105 E 23rd Street. The current condition and a proposed concept for development are shown in Figure 1.

Properties that are annexed are rezoned to a placeholder district and then rezoned to an appropriate zoning district as development projects are brought forward. A specific use has not been identified for the development on the new lot, but a concept plan was provided with the rezoning application to show the basic layout that is being proposed. A detention pond would be located between the new building on Lot 2, which would be oriented toward the parking areas to the north and east, away from the residences.

Site plans submitted for development of Lot 2 will be reviewed with emphasis placed on buffering and screening, exterior lighting, and traffic generation, as well as an evaluation of the characteristics of the proposed use and any mitigation measures necessary to insure compatibility with the adjacent residential development.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The request generally conforms to Horizon 2020 for commercial uses within the E 23rd Street corridor. Plan encourages redevelopment of established compatible property. Given the size of the property, it is more compatible for CS than RS10. The future land use within the plan calls for office and/or commercial, i.e. CS zoning."

Recommendations in *Horizon 2020* are discussed below, with staff comments in red.

E 23rd Street from Learnard Street to Harper Street is identified in the Comprehensive Plan as an existing commercial area. The plan provides the following recommendations for this commercial area:

"E 23rd Street is an Existing Strip Commercial Development. Redevelopment and infill opportunities are available along the entire corridor and are emphasized along the older commercial segment of 23rd Street, east of the Santa Fe Railroad. This area has historically been a "fringe location" and has not been developed as intensively as the western section of 23rd Street."

The Santa Fe Railroad location is the current location of the Burroughs Creek Trail and Linear Park, developed as part of the rails to trails projects. The subject property is located to the east of the Railroad/Linear Park location.

"The Comprehensive Plan recommends the area maintain a community commercial focus. A substantial amount of property exists between Haskell Avenue and Harper Street that should be redeveloped to geographically balance commercial development occurring in other areas of the community. The area should become more retail and office in orientation. Future development and redevelopment shall include parcel consolidation and re-subdivision to establish properly sized and configured commercial sites to encourage a coordinated and unified development pattern." (Page 6-16, *Horizon 2020)*

The subject property is located between Haskell Avenue and Harper Street and is being redeveloped. The redevelopment includes the subdivision of a large parcel into two parcels more suited to commercial development.

Commercial Land Use Goals and Policies

Goal 1: Established Commercial Area Development

"Encourage the retention, redevelopment and expansion of established commercial areas of the community." (Page 6-24, *Horizon 2020)*

The rezoning will accommodate the redevelopment and expansion of the established commercial uses on the property, which is part of the 23rd Street Corridor Commercial area.

Goal 2: Compatible Transition from Commercial Development to Less Intensive Uses

"Ensure compatible transition from commercial development to residential neighborhoods and other less intensive land uses."

Measures noted in this section include the use of screening and buffering. Traffic and parking shall not adversely affect neighborhood quality. (Page 6-27, *Horizon 2020)*

The proposed layout shown on the concept plan leaves open space to the west of the building to provide area for stormwater management as well as a vegetated bufferyard

between the residential uses to the west and the proposed commercial use. The building is oriented away from the residential uses, so the commercial activity and the parking lots will be separated from the residential area. The site plan submitted for the commercial development will be evaluated to insure the development is compatible with the adjacent residential uses.

Policy 2.3 Higher-Density Residential Development as Transitional Use
"Use higher-density residential development as a transitional land use between commercial developments and the surrounding low-density residential neighborhoods." (Page 6-29, *Horizon 2020)*
While lower density single-dwelling development is located in the area, the adjacent property was developed with higher density residential development, duplexes. This area serves as a transition between the proposed commercial land use and the lower intensity residential uses to the southwest.

Staff Finding – The proposed rezoning and development of the property is compliant with the recommendations of the Comprehensive Plan.

