

COMMUNITY PROJECT/ZONING

140365

Ordinance Fact Sheet

Case No. 132-S-40, 581-S-9, 13802-P-1, 13802-P-2

Brief Title

"To approve two area plan amendments, a rezoning and a development plan to allow an existing group living facility to remain."

Details

GENERAL LOCATION

On the west side of Gillham Road north of E. 38th Street.

PURPOSE

To allow an existing group living facility to remain.

CITY PLAN COMMISSION

The City Plan Commission heard these cases on April 15, 2014. The Commission voted to approve all of the cases.

BRIEF PROJECT DESCRIPTION

EXISTING CONDITIONS:

The subject property is two lots located on the west side of Gillham Road, between E. 37th Street on the north and E. 38th Street on the south. Warwick Boulevard bounds the block on the west. Lot One is 3720 Gillham Road, and Lot Two is 3728 Gillham Road. All of the platted lots in this city block (Hyde Park subdivision) were originally approximately 6,600 square foot lots with dimensions of 50 feet wide and approximately 127 feet deep. There was never a platted alley, and a majority of the lots were constructed without curb cuts and garages. Lot One combined lots 4-6 and portions of Lot 3 and Lot 7 of Block 32 of the Hyde Park subdivision. The lot size is approximately 27,000 square feet and development on the lot consists of a large 3-story single family structure that is 2,692 square feet in size. Both lots are part of the Kansas City Register of Historic Places (Old Hyde Park Historic District) and the National Register of Historic Places (Old Hyde Park East Historic District). There is a fenced in playground in the front yard to the south of the home, and a large circular drive that wraps around the house and extends nearly to the rear (west) property line of the lot. The drive is shared with the property to the south, which is 3728 Gillham (Lot Two). Substantial landscaping consists of large mature trees near the sidewalk and on both sides of the house, as well as shrubs and flowering plants directly in front of the entrance to the structure.

Lot Two, 3728 Gillham, consists of Lot 8 and part of Lot 7 of the Hyde Park subdivision and has 10,133 square feet of lot size. Development on Lot Two consists of a 2,000 square foot, 3-story single family residential structure with parking in the rear of the lot. As previously mentioned, access to both sites is attained via a shared circular drive that is mostly on Lot One. There is a sidewalk running the length of the block that is in good condition, and mature street trees are provided along a portion of the block face.

Both lots are currently being used to operate a women's shelter group home that treats women that suffer from addiction. There are 16 units total on the two lots – Lot One offers 8 units (one of which is ADA accessible) and Lot Two also has 8 units (one of which is ADA accessible) and 7 off-street parking spaces are provided.

The two lots in question for this application have a history of zoning change since 2007. In 2007, the lots were part of a downzoning action to rezone from Districts R-4 (low apartments), R-5 (high apartments), C-1 (neighborhood retail business), C-2 (local retail business) and C-3a2 (intermediate business, high buildings) to Districts R-1b (one-family dwellings) and R-2b (two-family dwellings). The two subject lots were zoned R-1b.

As a result of the 2007 zoning change, group home uses became an illegal, non-conforming use in the R-1b district. Property owners with established non-conforming uses were, however, given a chance to petition the City for a Certificate of Legal Nonconformance (CLNU) and allow the use to continue until such time it were abandoned. The time limit on requesting a CLNU for the affected properties lapsed one year after the rezoning took effect. The owner of the two lots, at the time of rezoning, failed to seek a CLNU for the site and ceased operation of a group home sometime in 2007. According to the applicant, the lots were vacant since 2007 and did not commence operating in its current function until sometime in 2009.

Reason

Positions/Recommendations

SPONSORS	Bob Langenkamp, AICP Director, City Planning and Development
AREA AFFECTED	Council District 4 (Glover, Marcason) School District Kansas City, MO
APPLICANTS/ PROPONENTS	Mary Cyr – applicant Cyr Architecture PO Box 7145 Kansas City, MO 64113
OPPONENTS	Groups or Individuals None. Basis of opposition N/A
STAFF RECOMMENDATIONS	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
BOARD OR COMMISSION RECOMMENDATION	City Plan Commission 4-15-14 Vote results 6-0: Archie, Baker-Hughes, Martin, May, Van Zandt, Macy Absent: Gutierrez, Krum <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> no action taken <input type="checkbox"/> For, with revisions or conditions (see details column for conditions)
COUNCIL COMMITTEE ACTIONS	<input type="checkbox"/> Do pass <input type="checkbox"/> Do pass (as amended) <input type="checkbox"/> Committee Sub. <input type="checkbox"/> Without Recommendation <input type="checkbox"/> Hold

