CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
CB 2023-280 – Zoning District Change

MEETING DATE:
July 3, 2023

ORIGINATING DEPARTMENT:
Planning, Development and Neighborhood Services

REVIEWED BY:
Director of Planning, Development & Neighborhood Services – Troy Bolander
Director of Finance – Leslie Haase
City Attorney – Peter Edwards
Assistant City Manager – Tony Robyn
City Manager – Nicholas Edwards

FUNDING SOURCE:
These payments are included in the FY2023 budget of the Community Planning Fund.

SUMMARY REQUEST:
Case 035-23: 1728 S Main St – Rezoning – A request to rezone from District M-2 (Heavy Industrial) to District C-2 (Central Business) – Ahmed Ibrahim

BACKGROUND:
The owner of the property is wanting to develop apartments and a gym and is required to obtain a downtown commercial zoning. Historically, this neighborhood was designated as an Industrial district, however, it was all developed as downtown commercial.

The Future Land Use Map describes the property as future Industrial. While this and the current zoning depict the area as Industrial, the entire block consists of buildings for the downtown commercial, Central Business District. The requested zoning change is to match the existing characteristics of the neighborhood.

The property and surrounding properties are not suitable for Industrial developments. The existing buildings are downtown commercial, with residential property to the East and West of this block, and Central Business just North of this block along Main Street.

PLANNING & ZONING COMMISSION TESTIMONY:
Bobby Thomas represented the owner of the property and stated that the intent was to convert the 2nd story to apartments. Mr. Rosenberg asked why the area was zoned M-2, as the neighborhood seemed better suited for downtown commercial. Mr. Bolander stated that in the early days of Joplin, we did not have Industrial Parks or Interstates, so this was the designated Industrial district, but it did not develop that way. There was a question about whether the rezoning was part of the building or the entire building. Mr. Thomas replied that they were all separate properties. Mr. Landis asked to abstain due to his family member owning the property behind 1728 S Main St.

PUBLIC COMMENT;
Bobby Landis spoke in favor of the case. He stated he thinks this is a great change for the property and would like to see all the property he owns be rezoned to C-2 as well. There was no public comment in opposition to the request.

RECOMMENDATIONS:
Staff recommends approval for Council Bill 2023-280
Planning & Zoning Commission recommends the approval of Case 035-23 (6 in Favor, 1 Abstained)

ATTACHMENTS
Staff Planning Report
P&Z Commission Minutes
Applicant Materials
Map

Case 035-23: Rezoning

1728 S Main St.-Rezoning-A request to rezone from District M-2 (Heavy Industrial) to District C-2 (Central Business)-Ahmed Ibrahim

Bobby Thomas, 389 E Fountain Rd., Joplin, Missouri. Mr. Thomas represented the owner of the property and he stated their intent was to convert 2nd story to apartments. This area had been vacant for a long time.

Mr. Rosenberg proposed a question to City Staff. He noticed all the adjacent properties were M-2 but they are listed as downtown commercial. That is usually a C-2.

Mr. Bellairs stated correct, at some point the zoning was changed in this neighborhood. But the character and the consistency of the neighborhood was built for downtown commercial. What is being done here is similar to the Cleveland Apartments.

Mr. Rosenberg stated he agreed. He thought M-2 was not a good designation for that Main Street property. It appeared to be C-2 or C-3 either one.

Mr. Bolander stated that is correct. It is probably more appropriate as C-2. This is left-over zoning from earlier days of Joplin. We didn't have industrial parks and interstate systems. This was our heavy industrial district. Of course, it did not develop that way. In reality all of that should be zoned C-2.

Mr. Rosenberg said it appeared that he is asking to rezone part of a building. That is one continuous building where you have four different parcels that are zoned M-2. He is asking for one of those parcels even though it was part of another building.

Mr. Bolander stated he may be able to clarify it but his guess is that property line runs down the wall.

Mr. Rosenberg asked if they were all separate properties.

Mr. Thomas replied, yes sir.

Mr. Jackson asked where the parking would be for the residential apartments.
Mr. Thomas stated there is some space on the north end of the building. A parking lot back there that is part of the property.

