

STAFF REPORT – ZONING CASE
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday, August 17, 2020

APPLICATION CASE: Z20/02 By: Flywheel Fairlawn LLC

REQUESTED ACTION: Zoning change from “C-4” Commercial District to “M-3” Multiple Family Dwelling District

**APPLICANT /
PROPERTY OWNERS:** Flywheel Fairlawn Capital LLC/ Ben Hrouda

**APPLICANT
REPRESENTATIVE:** Corey Dehn, AIA – Schwerdt Design Group

STAFF: Annie Driver, AICP – Senior Current Planner

**PROPERTY LOCATION /
PARCEL ID:** 605 SW Fairlawn Road / PID: 0983301001002000

PARCEL SIZE: 5.7 acres

RECOMMENDATION: **APPROVAL**

**RECOMMENDED
MOTION:** Based on the findings and analysis in the staff report I move to recommend to the Governing Body approval of the reclassification of the property from “C-4” Commercial District TO “M-3” Multiple Family Dwelling District.

PHOTOS:

View from SW Fairlawn:



View from SW 7th Street:



PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

Adaptive re-use of the former 147 room, 2 to 4 story (“mid-rise”) hotel into market rate, work force housing for approximately 130-140 studio, one, and two bedroom apartments. (i.e. the exact number is not yet identified as the floor plans are still being adjusted.) The facility will also have associated accessory uses such as management office, indoor playground, storage units, exercise facility, common areas for co-work space, etc. Minor exterior improvements are proposed such as decorative security fencing, exterior painting/re-roofing, and landscaping.

DEVELOPMENT / CASE HISTORY:

Z58/60 – The site was rezoned from “A” Single Family Dwelling District to “G” Commercial District in 1958. (The “G” classification converted to “C-4” in 1992.) The 147 room motel and conference center was constructed around 1980 and remained used as a hotel and conference until 2017. In 2015, the owners converted the west wing of the building into furnished apartments that were leased out while the hotel was still in operation until 2017.

The site was annexed in 1958.

ZONING AND USE OF SURROUNDING PROPERTIES:

North: Right-of-Way / SW 6th Avenue and Interstate 70 / Automobile Repair

South: “C-4” Commercial District / General office and Automobile Repair

West: “C-4” Commercial District / Vacant Nursing Home

East: “C-4” Commercial District / Automobile Convenience Stores / Undeveloped property

DEVELOPMENT STANDARDS AND POLICIES

PURPOSE, USE STANDARDS:

“M-3” Commercial District: *The purpose of this district to provide for multiple-family dwelling structures which are in the moderate to high density range and at heights which allow for a high intensity of use and development. The location of this district is intended to complement high activity centers such as the central business district, employment centers or other similar locations. Since this district will have high levels of pedestrian activity, attention will be focused on ensuring a pleasant, safe and efficient pedestrian environment.*

DIMENSIONAL STANDARDS:

Front/Rear building setbacks: 25' - **Compliant**

Side building setbacks: 5' - **Compliant**

The maximum building coverage is 60% - **Compliant** (No new construction is proposed.)

The maximum density is 30 DUs per acre - **Compliant**

The maximum building height is 160 ft.- **Compliant**

OFF-STREET PARKING:

"M-3" District: TMC 18.240 off-street parking standards indicates it may be appropriate to use the parking standard most suitable for the use. Staff considers the standard for "*multi-family high rise*" of 1.5 per dwelling unit for first 20 dwelling units and 1 per dwelling unit thereafter to be the most appropriate for this use since predominately intended for studio and one-bedroom apartments. 140 apartments will require the addition of 150 parking stalls based on this standard. The site has adequate off-street parking.

OTHER DESIGN GUIDELINES AND CONSIDERATIONS:

Compliance with TMC 18.235 Landscape Regulation is not required because there is not an expansion to the building or parking lot.

