
MEETING DATE: October 10, 2023 **STAFF:** Joshua Garrett, Planner

PROJECT NAME: Shop Building Rezoning

CASE NUMBER/REQUEST: **Case 23-100-24 – Rezoning – 2500 N. Liberty Street** – A request by Lindsay Vogt to rezone the property from C-1 (Neighborhood Commercial) to C-2 (General Commercial).

APPLICANT: Lindsay Vogt

OWNER: Mitch Patton

PROPERTY ADDRESS: 2500 N. Liberty Street, Independence, MO 64050

SURROUNDING ZONING/LAND USE:

N/E/W: R-6 (Single-Family Residential)

South: C-1 (Neighborhood Commercial)

PUBLIC NOTICE

- Letters to property owners within 185 feet – August 28, 2023
- Public Notice published in the Independence Examiner – September 23, 2023
- Sign posted on property – September 15, 2023

FURTHER ACTION:

Following action by the Planning Commission, this rezoning request is scheduled for first reading by the City Council on November 6, 2023, and the public hearing/second reading on November 20, 2023.

RECOMMENDATION

Staff **DOES NOT** recommend approval of this rezoning request for the following reasons:

1. Due to the predominate R-6 zoning along this corridor and in the surrounding area, C-2 zoning would be out of character for this location.
2. The property abuts several single-family residences. C-2 zones are primarily intended to accommodate community and regional retail sales and services. Generally, C-2 zones are not compatible with neighborhood environments.
3. The Comprehensive Plan envisions this area to be used for residential neighborhoods; building maintenance services and other uses allowed in C-2 districts are not compatible with the vision of future land use in the Comprehensive Plan.

STANDARD REQUIREMENTS OF APPROVAL

1. The parking lot shall be striped in accordance with Section 14-501 of the UDO.

2. At least one (1) accessible parking space shall be provided in accordance with section 14-501-11 of the UDO. In addition, the accessible parking space shall be identified with the appropriate signage and pavement markings.

CONDITIONS OF APPROVAL

1. The appropriate screening, as required by section 14-503 of the UDO, must be installed along all lot lines abutting properties with a residential zoning designation. This includes the following:
 - a. A completely solid fence and additional landscaping to minimize the impact of commercial activity on the neighboring residences, as required by section 14-503-07 of the UDO.
 - b. A masonry trash enclosure to screen any dumpsters or trash bins on all sides, as required by section 14-503-08 of the UDO.

PROJECT DESCRIPTION & BACKGROUND INFORMATION

PROJECT DESCRIPTION: A request by Lindsay Vogt to rezone the property at 2500 N. Liberty Street from C-1 (Neighborhood Commercial) to C-2 (General Commercial).

Current Zoning:

C-1 (Neighborhood Commercial)

Proposed Zoning:

C-2 (General Commercial)

Current Use:

Plumbing (previous)/Vacant (current)

Proposed Use

Building Maintenance Services (Exterminator)

Acreage:

0.65

Building Square Footage:

1,818

BACKGROUND:

For many years, a plumbing business operated at this location. However, the business has since closed, and the current owner is seeking to sell the property. Staff was contacted by the listing real estate agent with inquiries regarding allowed uses in C-1 zones. As explained to staff, the agent found a buyer that intends to operate a pest control and extermination business on the site. However, this is not an allowed use in C-1 districts. This type of business is considered to be “building maintenance services” and is explicitly mentioned in Article 2 of the UDO. Building maintenance services are only allowed in C-2 (General Commercial) and C-3 (Service Commercial) zones. The applicant, who has worked closely with the listing agent, is requesting this property be rezoned to C-2 to accommodate this buyer.

PROPERTY HISTORY:

This property was platted as Lot 1 of the Kentucky Hills Plat in 1957. It is the only lot of this plat to have frontage on Liberty Street. It’s irregular shape and larger size suggest that it was not intended to be used as a residential property, like the rest of the platted lots. When the City introduced zoning in 1965, this property was designated C-1 (Neighborhood Commercial). Through the changes to the

City's zoning ordinances in 1980 and 2009, this property has retained its original designation and has been zoned C-1 for 58 years.

The date of the existing building is difficult to determine. However, aerial imagery from 1969 clearly shows the existing building, the large, paved area surrounding the building, and the open space that lies on the northern half of the property. Comparing this imagery to aerial photographs taken earlier this year, the property seems to have changed relatively little in more than a half-century. This property has surely had varying uses over the years. Most recently a plumbing business had been operating on the property. The property is currently vacant and waiting sale.

To the north of the subject property lies a church. Prior to 2022, the church property and the subject property shared a property line that ran diagonally to the northwest from the street right of way. For many years the church parking lot had encroached onto the subject property. In October of 2022, the church gained ownership of the northern "triangle" portion of the subject property, through the use of adverse possession. Now, the subject property is roughly rectangular in shape.

