

**PLANNING COMMISSION REPORT**  
**Regular Agenda - Public Hearing Item**

PC Staff Report  
12/14/15

**ITEM NO. 1 IG TO CS; 5,500 SF; 239 ELM ST & 311 N 3<sup>RD</sup> ST (SLD)**

**Z-15-00522:** Consider a request to rezone approximately 5,500 SF from IG (General Industrial) District to CS (Strip Commercial) District, located at 239 Elm Street and 311 N 3<sup>rd</sup> Street. Submitted by Paul Werner Architects, for Lawrence Kansas Rentals, LLC and Jon Davis, property owners of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the request to rezone approximately 5,500 SF, from IG (General Industrial) District to CS (Strip Commercial) 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:** *Our client would like to use this site and building for a café to serve those in the neighborhood and those using the levee.*

**KEY POINTS**

- Rezoning applies to both 239 Elm Street and 311 N. 3<sup>rd</sup> Street.
- Site redevelopment is intended for property at 239 Elm Street.
- The existing parcels do not comply with the minimum area requirements for the IG district, 5,000 SF.
- The existing parcels will not comply with the minimum area requirements for the CS District, 5,000 SF, if approved.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- B-15-00581; variance to consider parking reduction as well as area and building setback reductions.
- Future site plan submittal.

**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**

1. Area Map
2. Zoning Map
3. Neighborhood Map
4. Modes of Transportation Map
5. Land Use Map
6. Concept site plan drawing

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- Letter from North Lawrence Improvement Association



239 Elm Street  
Appraisal Phot



311 N. 3<sup>rd</sup> Street  
Google Map

**Project Summary:**

Proposed request is for rezoning two parcels of land located on the northwest corner of Elm Street and N. 3<sup>rd</sup> Street. The immediate plan is to facilitate the reuse of the property at 239 Elm Street for a *Fast Order Food* use. No immediate plans have been identified for the property at 311 N. 3<sup>rd</sup> Street located to the north.

This request, to change the base zoning from IG to CS, addresses only the permitted uses in a district. Approval of the zoning change does not guarantee approval of any particular site plan application. Prior to a change of use or redevelopment of the site, the applicant is required to first submit for review and approval a site plan application.

## 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

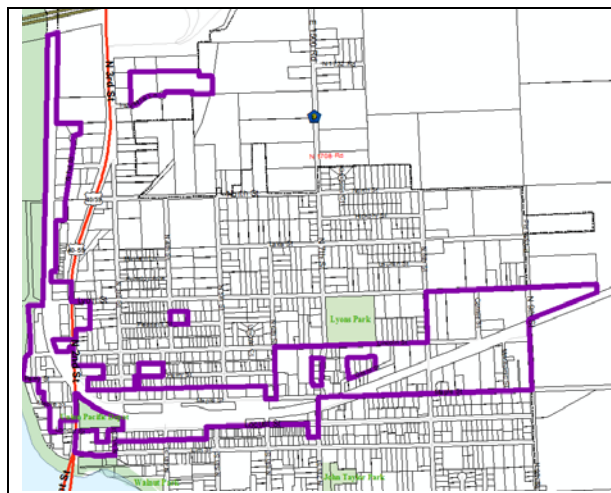
Applicant's Response: *Horizon 2020 indicates this area of North Lawrence should be zoned office and/or commercial. The property is currently zoned industrial and this transition in zoning would be compatible with the surrounding area and Horizon 2020.*

Key features of the plan include the following:

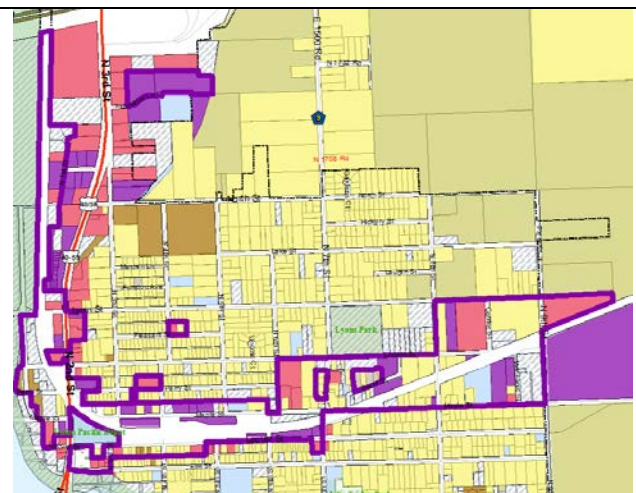
- *The plan supports infill development and redevelopment which provides a range of residential, commercial, office, industrial and public uses within these parcels, consistent and compatible with established land use patterns in surrounding areas.*
- *The plan proposes the progression of land uses to help achieve a transition in land use and intensity levels, and to help avoid major or abrupt changes in density and building type.*