SIGNAGE:

Signage will be permitted subject to Title 18 Division 2 Sign Code for "M-3" zoning. Subject to TMC 18.10.110. Any non-conforming signs may need to come into compliance with area and height requirements. The pole sign is an abandoned, non-conforming sign per sign code, which means on October 1, 2020 the pole sign shall be removed.

OTHER FACTORS

SUBDIVISION PLAT:

Platted as Fairlawn Acres Subdivision

**FLOOD HAZARDS, STREAM
BUFFERS:**

Not applicable

UTILITIES:

There are existing sewer and water service lines. There is an 8" water main along SW 7th and a 12" main along SW Fairlawn that are available. The applicant will need to add a 6" fire line connection. An 8" sanitary sewer main is already serving the site.

TRAFFIC/TRANSPORTATION:

No issues were identified by the Traffic Engineer regarding the rezoning. There are no changes to access openings being proposed.

The site has access to public transit and the trail and bikeway system via SW 6th Avenue, which is an asset for multiple-family residential uses. There is also a sidewalk along Fairlawn to provide pedestrian access to shopping and the middle school.

HOUSING:

The City housing and market study indicates a demand for market rate, lower cost workforce multiple family housing. The addition of the new studio market rate apartment units helps to meet this demand.

HISTORIC PROPERTIES:

Not applicable

NEIGHBORHOOD MEETING:

The applicant conducted a neighborhood information meeting on Wednesday, July 29, 2020 at 6:00 pm via a Zoom Video Conference. The owner representative, architect, two neighbors, and Planning staff attended this meeting. Key issues identified at the meeting were:

- Type of housing and funding
- Leasing requirements and terms
- Income requirements
- Management of the facility
- Effects of zoning on property value and crime

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:

FIRE: The Change of Use requires the owner to install a fire sprinkler system through-out the building. The Fire Department inspectors will review plans upon Building Permit submittal.

DEVELOPMENT SERVICES: Development Services will review construction plans upon submittal for the application for the Building Permit and Change of Use.

KEY DATES

SUBMITTAL: July 2, 2020

NEIGHBORHOOD INFORMATION MEETING: July 29, 2020

LEGAL NOTICE PUBLICATION: July 22, 2020

PROPERTY OWNER NOTICE: July 24, 2020

STAFF ANALYSIS

As a zoning case Planning staff have reviewed the case relative to the required findings and conclusions in Topeka Municipal Code Section 18.245 (Findings and conclusions reflect the “golden factors” per Donald Golden v. City of Overland Park, 1978 Kansas Supreme Court).

CHARACTER OF NEIGHBORHOOD: The surrounding area is characterized by automobile-oriented commercial, office, and institutional uses and retail uses and eating/beverage establishments along Fairlawn nearby. The site is located at the intersection of SW Fairlawn and SW 6th (major arterials). The uses surrounding the property include a vacant nursing home lying west, an occupied retirement home (Presbyterian Manor) lying northeast, automobile repair shops east and north, general offices lying south, and an automobile convenience and gas station lying east. Landon Middle School is located south along SW Fairlawn. MacLennan Park and Cedar Crest lie to the north of Interstate 70. The site has excellent access to the public transit and bikeways from SW 6th Avenue. The site has pedestrian access to the middle school for children via Fairlawn sidewalks. The proposed zoning will not substantially alter the physical character of the neighborhood. The addition of longer term residents, instead of more transient hotel guests might have some effect on daily and nightly activity.

THE ZONING AND USE OF PROPERTIES NEARBY: The property to the west is zoned “C-4” Commercial District and contains a nursing home that has remained vacant for at least three years. The properties directly south are zoned “C-4” District. Except for the automobile repair shop, the remaining properties contain professional offices. An automobile repair shop and automobile gas station and convenience store are located north and east of the subject property. The proposed zoning is compatible with the surrounding C-4 zoning and variety of commercial and institutional uses.