Mr. Bellairs stated C-2 does not have required parking since that is our downtown commercial zoning.

Mr. Jackson stated he was confused by that. If we were going to rezone property to have residential space, then parking would be important.

Mr. Bolander stated Mr. Bellairs was correct. For C-2 off street parking was not required. To market that you would need off street parking. It doesn't have to be next to the building site, but he knows he needs off street parking. The C-2 usually uses public lots. For any business there without parking it would be difficult to operate.

Mr. Jackson stated so it was not the parking lot directly behind the property.

Mr. Thomas stated no that property belonged to Visiting Angels.

Mr. Kimble asked if there were any questions from the Commission on Case 035-23.

There were none.

Mr. Landis did ask to abstain from this vote due to a family member owning property directly behind 1728 S Main St.

Mr. Kimble asked if anyone wished to speak in favor of Case 035-23.

Bobby Landis, 819 E 32nd St., Joplin, Missouri. Mr. Landis stated he thought this was a great change for this property. He stated the next time Planning and Zoning rezoned the property he would be 100 % comfortable in moving all the property that he owns on what would be the east side of Joplin St. adjacent across the alley from this property to be moved to C-2 as well.

Mr. Kimble asked if anyone wished to speak in opposition of Case 035-23.

There were none.

MR. ROSENBERG MOVED THAT CASE 035-23 BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL. MS. WARREN SECONDED THE MOTION. MOTION CARRIED. (6 IN FAVOR, 0 NAY, 1 ABSTAINED) MR. LANDIS ABSTAINED FROM THE VOTE.

Z&P Meeting: June 12, 2023
City Council Meeting: July 3, 2023

JOPLIN
PLANNING, DEVELOPMENT, & NEIGHBORHOOD SERVICES

STAFF PLANNING REPORT
Rezoning

CASE 035-23 A request to rezone from District M-2 (Heavy Industrial) to District C-2 (Central Business)

LOCATION 1728 S Main St, Joplin, Missouri 64801

APPLICANT Ahmed Ibrahim

EXISTING CONDITIONS

Zoning	Land Use	Property Size
M-2	Downtown Commercial	Approximately 0.5 Acres

SITE CONTEXT

	North	East	South	West
Existing Zoning	M-2	M-2	M-2	M-2
Land Use	Downtown Commercial	Downtown Commercial	Downtown Commercial	Downtown Commercial

FUTURE LAND USE

Joplin's Future Land Use Map shows this property as future Industrial.

TRANSPORTATION

Streets with access	Classification	Right-of-way width
S Main St	Arterial	80′

UTILITIES

The site has access to utilities.

FLOOD PLAIN

This property is not in the flood plain.

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

The Future Land Use Map describes the property as future Industrial. While this and the current zoning depict the area as Industrial, the entire block consists of buildings for the downtown commercial, Central Business District. The requested zoning change is to match the existing characteristics of the neighborhood.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

The property and surrounding properties are not suitable for Industrial developments. The existing buildings are downtown commercial, with residential property to the East and West of this block, and Central Business just North of this block along Main Street.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

The zoning will not detrimentally affect any of the nearby properties. The characteristics of this block, and North of the block along Main St, were at one point in a downtown commercial zoning.

DISCUSSION

The owner of the property is wanting to develop apartments and a gym and is required to obtain a downtown commercial zoning. Historically, this neighborhood was designated as an Industrial district, however, it was all developed as downtown commercial.

Staff recommends approval of Case 035-23.

ENCLOSURES

- Map of property
- Application

Rezoning Application

Return Form to:
Planner
Joplin City Hall
602 S. Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 1511
Zoning-Planning@JoplinMO.org

Office Use Only
Case No.: 035-23
Filing Fee: $550.00
Received: 9-4-23
Date Advertised:
Proj. No.: 23-179
Public Hearing Date: 6-12-23

