

**MEETING DATE:** April 25, 2023

**STAFF:** Stuart Borders, Senior Planner

**PROJECT NAME:** Royal Stone Landscaping rezoning

**CASE NUMBERS/REQUEST:** Case 23-125-04 – Rezoning – 916 and 1004 W. 23<sup>rd</sup> Street from C-2 and R-12 to C-2/PUD and 910, 920, 922 W. 23<sup>rd</sup> Street and 1130 S. Cottage Street from C-2 to C-2/PUD - A request by Hilda Ramirez to rezone the properties from C-2 (General Commercial) and/or R-12 (Two-Family Residential) to C-2/PUD (General Commercial/Planned Unit Development) and approve a preliminary development plan.

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**APPLICANT/OWNER:** Hilda Ramirez, Royal Stone, LLC

**PROPERTIES ADDRESSES:** 910, 916, 920 922, and 1004 W. 23<sup>rd</sup> Street; and 1130 S. Cottage Street

**SURROUNDING ZONING/LAND USE:**

- North:** R-12 (Two Family Residential); Single family homes
- South:** C-2; various commercial uses
- East:** R-12, C-2; Single family homes, auto repair business
- West:** C-2, C-3; Auto repair related businesses

**PUBLIC NOTICE:**

- Revised letters to adjoining property owners – April 5, 2023
- Revised public notice published in the Independence Examiner – April 8, 2023
- Revised signs posted on property – April 7, 2023

**FURTHER ACTION:**

Following action by the Planning Commission, this rezoning request is scheduled for first reading by the City Council on June 5, 2023 and the public hearing/second reading on June 20, 2023.

### RECOMMENDATION

Staff recommends **APPROVAL** of this rezoning request and the preliminary development plan with the following conditions:

1. The permissible uses for this property includes all C-2 uses permitted by right, or with a special use permit (in accordance with Section 14-704), plus the sale of landscaping materials including river rock, stone, sand, mulch, dirt and related products.
  2. The lots must be consolidated into a single lot through the minor subdivision process prior to a business license being approved.
  3. All business activities are limited to the southern 275 feet of the property to allow for the stream buffer, and the construction of the detention basin. Selected minor activities may be
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permitted north of the 275-foot line with the approval by the Community Development Director.

4. All development and building elevations shall be in accordance with the preliminary development plan.
5. Bins that are subject to dust shall be covered with a framed canvas awnings when not in use.
6. The final development plan must include complete building elevations of the office building and bin canopy, based upon the designs shown on the preliminary development plan. The final plan must also include details regarding bin dust containment covers, best management practices for stormwater management, site lighting, fencing, landscaping, and parking areas.
7. Any trash dumpster must be enclosed in a proper dumpster enclosure per Code Section 14-503-08.
8. Any areas used for the parking/storage of employee's or company vehicles (i.e., dump trucks, backhoes) must be on a paved surface.
9. Business hours being 8:00am to 5:00pm Monday through Friday and 8:00am to 3:00pm Saturday.

## PROJECT DESCRIPTION & BACKGROUND INFORMATION

**PROJECT DESCRIPTION:** A request by Hilda Ramirez, Royal Stone LLC, to rezone 916 and 1004 W. 23<sup>rd</sup> Street (from R-12 and C-2 to C-2/PUD); and 910, 920, 922 W. 23<sup>rd</sup> Street and 1130 S. Cottage Street (from C-2 to C-2/PUD) and approved the attached preliminary development plan and related material.

<b>Current Zoning:</b>	R-12/C-2	<b>Proposed Zoning:</b>	C-2/PUD
<b>Current/Proposed Use:</b>	Vacant property to landscape materials business	<b>Total Acreage:</b>	3.55 acres +/-

### UPDATE:

At its hearing at the January 10, 2023 Planning Commission meeting, this application was continued to its March 14 meeting then subsequently continued to this April 25 meeting. The case was continued to allow the application more time to flesh-out the application material to provide a more detailed site plan, stormwater management plan, and an updated narrative letter. Since then, the application hired an engineer who completed the work and submitted the materials.