PHYSICAL CHARACTERISTICS OF THE PROPERTY:

The northern half of the property is open space that has never been developed and has the appearance of a vacant lot. The entirety of the remaining southern half is paved and impervious surface. A building sits in the middle of the paved portion of the lot, roughly equidistant from Liberty Street and Colonel Drive. The primary part of the building is square, with a flat roof and currently painted grey. The door to the building faces Liberty Street. Attached to the northwest part of the primary building is a taller section with two garage doors; one faces Liberty Street, while the other faces Colonel Drive.

The property abuts several single-family residential properties on its west side. Each of these yards is fenced in by a chain-link fence. The subject property itself does not have any fencing to screen the commercial activity and use on the property.

CHARACTERISTICS OF THE AREA:

Directly to east of the property, across Liberty Street, lies two large lots with single-family residences on them. South of these two lots is a large, wooded area that has remained undeveloped. Beyond the church that lies to the north, are more single-family homes. To the northeast of the property, on the east side of Liberty Street is Mill Creek Elementary, which is in the Independence School district. The areas to the west of the property are dominated by single-family residences. Directly to the south, across Colonel Drive sits a utility structure, owned by the City. The property on which the utility structure sits is also zoned C-1. Further to the south lies another commercial property that is zoned C-2, but currently is not occupied and sits vacant. The other properties to the south, along Liberty Street are single-family homes.

PROPOSAL:

The applicant, on behalf of the owner, seeks to have this property rezoned, and its use expanded, so that it can be sold to a specific buyer, seeking to operate a pest control and extermination business on the property.

ANALYSIS

Consistency with *Independence for All*, Strategic Plan:

Rezoning these properties would not be consistent with the *Independence for All*, Strategic Plan. Although the strategic plan outlines goals to reduce blight and grow local business, this should be done in such a way that is compatible with the Comprehensive plan. Another goal outlined in the Strategic plan is to “stabilize and revitalized neighborhoods.” Allowing a heavier commercial use, intended to provide community-wide and regional service, in a single-family residential neighborhood will not provide stabilization. If a heavier commercial use is allowed, it will begin to alter the fundamental character of the area.

Comprehensive Plan Guiding Land Use Principles:

The Comprehensive plan envisions the future land use of this property and the surrounding area to be residential neighborhoods. The Plan provides for commercial uses in neighborhood environments by stating, “Neighborhood serving commercial developments, parks, and civic uses are also common in neighborhoods. The character of existing neighborhoods should be protected when new development is proposed in order to preserve the quality of life for the existing residents. Although, in terms of construction, this is not a new development, the spirit of the statement in the comprehensive plan applies to this situation.

The Comprehensive plan puts a focus on “small-scale retail” integrated into “self-sufficient neighborhoods.” A heavier commercial use intended for a community-wide and regional service area is not compatible with type of commercial suggested for residential areas. The existing zoning designation of C-1 is more in line with the vision of the Comprehensive Plan.

Zoning:

Section 14-301-02-D of the Unified Development Ordinance defines C-2 districts as being “primarily intended to accommodate community and region-serving retail sales and service uses.” Allowing heavier commercial use at this location may have a negative effect on nearby residents and alter the character of the surrounding residentially zoned area.

Historic and Archeological Sites:

There are no apparent historic or archeological sites located on these properties.

Public Utilities:

All utilities are present in the adjacent rights-of-way.

CIP Investments:

Currently there are no CIP investments in this area.

REVIEW CRITERIA

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

1. Conformance of the requested zoning with the comprehensive plan.

The Comprehensive Plan envisions this area to be Residential Neighborhoods.

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

There are no recent neighborhood or sub-area plans for this area.

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

The surrounding area is almost entirely zoned for single-family residences, which is the predominant use for the area. The proximity to residential properties, in addition to the lack of other commercial properties, makes a C-2 Zone incompatible with the area and undesirable for this site.

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

The existing character of the neighborhood is that of a single-family residential neighborhood. A C-2 zoning that allows for heavier commercial use may negatively alter this established character.

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

The existing building is relatively small for a commercial building. Some types of uses allowed in C-2 zones may not be suited for this property.

6. The length of time the subject properties have remained vacant as zoned.

The property has remained vacant and been for sale for several months.

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

Allowing heavier commercial use at this location may have a negative effect on nearby residents and alter the character of the surrounding residential area.

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.

Denial of the application would keep the type of uses allowed on this property in line with the proposed future land use of the Comprehensive Plan. The Plan places emphasis on walkability and neighborhood commercial where applicable. General Commercial may decrease the walkability of the neighborhood if the volume of traffic increases.

If the application is denied, the pool of potential commercial buyers may be limited. However, the property owners is still allowed to operate permitted businesses or to sell the property to an interested buyer.

EXHIBITS

1. Narrative
2. Application
3. Notification Letter
4. Mailing List
5. Affidavit
6. Photo 1
7. Photo 2
8. Adverse Possession Doc
9. Comp Plan Map
10. Zoning Map