Applicant: BOBBY THOMAS Phone No.: 417-499-6313

Address: 389 E FOUNTAIN JOPLIN Email: bdthomas80@yahoo.com

Owner: AHMED ~~[illegible]~~D IBRAHIM Phone No.: 616-690-8584

Address: 318 S FOX FIRE CT JOPLIN Email: angelawatif4@gmail.com

Location of Property: 1728 S. MAIN ST JOPLIN

Present Use of Property: EMPTY / NOT IN USE

Proposed Use of Property: APARTMENT

Current Zoning: M-2 Requested Zoning: C-2

Surrounding Land Use and Zoning:

	Land Use	Zoning
North	EMPTY BUILDING	M-2
South	VISITING ANGELS	M-2
East	COATS LOCK & KEY	
West	EMPTY BUILDING	

Character of the Neighborhood: MOSTLY VACANT

Relationship to Existing Zoning Pattern:

Yes	No	
○	⊗	Would proposed change create a small, isolated district unrelated to surrounding districts?
⊗	○	Are there substantial reasons why the property cannot be used in accord with existing zoning?

If yes, explain: CLIENT IS WANTING TO LIVE IN APARTMENT ABOVE PROPOSED GYM.

Conformance with Comprehensive Plan:

Yes	No	
⊗	○	Consistent with Development Policies?
⊗	○	Consistent with Future Land Use Map?

Traffic Conditions:

Yes	No	
○	⊗	Will turning movements caused by the proposed use create an undue traffic hazard?

Street(s) with Access to Property: MAIN ST

Classification of Street(s):

Arterial ☑ Collector ☐ Local ☐

Right-of-Way Width: _____

Subdivision Platting:

Yes	No	
⊗	⊗	Is platting required?
⊗	○	Are lots appropriately sized?
⊗	○	Is street right-of-way appropriately sized?

○ ○ Are drainage and utility easements adequately sized and provided?

Additional Platting Comments: NA

Unique Characteristic of Property and/or Additional Comment:

Midtown

Submission of Documents: The following documents are **required** at time of submission.

Yes	No	
⊗	○	Completed and signed application.
⊗	○	One copy of a legal description of the property proposed to be rezoned from a deed or certified survey. Must be legible.
⊗	○	One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed change may affect the character of the surrounding properties; and how the proposed change will benefit the City of Joplin.
⊗	○	Owner Affidavit and Agent Affidavit, if applicant applying for the rezoning is not the owner of the property be rezoned.

Applications that are incomplete or missing required documents will not be processed or scheduled on an agenda to the Planning & Zoning Commission until corrected and resubmitted.

Signature: _____ **Date:** 4-3-23

STATE OF MISSOURI

John R. Ashcroft
Secretary of State

CERTIFICATE OF ORGANIZATION

WHEREAS,

JOPLIN INVESTMENTS 2000, LLC
LC014381300

filed its Articles of Organization with this office on the 25th day of May, 2022, and that filing was found to conform to the Missouri Limited Liability Company Act.

NOW, THEREFORE, I, John R. Ashcroft, Secretary of State of the State of Missouri, do by virtue of the authority vested in me by law, do certify and declare that on the 25th day of May, 2022, the above entity is a Limited Liability Company, organized in this state and entitled to any rights granted to Limited Liability Companies.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 25th day of May, 2022.

Secretary of State

State of Missouri
John R. Ashcroft, Secretary of State
Corporations Division
PO Box 778 / 600 W. Main St., Rm. 322
Jefferson City, MO 65102

LC014381300
Date Filed: 5/25/2022
John R. Ashcroft
Missouri Secretary of State

Articles of Organization

(Submit with filing fee of $105.00)

1. The name of the limited liability company is
JOPLIN INVESTMENTS 2000, LLC
(Must include "Limited Liability Company," "Limited Company," "LC," "L.C.," "LLC," or "LLC.")

