

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

PC Staff Report  
04/25/18

**ITEM NO. 10: REZONING .13 ACRES; 1212 LOUISIANA ST (MKM)**

**Z-18-00086:** Consider a request to rezone approximately 0.13 acres located at 1212 Louisiana Street from RMO-UC (Multi-Dwelling Residential-Office District with the Oread Neighborhood Urban Conservation Overlay District) to RM32-UC (Multi-Dwelling Residential District with the Oread Neighborhood Urban Conservation Overlay District) to correct a rezoning error made with Ordinance No. 4235. *Initiated by Planning Commission on 2/21/18.*

**STAFF RECOMMENDATION:**

Staff recommends approval of the rezoning request for approximately 0.13 acres from RMO-UC (Multi-Dwelling Residential-Office District with the Oread Neighborhood Urban Conservation Overlay District) to RM32-UC (Multi-Dwelling Residential District with the Oread Neighborhood Urban Conservation Overlay 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**

In 1971, a rezoning request was approved for property addressed as 1216 Louisiana Street to rezone the property from RD (Residence-Dormitory) to the RO-1 (Residence-Office) District to accommodate the property owner's real estate office on the property. The rezoning application materials listed the address as 1216 Louisiana Street, but listed the lot number as '220', which is the lot number for 1212 Louisiana Street. The rezoning ordinance, Ord. No. 4235, only listed the lot number and the rezoning was applied to 1212 Louisiana Street, rather than 1216 which was the intended subject lot. This rezoning will correct the zoning error.

**KEY POINT**

- The use of the subject property became nonconforming in terms of density and use as a result of the rezoning error. Correcting the error will reduce the nonconformity as discussed below:

--- The RMO District permits the *Multi-Dwelling Structure* use provided the residential units are constructed as part of a mixed-use project when at least 25% of the gross floor area is developed with nonresidential uses. The structure is not part of a mixed-use project; therefore, the multi-dwelling use is a nonconforming use in the RMO District. Correcting the zoning to RM32 will remove this nonconformity.

---The subject property contains a *Multi-Dwelling Structure* use with 6 dwelling units. The use of the property became nonconforming in terms of density with the application of the RO-1 zoning designation in 1971. The conversion of the RO-1 District to the RM32 District with the adoption of the 2006 Development Code increased the nonconformity. The following table illustrates the density permitted with the different zoning districts. Correcting the zoning error reduces this nonconformity.

**1212 Louisiana Street Area: 5,851.49 sq ft Use: 6 dwelling units**

Date	Zoning District	Density Requirement (Area/ Dwelling Unit)	Dwelling Units Permitted
Pre-1971	RD (Residence-Dormitory)	800 sq ft	7
1971 Rezoning	RO-1 (Residence-Office)	1,000 sq ft	5*
2006 Development Code	RMO (Multi-Dwelling Residential- Office) 22 dwelling units per acre	1,980 sq ft	2*
	RM32 (Multi-Dwelling Residential) 32 dwelling units per acre	1,361.25 sq ft	4*
	-UC (Oread Neighborhood Urban Conservation Overlay)	No change 1,361.25 sq ft	4*

\*The current density of 6 dwelling units on the subject lot is nonconforming.

**ASSOCIATED CASES**

- Z-05-10-71; Rezoning of 1216 Louisiana Street (erroneously identified as 'Lot 220 on Louisiana Street in the Original Townsite of the City of Lawrence' in the application and on the ordinance). Zoning approved by the City Commission with adoption of Rezoning Ordinance 4235 on August 17, 1971. Zoning applied to 1212 Louisiana Street as a result of the legal description error.

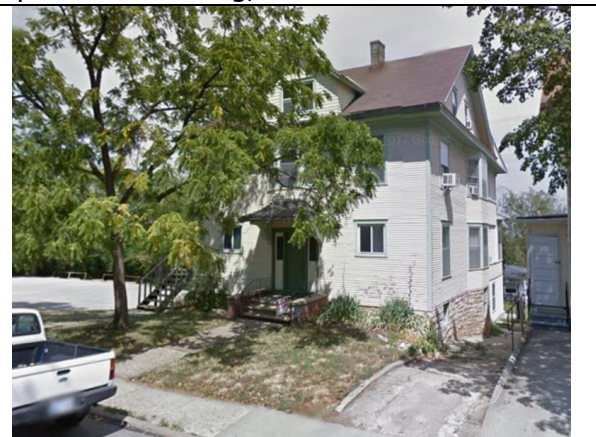
**OTHER ACTION REQUIRED**

City Commission action on the rezoning request and, if approved, the publication of the rezoning ordinance following adoption on second reading.