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

Current Zoning and Land Use:	CS (Commercial Strip) District; *Light Equipment Sales and Rentals*, currently vacant, and RS10 (Single-Dwelling Residential) District; *Undeveloped.*
Surrounding Zoning and Land Use:	To the north: CS (Commercial Strip) District; across E 23rd Street right-of-way, Farm Machinery Dealership, *Heavy Equipment Sales and Rentals,* and Auto dealership, *Light Equipment Sales and Rentals.* To the west: CS (Commercial Strip) District adjacent to the north portion (approximately 400 ft); *Offices,* further to the west a Sonic Restaurant, *Fast Order Food with Drive-In*; RM12D (Multi-Dwelling Residential) District, along the southern portion of the subject property; *Duplexes.* To the east: CS (Commercial Strip) District; Farm Machinery Dealership/*Heavy Equipment Sales and Rentals*, further to the east, a heating and air conditioning business, *Construction Sales and Services* To the south: CS (Commercial Strip) District; *Mini-Warehouse, Construction Sales and Services.* To the southwest: RM12D (Multi-Dwelling Residential) District; *Detached Dwellings* (Figure 2)

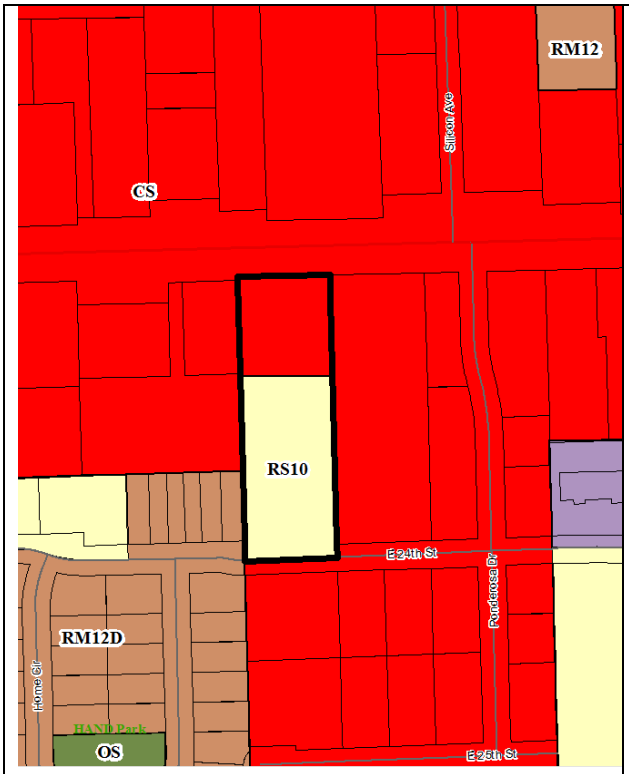

Figure 2a. Zoning in the area. The subject property is outlined.

Figure 2b. Land use/development pattern in the area.

Staff Finding – The area contains a mix of Commercial uses: *Equipment Sales and Services, Light or Heavy*, *Light Equipment Sales,* and *Construction Sales and Services* being the predominate uses with residential uses to the southwest of the subject property. A variety of other uses, such as office, restaurant, and self-storage are located in the area. The proposed use is compatible with the existing zoning and land uses in the area. The adjacent residential uses are higher density residential (duplex uses) which are recommended in the Comprehensive Plan for a transition from higher intensity commercial uses to lower density residential uses. Future development proposed for the property will require evaluation during the site plan review process of potential impacts to the nearby residential uses and measures to mitigate that impact.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"East 23rd Street is a well-used travel corridor and commercial business district. Second tier properties are generally commercial or multi-family with a few single family zoned areas."

For the purpose of this staff report, the term 'neighborhood' refers to the area surrounding the subject property within the surrounding major street network: E 23rd Street to the north, Haskell Avenue to the west, E 25th Terrace to the south, and Harper Street to the east. (Figure 3) The neighborhood is located on the south side of E 23rd Street, a Principal Arterial and is a part of the existing 23rd Street Commercial Corridor. A mix of uses are located in this area with residential uses typically being located further from 23rd Street. The subject

property is part of a commercial pocket that extends south deeper into the area to the north side of E 25th Street.