2. The purpose(s) for which the limited liability company is organized
To engage in buying, selling and rental of commercial and residential real estate

3. The name and address of the limited liability company's registered agent in Missouri is:
Aaron Farber — *Name*
112 S Wood St Ste A — *Street Address: May not use PO Box unless street address also provided*
Neosho, MO 64850-1873 — *City/State/Zip*

4. The management of the limited liability company is vested in: ☐ managers ☒ members *(check one)*

5. The events, if any, on which the limited liability company is to dissolve or the number of years the limited liability company is to continue, which may be any number or perpetual: Perpetual
(The answer to this question could cause possible tax consequences, you may wish to consult with your attorney or accountant)

6. The name(s) and street address(es) of each organizer *(PO box may only be used in addition to a physical street address)*:
(Organizer(s) are not required to be member(s), manager(s) or owner(s))

Name	*Address*	*City/State/Zip*
FARBER LAW FIRM, LLC	112 S Wood St Ste A PO Box 86	Neosho MO 64850-1873

7. ☐ Series LLC (OPTIONAL) Pursuant to Section 347.186, the limited liability company may establish a designated series in its operating agreement. The names of the series must include the full name of the limited liability company and are the following:

New Series:
☐ The limited liability company gives notice that the series has limited liability.

New Series:
☐ The limited liability company gives notice that the series has limited liability.

New Series:
☐ The limited liability company gives notice that the series has limited liability.

(Each separate series must also file an Attachment Form LLC 1A)

Name and address to return filed document:
Name: Aaron Farber
Address: Email: farberlawfirm@gmail.com
City, State, and Zip Code:

and agrees that in the event of a breach or threatened breach of any provision hereof, the respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy, but nothing herein contained is intended to, nor shall it, limit or affect any right or rights at law or by statute or otherwise of any party aggrieved as against the other for a breach or threatened breach of any provision hereof, it being the intention hereof to make clear the agreement of the Members that the respective rights and obligations of the Members hereunder shall be enforceable in equity as well as at law or otherwise.

Section 6. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute one instrument.

Section 7. No Partnership Intended for Nontax Purposes. The Members have formed the Company under the Missouri Limited Liability Company Act, and expressly do not intend hereby to form a partnership. The Members do not intend to be partners one to another, or partners as to any third party. To the extent any Member, by word or action, represents to another person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member who incurs personal liability by reason of such wrongful representation.

Section 8. Rights of Creditors and Third Parties Under Company Agreement. This Agreement is entered into among and by the Members for the exclusive benefit of the Members, and their successors and permitted assigns. This Agreement is expressly not intended for the benefit of any creditor of the Company or any other person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under this Agreement or any agreement between the Company and any Member with respect to any capital contribution or otherwise.

Section 9. Amendment. This Agreement may only be amended by execution of a writing intended as such and signed by a majority in interest.

IN WITNESS WHEREOF, this Agreement is executed effective as of the date first above written.

Ahmed Magdy Saeed Ibrahim

STATE OF Missouri)
) ss.
COUNTY OF Newton)

OWNERSHIP AFFIDAVIT AND CONSENT

Comes now ~~AHMED ROMAYO~~ IBrahim (Property Owner) who, being duly sworn upon his/her oath, does state that he/she is the owner of the property described as _____

1722 - 1728 S. MAIN ST JOPLIN MO 64804

(legal description) more commonly known as 1722-1728 S. MAIN ST. I am unable to attend the Joplin Planning and Zoning meeting but would like my comments to be heard by the Commission. I hereby nominate and give consent for BOBBY A. THOMAS to speak on my behalf and act as my Agent at the meeting in Case Number _____.

Date: 5-4-23

Signature of Owner

Printed Name

Signature of Owner

Printed Name

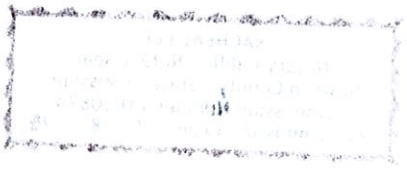
In witness whereof I have hereunto subscribed my name and affixed my official seal this 4 day of May, 2023.

RACHEAL LEE
Notary Public - Notary Seal
Newton County - State of Missouri
Commission Number 21010874
My Commission Expires Jul 18, 2025

Notary

My commission expires: 7/18/2025

Note: The local legislative body reserves the right to rezone property without the owner's consent for the purpose of promoting health, safety, morals, or the general welfare of the community. The Missouri Revised Statutes Chapter 89 (Zoning and Planning) authorizes this power to the legislative body.)



