



AGENDA ITEM 5A

Kreutzer Rezoning Staff Report

To the
Planning Commission
City of De Soto, Kansas
March 21, 2007

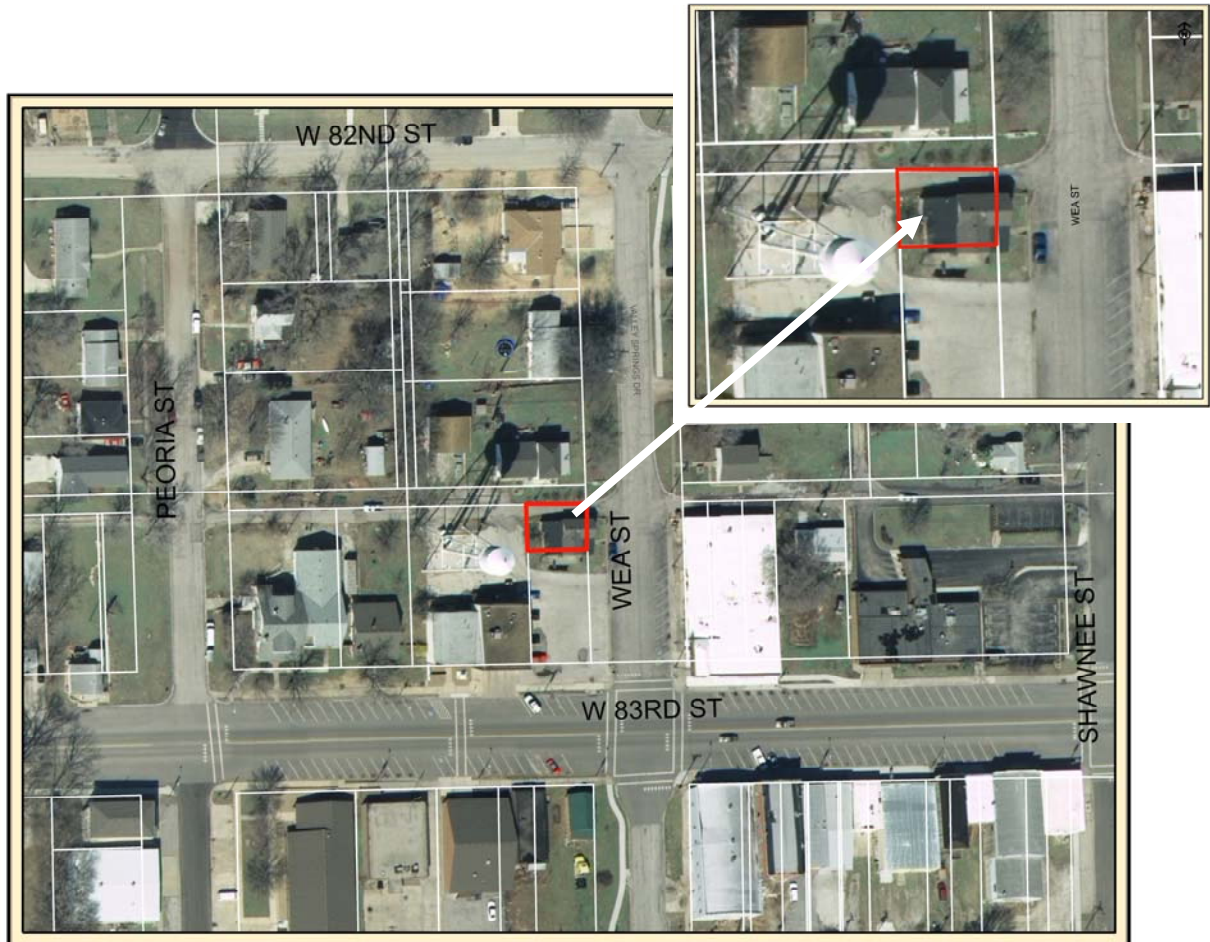
Agenda Item:	Public hearing to consider a rezoning from 'C-1' Central Business to 'R-H' Residential Historic for 8260 Wea Street.
Meeting Date:	Tuesday, March 27 th , 2007
Applicant:	Mark Kreutzer 8260 Wea St. De Soto, KS 66018
Report Prepared By:	Kim Buttrum, AICP, City Planner
Exhibits:	Exhibit A: Zoning Regulations Appendix A

I. Application Background

- A.** The applicant, Mark Kreutzer, has applied to rezone his residence to the 'R-H' Residential Historic district. The property is zoned 'C-1' Central Business, the zoning classification for the downtown commercial district. Kreutzer indicated that thought the property was used for commercial purposes by a previous owner, he intends to continue using the property only as a single family residence. He has been advised that he will receive a lower loan rate if the property is zoned residential instead of commercial.
- B.** The location of the Kreutzer residence is indicated in Figure 1 on page 2.



Figure I: Aerial Vicinity Map



I. Review of Application

Following is a review of the application materials with respect to the criteria for zoning change found in the Zoning Regulations, the requirements of the Subdivision Regulations, and the adequacy of public utilities.