The majority of the uses in this area are included in the Commercial Use Category of the Development Code. The general type of use is noted in Figure 3 to illustrate the variety of uses. Uses labeled in red are classified as Commercial in the Development Code, those in purple are classified as Industrial, and those in black are classified as Office. Residential uses, both multi- and single-dwellings are highlighted in yellow.

Staff Finding – This is a mixed use neighborhood with much of the commercial, industrial, and office uses being located closer to 23rd Street. The subject property is part of a pocket of commercial uses that extends south of E 24th Street. The neighborhood contains a mix of higher classification roads; being bounded on the north and west by Principal Arterial Roads and on the east and south by Collectors. The proposed rezoning is compatible with the character of the neighborhood as it will maintain the general land use pattern.

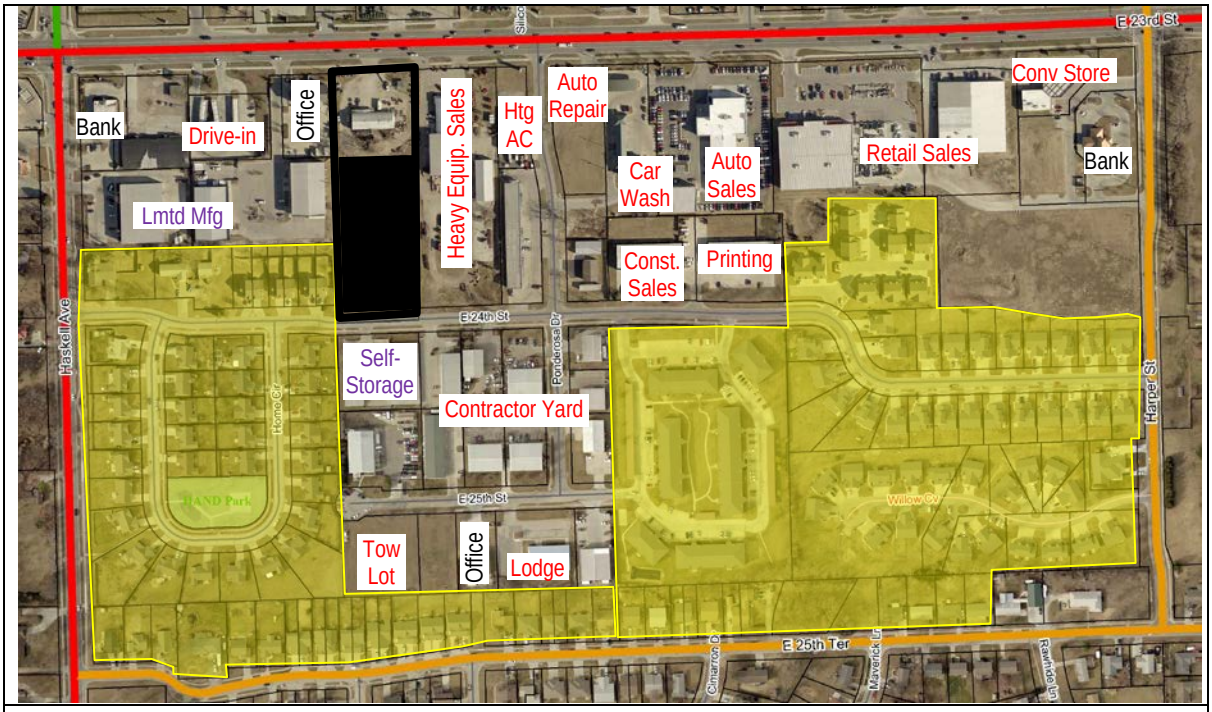

Figure 3. Neighborhood Area. Parcel at 1105 E 23rd Street outlined, with the portion in this rezoning request shown in black. General use types are listed and residential uses are highlighted yellow.

