

PLANNING COMMISSION REPORT Regular Agenda – Public Hearing Item

PC Staff Report
04/25/18

ITEM NO. 11: REZONING .97 ACRES; 912 N 3RD ST (MKM)

Z-18-00087: Consider a request to rezone approximately 0.97 acres located at 912 N 3rd Street from CS/UR (Commercial Strip and Urban Reserve) Districts to CS (Commercial Strip) District. *Initiated by Planning Commission on 2/21/18.*

STAFF RECOMMENDATION:

Staff recommends approval of the rezoning request for approximately 0.97 acres from CS/UR (Commercial Strip and Urban Reserve) Districts 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

A rezoning request, Z-08-34-01, for this property was approved by the City Commission in 2001 subject to the conditions that the property be annexed into the city and that a site plan be approved which included fencing for the exterior storage area. The property was annexed in April of 2003 with Annexation Ordinance 7464 and a site plan was approved in 2003 which did not include exterior storage. With the approval of site plan, SP-02-07-03, noted below, the conditions of approval for the rezoning request, Z-08-34-01, were met; however, an ordinance completing the rezoning was never submitted to the City Commission. Due to the amount of time that has elapsed since the approval of the rezoning request, staff requested that the Planning Commission initiate a new rezoning, rather than processing an ordinance from the 2001 application.

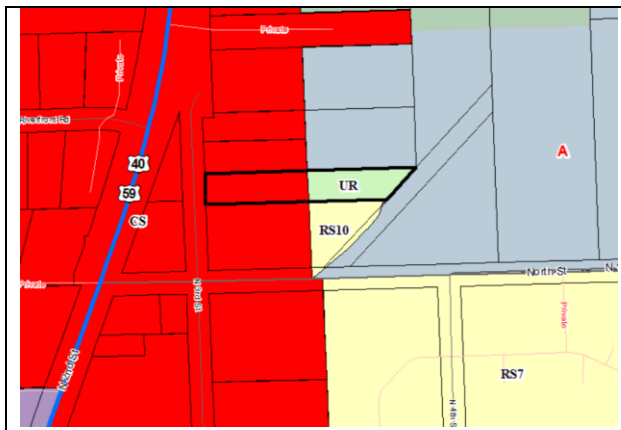


Figure 1a. Zoning in the area. Subject property outlined in bold. (Zoning of properties outside the City limits are labeled in red.)

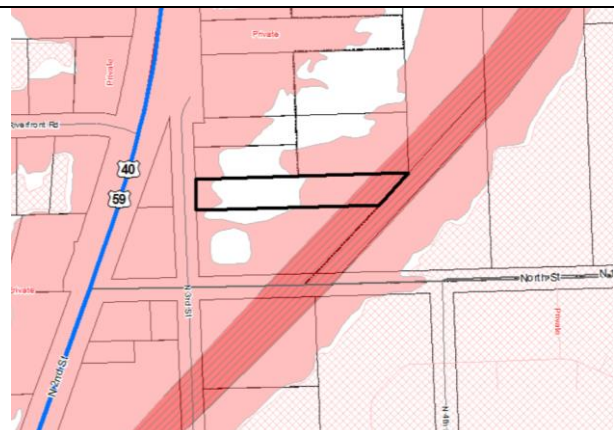


Figure 2b. Floodplain Management Regulations Overlay District. Dark pink: Floodway; light pink: Floodway Fringe; checkered: protected by levee.

KEY POINTS

The subject property contains split zoning. When the rezoning request was submitted in 2001, the west portion (approximately 300 ft) was developed with a contractor's shop and was zoned C-4. The eastern portion was located outside the city limits and was zoned A (Agricultural).

- 2001: Z-08-34-01, rezoning request for eastern portion of property from A to C-4 was submitted. City Commission approved on November 27, 2001. The following conditions were applied to the rezoning: publication of an annexation ordinance and submission of a site plan to include appropriate screening of the exterior storage area, per staff approval.
- SP-02-07-03: A site plan was submitted and approved to document the existing conditions of the site. The site plan was approved by the City Commission on April 1, 2003 subject to conditions of approval. One condition was the publication of the annexation ordinance.
- Annexation: The Planning Commission recommended annexation of the eastern portion of the property on October 24, 2001 with their consideration of the rezoning request. The City Commission approved the annexation on April 22, 2003 with adoption of Ordinance No. 7467
- SP-17-00063: A site plan for a permanent location for a food truck was approved on March 10, 2017. No exterior storage area was shown on the approved site plan and the property owner indicated exterior storage was not proposed.
- Planning Commission initiated rezoning of the property to the CS (Commercial Strip) District at their February 21, 2018 meeting.

ASSOCIATED CASES

- Z-08-34-01; Rezoning of eastern portion of the property from A to C-4. Approved by City Commission on November 27, 2001. Ordinance not published. Zoning was conditioned on annexation of the eastern portion into the City and approval of a site plan showing appropriate fencing of exterior storage area.
- SP-02-07-03; Site plan to document existing use of the property. Approved by the City Commission on April 1, 2003 subject to conditions of approval which included annexation and rezoning of the rear portion of the property.
- East portion of the property was annexed into the City limits on April 22, 2003 with adoption of Ordinance No. 7467.
- SP-17-00063; Site plan for addition of food truck location to the property, was administratively approved on March 10, 2017. This site plan met the site planning condition required with the 2001 zoning request.

OTHER ACTION REQUIRED

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

PUBLIC COMMENT

No public comment was received for this item prior to the publication of the staff report.

