



# STAFF REPORT

## Planning Commission

---

### CASE #Z-908-14

<b>PC Date:</b>	January 7, 2014	<b>Case Planner:</b>	Caitlin Hasenbalg Long
<b>CC Date:</b>	February 3, 2014		
<b>Location:</b>	5928 Poplar Street, Commerce City, CO 80022		
<b>Applicant:</b>	Maria Avalos	<b>Owner:</b>	Same as Applicant
<b>Address:</b>	5928 Poplar Street	<b>Address:</b>	Same as Applicant

### Case Summary

<b>Request:</b>	Zone change from C-3 to R-1
<b>Project Description:</b>	The subject property is currently zoned C-3 and has a non-conforming single family detached residence on the site. This zone change to R-1 will bring the existing use into compliance with the zoning.
<b>Issues/Concerns:</b>	<ul style="list-style-type: none"><li>• Changing non-conforming use to legal and conforming use</li></ul>
<b>Key Approval Criteria:</b>	<ul style="list-style-type: none"><li>• Comprehensive Plan</li><li>• Land Development Code</li><li>• Neighborhood Compatibility</li></ul>
<b>Staff Recommendation:</b>	Approval
<b>Current Zone District:</b>	C-3 (Regional Commercial District)
<b>Requested Zone District:</b>	R-1 (Single-Family Residential District)
<b>Comp Plan Designation:</b>	Residential - Medium

**Attachments for Review:** *Checked if applicable to case.*

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary | <input checked="" type="checkbox"/> Vicinity Map    |
| <input type="checkbox"/> Development Review Team Recommendation   | <input type="checkbox"/> Neighborhood Meeting Notes |
| <input type="checkbox"/> Site Plan                                | <input type="checkbox"/>                            |
| <input type="checkbox"/>  | <input type="checkbox"/>                            |

## Background Information

### Site Information

<b>Site Size:</b>	0.33 acres
<b>Current Conditions:</b>	Existing single family residence
<b>Existing Right-of-Way:</b>	Poplar Street to the west
<b>Neighborhood:</b>	Rose Hill
<b>Existing Buildings:</b>	Single family detached house
<b>Buildings to Remain?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Site in Floodplain</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
<b>North</b>	Residential	Single family detached house	R-1
<b>South</b>	Residential	Single family detached house	R-1
<b>East</b>	Commercial	Carstar Supreme Auto Body	C-3
<b>West</b>	Residential	Single family detached house	R-2

### Case History

The subject property was subdivided as part of Thuringer's Subdivision Amended in 1950, and the existing single family detached home was built in 1951. The property was then annexed into Commerce City, along with the rest of the Rose Hill Neighborhood and part of the Kemp Neighborhood, in 1962.

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
Z-258-80	Nov. 18, 1980	Rezoning of multiple properties from C-3 to R-2, along with corresponding Land Use Plan amendments from Commercial to Residential	<b>Withdrawn</b>

Subsequent efforts, in separate cases, were made by individual property owners along Poplar Street to rezone from commercial to residential to match the zoning of the properties with their use. The City supported the rezoning of these properties in accordance with the long term vision for Poplar Street to be residential. These later zoning cases did not include 5928 Poplar Street as a subject property to be rezoned from commercial to residential.

## Applicant's Request

The applicant purchased the property at 5928 Poplar Street in 2010, and has used it residentially since that time. She states that although the property is zoned commercial, it has not been used commercially. The surrounding properties along Poplar Street are all residential, and the properties directly to the north and south are both zoned R-1. This property is called out to be residential, not commercial, by the Comprehensive Plan. According to the applicant, the future use of the property will be for single family residential purposes, the same as the current non-conforming use of the property. The applicant does not feel there will be negative impacts to surrounding properties because adjacent properties are already zoned and used residentially.

The applicant previously listed the property for sale, but had trouble selling it due to its non-conforming status. Therefore, she applied to rezone the property to R-1 to eliminate the non-conforming use and be better able to market the property to potential buyers.

## Development Review Team Analysis

The Development Review Team (DRT) began by reviewing the request to change the zoning from C-3 to R-1 against the goals found in the City's Comprehensive Plan. That analysis is provided below:

### Comprehensive Plan

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 1a	Future Land Use Plan as Guide: Use the Future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the Land Development Code (LDC).
<b><u>Analysis:</u></b>	The rezoning aligns the property with the Future Land Use Plan while allowing the current use of the property to become a conforming use.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Housing and Neighborhood Strategies	HN 1b	Housing Program: Establish programs to preserve and recycle housing stock (e.g. acquire, redevelop, resell single-family homes at affordable prices; and provide accessibility improvements), particularly in the Historic City
<b><u>Analysis:</u></b>	Through the rezoning of the subject property, the applicant is able to sell the property as a legal and conforming residential use, and future property owners are capable of investing in upgrades or additions to expand and improve the value of the property in the Historic City.	