Details

Because the use on the site lapsed and there was no CLNU in place for the group home use on the site, the use is no longer allowed and any development must conform to R-6 (equal to R-1b zoning in Chapter 80) standards. Most recently, City inspectors visited Lot Two (Friendship House) and found renovations being completed without a permit. Therefore, the property owner was sent a violation letter. After the property owner made an application for a CLNU, the CLNU was denied on February 10, 2014.

PLAN REVIEW:

The group living use on the lots is strictly prohibited within the current zoning district, R-6. In order to allow a group home on both sites, a rezoning must occur. The first district to allow group living is R-1.5 with a Special Use Permit.

ANALYSIS:

The proposed development requires approval of four separate requests: two area plan amendments, a rezoning and a Development Plan, summarized as follows:

- a. A request to amend the Westport Area Plan by changing the recommended land use from plan from One/Two family Residential to Multifamily Residential, Medium Density.

The Westport Planning Area Plan, adopted by Resolution 41438 on August 11, 1972 and last amended by Resolution 140139 on February 27, 2014, recommends one/two family residential land uses for both lots.

- b. A request to amend the Main Street Corridor Plan by changing the recommended land use from single family residential to medium density residential.

The Main Street Corridor Plan, adopted by Resolution 021500 on January 16, 2003 and last amended by Resolution 140118 on February 27, 2014, recommends single family residential land uses for both lots.

The staff of the City Planning Development and Department **supports** the amendment of **each** plan for the following reasons:

- Although this area is within a single family residential future land use area of each plan and both properties have single family residential zoning, they have traditionally functioned as service providing facilities. The rezoning of these properties is necessary because when the shelters were temporarily not in operation, they were downzoned from multi-family residential to single family residential as part of a larger downzoning effort of the Old Hyde Park Neighborhood, an implementation measure of the Main Street Corridor Plan. During the rezoning process, property owners are given the opportunity to ask to be opted out of a rezoning to make certain their use is in compliance with the development ordinance. The past property owners did not petition to have the properties excluded from the rezoning effort. If they had, staff would have supported the continuation of the existing land use and would not have included them in the downzoning.
- The Old Hyde Park Historic District will regulate the site design and the ability to modify both existing and future structures on these properties. This will insure that the design, appearance and maintenance on this site will be consistent with the surrounding residential character of the Old Hyde Park Historic District.
- Because the Applicant will need to receive a special use permit, which will ensure public consideration of the sites anticipated land use, site design, signage, and operational impacts on the area.
- If this property ever does revert to apartment uses, the density allowed by the corresponding zoning will not be more intense than the proposed use for this site.

- c. A request to rezone about 0.85 acres of land from District R-6 (Residential dash 6) to District R-1.5 (Residential dash 1.5).

Kansas City's residential (R) zoning districts are primarily intended to create, maintain and promote a variety of housing opportunities for individual households and to maintain the desired physical character of existing and developing neighborhoods. While the districts primarily accommodate residential use types, some nonresidential uses are also allowed. The R district standards provide development flexibility, while at the same time helping to ensure that new development is compatible with the city's many neighborhoods.

Details

In addition, the regulations offer certainty for property owners, developers, and neighbors about the limits of what is allowed.

See attached Residential Districts Use Table.

In an R-1.5 zoning district, more uses and use groups are allowed than in an R-6 district. The following is a list of uses that would be allowed in an R-1.5 zoning district that are strictly prohibited in an R-6 district:

- Group home (review criteria apply)
- Club, lodge or fraternal organization

There are also uses allowed in a R-1.5 that are not allowed in a R-6, but require a Special Use Permit:

- Group living (review criteria apply)
- Library/museum/cultural exhibit (review criteria apply)
- Bed and breakfast (review criteria apply)
- Office, administrative, professional or General

The Zoning and Development Code also defines the building types that are allowed in residential districts. R-1.5 zoning offers more building types than R-6 zoning, and the additional types of buildings allowed in an R-1.5 zoning district are:

- Townhouse
- Two-unit house
- Multi-unit house
- Multiplex
- Multi-unit building

The other difference between R-6 and R-1.5 zoning is the minimum required lot area per unit. In R-6 zoning, the minimum required lot area is 6,000 square feet and the minimum lot area per unit is 6,000 square feet. In R-1.5 zoning, the minimum required lot area is 3,000 square feet and the minimum lot area per unit is 1,500 square feet. The table below illustrates the allowable density in both zoning districts.