In an effort to address concerns by members of the Commission and City staff regarding the sought C-3 (Service Commercial) zoning, and its potential negative uses, it was agreed upon that the zoning request would be modified to a C-2/PUD (General Commercial/Planned Unit Development) designation with the applicant's proposed landscaping material sales being listed as a permitted use. This amendment provides some assurance that the site is developed with design standards and the more objectional uses permitted in C-3 are avoided.

**PROPERTY HISTORY:**

Like many major arterials in the City, the southern 200 feet of the applicant's properties along 23<sup>rd</sup> Street have been zoned commercial since at least November 1965. Land north of the commercial strip was zoned R-2 (Two Family Residential) with the district title being changed to R-12 (Two Family Residential) in July 2009. While most of the parcels comprised by this application have been vacant for several years, there were single family homes at 910 and 1004 W. 23<sup>rd</sup> Street, and 1130 S. Cottage Avenue until they were demolished within the last few years.

**PROPOSAL:**

Hilda Ramirez purchased the six lots that comprise this application in the fall of 2021 for her business, Royal Stone Landscaping (Royal Stone). The business sells materials such as dirt, gravel, mulch, river and decorative rock in bulk amounts to the public with delivery service available. Shortly after the land purchase, the company began preparing the southern portion of the site for the business graveling part of the site for driving/parking areas, creating bin enclosures with concrete barriers for merchandise, and accepting the delivery of some materials for future sale. In early October of 2022, the City's Neighborhood Services division received a complaint about the ongoing work on the site. After an investigation, the owner was cited for an open storage violation; the case is pending awaiting the results of this rezoning request. Previously, Royal Stone purchased landscaping materials at wholesale at other commercial locations for retail delivery to customers. Relocating to this site will allow Royal Stone to consolidate and expand its operations.

In conjunction with the rezoning request being amended, Royal Stone has provided the attached preliminary development plan for approval with the rezoning. The plan design is a refinement from the sketch plan which was previously submitted. Some features of the plan including:

- The elimination of the driveway onto Cottage Street and the relocation of the 23<sup>rd</sup> Street drive to align Windsor Avenue across from the site.
- Provision of building designs for the office and storage containers. The office is a 400 SF wood frame structure with an appearance of a country cabin. The shipping containers will house some of the company's equipment.
- The plan displays the stream buffer on the north end of the site, the location of proposed detention basin and a preliminary grading plan. A stormwater management outline was also included.
- A landscape plan for plantings with fencing is shown for the east and south sides of the site. Dust containment/management will be provided for bins that store products that could become airborne.

It's anticipated that the business will employ two to three people on-site with business hours being 8:00am to 5:00pm Monday through Friday and 8:00am to 3:00pm Saturday. Royal Stone estimates it will be conducting 70% on-site sales and 30% delivery sales. Initially it intends to provide deliveries with a truck and trailer, but it plans to acquire a small dump truck at a later date for its delivery needs.

### **PHYSICAL CHARACTERISTICS OF PROPERTY**

As mentioned previously, there were residential homes on three of the six lots before being demolished in the spring and summer of 2019. The southern 200 feet of the now vacant site along 23<sup>rd</sup> Street has been graded out and is now fairly level. However, the terrain for the remaining 300 feet+/- falls as it proceeds north with the extreme northern 130 feet+/- being within the stream buffer. There are five driveway approaches onto 23<sup>rd</sup> Street; Royal Stone uses one of the eastern approaches and has created an additional drive into the site from Cottage Street. The preliminary development plan proposes to eliminate the driveway onto Cottage Street and relocate the 23<sup>rd</sup> Street drive to align Windsor Avenue across from the site.

### **CHARACTERISTICS OF THE AREA**

This segment of the 23 Street corridor was partially stripped zoned for commercial and industrial uses as far back as the mid-1960's. In this case, the commercial zoning went north 200 feet from the right-of-way of 23<sup>rd</sup> Street with the properties behind this commercial strip being zoned single or two family residential. The 23<sup>rd</sup> Street frontage on both sides of the street east and west of the site is zoned either C-2 or C-3 (Service Commercial). Land uses on the north side of the street are service oriented with those on the south being religious or education related. The residential uses behind the corridor are primarily smaller single-family homes constructed in the first half of the last century.

