

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
8/20/2012

ITEM NO. 2 IG TO CS; .25 ACRES; 444-446 LOCUST ST (MJL)

Z-12-00020: Consider a request to rezone approximately .25 acres from IG (General Industrial) to CS (Strip Commercial), located at 444 - 446 Locust Street. Submitted by Tiburcio J. Reyes Sr., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately .25 acres, from IG (General Industrial) District to CS (Commercial Strip) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Reason for Request: *To be able to obtain a liquor license. (to make the property conforming)*

KEY POINTS

- These properties have always been developed with commercial uses.
- Commercial uses are in conformance with the *Horizon 2020* Future Land Use Map.
- The properties' nonconforming status is the result of code changes over time.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- None

PLANS AND STUDIES REQUIRED

- *Traffic Study* – Not required for rezoning
- *Downstream Sanitary Sewer Analysis* – Not required for rezoning
- *Drainage Study* – Not required for rezoning
- *Retail Market Study* – Not applicable to residential request

ATTACHMENTS

- Page map

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None

Project Summary:

Proposed request is to rezone properties located at the southwest corner of Locust and N. 5th Streets, 444-446 Locust Street, which is developed as a restaurant use. These properties have been developed with a commercial uses at least since 1883 according to Sanborn Maps when the properties were developed with a grocery store, hotel and a dwelling. Since the implementation of zoning in the city, the south side of Locust Street has been zoned industrial. In previous codes, the permitted uses were cumulative meaning that uses were permitted and so were most of the lesser intensive uses. For example, if the property was zoned for industrial uses, those and

commercial and residential were permitted. This is not the case in the current code. The IG District does not permit a restaurant use. The property owner would like to obtain a liquor license and it is not possible with the property being nonconforming. The properties to the east across N. 5th Street are currently zoned CS District. This zoning would be an extension of that district in order to make the property conforming.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *This building has functioned as a commercial property since 1958.*

Staff Discussion: *Horizon 2020* identifies the south side of Locust St. as Office and/or Commercial use on Map 3-2 Lawrence Future Land Use.

Chapter 6 – Commercial Land Use does not mention this corridor with the exception of the intersection of N. 7th and Locust St. as an Inner-Neighborhood Commercial Center though this area would meet the intent of the Inner-Neighborhood Commercial Center. Goal 1 in Chapter 6 – Commercial Land Use is to “Encourage the retention, redevelopment and expansion of established commercial areas of the community”. This area has always had a mix of commercial uses and this rezoning would help to protect the historical commercial area and make the zoning consistent with the use.

Staff Finding – These properties are in conformance with the future land use map and by rezoning, will help to meet Goal 1 in Chapter 6 to retain existing commercial areas.

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

Current Zoning and Land Use: IG District; Developed with a restaurant use

Surrounding Zoning and Land Use: North: IG District; Developed with railroad

East: CS District; Developed with a mixed use structure

West: IG District; Vacant property & restaurant

South: RS5 (Single-Dwelling Residential) District;
Single-dwelling structures



Staff Finding – The area is a mixture of residential and commercial uses along railroad right-of-way. This area has historically been this mix of uses.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *Residential, commercial and industrial*

Staff Discussion: The character of the neighborhood is a mix of residential, industrial and commercial uses.

Staff Finding – The character of the neighborhood is a mix of uses.

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

Staff Discussion: The subject property is within the North Lawrence Improvement Association neighborhood though the neighborhood does not have a current neighborhood plan.

Staff Finding – There are no adopted plans for this area.

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

Applicant's Response: *Property has been used commercially since 1958. Current regulations restrict owner to improve business and increase profits.*

Staff Discussion: The properties have always been developed with commercial uses. Previous codes permitted most of the lesser intensive uses in districts and that is no longer the case in the current code. This caused the existing commercial uses to be nonconforming. It is more appropriate to zone the subject properties to a commercial district, making the property conforming.

Staff Finding – The subject property has been developed with commercial uses since at least the late 1800s. The current code restricts the property to industrial uses which does not permit restaurant uses. The zoning is not suitable for the use.

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

Applicant's Response: *Property is not vacant.*

Staff Discussion: The city has records in the way of Sanborn Maps from 1883 which shows the properties developed with a grocery store, hotel, and dwelling.

Staff Finding – These properties was developed before 1883 and has been developed with commercial uses since.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response: *There will be no detrimental effect to surrounding property owners.*

Staff Discussion: These properties have been commercially developed for a very long time. The potential effect to the nearby properties could be if the property were to intensify the use with the addition of a liquor license. There are other commercial properties in the area that serve liquor.

Staff Finding – This rezoning will not detrimentally affect nearby properties as they are already developed with a restaurant use.

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: *Rezoning this property will allow the property owner to improve business. The property south east of 500 Locust has recently been rezoned.*

Evaluation of this criterion includes weighing the benefits to the public versus the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

Staff Discussion: The denial of this application would limit the property owner to a cereal malt beverage license and the properties would continue to be nonconforming. Both of these things

could cause a hardship on the property owner's business. The denial could limit the intensification of the property by limiting the potential for the owner to obtain a liquor license.

Staff Finding – The gain to the public would be that the property owner could not obtain a liquor license. The hardship to the property owner would be that the property would remain nonconforming and the business would not be allowed to expand their alcohol license and potentially grow their business.

9. PROFESSIONAL STAFF RECOMMENDATION

The subject properties are currently zoned for industrial uses and have always been zoned industrial though the properties have always been developed with commercial uses. Under previous codes, most lesser intensive uses were permitted in the districts. In the current code, this is not the case causing the subject properties to be nonconforming. Nonconforming status on a property can cause issues with lending. The property owner also would like the opportunity to obtain a liquor license and this cannot be issued with the current nonconforming status. There is existing CS District zoning to the east of the subject properties where similar nonconforming situations have been addressed with zoning changes. This would be an expansion of that district though it would be zoning these properties to permit the existing use.