The properties included in this application are zoned IG (General Industrial) District. This is part of the Union Pacific Railroad Corridor. The Plan states that the "industrial patterns along the corridor are somewhat fragmented with interspersed residential and commercial uses." The plan goes on to state that "this corridor may also offer opportunities for small business owners to establish smaller industrial operations within the community." [Chapter 7, Industrial & Employment, Union Pacific Railroad Corridor, page 7-4]. New development and redevelopment are expected and encouraged to improve the appearance and image of the area.

The properties included in this application are currently identified by the County Appraiser as commercial in the existing land use table.



**Figure 1: Union Pacific Railroad Corridor**



**Figure 2: Existing Land Use**

Yellow = low density residential uses  
Red = commercial uses  
Purple = industrial uses

- This application represents a change in less than one-quarter acre of the existing industrial district within the Union Pacific Railroad Corridor.
- This application, if approved, would align the current land use and the zoning district

“When the industrial usage of a particular property ceases and is no longer practical, it is recommended those properties be converted to residential and/or neighborhood commercial uses.” [Chapter 7, Industrial & Employment, Union Pacific Railroad Corridor, page 7-4].

New commercial development is recommended to occur in nodes. A specific commercial strategy states: *“Establish and maintain a system of commercial development nodes at selected intersections which provide for the anticipated neighborhood, community and regional commercial development needs of the community throughout the planning period.”*

Strip commercial development is defined in *Horizon 2020* as typically characterized as developments that do not meet current standards for lot dimensions, area, frontage, curb cut locations or the presence of internal frontage roads for cross access. New strip commercial development is not recommended. *“Redevelopment within strip Commercial Development areas shall be approved only when the redevelopment complies with any approved redevelopment plan or access management plan for the area.”* This land use type is typically zoned as CS (Commercial Strip) District.

Within North Lawrence N. 2<sup>nd</sup> Street and N. 3<sup>rd</sup> Street are identified as existing strip commercial. The subject property is located south of the designated strip commercial development. Small pockets of commercial zoning that are not truly “strip commercial” can be found in several older neighborhoods.