The DRT also reviewed the rezoning application against the approval criteria for a zone change, as outlined in the analysis below:

- The requested zone change is in accordance with the Comprehensive Plan, which designates this area as residential.
- The case history indicates that the property has been used residentially for over 60 years. The requested zone change would match the residential use of the property with the appropriate residential zoning classification. Non-conforming residential properties are limited in their ability to expand or add to the primary structure. The availability of adequate insurance and financing for potential buyers is also limited, making the property more difficult to upgrade or sell. If approved, the conforming status would allow the applicant or future property owners to upgrade the property in compliance with the R-1 standards in the future. A conforming status would also be beneficial to the entire block as the rest of the surrounding properties are currently zoned residential, and would add a stabilizing force to the neighborhood.
- The R-1 zoning designation would match the residential character of the surrounding area and would have no negative impacts upon this lot or adjacent properties.
- The subject property will not need new services and currently has adequate access to public facilities.

Staff did receive comments from Tri-County Health Department (TCHD) regarding a possible well and septic tank that need to be properly abandoned. The applicant confirmed that a non-functioning well exists on the property, but has no knowledge of a septic tank. The property was confirmed to be fully provided with water and sewer services by South Adams County Water and Sanitation District. Since no new development is proposed at this time which would warrant a review of the available utilities, the comments from TCHD have been included as an advisory to the applicant and any future property owners.

In summary, Staff supports the zone change of this property from C-3 to R-1 because the existing use and proposed zone change are in accordance with the Comprehensive Plan; the proposed zone change will bring the current non-conforming use of the property into compliance with the zoning; there will be no impacts to adjacent properties; and adequate services and facilities are currently provided for the existing residential use.

Criteria Met?	Sec. 21-3232. Rezoning or Zone Changes	Rationale
☒	The change is consistent with any City adopted plans for the area;	The proposed R-1 zoning is consistent with the City's Comprehensive Plan designation for medium-density residential.
☒	The change is compatible with proposed development, surrounding land uses and the natural environment;	The proposed R-1 zoning and existing single family dwelling are compatible with the surrounding area. The majority of the properties on Poplar Street are zoned and used residentially.
☒	There is, or will be, adequate public services, (water, sewerage, streets, drainage, etc.);	There are adequate public services for the subject property. No additional public services will be required due to this zone change.
☒	There is, or will be, adequate public uses (parks, schools, and open space);	There are adequate parks, schools, and open space for the subject property. No additional public uses will be required due to this zone change.
☒	The change is needed to provide/maintain a proper mix of uses in the area/City;	The requested zone change will bring the existing non-conforming residential use into conformity with its zoning, affording it the same ability to expand and upgrade as other residential properties, providing stability in the immediate neighborhood, and ensuring a proper mix of uses in the City.
☒	The area for which the change is requested has changed/is changing and it is in the public interest to allow a new use or density.	The area surrounding the subject property has been residential in nature since it was first developed. This zone change will bring the property into conformity. There is a public interest in transitioning properties from non-conforming to conforming status. Non-conforming residential properties have limited availability for adequate insurance, financing, and expansion or additions for the homeowners. The community as a whole greatly benefits when homeowners are able to secure funding and appropriately insure, maintain, upgrade, and expand their homes.

## Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Zone Change set forth in the Land Development Code and recommends that the Planning Commission forward the Zone Change request to the City Council with a favorable recommendation, subject to the following advisory:

### **ADVISORY:**

- A. The applicant and/or property owner may at any time be required by Tri-County Health Department and South Adams County Water and Sanitation District to locate and adequately secure a possible abandoned well and possible septic tank on the property.

## \*Recommended Motion\*

### *To recommend approval subject to advisory:*

I move that the Planning Commission enter a finding that, subject to one advisory, the requested Zone Change for the property located at **5928 Poplar Street** contained in case **Z-908-14** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change subject to the following advisory:

#### ADVISORY:

- A. The applicant and/or property owner may at any time be required by Tri-County Health Department and South Adams County Water and Sanitation District to locate and adequately secure a possible abandoned well and possible septic tank on the property.*

## Alternative Motions

### *To recommend approval:*

I move that the Planning Commission enter a finding that the requested Zone Change for the property located at **5928 Poplar Street** contained in case **Z-908-14** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change.

### *To recommend approval subject to condition(s):*

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Zone Change for the property located at **5928 Poplar Street** contained in case **Z-908-14** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change subject to the following conditions:

*Insert Condition(s)*

### *To recommend denial:*

I move that the Planning Commission enter a finding that the requested Zone Change for the property located at **5928 Poplar Street** contained in case **Z-908-14** fails to meet the following criteria of the Land Development Code:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny the Zone Change.