

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
09/22/08

**ITEM NO. 4A RM-24 & UR TO CC-200; 44.259 ACRES; E OF O'CONNELL ROAD
BETWEEN K-10 & 25th TERRACE (SLD)**

Z-06-13-08: Consider a request to rezone a tract of land approximately 44.259 acres from RM-24 (Multi-Dwelling Residential) & UR (Urban Reserve) to CC-200 (Community Commercial) for Fairfield Farms East Addition No. 2. Submitted by Peridian Group Inc, for Eastside Acquisitions LLC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 44.259 acres, from RM-24 (Multi-Dwelling Residential) and UR (Urban Reserve) to CC-200 (Community Commercial) based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Reason for Request: *To conform with Southeast Area Plan*

KEY POINTS

- Proposed project is consistent with *Horizon 2020*.
- Subject property is part of the Southeast Area Plan.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- Fairfield Farms East Subdivision replat
 - PP-06-07-08; Preliminary Plat
 - PF-06-09-08; Final Plat
- Z-06-38-05: A to RM-D; 35.835 acres; (Fairfield Farms East Addition);
 - *PC approved 7-3 on 12/14/05*
 - *Ord. No. 7994; adopted 7/11/06, published on 7/16/06*
- Z-06-39-05: A to RM-2; 12.329 acres; (Fairfield Farms East Addition);
 - *PC approved 9-0 on 1/23/06*
 - *Ord. No. 7999; adopted 10/17/06, published 10/20/06*
- Z-06-40-05: A to RS-2; 37.580 acres; (Fairfield Farms East Addition);
 - *PC approved 7-3 on 12/14/05*
 - *Ord. No. 7993, published 7/16/2006*
- Z-06-41-05: A to M-1; 17.889 acres; (Fairfield Farms East Addition);
 - ***PC approved 9-0 on 1/23/06 TO PID-1 – without use restrictions***
 - **Ord. No. 8000 – Not Published**
- Z-06-42-05: A to C-5; 28.833 acres; (Fairfield Farms East Addition);
 - ***PC approved 9-0 on 1/23/06 TO PCD-2 – without use restrictions***
 - **Ord. No. 8001 – Not Published**

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

Representative from Commerce Bank inquiring about general information of the request.

ATTACHMENTS

- Page Map
- *Horizon 2020*, Chapter 6 Policies
- *Horizon 2020*, excerpt description of CC200 development standards

Project Summary:

The subject property is proposed to be rezoned to CC200 to accommodate a planned commercial development. The property is adjacent to E. 23rd Street on the north and O'Connell on the west. The existing UR area, included in the proposed rezoning request, was previously approved for commercial development as a PCD. The total area included in the original request was only 28 acres. The proposed request includes additional area; 1.37 acres along E. 23rd Street (252' of frontage zoned UR) and 10.8 acres along 25th Terrace (currently zoned RM24).

The development request also includes the submission of a Preliminary Plat, Final Plat, and a rezoning request for IL (Items 4B and 4C on this agenda).

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *Complies with the Southeast Area Plan.*

The subject property is included in the Southeast Area Plan which is included in *Horizon 2020*, the City's comprehensive plan, by reference. Community commercial centers are defined in Chapter 6 of *Horizon 2020* as providing "...goods and services to several different neighborhood areas. It requires a site of sufficient size to accommodate buildings, parking, stormwater detention and open space areas. Although it may include a food or drug store, it is likely to provide a broad range of retail uses and services that typically generate more traffic and require larger lot sizes than found in a Neighborhood Commercial Center. Community Commercial Center uses may include hardware stores, video outlets, clothing stores, furniture stores, grocery store, movie theaters, home improvement stores, auto supply and services, athletic and fitness centers, indoor entertainment centers, etc."

