

# City of Independence

## Community Development Department

June 11, 2019

**TO:** Planning Commission  
**PREPARED BY:** Community Development  
**RE:** Case #19-100-07 – Rezoning – 20001 E. Jackson Drive

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### **PROJECT DESCRIPTION**

David Kaster, Kaster Architects, seeks to rezone the property at 20001 E. Jackson Drive from O-1 (Office Residential) to C-2 (General Commercial).

### **RECOMMENDATION**

Staff recommends **APPROVAL** of this rezoning request.

### **PROPERTY INFORMATION**

**Applicant:** David Kaster, Kaster Architects  
**Owner:** Tom Baldwin, Dark Side of the Spoon  
**Current Zoning:** O-1 (Office-Residential)  
**Proposed Zoning:** C-2 (General Commercial)  
**Comp Plan Class:** Regional Commercial  
**Site Acreage:** 1.95 acres  
**Current Use:** Vacant restaurant

### **Surrounding Zoning and Land Use**

**North:** C-2; Various retail, office, and restaurant uses  
**South:** C-2 (across I-70); Restaurants  
**East:** O-1; Offices  
**West:** O-1; Restaurants, hotel

**Thoroughfare Plan:** Jackson Drive is considered a Minor Arterial by the City's Thoroughfare Plan.

### **BACKGROUND**

In May 1998, the City Council approved the rezoning of this property and the adjoining properties south of Jackson Drive to CR-P-1 (Planned Limited Commercial/Residential) for the Hartman Heritage Park project. Note: When the UDO was adopted, CR-P-1 was converted to O-1. The plan for the CR-P-1 lots proposed office or restaurant uses with the hotel and convention center.

This site was the former *Joe's Crab Shack* restaurant until it closed about two years ago. The building was constructed in early 2001 along with other restaurants (Macaroni Grill, On the Border) on this segment of Jackson Drive.

The UDO establishes definitions for both 'Restaurant' and 'Bar/Tavern'. See the definitions below.

**RESTAURANT**

An establishment having at least 50% of the gross annual income of which is derived from the sale of prepared food or meals consumed on premises; or which has an annual income of at least \$200,000 from the sale of prepared meals or food consumed on such premises.

**BAR/TAVERN**

An establishment primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

While the current O-1 zoning allows for restaurants, the owner seeks to open a *Shotgun Betty's*, a country bar/restaurant that may not sell enough prepared food (50%+) to qualify as a restaurant, thus requiring C-2 zoning for the Bar/Tavern use.

Aside from the rezoning, the new owners plan to make cosmetic alterations and complete deferred maintenance work on the building's exterior. The restaurant area for both inside and outside patio is over 7,000 square feet and will receive minor décor modifications and kitchen updates and will require the necessary permits to be pulled.

**ANALYSIS**

**Current/Proposed Zoning:** The current O-1 zoning permits apartments, nursing homes, churches, schools, offices, restaurants, banks, medical services and hair salons. The O-1 zoning is intended to accommodate low-intensity office uses and buildings containing a mix of office uses and residential uses. The UDO restricts commercial establishments in the O-1 district to no more than 5,000 square feet. The proposed C-2 zoning allows most of those uses along with retail stores, taverns/night clubs, business services, construction services (without outdoor storage of equipment) daycare centers, nursing homes, undertaking, hotels, veterinary services, sports and entertainment facilities, and medical services. The C-2 zoning is intended to accommodate community- and region-serving retail sales and service uses. There is no floor area limit for the C-2 district.

**Adjacent Land Use and Zoning:** The site adjoins O-1 zoning to the east and west, with C-2 lying to the north across Jackson Drive, all being part of the Hartman Heritage Center. To the south, across Interstate 70, is the Eastland Center development that is zoned C-2. Both developments' feature an assortment of restaurants, hotels, offices, and retail businesses.

**Comprehensive Plan:** The City's new *Imagine Independence 2040* Comprehensive Plan envisions Regional Commercial uses for the segment of Jackson Drive between the Little Blue River and Interstate 70. The Regional Commercial category includes major commercial areas with a variety of retailers, restaurants, office and service uses.

**Public Utilities:** All public utilities are available on the site.

**Historic and Archeological Sites:** There are no historic issues with this property.

**Review Criteria:** Recommendations and decisions on rezoning applications must be based on consideration of all of the following criteria:

1. Conformance of the requested zoning with the Comprehensive Plan – *The Comprehensive Plan envisions Regional Commercial uses for this area and recommends retail, entertainment, and restaurants with a mixture of housing and employment uses.*
2. Conformance of the requested zoning with any adopted neighborhood or sub-area plans in which the property is located or abuts – *There are no neighborhood or sub-area plans.*
3. The compatibility of the proposed zoning with the zoning and use of nearby property, including any overlay zoning — *The proposed zoning classification and use of the site is compatible with the surrounding properties especially to the zoning and uses to the north and south.*
4. The compatibility of the proposed zoning and allowed uses with the character of the neighborhood – *Hartman Heritage Center contains several restaurants on properties zoned O-1. The greater portion of the Center complex north of Jackson Drive is zoned C-2.*
5. The suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations – *While it could be used for a restaurant as it has been in the past, the O-1 zoning allows for fewer land uses and restricted to office, financial, apartment, and personal service uses. Additionally, the O-1 district restricts building to no more than 5,000 square feet.*
6. The length of time the subject property has remained vacant as zoned – *The site has been vacant since the former Joe’s Crab Shack closed in approximately 2 year ago.*
7. The extent to which approving the rezoning will detrimentally affect nearby properties – *Most of the property at the crossroads of Interstate 70, 39<sup>th</sup> Street, and M-291 Highway are presently zoned C-2, this rezoning will not detrimentally affect those properties.*
8. The gain, if any, to the public health, safety and welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application – *There are no known health, safety or welfare concerns but if denied, the proposed business will likely not locate here and the building will continue to remain vacant.*

## **EXHIBITS**

1. Applicant’s letter
2. Mailing affidavit
3. Mailing list
4. Mailing map

### **PUBLIC NOTICE**

Letter to adjoining property owners – May 21, 2019  
Public notice published in Independence Examiner – May 25, 2019  
Sign was posted on property

**Vicinity Map**

