

Concern w/ impact KA & removal
of concrete

Planning Commission Staff Report

Applicant

Garry W. Dunnegan
12748 E Meadow Ct
Wichita, KS 67206

Application

Applicant is requesting to rezone Lots 11, 12 and 13 of Schlotthauer Subdivision #4 (a/k/a Kingfisher Inn; 1725 Upland Road) from "CP-2" Planned General Commercial to "V-1" Village.

Project Description

Mr Dunnegan has purchased the property on the west side of Upland Road, north of Lakeshore Drive. The current zoning is Planned Commercial and the most recent occupancy of the property was a restaurant/bar.

Planning Issues

The Public Hearing Notice and Adjacent Property Owner Notification was completed in accordance with the Marion County Zoning Regulations and Kansas State Statutes. No public comments have been received as of May 18, 2009. The purpose of the "V-1" Village District is to encourage the continued existence of small unincorporated "villages" by placing very narrow restrictions on their use and further development. No development of new "villages" is contemplated under these provisions and only fill-in type development of existing "villages" with low intensity uses is intended.

Factors to be considered in a change of zoning classification:

- 1) Whether the change in classification would be consistent with the intent and purpose of the Marion County Zoning Regulations. *In this case it would be consistent.*
- 2) The character and condition of the surrounding neighborhood and its effect on the proposed change. *This would be consistent with the character and condition of the neighborhood.*
- 3) Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions. *The current occupancy class (restaurant/bar) has resulted in the property remaining vacant for an extended period of time. Although there have been a few attempts to submit proposals to reopen the property as a restaurant, all proposals have been withdrawn. Residential occupancy is not permitted in a commercial zone unless such residential occupancy is secondary to the primary occupancy (ie. an apartment above a store).*
- 4) The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification. *Current zoning and use of nearby properties will not be affected by such a change because the change will be to the same classification as adjacent and nearby properties*
- 5) Whether every use that would be permitted on the property as reclassified would be

compatible with the uses permitted on other property in the immediate vicinity. *They will be the same.*

- 6) The suitability of the applicant's property for the uses to which it has been restricted. *Since there has been no successful attempt to reopen the property as a commercial business, and it has been vacant for an extended period of time, the contents of the building have been sold at auction and the building is vacant. However, there have been allegations of water damage on the inside that may require remediation before the building could be opened up to the public as a restaurant. Further investigation would be needed to make that determination.*
- 7) The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped. *The property has been vacant for a period exceeding 30 months.*
- 8) Whether adequate sewer and water facilities, and all other needed public services including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified. *Adequate sewer, water and all other public services including transportation services are already established on the property.*
- 9) The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development. *This is the only parcel that is currently zoned "CP-2" Planned General Commercial*
- 10) The recommendations of permanent or professional staff.
- 11) Whether the proposed amendment would be in conformance to and further enhance the implementation of the Comprehensive Plan.
- 12) Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification. *The relative gain to the public will be that the building is occupied and does not become a vacant, neglected structure that becomes a public nuisance and an eyesore at the entrance to the park and lake. The hardship imposed by not rezoning the property would be that they will not be able to occupy the property and would likely sell the property and not relocate in Marion County.*
- 13) Such other factors as may be relevant from the facts and evidence presented in the application.

Property is located on a paved road.

The majority of the parcels located within the developed areas of the county lake are zoned as Village.

Staff Recommendation

Approve a recommendation to rezone Lots 11, 12 and 13, Schlotthauer Subdivision #4 from "CP-2" Planned Commercial to "V-1" Village Zone District.