DEED OF TRUST
WITH FUTURE ADVANCES AND FUTURE OBLIGATIONS
GOVERNED BY SECTION 443.055 RSMO
THE TOTAL PRINCIPAL AMOUNT OF ALL OBLIGATIONS SECURED IS $221,000.00

MAXIMUM LIEN. The total principal amount of obligations at any one time which is secured by this Deed of Trust, in addition to any interest and any amounts advanced by Lender for the protection of the security interests granted herein, is $221,000.00. This Deed of Trust, including any advances as described above, shall be governed by all provisions of Section 443.055 of the Revised Statutes of Missouri in effect as of the date of this Deed of Trust.

THIS DEED OF TRUST is dated August 5, 2022, among Joplin Investments 2000 LLC, whose address is 318 Foxfire CT, Joplin, MO 64801; A MISSOURI LIMITED LIABILITY COMPANY ("Grantor"); People's Bank of Seneca, whose address is Joplin Maiden Lane Branch, 2116 S. Maiden Lane, Joplin, MO 64804 ("Grantee", referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and MGL Trustee, LLC, whose address is 1901 S. Ventura, Ste. A, Springfield, MO 65804 (referred to below as "Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Grantor does hereby grant, bargain, sell, convey and confirm unto the Trustee for the benefit of Lender as Beneficiary the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); all proceeds (including insurance proceeds); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, **(the "Real Property") located in Jasper County, State of Missouri:**

TRACT 1:
ALL OF LOTS NUMBERED FORTY (40) AND FORTY-ONE (41), IN MITCHELL'S FIRST ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.
TRACT 2:
ALL OF LOTS NUMBERED FORTY-TWO (42) AND FORTY-THREE (43), IN MITCHELL'S FIRST ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.

The Real Property or its address is commonly known as 1722-1730 South Main Street, Joplin, MO 64801. The Real Property tax identification number is 33-8622-0 & 33-8625-0.

FUTURE ADVANCES. In addition to the Note, this Deed of Trust secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Deed of Trust secures, in addition to the amounts specified in the Note, all future obligations of Grantor to Lender and all future amounts Lender in its discretion may loan to Grantor, together with all interest thereon; however, in no event shall such future advances and obligations (excluding interest) exceed in the aggregate $221,000.00.

Grantor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the Related Documents.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