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

Staff Finding – The property is not located within the boundaries of any adopted area or sector plans.

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

Applicant's Response:

"The present RS10 zoning is not appropriate for location and present use of the property. The surrounding area does include some low-density RS10 zoned property, but that generally occurs where a residence exists."

The subject property is located in an area that consists primarily of commercial and industrial uses. Most of the residential uses in the neighborhood are to the south of 24th Street. (Figure 3) If residential uses were developed on the subject property, they would be surrounded on the north, south, and east by commercial uses. Given the nature of uses in the area, the site is not suited for additional residential uses.

Staff Finding – The subject property is not suited to the uses to which it is restricted with the current RS10 Zoning due to the surrounding commercial and industrial land uses. Rezoning to the CS District will allow the property to be developed with uses similar to the adjacent uses and maintain the land use pattern of the neighborhood.

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

Applicant's Response:

"The property has been zoned low density single family since annexation in 1966."

Staff Finding – The City/County historical aerial photos, from 1934 to the present, show no development on the property.

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

Applicants Response:

"There is no foreseen detrimental effect to nearby properties. The parcels on northwest, north, east, and south boundary line are currently zoned CS which is consistent with the use and development of the East 23rd Street corridor. The single parcel at the southwest boundary of the property is currently zoned RM12D. This provides compatible adjacent zonings."

Rezoning to the CS District would allow the southern portion of the property to develop in a similar fashion as other properties in the area. Higher intensity uses could have detrimental impacts on nearby lower intensity uses, such as residential uses; therefore, the Development Code has standards to mitigate these impacts. In addition, Section 20-1101 of the Development Code, "Protection Standards for Residential Districts", allows additional conditions to be placed on a site plan for more intense uses that are within 500 ft of any less intensive residential district. This section notes that the Planning Director may impose conditions that exceed the minimum requirements of the Code, that, in his/her opinion, are necessary to reduce or minimize any potentially adverse impacts on residential property.

Staff Finding – The removal of the restrictions will allow the property to be developed with site plan approval in compliance with the design standards of the 2006 Development Code. The design standards and other requirements in the Development Code, including the additional protection standards for residential districts, implemented through the site plan review should result in compatible development which would not detrimentally affect nearby properties.

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

Applicants Response:

"The public benefits by the conversion of a vacant in-fill property into a vibrant and growing business use. Maintaining RS10 zoning would generally make the property have no value as it is most likely never to be developed as low density single family residence."

When determining the benefit to the health, safety, and welfare of the public by the denial of a rezoning request the negative impacts that would be avoided are evaluated. As discussed in Section 7 of this report, the future development of this property is not expected to negatively impact the area given the protection measures provided by the Development Code.

Denial of the application would result in hardship to the property owner as the property would likely remain undeveloped. The property was not rezoned to the RS10 Zoning in preparation for residential development. Prior to 2006, properties that were annexed but didn't have any development proposed were rezoned to RS-1 as a holding zoning. When development was proposed the zoning would be revised, as occurred with the northern portion of the lot. The RS-1 Zoning for the southern portion converted to RS10 with the adoption of the Development Code, but the property is not suited for low density single family residences.

Denial of the request would not provide any benefit to the public health, safety, or welfare as the uses permitted in the RS10 District would not be appropriate in this location and the site would most likely remain undeveloped. Approval of the request would allow infill development that, when site planned in conformance with the Development Code design standards, should result in development that is compatible with the area.

Staff Finding – Denial of the rezoning request would have no public benefit as the property would likely remain undeveloped under the current RS10 Zoning. Future development proposed under the CS Zoning would be evaluated during the site plan review for conformance with the design standards and residential protection standards provided in the Development Code to insure development that is compatible with nearby land uses.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, adopted plans for the area, the Golden Factors, and compatibility with surrounding development.

Staff recommends approval of the rezoning request for approximately 1.768 acres from the RS10 (Single-Dwelling Residential) District to the CS (Commercial Strip) District based on the findings of fact listed in this report.