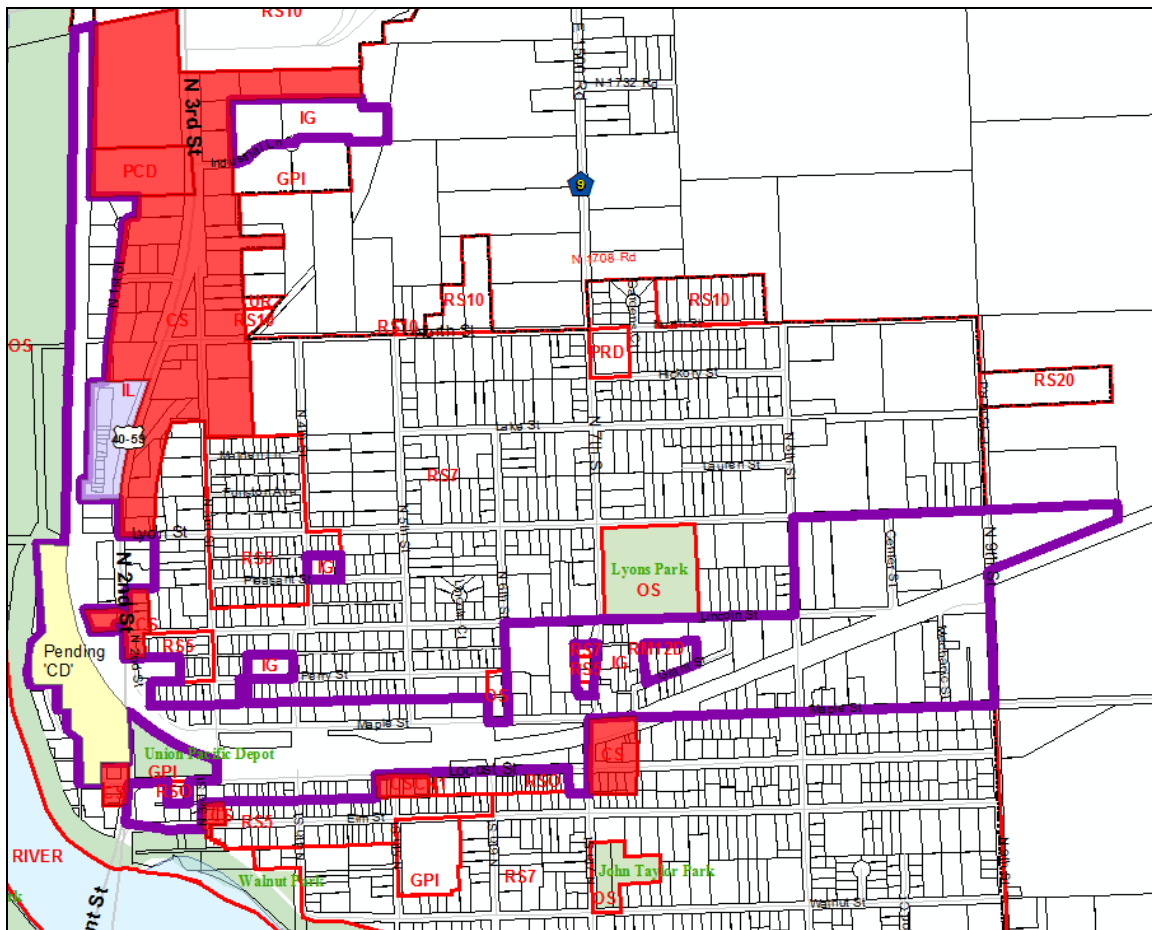


Figure 3: Strip Commercial Zoning

If approved, this application would expand the boundary of the CS zoning as follows:



**Figure 4: Amended CS Boundary if approved**

*Horizon 2020* supports the redevelopment of marginal, obsolete and underutilized sites and incompatible uses.

**Staff Finding** – Regarding infill and redevelopment, the proposed request is consistent with land use recommendations found in *Horizon 2020*.

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

Current Zoning and Land Use:	IG (General Industrial) District; vacant commercial structures.
Surrounding Zoning and Land Use:	<p>CS (Commercial Strip) District to the east; existing commercial use and residential dwelling on the east side of N. 3<sup>rd</sup> Street south of the alley.</p> <p>OS (Open space) District to the south; Riverfront Park and Kansas River Levee.</p> <p>IG (General Industrial) District to the west; existing automotive service related commercial uses along the north side of Elm Street.</p> <p>RSO (Single-Dwelling Residential Office) District to the northwest; existing residential uses.</p> <p>IG (General Industrial) District to the north and northeast; undeveloped lot to the north; existing commercial use to the northeast.</p>

**Staff Finding** – The surrounding area includes residential, recreational/open space, and commercial uses. Residential uses are generally located east of N. 3<sup>rd</sup> Street. A mix of residential uses including single dwelling and commercial uses are located to the north along Locust Street.

### 3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *The buildings in the neighborhood generally consist of repair shops, storage buildings, and residential uses. The levee which is south of the site is the main reason the owner would like to develop the café in this area.*

This property is located in the southwest portion of the North Lawrence Neighborhood. The area between N. 2<sup>nd</sup> Street and N. 3<sup>rd</sup> Street is a transition area from highway commercial uses to the west to residential uses to the east. A significant land feature and dominate land use in the immediate area is the Kansas Levee. While the primary function of this structure is for flood control, it also provides a substantial passive recreational use to the area. Trails along the levee provide non-motorized access and connectivity around the neighborhood perimeter. Both N. 3<sup>rd</sup> Street and Elm Street are designated future bike routes.

Another significant feature of the area is the Union Pacific Depot located on the north side of Locust street north of the proposed request. This historic building and property provide an anchor for the neighborhood. This area includes a public parking lot south of the Depot located between Locust and Elm Streets and west of the subject property.

The area located west of the Union Pacific Railroad and west of N. 2<sup>nd</sup> Street has been approved for rezoning to the CD (Downtown Commercial) District. This zoning is approved subject to approval of design Guidelines, but not yet effective. Future redevelopment of that portion of the neighborhood includes mixed commercial and residential uses.

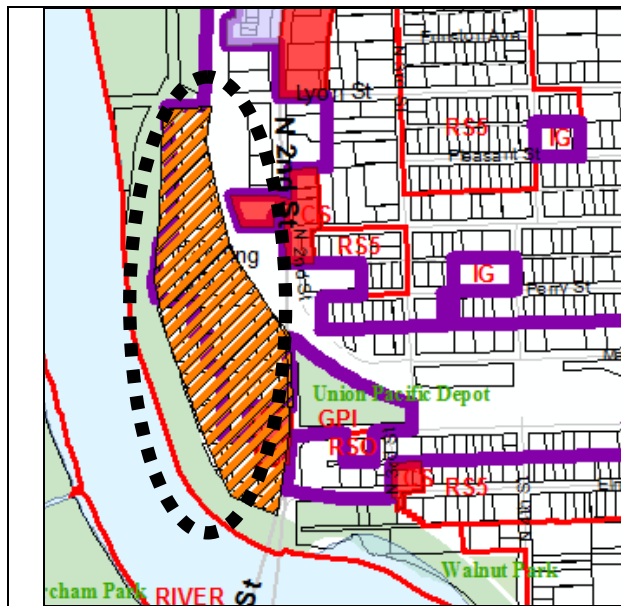


Figure 5: Pending CD District Zoning Change

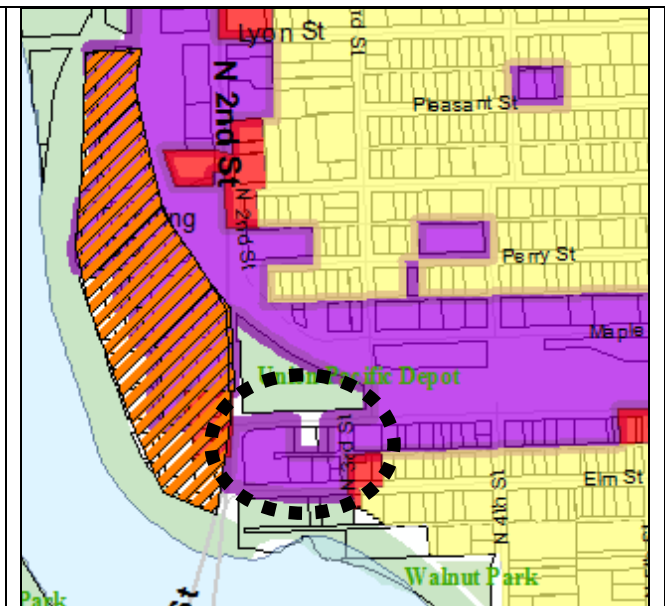


Figure 6: Transition Area

The area between N. 2<sup>nd</sup> Street and N. 3<sup>rd</sup> Street transitions to the bulk of the residential portion of the North Lawrence Neighborhood. Lots that are privately owned in this area are often less than 5,000 SF, the minimum required lot area for both the IG and the CS districts.

**Staff Finding** – North Lawrence includes a variety of uses. The character of the neighborhood is mixed use with intensive uses located along the major streets and railroad corridor. The proposed request is consistent with the overall character of the neighborhood.

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

There are no current neighborhood plans for the North Lawrence Neighborhood. A Neighborhood pPlan was adopted in 1981. Area plans have been approved for the land adjacent to the east and north boundaries of the existing Neighborhood known as the Northeast Sector Plan.

Preliminary land use approval for a 16 acre development known as the N. Massachusetts project is located west of this proposed application. This project does not include land use recommendations outside of the boundary of the plan.

The North Lawrence Neighborhood is located within the boundary of the North Lawrence Watershed. The North Lawrence Watershed Drainage Study was completed in 2005. The property included in this application was generally identified as a commercial land use for the purposes of developing this plan. A copy of the North Lawrence Drainage Study Build-Out Scenario Map is located online at:

[http://lawrenceks.org/assets/public-works/N\\_Law\\_Drainage\\_Study\\_2005/Ultimate\\_Buildout\\_Map\\_111805.pdf](http://lawrenceks.org/assets/public-works/N_Law_Drainage_Study_2005/Ultimate_Buildout_Map_111805.pdf)

The proposed zoning is consistent with the land use assessments for this area.

**Staff Finding** – There are no current land use plans for the North Lawrence Neighborhood. The proposed request is consistent with anticipated land uses for the immediate area.

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

Applicant's Response: *The site is suitable as it currently exists however, a change in use would be an improvement to the property and neighborhood. CS zoning currently exists across the street to the east and extending that zoning to the subject site would be suitable and compatible to the existing neighborhood zoning.*

Industrial uses in the CS District are more restrictive than the IG District. The CS District was created to primarily provide for existing commercial strip development along *Major Arterial Streets*. The CS District is a combination of the previous C-4 and C-5 Commercial Zoning Districts, prior to 2006, thus can also be found in areas other than along *Major Arterial Streets*.

The proposed change will allow the continuation of similar uses in the area to operate at this location but include a wider variety of commercial uses, if approved. The proposed change in zoning reduces the intensity of the land use in terms of permitted uses but may or may not result in an increase in intensity from other operating characteristics such as traffic.

The current zoning, **IG District** allows limited *Community Facility* uses, all *Animal Service* uses, limited *Office* and *Retail Sales and Services* uses. The IG District allows some *Recreation Facilities* uses. All forms of *Residential* uses as well as *Medical Facilities* uses, and *Eating and Drinking Establishments* are prohibited in the IG District. A full range of *Vehicle Sales and Service* uses, *Industrial Facilities* uses and *Wholesale, Storage and Distribution* uses, *Communications Facilities*, *Mining*, and *Recycling Facilities* uses are permitted in the IG District. The IG District is intended for moderate and high impact industrial uses.

Comparatively, the **CS District** allows *Multi-Dwelling Residential* uses, most *Community Facilities* uses, and limited *Medical Facilities* uses. The CS District allows a full range of *Recreation Facilities* uses, *Animal Services* uses, *Eating and Drinking Establishments*, *Office* uses, *Retail Sales and Service* uses, *Transient Accommodations*, *Vehicle Sales and Service* uses. Limited *Industrial Facilities* uses are allowed in the CS District. All *Wholesale, Storage and Distribution* uses and most *Recycling Facilities* uses are permitted in the CS District.

The properties included in this request are very small given the range of uses and intensity for any given use. When combined and consolidated into a uniform single parcel, the property may accommodate redevelopment more efficiently. Reducing the overall intensity of the area as a transition between N. 2<sup>nd</sup> Street to the west and the residential area to the east also enhances the suitability of the property as a CS zoning district rather than the existing IG district.

**Staff Finding** – The properties as zoned are unlikely to be redeveloped for industrial uses because of the size and depth of the parcels. Rezoning the property is a more flexible way to accommodate redevelopment and facilitate uses that are more suitable to the area as a transition between N. 2<sup>nd</sup> Street to the west and the residential area to the east.

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

Applicant's Response: *The site has had an existing building on site for quite some time and has housed several different uses.*

The two parcels included in this rezoning request are not vacant properties. Both include buildings. The Douglas County Appraisal records indicate the building at 239 Elm Street was built in 1960. The building located at 311 N. 3<sup>rd</sup> is noted as built in 1940. The property has been zoned IG since the adoption of the Land Development Code in 2006.

Prior to 2006 the property was zoned with both M-2 (General Industrial) District and M-3 (Intensive Industrial) District zoning. The 1977 zoning map shows the area located west of N. 3<sup>rd</sup> Street between Locust St. and Elm Street solidly zoned M-3. The property located at 239 Elm Street was included in a rezoning request in 1986 (Z-9-29-86; PC staff report 10/22/86). That appears to be when the property was rezoned to from M-3 to M-2. The 1986 staff report suggests that the property had been zoned for intensive industrial uses since the adoption of the 1966 Zoning Code. The structures were "existing" at the time of the 1996 zoning. The zoning did not appear to capture the property at 311 N. 3<sup>rd</sup>. Planning Records do not clearly indicate when that property was rezoned. Regardless, in 2006 both the M-2 and M-3 Districts were combined and rezoned to IG.



**Staff Finding** – The current zoning has been in place since the adoption of the Land Development Code in 2006. The properties included in this request are not current vacant. Only the property located at 239 Elm Street is the subject of an active redevelopment request.

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

Applicant's Response: *A commercial zoned site requires substantial parking to serve the users however; since this is an infill site with limited parking availability we anticipate submitting a variance to request the use of the City parking lot south of the train depot to serve the site parking needs. Ideally less parking will be needed for this use because it is designed to serve those using the levee for exercise.*

Impact from change in zoning from IG to CS is negligible. Uses located in this area, such as *Vehicle Sales and Service*, are equally permitted in either the existing IG District or the proposed CS District. More significant impacts are anticipated to result from the redevelopment or change of use.

Rezoning allows more opportunity to successfully redevelop the site and reinvest in existing improvements. Successful redevelopment will require the assessment of specific physical requirements of the site including building setbacks, landscape requirements, off-street parking requirements and pedestrian connectivity. The current site at 239 Elm Street appears to provide some amount of off-street parking. However the parking provided is non-compliant with the parking lot design standards. The property at 311 N. 3<sup>rd</sup> Street does not appear to provide any off-street parking.

The applicant has indicated that the intent is primarily for the property at 239 Elm Street to be redeveloped. This site clearly cannot meet off-street parking requirements unaided. Future redevelopment of the property will require a reasonable plan to address minimum site design requirements such as off-street parking. This demand could be achieved through off-site parking be provided on one or more parcels of land in immediate proximity to the request or through a shared parking agreement with another property owner.

As property redevelops, off-street parking will be a primary concern as it relates to the surrounding area. This concern is not specifically a zoning criterion for consideration. It is however a peripheral concern that may have impacts on nearby properties if not addressed in the Site Plan consideration. This discussion is provided to serve notice to both property owner and surrounding neighborhood of the resultant impact, if approved.

**Staff Finding** – No detrimental impacts are anticipated to result from the change in zoning. Similar uses will be continued to be allowed with a wider flexibility of uses permitted in the CS District. Mitigation of any effects on nearby property will be managed through the Site Plan application review process.

**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: *The gain for public health, safety and welfare is a great location for those exercising and using the levee to stop for refreshment or to make this site a destination at the end or beginning of their workout. This will be a great asset to the health of the City in general. The*

*hardship imposed on the owner should the zoning not be approved would be a departure from the zoning Horizon 2020 suggests for this area.*

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.

The area between Locust Street and Elm Street is sandwiched between two public facilities; the Union Pacific Depot to the north and Riverfront Park to the south. Both are included in the City's public park inventory. Locust Street is a designated collector street while N. 3<sup>rd</sup> Street and Elm Street are designated as local streets. This area provides a transition into the neighborhood to the east. Rezoning the property will facilitate the redevelopment of property that is underutilized. Reinvestment in the property will enhance the surrounding area and may encourage reinvestment of the adjacent properties to the north and west.

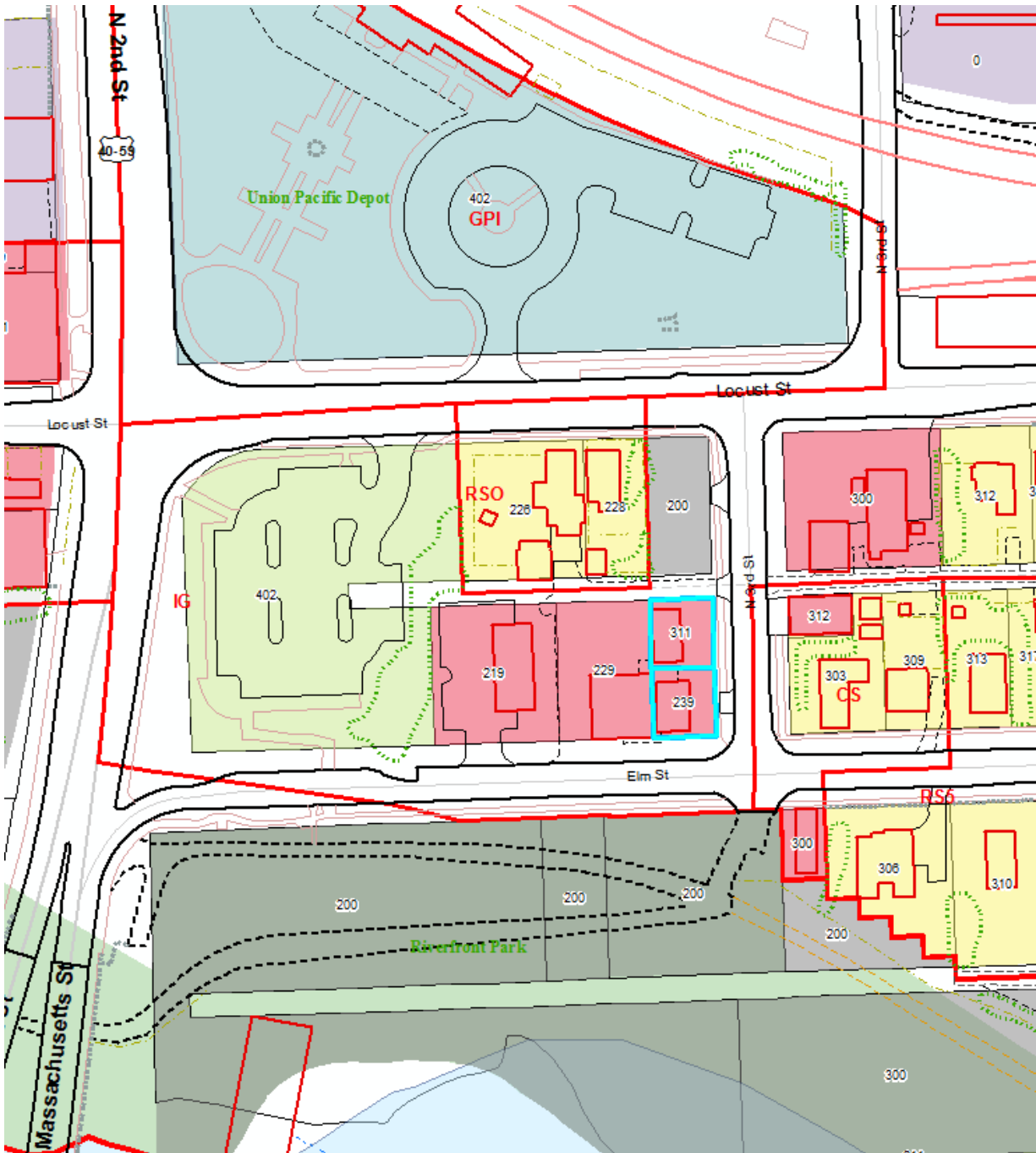
Denial of the request will hinder the ability to redevelop this property for industrial uses unless it is combined with other property to address parking, building setbacks, and other density and dimensional standards.

**Staff Finding** – Approval of the request will benefit the public by providing additional flexibility for redevelopment and reinvestment in a transitional area of the North Lawrence Neighborhood than is currently available to the property as zoned.

## **9. PROFESSIONAL STAFF RECOMMENDATION**

The area located between N. 2<sup>nd</sup> Street and N. 3<sup>rd</sup> Street is a transitional area that connects the southern part of the North Lawrence Neighborhood to the surrounding area and street network. Commercial uses are planned for the area located between N. 2<sup>nd</sup> Street and the Kansas River Levee. Areas located along N. 3<sup>rd</sup> Street have been rezoned from IG or PCD to either IL or CS to facilitate redevelopment and provide more flexibility in tenant selection.

The list of permitted uses in the IG and the CS Districts are similar in many ways. However, one distinction between the two is the allowance for retail commercial uses in the CS District. Given the proximity of the public uses and residential uses within the 200 Block of Elm/Locust Streets. the IG Zoning is no longer suitable.



**CONCLUSION**

Staff recommends approval of the proposed zoning change from IG to CS.