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 identifies N 2nd and N 3rd Streets as an existing commercial area (Page 6-14) and makes the following recommendation: “*marginal, obsolete and underutilized sites and incompatible uses along this corridor should be redeveloped or reconstructed.*” The plan recommends that the city encourage and work with land owners to undertake property improvement within the area.

The rezoning will result in one lot with a uniform zoning district and will allow the eastern portion of the property to be developed with commercial uses.

Staff Finding – Rezoning the property to the CS District is compatible with the recommendations of the comprehensive plan as the rezoning would permit the development of the subject property, located within the N 2nd and N 3rd Street commercial area.

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

Current Zoning and Land Use: CS (Commercial Strip) and UR (Urban Reserve) Districts with the FP (Floodplain Management Regulations) Overlay District; *Light Vehicle Repair, Sales and Rentals*

Surrounding Zoning and Land Use: To the north, CS (Commercial Strip) District with the FP (Floodplain Management Regulations) Overlay District; and A (County-Agricultural) District with the F-F (County-Floodway Fringe) and F-W (County-Floodway) Overlay Districts; *Construction Sales and Services* with exterior storage.

To the west: CS (Commercial Strip) District with the FP (Floodplain Management Regulations) Overlay District; *Gas and Fuel Sales.*

To the south: CS (Commercial Strip) District and RS10 (Single-Dwelling Residential) District with the FP (Floodplain Management Regulations) Overlay District; *Construction Sales and Services* and A (County-Agricultural) District with the F-F (County-Floodway Fringe) and F-W (County-Floodway) Overlay Districts; drainage way and a *Residential Detached Dwelling.* (Figure 1)

Staff Finding – The subject property is part of the North 2nd and 3rd Street Commercial Area and is adjacent to the city’s boundary. Nearby properties within the city limits are developed with similar uses while the adjacent rural property contains a drainage district and a rural residence. The proposed zoning is compatible with the zoning and land uses in the area; however, measures to mitigate the impact of future uses on the eastern portion of

the property will need to be established when the future uses are site planned to ensure compatibility with the rural residential property to the east.

3. CHARACTER OF THE NEIGHBORHOOD

For the purpose of this review the term 'neighborhood' refers to the area surrounding the subject property. The neighborhood is located north of North Street and east of Highway 59, N 2nd Street at the urban/rural boundary. The general area has been developed as a commercial strip corridor and this rezoning will provide uniform zoning on the subject property and will permit the eastern portion of the lot to be developed consistent with other commercial properties in the area. The subject property is bounded on the east side by a drainage-way and a wooded rural residential property. The proposed rezoning is compatible with the urban/rural mix which characterizes the neighborhood.

Staff Finding – The rezoning will provide a uniform zoning district for the subject property. This rezoning is in keeping with the character and use 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

The subject property is adjacent to rural property which was included in the *Northeast Sector Plan*. This plan recommends the area to the north and east of the subject property be used as Open Space. This open space area will provide a buffer between the N 2nd and 3rd Street Commercial Area and the lower intensity uses to the east.

Staff Finding – The northeast and eastern portion of the subject property is adjacent to property within the planning boundary of the *Northeast Sector Plan*. The proposed zoning is compatible with the Open Space land use recommended in the sector plan.



Figure 2. Land use recommendations in the Northeast Sector Plan: Green - Open Space, Yellow (bottom right corner) – Very Low Density Residential

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

The property is currently zoned UR (Urban Reserve) District, which is a placeholder district for annexed properties for which no development has been proposed. A rezoning to the C-4 District was approved in 2001 subject to conditions which were met in 2003. The C-4 Zoning District converted to the CS District with the adoption of the Development Code in 2006. The UR District permits only those uses which were in place prior to annexation. Redevelopment of the property requires rezoning to an appropriate district. Given the separation of the property from other agricultural properties and the fact that it is a portion of a commercial lot, redevelopment with commercial uses would be appropriate. The property is not suited for the limited uses permitted in the UR District but is well suited for the range of uses permitted with the proposed CS District.

Staff Finding – The property is not suited to the limited range of uses permitted in the UR District, which are only those uses which were in place at the time the property was annexed. Rezoning to the CS District will provide a uniform zoning on the property, similar to the rest of the commercial corridor, and allow development of this portion of the property.

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

Staff Finding – The Douglas County Appraiser's files don't note when the structure was built; however, historical aerials show the west portion had been developed by 1966. The eastern side of the property, currently zoned UR, does not appear to ever have been developed.

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

The rezoning would accommodate future development on the property. The property contains a motorcycle repair/restoration shop and is adjacent to other commercially developed properties, with the exception of property to the east. The area to the east contains a drainage-way and a wooded property with a rural residence. The approved sector plan for the area recommends *Open Space* as the future land use for the adjacent properties to the east. This land use would be compatible with future development of the subject property. If the rural residence is still present when the site develops, mitigation measures would be required with the site plan review to minimize negative impacts. The rezoning should have no detrimental effects on nearby properties.

Staff Finding – Based on the land uses present on the adjacent properties and the future land use recommendations of the *Northeast Sector Plan*, no detrimental effects are anticipated with the rezoning and development of the property. Proper site design would be implemented to minimize impacts of the development to the rural residence to the east.

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 CS District would provide a uniform zoning over the subject property and allow development of the eastern portion. The development would be compatible with existing land uses in the area and with future land uses recommended in the area plan. Mitigation measures implemented with the site plan review would minimize negative impacts on the existing residence.

Staff Finding – Denial of the rezoning request would have no public benefit as the property would develop in a similar fashion to the remainder of the commercial corridor and would be compatible with existing and future 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 0.97 acres located at 912 N 3rd St from CS/UR (Commercial Strip and Urban Reserve) Districts to CS (Commercial Strip) District based on the findings of fact listed in this report.