**Project Summary**

The subject property is developed with a 6 unit apartment building, which is classified in the

Development Code as a *Multi-Dwelling Structure* use. This use became nonconforming following a rezoning error in 1971 which changed the zoning from RD (Residence-Dormitory) to RO-1 (Residence-Office) as the density exceeded that permitted in the new district. The rezoning error was identified in 2015 when Planning staff was asked to confirm if the structure at 1212 Louisiana Street was a nonconforming use. Staff contacted the property owner for permission to correct the zoning error and he provided permission along with an executed Owner Authorization form. The Planning Commission initiated the rezoning request at their February 21, 2018 meeting. No changes in use are proposed. This rezoning will correct the error and assign the RM32 Zoning to the subject property. The use will remain



**Figure 1.** 1212 Louisiana Street. (2012 Google Map)

The use will remain

nonconforming in terms of density, but will be permitted to remain under the provisions of Section 20-1502 of the Development Code. If the nonconformity status was lost, the *Multi-Dwelling Use* would be permitted with a maximum of 4 dwelling units. The loss of the nonconformity status is described in Section 20-1502(c) and includes the abandonment of the use, application for a demolition permit, replacement of the nonconforming use with a conforming use, or damage to the structure occurs to the extent of more than 60% of its market value. When the nonconformity status is lost, the use would be required to comply with the current density standards.

The rezoning request, Z-05-10-71, had originally been submitted to rezone 1216 Louisiana to RO-1 to accommodate the property owner's on-site real estate office. Staff did not request initiation of a rezoning to correct the zoning of 1216 as the ownership has changed and the 2018 Rental Registration indicates that the use is a *Multi-Dwelling Structure* with 4 dwelling units. The RO-1 Zoning (which converted to the RMO District with the adoption of the 2006 Development Code) would result in the multi-dwelling use becoming nonconforming based on the RMO standard that at least 25% of the structure be developed with commercial uses.

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

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

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

The comprehensive plan recommends high-density residential development at selected locations near high-intensity activity areas or near existing high density residential developments. (Page 5-5, *Horizon 2020*)

The property is located within an existing high density residential development and is near the University of Kansas.

*"Adopt criteria which will ensure that livability, property values, open space, safety and the general welfare are sustained."*

The Oread Neighborhood Urban Conservation Overlay District was established to accommodate the implementation of the Oread Neighborhood Design Guidelines. These guidelines implement recommendations in the Oread Neighborhood Plan.

**Staff Finding** – Rezoning the property to the RM32-UC District is compatible with the recommendations of the comprehensive plan as the property is located within a high density residential area and is near a high intensity activity area, the University of Kansas. The –UC Overlay District will remain, only the base district will change with this rezoning.

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

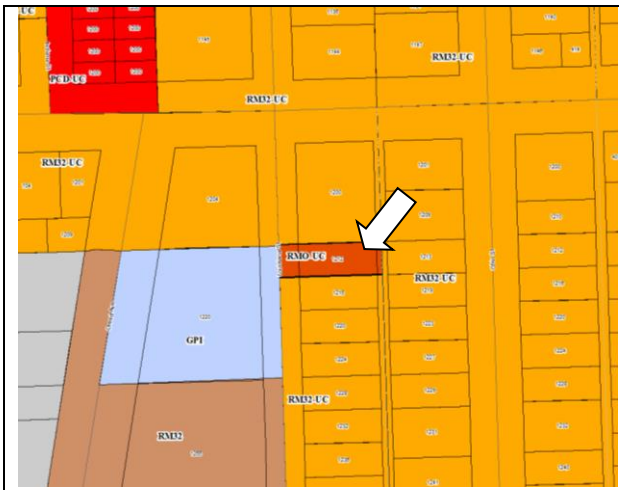
Current Zoning and Land Use: RMO-UC (Multi-Dwelling Residential-Office District with the Oread Neighborhood Urban Conservation Overlay District); *Multi-Dwelling Structure*

Surrounding Zoning and Land Use: To the north, east, and south: RM32-UC (Multi-Dwelling Residential District with the Oread Neighborhood Urban Conservation Overlay District);

*Accessory Parking*, parking lot to serve the KU Alumni Center; to the northeast, east, and south: *Multi-Dwelling Structures, Congregate Living*, and a *Detached Dwelling*

To the west: GPI (General Public and Institutional Use) District; *Major Utility*, a major water storage facility and RM32 (Multi-Dwelling Residential) District; Ecumenical Campus Ministries, *Social Service Agency*

**Staff Finding** – The subject property is part of the Oread Neighborhood and is surrounded on 3 sides by *Multi-Dwelling* uses and on the west by the Oread Water Tanks and the Ecumenical Campus Ministries. The RM32 District is compatible with the existing zoning and land uses in the area.