LOT	# UNITS ALLOWED IN R-6	# UNITS ALLOWED IN R-1.5
Lot One (3270 Gillham)	4 units	18 units
Lot Two (3728 Gillham)	1 unit	6 units

Although considered an illegal non-conforming use, the two facilities currently operate 16 units total on both lots. The resulting zoning could add 6 more units than currently exists, but the practical difficulty of infill construction in an historic district, adding on to existing structures to meet setback and providing enough parking will remain hurdles to future development.

- d. A request to approve a Development Plan on about 0.85 acres to allow for the expansion of a group home.

In an R-6 zoning district, a group home is only allowed with a Special Use Permit. The review of the group home must also follow the review criteria set in 88-350. Under Section 88-517 of the Zoning and Development Code, if a use on a development plan that would have required Special Use Permit approval is approved by the City Council, no separate special use review will be required. An approved development plan is considered to be a part of the zoning on a site, and the City Council may consider the proposed development plan's consistency with the purposes of the Zoning and Development Code, with site plan criteria, and other relevant factors during its consideration of the plan. They may also approve a development plan that deviates from any of the lot and building standards of the Code if the proposed use is consistent with the zoning of the property. Any deviations from the standards of the Code must be specifically called out on the face of the plan and will not be considered to be approved unless so stated.

The submitted site plan shows the existing conditions of the two lots, and calls for an expansion of the Friendship House located at 3728 Gillham Road (Lot Two).

Details

The proposed expansion is to be placed on the southwest corner of the existing structure, closer to the back of the lot but not extending past the current rear building line. The addition will not extend farther south into the side yard than the existing building line, and the overall size of the addition is 90 square feet. All other conditions are to remain in their existing state.

Both lots meet the minimum lot size for R-1.5 zoning. However, the minimum required lot area per unit has not been met on Lot Two. On Lot Two, 10,133 square feet, only 6 units would be allowed, and there are 8 units provided. In approving the proposed development plan, the Council would essentially be granting a variance to the minimum required lot size per unit for a principal residence in a residential district.

Variance Request (A): A variance to the minimum required lot size per unit for a principal residence located at 3728 Gillham Road in an R-1.5 district in the amount of 234 square feet per unit, to allow for an existing 8-unit group home to remain.

ZONING AND DEVELOPMENT CODE REQUIREMENT:

Table 110-2 of the Zoning and Development Code requires at least 1,500 square feet of lot area per unit in an R-1.5 zoning district.

Requirement: 12,000 square feet of lot area required for the existing 8 units.

PROPOSED:

The applicant proposes 1,266 square feet per unit. (84% of required lot area)

MISSOURI CASE FACTORS

1. How substantial is the variation in relation to the requirement?	234 square feet per unit less than required (84% of required lot area per unit)
2. Will a substantial change be produced in the neighborhood's character or a substantial detriment be created to the adjoining properties?	There is no change to the lot, as the building is existing with 8 units.
3. Can the difficulty be obviated by some feasible method other than a variance?	The property owner could obviate the need for this variance by: Removing enough units to meet the required 1,500 square feet of lot area required for each unit

On Lot One, 3720 Gillham, there is a large sandbox containing toys and playground equipment set 10 feet west of the property line and closer to the street than the principal structure. Recreational equipment is now allowed to encroach into a front yard setback. In approving the proposed development plan, a variance to allow recreational equipment to encroach into a required setback is being granted.

Variance Request (B): A variance to allow recreational equipment to encroach into a required front yard setback at 3720 Gillham Road in a residentially zoned district, to allow an existing playground to remain.

ZONING AND DEVELOPMENT CODE REQUIREMENT:

88-820-12 indicates that recreational equipment is not allowed to encroach into a required front yard setback.

