

MEETING DATE: May 16, 2023

STAFF: Stuart Borders, Senior Planner

PROJECT NAME: Whitehill rezoning

CASE NUMBER/REQUEST: **Case 23-100-13 – Rezoning** – A request by Susan Whitehill to rezone this property from R-6 (Single Family Residential) to C-2 (General Commercial).

APPLICANT/OWNER: Susan Whitehill

PROPERTY ADDRESSES: 17422 E. 39th Street

SURROUNDING ZONING/LAND USE:

- North:** C-2 (General Commercial); fitness center, various retail uses
South: R-6 (Single Family Residential); Single family homes
West: R-6; Church property
East: O-1 (Office Residential), C-2; Bank, gas station

PUBLIC NOTICE:

- Letters to adjoining property owners – April 27, 2023
- Public Notice published in the Independence Examiner – April 28, 2023
- Sign posted on property – April 24, 2023

FURTHER ACTION:

Following action by the Planning Commission, this rezoning request is scheduled for first reading by the City Council on June 20, 2023 and the public hearing/second reading on July 3, 2023.

RECOMMENDATION

Staff does not recommend of this rezoning to C-2 at this time as the request is premature, being of a speculative nature, and not based upon any particular commercial business.

PROJECT DESCRIPTION & BACKGROUND INFORMATION

PROJECT DESCRIPTION:

Current Zoning:	R-6 (Two-Family Residential)	Proposed Zoning:	C-2 (General Commercial)
Current Use:	Single family home	Proposed Use:	Commercial use
Lot size:	1.77 acres +/-		

PROPERTY HISTORY:

Going back to late 1965 City zoning map, this property, along with most other properties along 39th Street, were zoned R-1 (Single Family Residential). By 1985, virtually all the properties east of the site had been rezoned to commercial while land to the west, south, and northwest retained

some level of residential zoning, mostly single family residential. The title for this level of single-family residential zoning was changed to R-6 in July, 2009.

PROPOSAL:

After owning and residing on this property since 2015, the owner has decided to rezone it to C-2, the typical zoning classification along 39th Street here, to make it more marketable for future sale. Currently, there are no prospective buyers nor any plans for any commercial development.

PHYSICAL CHARACTERISTICS OF PROPERTY

This 1.77-acre lot contains the applicant’s 2,000+ square foot house constructed in the early 1970’s. It rests in the middle of the lot with a couple of smaller out-buildings to the east and north. The red brick house is about five feet above the elevation of 39th Street and accessed by a single wide driveway.

CHARACTERISTICS OF THE AREA

This site is the western edge of commercial development on the north side of 39th Street. To the east lie Bolger Square, Independence Center, and numerous other commercial businesses. Land uses to the west and south are primarily single-family homes with some scattered institutional uses (school, churches). Apartment lie across 39th Street to the southeast, behind the arterial’s commercial frontage.

ANALYSIS

Consistency with *Independence for All*, Strategic Plan:

A strategy of the City’s Strategic Plan is to ‘Support redevelopment of key corridor through land use planning and incentives.’

Comprehensive Plan Guiding Land Use Principles:

The Plan recommends Regional Commercial uses for this site. This is the same designation of the properties to the east including Bolger Square, the Walmart/Sam’s Club Center, Independence Commons, and Independence Center. Properties to the northwest, west and south are all designated for Residential Neighborhood Use.

Zoning:

The existing R-6 zoning allows for single family homes, home based child-care, government facilities, churches, schools, utilities, cemeteries, and row crops. The proposed District C-2 allows residential dwellings above the first floor, retail sales, restaurants, entertainment venues, government facilities, churches, schools, artist workspaces, employment and business support services, banks, gasoline stations, medical services, offices, and personal improvement services.

Historic and Archeological Sites: There are no apparent historic issues with this property.

Public Utilities: While the site is currently connected to most utilities, it’s not connected to sanitary sewer; however, all the surrounding properties are connected. If the site is converted to commercial use, sewer service will have to be extended to the property.

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 Regional Commercial uses for this site.

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 not within any neighborhood or sub-area plans.

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

This site is efficiently an edge property with the residential properties to the south, west, and northwest and the commercial lands to the east and directly north.

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

While the proposed C-2 zoning would be compatible with the land to the east, some of the uses permitted in that district (i.e., auto sales and repair) would not in character with the residential properties to the west. Given that the C-2 district is the broadest commercial district with many allowed and special uses, staff does not support this speculative rezoning at this time.

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

At the time when the house was constructed, residential uses were dominate in this part of the city. Times have changed and the suitability of the site for residential use has shifted to more of a commercial outlook. However, this rezoning would be for speculative purposes as no use has been identified.

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

This property is not vacant but contains a single-family home and has been zoned for single family use for decades.

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

Due to the commercial properties to the east and north, the adjoining church property to the west, it's not expected that this proposed rezoning will not have a detrimental effect on nearby properties.

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.

This rezoning is for speculative purposes only. Depending on the ultimate future use, there may be other aspects beyond the rezoning (for example, special use permit, traffic studies, other infrastructure improvements, etc.) that may be necessary.

EXHIBITS

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

5. Mailing affidavit
6. Site aerial photo
7. Vicinity aerial photo
8. Comp plan map
9. Zoning map