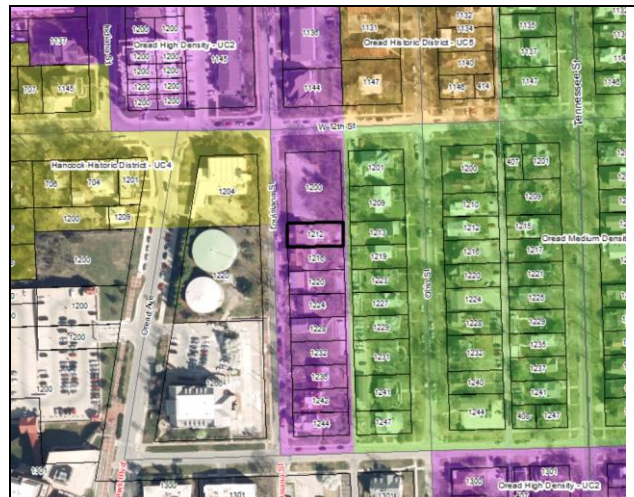
**Figure 2a.** Zoning in the area. Subject property marked with an arrow.



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

### 3. CHARACTER OF THE NEIGHBORHOOD

For the purpose of this review the term 'neighborhood' means the area surrounding the subject property. The neighborhood is located on both sides of Louisiana Street with the University of Kansas and the Oread Water Tanks to the west of Louisiana Street and multi-dwelling uses to the east. This rezoning will not alter the multi-dwelling use of the structure and will match the multi-dwelling zoning in the area. In 2016 the properties within the designated Oread Neighborhood were rezoned to the -UC (Oread Neighborhood Urban Conservation) Overlay District so that the Oread Neighborhood Design Guidelines could be implemented. The design guidelines note their purpose is to "...ensure that the unique and historic character of the neighborhood remains". This overlay district is not being revised.



**Figure 3.** Oread Neighborhood Urban Conservation Overlay District shown in colors. Various districts within the overlay district are identified with different colors. The subject property is located in the Oread High Density district.

**Staff Finding** – The rezoning will return the zoning of the subject property to its original zoning (as converted with the adoption of the 2006 Development Code) and will match the zoning of the other residential properties in the area. The Urban Conservation Overlay District, which was established to protect the character of the Oread Neighborhood, will not be altered. The rezoning is compatible with the character of the neighborhood.

#### **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 subject property is located within the Oread Neighborhood. The Design Guidelines which apply in the Oread Neighborhood Urban Conservation Overlay District were based on the recommendations in the adopted *Oread Neighborhood Plan*. Maintaining the UC Overlay Zoning will maintain consistency with the adopted neighborhood plan and design guidelines.

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

The RMO District permits multi-dwelling uses only when they are a part of a mixed use district. The subject property is developed with only a residential use and is located within a residential area. Developing the property with a mixed use project would not be compatible with the adjacent residential uses. Uses which are permitted in the RMO District but are not permitted in the RM32 District are listed below. These uses are of higher intensity and may not be compatible with the adjacent residential uses, given the proximity of these uses.

- *Work/Live Units*
- *Funeral and Interment*
- *Health Care Office/Clinic*
- *Outpatient Care Facility*
- *Veterinary*
- *Offices*
- *Personal Convenience Services*
- *Personal Improvement Services*

**Staff Finding** – While the RMO District is intended to be compatible with multi-dwelling development, the subject property is not well suited to many of the uses to which it is restricted under the current RMO zoning due to its location within the interior of a residentially developed neighborhood, the small size of the property (0.13 acres), and the proximity of the residential uses.

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

**Staff Finding** – The property is not vacant but was developed in 1910.

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

**Staff Finding** – As no physical changes are proposed and the proposed zoning district matches the residential zoning in the area, the rezoning should have no detrimental effects on 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**

Rezoning to the RM32 District would remove some of the uses that would be permitted in the current RMO District but not in the RM32. These include: *Work/Live Units, Funeral and Interment, Health Care Office/Clinic, Outpatient Care Facility, Veterinary, Offices, Personal Convenience Services, and Personal Improvement Services*. These uses are more intense and could have an impact on nearby residentially developed properties as the property is located in the interior of a residential area. Approving the rezoning would limit the permitted uses on the subject property to the same uses which are permitted on the adjacent properties.

**Staff Finding** – Denial of the rezoning request would have no public benefit as no change to the use is being proposed. Approval of the rezoning request would remove several more intense uses which are permitted in the RMO District but not in the RM32 District. This will provide more uniformity through the area and insure compatibility of 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 0.13 acres from RMO-UC (Multi-Dwelling Residential-Office District with the Oread Neighborhood Urban Conservation Overlay District) to RM32-UC (Multi-Dwelling Residential District with the Oread Neighborhood Urban Conservation Overlay District) based on the findings of fact listed in this report.