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property has remained zoned for heavy commercial uses since 1958. The hotel and conference center was constructed in 1980 and used as a hotel until 2017. The building has remained vacant since 2017. A live-in care taker has remained on-site since this time to care for the building and grounds. Ultimately, the condition of the building will decline the longer the property sits vacant, which makes it more difficult to market the property for another hotel or other suitable commercial uses. The paid on-site caretaker is one reason the property and building have remained in decent condition since it has been vacant. However, keeping this on-site caretaker to care for an abandoned building is not a foreseeable option for the long term future.

CONFORMANCE TO COMPREHENSIVE PLAN: The subject property is located at the southwest edge of a *Small Commercial Node* as described by the Land Use and Growth Management Plan - 2040. The plan describes policies for concentrating medium or higher density housing around the edges of a commercial corridor and commercial nodes (Pg. 45). The plan also indicates although the dominate character of an area may be commercial, this character should not preclude the mixing of uses as a component of a development or redevelopment of the commercial area. (pg. 48). Additionally, the plan encourages compact growth that includes a mix of housing choices and higher residential densities as this promotes compact growth and uses existing infrastructure and services (pg. 36). For these stated reasons, the proposed adaptive re-use is in conformance with the policies of the Comprehensive Plan.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED: The subject property and building have remained vacant since at least 2017. The layout and design of the hotel make it difficult to re-use the building for commercial uses allowed in C-4 zoning other than another hotel and conference center. That being said, there is a sufficient supply of “C-4” Commercial zoning and hotel rooms throughout the City making it more difficult to market the subject property as restricted by the present zoning.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Removal of the present restrictions should have very little, if any, detrimental impacts on nearby properties. In the long-term, a property that is used and maintained has a better outcome on surrounding properties than a property that remains vacant, not maintained, and is left abandoned. There is always the potential there may be some limited impact on adjacent offices from a higher concentration of residents living nearby (e.g. vandalism) and changes in property value. However, the effect of zoning on property value and crime is difficult to connect and this claim is not substantiated. It is generally understood, that the longer the building remains vacant and under-used in its current state, the more likely it is to be vandalized, which will have a negative impact upon surrounding properties. The subject property has sufficient on-site parking to accommodate the predominantly studio to one-bedroom apartments, which means there will be very little parking on the street. As an additional measure, the applicant indicated decorative fencing will surround the site as a security precaution.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: The hardship imposed upon the individual landowner is the longer length of time the building sits vacant or unoccupied and is not being maintained, the less marketable it becomes for another hotel user. The building is not adaptable for other C-4 commercial uses and there is documented oversupply of lower classification hotel rooms in Topeka, which makes it difficult to market property as zoned. The primary reason the hotel has remained in suitable condition until this time, is that it is being cared for by an on-site resident. However, the longer it remains vacant the less viable, and more difficult, it becomes to keep the building suitable for other uses. Additionally, the longer it sits vacant, the more costly it is to maintain the building and the cost of keeping the on-site caretaker is not a viable option. Alternatively, there is a gain to the public health, safety and welfare by preserving and re-adapting the existing hotel for

“workforce housing”, which is a documented need in Topeka based on the City’s recent housing study. The new use is perfectly situated to take advantage of the nearby public transit and bikeways network, which many of its residents will rely upon.

AVAILABILITY OF PUBLIC SERVICES: Utilities are available and serve the property.

STAFF RECOMMENDATION:

RECOMMENDATION: Based on the above findings and analysis Planning Staff recommends approval of the zoning reclassification from “C-4” Commercial District TO “M-3” Multiple Family Dwelling District.

RECOMMENDED MOTION: Based on the findings and analysis in the staff report I move to recommend to the Governing Body approval of the reclassification of the property from “C-4” Commercial District TO “M-3” Multiple Family Dwelling District.

Exhibits:

Aerial map

Zoning map

Future land use map

NIM Summary and Attendance

ⁱ “Workforce housing” - Workforce housing is targeted to people with income levels ranging from 60% to 120% of Area Medium Income (AMI). In contrast, the term affordable housing is generally used for households whose income is less than 60% of AMI.