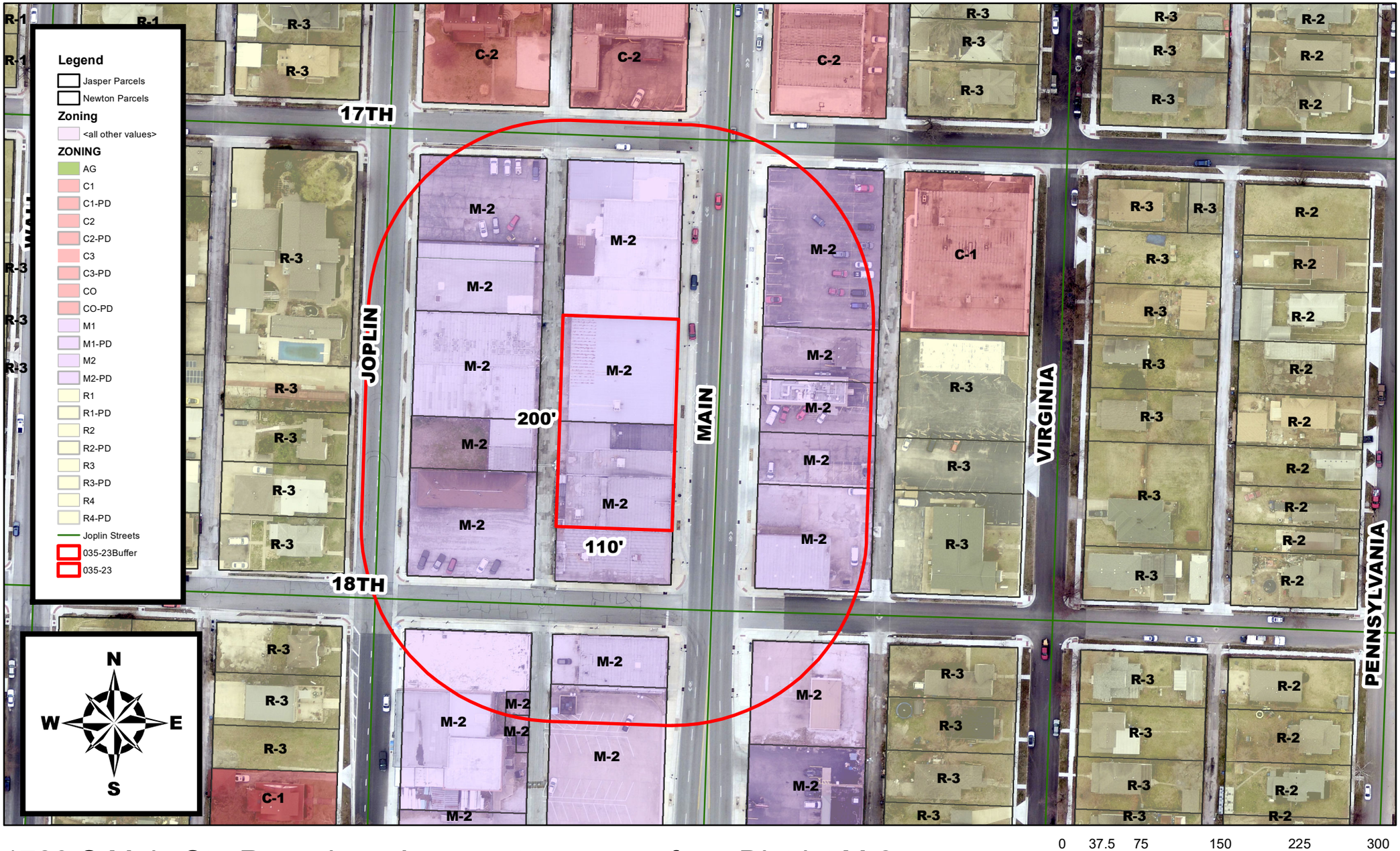
Duty to Maintain. Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements,

1722 -1728 S. Main St
Joplin MO 64804

To whom it may concern,

The reason for rezoning is so that the we can restore the original residential living space back to residential space. I do not believe the proposed change will impact any traffic conditions or fire hazards. As far as affecting the surrounding properties and benefiting the City of Joplin I feel like it will benefit both just by restoring buildings that have been vacant for close to 10 years. Instead of having vacant buildings that will continue to break down and become more dilapidated it will provide a spark and bring commerce and functionality to a vacant section of Main St.

Case 035-23: Rezoning



1728 S Main St - Rezoning - A request to rezone from District M-2 (Heavy Industrial) to District C-2 (Central Business) - Ahmed Ibrahim

P & Z Case 035-23
Ahmed Ibrahim
(P & Z Recommended Approval)

COUNCIL BILL NO. 2023-280 ORDINANCE NO.

AN ORDINANCE amending Ordinance No. 2022-274, passed by the Council of the City of Joplin, Missouri, August 1, 2022, by removing from District M-2 (Heavy Industrial) to District C-2 (Central Business) property as described below and located at 1728 S Main St.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. Having referred the subject matter of this ordinance to the City Planning and Zoning Commission and having given at least fifteen days' notice of time and place of hearing on same by publication in the Joplin Globe, Ordinance No. 2022-274 is hereby amended by removing from District M-2 (Heavy Industrial) the following described property and including in District C-2 (Central Business).

TRACT 1: ALL OF LOTS NUMBERED FORTY (40) AND FORTY-ONE (41), IN MITCHELL'S FIRST ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF. TRACT 2: ALL OF LOTS NUMBERED FORTY-TWO (42) AND FORTY-THREE (43), IN MITCHELL'S FIRST ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.

Section 2. That the City Clerk is hereby ordered to file this ordinance with the Zoning District Map maintained in her office and to note the changes herein provided thereon.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of_____, 2023, by a vote of _____.

_____
Douglas W. Lawson, Mayor

ATTEST:

_____

Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney