

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
2/22/16

ITEM NO. 1 Villa 26 Apartments – Rezoning from CS (Commercial Strip) to RM24 (Multi-Dwelling Residential); 1.325 ACRES; 2109 W 26th St. (KES)

Z-15-00640: Consider a request to rezone approximately 1.325 acres from CS (Commercial Strip) District to RM24 (Multi-Dwelling Residential) District, located at 2109 W 26th St. Submitted by Petefish, Immel, Heeb & Hird, LLP., for Polaris KS3, LP., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request from CS (Commercial Strip) District to RM24 (Multi-Dwelling Residential) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

REASON FOR REQUEST

Applicant's Response:

“When the subject property was developed, it was zoned C-5 (Limited Commercial). Under the C-5 zoning district, multi-family use was permitted. Following adoption of the 2006 Development Code, C-5 zoning was eliminated and replaced with the CS (Commercial Strip) category. The subject property became classified as legal non-conforming under the current City Code. The applicant is requesting rezoning of the subject property for compliance with the current City Code, consistent with the remainder of the Villa 26 Apartments as RM24 zoning.”

KEY POINTS

- The property is located to the west of Iowa Street and to the south along W 26th Street.
- The proposed zoning change would bring the property from a legal non-conforming status to a legal conforming status.
- The proposed zoning change would bring this portion of the development into the same zoning district as the rest of the Villa 26 Apartment development.
- RM24 zoning is the current zone of the adjacent residential development.

ASSOCIATED CASES

SP-5-14-81 Site Plan; Villa 26 Apartments; Approved July 29, 1986 & Revised August 8, 1986.

OTHER ACTION REQUIRED

- City Commission approval of rezoning.
- Publication of rezoning ordinance if approved.

PUBLIC COMMENT

N/A – no communications received.

Project Summary

The proposed rezoning would bring a portion of an existing apartment development into the same zoning district as the rest of the development. There is no construction or building development proposed. Three of the apartment buildings are part of this rezoning.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's response:

"Existing use of the property was constructed in 1987 in compliance with the former Development Code."

This property is currently zoned CS (Commercial Strip). This rezoning would bring the existing southeast portion of the apartment development under the same RM24 (Multi-Dwelling Residential) District as the rest of the apartment complex. The change in zoning would not trigger a change in use and would be in compliance with the Comprehensive Plan.

Staff Finding – The proposed rezoning does not change the overall character of development in the area and the request is in conformance with the multi-dwelling residential land use recommendations in the Comprehensive Plan.

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

Current Zoning and Land Use: CS (Commercial Strip) District; *Part of the existing apartment complex. Villa 26 Apartments*

Surrounding Zoning and Land Use: To the east: CS (Commercial Strip) District; *Commercial structures.*

To the south: CS (Commercial Strip) District; *Commercial structures.*

To the west: RM24 (Multi-Dwelling Residential) Districts; *Developed with Multi-Dwelling Residential structures. Villa 26 Apartments*

To the north: RM24 (Multi-Dwelling Residential); *Multi-Dwelling Residential structures. Villa 26 Apartments*

The property is currently zoned CS (Commercial Strip) District. Adjacent zoning in the area is RM24 (Multi-Dwelling Residential) and CS (Commercial Strip). The requested rezoning is consistent with existing zoning in the existing residential development, Villa 26 Apartments. The request complies with the Comprehensive Plan land use projections in the area. The RM24 zoning district will bring the southeast portion (three buildings) of the Villa 26 Apartments into the existing zoning district for the development.



Figure 1. Zoning and land use in the area. Subject property is outlined in cyan.

Staff Finding – The subject property is adjacent to properties zoned for multi-dwelling residential land uses. The residential zoned properties are already developed. The proposed rezoning is compatible with the zoning and land uses, existing and approved, in the area.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"Mixed-use commercial retail and multi-family."

This area is currently developing as a multi-dwelling residential area and commercial retail. The properties surrounding the subject property are established with Multi-Dwelling Residential structures and are part of current residential development, Villa 26 Apartments.

Staff Finding – The proposed rezoning is in keeping with the development in the area. The proposed rezoning would be in keeping with a use that is compatible with the character of the area.

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

Applicant's response:

"Conforms to the existing use."

This property is a portion of Villa 26 Apartments and the rezoning would bring this portion of the development into the same zoning district.

Staff Finding – This rezoning does not alter plans for the area and is consistent with the existing development.

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

Applicant's response:

"Conforms to existing use."

Staff Finding – The proposed rezoning brings existing development into the zoning district consistent with the rest of the apartment complex and is consistent with the area and corrects the non-conforming status that resulted from the change in the 2006 Development Code.

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

Applicant's Response:

"Existing apartment buildings were constructed in 1987."

Staff Finding – The existing use will not be altered by this rezoning.

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

Applicant's Response:

"Existing multi-family use is suitable for this site and compatible with adjacent uses. The existing use of the property will become legal conforming by the rezoning rather than legal non-conforming."

Staff Finding – The RM24 zoning is in keeping with surrounding zoning. The rezoning would allow for existing development, Villa 26 Apartments, to reside in one zoning district and to bring the status from legal non-conforming into legal conforming with the current Land Development Code. The rezoning would be compatible with the nearby uses and should have no detrimental effect.

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

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

The proposed rezoning is not changing the allowed use of the property in a manner that would be detrimental to public health, safety and welfare. The proposed rezoning brings the entire Villa 26 Apartments development into one zoning district that is compatible with the area.

Staff Finding - There would be no gain to the public health, safety, and welfare through the denial of the rezoning request.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan and the Golden Factors, and for compatibility with surrounding development. The rezoning request is consistent with the Comprehensive Plan and would be compatible with surrounding development. Staff recommends approval of the rezoning request.