## **ANALYSIS**

### **The Proposal's Consistency with *Independence for All*, Strategic Plan:**

An initiative of the strategic plan is to improve the visual appearance of the City's commercial corridors. The proposed preliminary development plan is an improvement over sketch plan submitted previously.

### **Comprehensive Plan Guiding Land Use Principles for the Current Designation:**

The City Comprehensive Plan recommends Residential Urban Neighborhood uses for this site.

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

### **Public Utilities:**

As this is a long-established neighborhood, all utility services are existing, however drawings will be necessary for any relocation of utility service lines and storm water tie-ins.

**Stream Buffer/Storm Water Management:** The northern portion of this property contains a meandering stream and its associated stream buffer. The City's stream buffer ordinance is intended to protect and preserve riparian corridor by providing appropriate flood and storm water management systems. As a result, each stream has setback restrictions to provide for the protection of these areas. As this would be a new development, a stormwater management memorandum has been provided by the applicant's engineer.

## **REVIEW CRITERIA**

Recommendations and decisions for proposed planned unit development rezoning and its associated preliminary development plan must be based on consideration of the criteria listed in Section 14-703-05-H:

1. **The consistency with the Comprehensive Plan.**  
*The City Comprehensive Plan recommends Residential Urban Neighborhood uses for this site.*
2. **The consistency with the PUD standards of Section 14-902, including the statement of purpose.**  
*Section 14-902 allows design and permitted use flexibility that results in greater public benefit than would be achieved using conventional zoning regulations; this project is in keeping with that concept as it allows for a flexibility of uses in a lower zoning district.*
3. **The nature and extent of Common Open Space in the PUD.**  
*There is no common space being provided with this commercial project.*
4. **The reliability of the proposals for maintenance and conservation of Common Open Space.**  
*No common space is being provided.*
5. **The adequacy or inadequacy of the amount and function of Common Open Space in terms of the densities and dwelling types proposed in the plan.**  
*Not applicable, this is a proposed commercial project.*
6. **The extent to which the proposed use will adversely affect the capacity of safety portions of the street network or present parking problems in the vicinity of the property. Whether adequate provision for public services, provides adequate control over vehicular traffic, and furthers the amenities of light and air, recreation, and visual enjoyment.**  
*Public services in the area are adequate to serve this project which isn't expected to a significant user of utilities, except for perhaps water. This proposed project will not adversely affect the street network in the vicinity more than many other commercial uses. The applicant's proposal removes existing driveways and realigns the driveway with the cross street. Adequate parking is provided internal to the project; no on street parking is allowed on any of the surrounding streets.*
7. **The extent to which the proposed use will have a substantially adverse effect on adjacent property and the development or conservation of the neighborhood area.**  
*By limiting the business to the southern portion of the property it will reduce its impact on the residential properties to north and east. The addition of the detention basin and the existing stream buffer will also help reduce any impacts to the area.*
8. **Whether potential adverse impacts have been mitigated to the maximum practical extent.**  
*Mitigation efforts have been planned by the developer to reduce impacts to the area. These efforts include the landscape buffer allow the east and north side of the site, the provision of stormwater management best management practices, prohibiting any activities in the stream buffer, and limiting site access to just 23<sup>rd</sup> Street.*
9. **Whether the Preliminary Development Plan represents such a unique development proposal that it could not have accomplished through use of (non-PUD) conventional zoning regulations.**  
*With the use of a PUD designation, it's possible to restrict the permissible uses on the property to those of a lower zoning district with the exception of the applicant's proposed*

*use. This will provide some assurance that future use of the site will not be used for some objectionable use permitted in the original C-3 request.*

10. **The sufficiency of the terms and conditions proposed to protect the interest of the public and the residents of the PUD in the case of a plan that proposes development over a period of years.**

*As this is a relatively small project, it will be developed in a single phase.*

#### **EXHIBITS**

1. Revised applicant's letter
2. Application
3. Notification letter
4. Mailing list
5. Mailing affidavit
6. Aerial photo
7. Preliminary development plan
8. Stormwater Management Plan Summary
9. Comprehensive plan map
10. Zoning map