A. Golden Factors

Matters to be Considered: In order to recommend approval or disapproval of a proposed zoning district amendment, the Planning Commission and Governing Body shall determine whether the amendment is found to be generally compatible with surrounding development and is in the best interest of the City. In making such determination, the Planning Commission and Governing Body may consider all factors they deem relevant to the questions of compatibility and the best interest of the City, including the following:

1. ***The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space.***



The subject site is .04 acres (1,742 square feet) and is home to a single family residence, seen below in Figure II. The property is just north of the De Soto fire district parking area and is accessed from either Wea Street or an alley to the north of the property. There is not a driveway; adjacent public parking is limited to several on-street spaces in front of the home. The site is surrounded by medium density residential development, commercial and civic uses. As seen in Figure 3, properties in the area are either zoned 'R-H' or 'C-1'. The USD 232 technology center is zoned 'P-D' Planned Development. All of the single family or duplex residential properties in the 'Old Town' area were rezoned to 'R-H' Historic in 1998.

Figure II: Photograph of Subject Property



AP66000000 0041A 11/11/2003

Figure III: Area Zoning





The Kreutzer's property was platted as part of the original Town of De Soto subdivision in 1866. The 1,600 square foot bungalow style home was constructed in 1900 and is appraised at \$65,300 dollars.

The zoning change will not alter the character of the neighborhood with respect to the existing and proposed land use. With the commercial zoning designation, the home could conceivably be used solely as a business. Likewise, the 'R-H' district allows for some limited office type uses. These limited uses are more appropriate for a small residential home. If a business type use were proposed for the site in the future, the rezoning would likely give the City an opportunity to apply reasonable restrictions via the special use permitting process.

The finding relating to whether the use is in keeping with the character of the existing neighborhood is therefore positive, in favor of granting the application.

2. Compatibility of the proposed zoning and uses permitted therein with the zoning and uses of nearby properties.

The subject property's use is as a single-family residence. Only residential or limited office uses are permitted within the 'R-H' district. The existing development pattern for residential homes in the area is more consistent with the City's 'R-H' Residential Suburban zoning district. The rezoning would be equally if not more compatible with the zoning and uses of nearby properties.

The finding relating to the compatibility of the proposed district with nearby properties is therefore positive, in favor of granting the application.

3. Suitability of the uses to which the property has been restricted under its existing zoning.

The site is suitable for single-family residential or limited office development, both allowable in the 'R-H' district. The 'C-1' district does not allow for single family residences. A commercial use operating out of the subject property would be problematic, particularly for public parking and access.

The finding relating to the suitability of the uses to which the property is restricted under its existing zoning is therefore positive, in favor of granting the application.

4. Length of time property has remained vacant as zoned.

The site has contained the same residential structure for over one hundred years. Staff cannot be positive how long the existing 'C-1' zoning has been in place, only that it has had the zoning since at least 1998. The applicant mentioned that a previous owner may have had a seamstress or other business as a secondary use. Staff finds that it is also possible that the commercial zoning was inadvertently applied to the property given it's small size and location



within a perfect 'rectangle' of properties zoned 'C-1' in the area (see Figure 3). Regardless, the existing zoning has not hindered the property from developing.

The finding relating to the length of time the property has remained vacant as zoned is therefore neutral, neither in favor of nor against granting the application.

5. *The extent to which there is a need in the community for the uses allowed in the proposed zoning.*

There is a perceived and real need in the community for additional commercial space. This site, however, does not lend itself well to commercial activity. It is more suited to residential or small office type uses.

The finding relating to the need for the proposed uses is therefore neutral, neither in favor of nor against granting the application.

6. *The availability and adequacy of required utilities and services to serve the uses allowed in the proposed zoning. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services.*

- a) **Sanitary Sewers:** The site is served by city sanitary service via an 8 inch VCP line running along the alley to the north of the property. There is no evidence that the rezoning would impact existing or future sanitary sewer service needs for the property.
- b) **Water Service:** The site is served by city water service via an 8 inch water line running along the alley to the north of the property. There is no evidence that the rezoning would impact existing or future water service needs for the property.
- c) **Storm Sewer Runoff:** If the property is ever further developed, all of the City's storm water detention and runoff control criteria will apply. Because the requested zoning classification is to a lesser zoning district, it is concluded that granting this request will not negatively impact the stormwater drainage in the area.
- d) **Electric, Gas, Police, & Fire:** The development of the subject tract under the proposed zoning classification would not appear to have a material impact on these public services.



The finding relating to availability of required utilities is therefore positive, in favor of granting the application.

7. *The extent to which the uses allowed in the proposed zoning would adversely affect the capacity or safety of that portion of the road network influenced by the uses, or present parking problems in the vicinity of the property.*

Access to the subject property may be from either Wea Street or an alley directly north of the property. There is not a private driveway to the home, parking is either on-street or possibly in the adjacent City-owned parking lot. The amount of traffic generated for a residential or small office use is not typically higher than for a commercial property. It is therefore concluded that granting the rezoning request would not cause a negative impact on the road network system in the area.

The finding relating to the road network is therefore positive, in favor of granting the application.

8. *The environmental impacts that the uses allowed in the proposed zoning would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other harm.*

There are no known environmental factors on this site that would present barriers to its use. It is anticipated that any potential negative environmental impacts of development can be mitigated through the application of the City's development standards if the property were to be the subject of a site plan or special use permit application in the future.

The finding relating to environmental impacts is therefore positive, in favor of granting the application.

9. *The economic impact on the community from the uses allowed in the proposed zoning.*

Due to the size and nature of the property, it is doubtful that a substantial commercial business would operate there. Therefore, the continued use of the property as a residential home will not have a notable economic impact on the community.

The finding relating to economic impact is therefore neutral, neither in favor of nor against granting the application.



10. ***The extent to which the zoning amendment may detrimentally affect nearby property.***

The rezoning will not change the existing use of the property. It does not appear that there will be negative impacts to abutting property owners as a result of a rezoning.

The finding related to the extent to which the zoning amendment may detrimentally affect nearby property is therefore positive, in favor of granting the application.

11. ***The relative gain (if any) to the public health, safety, and welfare from a denial of the rezoning application as compared to the hardship imposed upon the rezoning applicant from such denial.***

This proposal poses only minimal, philosophical loss to public should the rezoning be approved, in that it is possible that some form of commercial business potential could be lost. As touched on throughout the report, the site is not well suited for commercial development. Staff also questions if the commercial zoning was unintentionally and mistakenly applied by past staff members or consultants. According to Mr. Kreutzer, the hardship imposed on him by denying the request would be a higher interest rate on their pending loan application. The applicant's hardship in denying the rezoning would appear to be greater than any potential loss to the public.

The finding related to the relative gain to the public from a denial of the rezoning application as compared to the hardship imposed upon the rezoning applicant from such a denial is therefore positive, in favor of granting the application.

12. ***Consistency with the Comprehensive Plan, Utilities and Facilities Plans, Capital Improvement Plan, Area Plans, ordinances, policies, and Code of the City of De Soto.***

The City's Future Land Use map places the subject property in the 'De Soto Center District' future land use category, described in Chapter 7 of the Plan as follows:

" De Soto Downtown District: *The De Soto Downtown District includes low- to moderate-density residential, office, retail, entertainment, civic and governmental uses clustered around Downtown De Soto and the Kansas (Kaw) River to be implemented as part of a master development plan. The De Soto Downtown is projected to be the heart of the city. The vitality of the downtown frequently is an indicator of the vitality of the city. Development density and intensity, setbacks and parking requirements are treated differently than in other districts. The form of the design and relationship to the street and surrounding development should be the primary focus when formulating development projects. The creation of pedestrian scale amenities and unique development patterns within an urban living environment and activity center is the primary intent of the District. "*



'R-H' Residential Historic zoning and the uses permitted therein are appropriately located in 'Low-Density' future land use designated areas. A list of uses permitted in the district are in *Exhibit A* of staff's report.

Figure IV: Future Land Use



The finding relating to the consistency with the Comprehensive Plan is therefore positive, in favor of granting the application.

13. ***The recommendation of professional staff.***

This staff report represents the recommendations of professional staff. None of the twelve matters for consideration were found to be negative. Three of the items were found to be neutral; the remaining nine were positive.

The finding related to the recommendation of professional staff is therefore positive, in favor of granting the application.



III. CONCLUSIONS AND RECOMMENDATIONS

The conclusions relating to the majority of the rezoning considerations are positive, in favor of granting the 'R-0' rezoning request. Staff's overall recommendation is positive. The final staff recommendations have been categorized accordingly as follows:

Conclusions relating to the "Matters to be Considered" for zoning change:

- (1) The finding relating to whether the use is compatible with the existing neighborhood is **positive**.
- (2) The finding relating to the compatibility of the proposed district with nearby properties is **positive**.
- (3) The finding relating to the suitability of the uses to which the property is restricted under its existing zoning is **positive**.
- (4) The finding relating to the length of time the property has remained vacant as zoned is **neutral**.
- (5) The finding relating to the need for the proposed uses is **neutral**.
- (6) The finding relating to availability of required utilities is **positive**.
- (7) The finding relating to the road network is **positive**.
- (8) The finding relating to environmental impacts is **positive**.
- (9) There is finding relating to the economic impacts of the proposal is **neutral**.
- (10) The finding related to the extent to which the zoning amendment may detrimentally affect nearby property is **positive**.
- (11) The finding related to the relative gain to the public health, safety, and welfare from a denial of the rezoning application as compared to the hardship imposed upon the applicant from such a denial is **positive**.
- (12) The finding relating to the consistency with the Comprehensive Plan is **positive**.
- (13) The finding relating to the recommendation of professional staff is **positive**.

Staff advises the Commission recommend approval of the requested zoning change from 'C-1' Central Business to 'R-H' Residential Historic.

END OF REPORT

EXHIBIT TO FOLLOW