

**MEETING DATE:** December 13, 2022

**STAFF:** Stuart Borders, Senior Planner

**PROJECT NAME:** Bethay rezoning

**CASE NUMBER/REQUEST:** **Case 22-100-20 – Rezoning – 701 N. Forest Avenue** – A request by Walter Bethay to rezone this property from R-6 (Single Family Residential) to R-12 (Two-Family Residential)

**APPLICANT/OWNER:** Walter Bethay

**PROPERTY ADDRESSES:** 701 N. Forest Avenue

**SURROUNDING ZONING/LAND USE:**

**North:** R-6 (Single Family Residential); Single family homes  
**South:** R-12 (Two Family Residential); Single family homes, duplexes  
**West:** R-6 (Single Family Residential); Single family homes  
**East:** R-6, R-12, R-18/PUD(Medium Density Residential/Planned Unit Development); Single family homes; duplexes

**PUBLIC NOTICE:**

- Letters to adjoining property owners – October 19, 2022
- Public Notice published in the Independence Examiner – October 29, 2022
- Signs posted on property – October 27, 2022

**FURTHER ACTION:**

Following action by the Planning Commission, this rezoning request is scheduled for first reading by the City Council on January 17, 2023 and the public hearing/second reading on February 8, 2023.

### RECOMMENDATION

Staff does not recommend of this rezoning to R-12 as the current R-6 zoning conforms with the other properties north of College Terrace which are also primarily zoned R-6.

### PROJECT DESCRIPTION & BACKGROUND INFORMATION

**PROJECT DESCRIPTION:**

|                        |                              |                         |                               |
|------------------------|------------------------------|-------------------------|-------------------------------|
| <b>Current Zoning:</b> | R-6 (Two-Family Residential) | <b>Proposed Zoning:</b> | R-12 (Two Family Residential) |
| <b>Current Use:</b>    | Single family home           | <b>Proposed Use:</b>    | Two duplex lots               |
| <b>Lot size:</b>       | 0.42 acres +/-               |                         |                               |

**PROPERTY HISTORY:**

While the title of the zoning district has changed over time, the property has been zoned for single family residential since at least November 1965 when it was zoned R-1. In November 1980 the nomenclature changed to R-1b; it was then changed to R-6 by the current City Code in July 2009, still being for single family residential use.

#### **PROPOSAL:**

Walter Bethay purchased this property on the northeast corner of Forest Avenue and College Terrace about two years ago with the intent to redevelop the site. To that end, he now seeks to rezone this 0.42-acre property to R-12, divide it into two lots, then construct a duplex on each lot. A small, vacant single-family house in the northwest corner of the site will be demolished to make way for this future development.

#### **PHYSICAL CHARACTERISTICS OF PROPERTY**

Perhaps 40% of the current lot is comprised of the abandoned right-of-way of the Kansas City Southern Railway, which crossed the property in a northeast/southwest alignment. Other than the vacant house, the only features are some trees scattered about the lot, its terrain slopes to the southwest corner of the site.

#### **CHARACTERISTICS OF THE AREA**

This area abutting Forest Avenue north of Truman Road contains single-family homes north of College Terrace and a blend of single-family homes and duplexes south of the street, which aligns with the respective zoning north and south of College. Most of the homes were constructed in the post war 1950's. On the southwest corner of the intersection is the City Water Department's construction office and storage lot.

#### **ANALYSIS**

##### **Consistency with *Independence for All*, Strategic Plan:**

An objective of the City's Strategic Plan is to 'Building new housing units to fill a market need.'

##### **Comprehensive Plan Guiding Land Use Principles:**

The Plan recommends that existing residential areas be preserved and enhanced over time. The retention of the R-6 zoning here will follow that objective.

##### **Zoning:**

Essentially, the only use permitted in the proposed R-12 zoning not allowed in an R-6 district is a two-family dwelling. Other allowed uses in R-12 include single family homes, home based child-care, government facilities, churches, schools, utilities, cemeteries, crops, and gardening.

##### **Historic and Archeological Sites:**

This property is in the West White Oak Neighborhood. The Historic Preservation Master Plan identifies this area as challenged as there has been a lack of new investment due to limited owner-occupied housing. The Plan identifies that more single-family, owner-occupied properties should be encouraged. The construction of duplexes would not be in keeping with the Historic Preservation Master Plan.

##### **Public Utilities:**

All utility services are available to the property and are operational.

##### **CIP Investments:**

The City does not have any capital improvements planned near this site.

## REVIEW CRITERIA

Recommendations and decisions on rezoning applications must be based on consideration of all the following criteria:

**1. Conformance of the requested zoning with the Comprehensive Plan.**

*The Comprehensive Plan envisions Residential Established Neighborhoods uses for this area.*

**2. Conformance of the requested zoning with any adopted neighborhood or sub-area plans in which the property is located or abuts.**

*This property is in the West White Oak Neighborhood. The Historic Preservation Master Plan identifies this area as challenged as there has been a lack of new investment due to limited owner-occupied housing. The Plan identifies that more single-family, owner-occupied properties should be encouraged. In addition, this property is within the Midtown Truman Road 353 Tax Abatement program area. A goal of the Midtown Truman Road program was to revitalize neighborhoods in a manner consistent with historic preservation objectives. The construction of duplexes would not be in keeping with these plans.*

**3. The compatibility of the proposed zoning with the zoning and use of nearby property, including any overlay zoning.**

*This site is not within any overlay zoning district.*

**4. The compatibility of the proposed zoning and allowed uses with the character of the neighborhood.**

*The retention of the R-6 zoning and the construction of single-family homes on the future two lots will be in character with neighborhood north of College Terrace.*

**5. The suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations.**

*The single-family homes permitted by the R-6 zoning classification is suitable for this area north of College Terrace.*

**6. The length of time the subject property has remained vacant as zoned.**

*This property has been zoned for single family use for decades. Likewise, the existing small house on the northern end of the lot has also been there for many years but vacant for the past several years.*

**7. The extent to which approving the rezoning will detrimentally affect nearby properties.**

*The future construction of two duplexes on the site, if rezoned and subdivided, may negatively affect the nearby properties to the north and west.*

**8. The gain, if any, to the public health, safety, and welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.**

*If the rezoning is denied, the owner will still be able to construct one single family home on each of the proposed lots.*

## EXHIBITS

1. Applicant's letter
2. Application
3. Notification letter
4. Property mailing list

5. Mailing affidavit
6. Rezoning plat
7. Proposed minor subdivision
8. Comp plan map
9. Zoning map