Requirement: 14 feet.

PROPOSED:

The applicant proposes a playground encroaching 4 feet into a required front setback. (

MISSOURI CASE FACTORS

4. How substantial is the variation in relation to the requirement?	4 feet – 14 required, 10 provided
5. Will a substantial change be produced in the neighborhood's character or a substantial detriment be created to the adjoining properties?	There is no change to the lot, as the building is existing with playground.
6. Can the difficulty be obviated by some feasible method other than a variance?	The property owner could obviate the need for this variance by: Moving the playground to meet front setback requirements.

Details

No additional parking or bicycle parking is being provided, and none will be required. No landscaping is required for the site. A lighting plan was not submitted, and staff recommends that all lighting on the site be in conformance with the outdoor lighting standards set in Section 88-430 of the Zoning and Development Code.

If the development plan is approved for these lots, the approved site plan would govern any development on the site until such time that the plan is amended (minor amendments may be approved administratively, and major amendments must go through the public hearing process) abandoned or if building permits are revoked.

An approved development plan will lapse and have no further effect 2 years after its effective date unless building permits have been issued, certificates of occupancy have been issued, the use is established, the expiration period is extended, or phasing plan with different approved lapse times is approved.

The use has already been established and will continue to operate at the site, if the plan is approved. However, if the plan does ever lapse, the zoning prevails and anything that is allowed in the R-1.5 district will be allowed at the site.

Special Use Permit Review Criteria (88-525-09)

Pursuant to 88-110, Group Living uses are allowed within District R-1.5 subject to approval of a special use permit.

Special use permits are considered for those uses that are neither prohibited nor permitted outright, but which may be acceptable given the specifics of their location and method of operation. Special Use Permits must be found to be in conformance with five criteria in Chapter 88-525-09. No special use application may be approved unless the Board of Zoning Adjustment finds that the proposed use in its proposed location:

88-525-09-A: complies with all applicable standards of the zoning and development code;

The site is existing in its current form and the only proposed change is the construction of an addition. The site does not comply with the minimum lot area per unit within the district, but the use is existing. All future construction will occur in accordance with the Zoning and Development Code.

88-525-09-B: is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community;

The use on the site is a women's shelter for women who struggle with addiction. The use has previously existed on the sites and has been established.

88-525-09-C: is compatible with the character of the surrounding area in terms of site planning and building scale and project;

The construction on both lots is of high quality and is aesthetically pleasing, fitting in with the surrounding area in terms of site planning, but the physical buildings are somewhat larger than surrounding single family development.

88-525-09-D: is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation;

The use at the site will be compatible with the surrounding area's character and is residential in nature.

88-525-09-E: will not have a significant adverse impact on pedestrian safety or comfort.

The proposed use exists currently and the only change is the construction of a small addition. No traffic is being increased due to the change.

Details

RECOMMENDATIONS:

a. **Case No. 132-S-40** is a request to amend the Westport Area Plan by changing the recommended land use from plan from One/Two family Residential to Multifamily Residential, Medium Density.

Staff recommends APPROVAL of Case No. 132-S-40.

b. **Case No. 581-S-9** is a request to amend the Main Street Corridor Plan by changing the recommended land use from single family residential to medium density residential.

Staff recommends APPROVAL of Case No. 581-S-9.

c. **Case No. 13802-P-1** is a request to rezone about 0.85 acres of land from District R-6 (Residential dash 6) to District R-1.5 (Residential dash 1.5).

Staff recommends APPROVAL of Case No. 13802-P-1.

d. **Case No. 13802-P-2** is a request to approve a Development Plan on about 0.85 acres to allow for the expansion of a group home.

Staff recommends APPROVAL of Case No. 13802-P-2.

Plan Submitted
February 28, 2014

for CPC of
April 15, 2014

Final CPC
April 15, 2014

Revised Plans Received
April 28, 2014

Projected Start Date
Existing use -- immediately

Projected Completion or Occupancy Date

Fact Sheet Prepared by:
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Date:
May 1, 2014

Reviewed by:
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Date:
May 1, 2014

Reference or Case Numbers: Case Nos. 132-S-40, 581-S-9, 13802-P-1, 13802-P-2