The CC200 land use includes other design standards described in *Horizon 2020* regarding minimum and maximum building size. Attachment 2 includes the full text description of a CC200 for reference. With specific regard to Community Commercial Centers (CC200) the general location of E. 23rd and O'Connell Road is the only identified CC200 center listed in *Horizon 2020*. Specific policies are provided in Chapter 6 of *Horizon 2020* regarding development of CC200 centers and are included as an attachment to this report. <http://www.lawrenceplanning.org/documents/Horizon2020.pdf>

A specific development proposal, to assure compliance with the commercial policies is required. It should be noted, however, that O'Connell Road is a collector street and not a designated arterial street thus this particular location criteria is not satisfied. Regardless, the proposed request is consistent with the specific location recommendation in *Horizon 2020*. The requirement for nodal planning is addressed in the Southeast Area Plan.

Staff Finding – The proposed request conforms to the land use recommendations outlined in *Horizon 2020* and the reference to the Southeast Area Plan, as revised if Item 3 is approved.

2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Current Zoning and Land Use:	UR (UR urban Reserve); vacant land and RM24 (multi-dwelling residential) district; vacant land. ¹
Surrounding Zoning and Land Use:	UR (Urban Reserve) to the east; vacant land. ² RM12D (Multi-Dwelling Residential) District to the south; platted lots for duplex development. Under construction. PRD (Planned Residential District) [Fairfield West PRD] and CO (Commercial Office) District to the west; undeveloped. County zoning I-4 (Heavy Industrial) District to the north; Farmland plant.

Staff Finding – The subject property is surrounded by a variety of zoning districts. Much of the immediate area is undeveloped.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *Existing undeveloped (proposed residential) to the south, existing vacant (proposed residential and office) to the west, existing industrial to the north, vacant to the east.*

The subject property is part of a larger 120-acre parcel developed as Fairfield Farms East. The area is also located in the southeast portion of Lawrence and part of the Southeast Area Plan. The area is not currently included in any designated neighborhood association. The existing area is best described as a developing neighborhood east of O'Connell Road. Land uses include residential, commercial, and industrial uses in the immediate vicinity.

Staff Finding – The subject property is located within a developing neighborhood

4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

The subject area is included in the *Southeast Area Plan*. The area north of 25th Terrace is shown as including commercial, high density residential and industrial land use. The proposed request includes the area shown on the map as residential being changed to CC200. Revision to the Southeast Area Plan to address the location and area of the proposed CC200 is appropriate prior to the approval of the rezoning request. The expansion of the commercial center from a Neighborhood Commercial area to a Community Commercial area reduces the need for multi-family zoning in this same area.

Staff Finding – Approval of commercial zoning must be based on and reflected in the comprehensive plan and an adopted nodal plan for the area prior to consideration of commercial development. The existing plan identifies a variety of land uses for the general area. The revised Southeast Area Plan removes the high-density residential use from northwest corner of

¹ The UR portion of this request was previously approved for PCD-2 subject to the approval of a preliminary development plan. This zoning is pending publication dependant upon submission and approval of a preliminary development plan as was required prior to the adoption of the current development code.

² Proposed IL per Z-06-14-08.

Exchange Place and 25th Terrace. The commercial area at the corner of E. 23rd and O'Connell Road is recommended for CC200. The proposed request is consistent with respect to the proposed changes to the area plan with regard to the multi-family zoning.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's Response: *Subject property is suitable for both existing and proposed zoning uses.*

The current UR zoning is essentially a place holder for properties newly annexed. The UR designated was applied to the subject property upon the adoption of the Development Code in July 2006. Previous land use consideration of this property included a request for C-5 (1966 zoning code) but was recommended by the Planning Commission to be rezoned to PCD-2 subject to approval of a development plan to assure a neighborhood type development. To date no such plan has been prepared or submitted. The adoption of the Southeast Area Plan, and subsequent revisions, if approved, provide support for the CC200 request. Implementation of commercial design guidelines for future development will aid in establishing the development in a neighborhood context.

The review of this request assumes approval of the revised area plan to remove the high-density residential land use from the north side of 25th Terrace and expand the area shown as CC200.

Staff Finding –The UR zoning should be rezoned to CC200 consistent with plans for the area. Development of the UR district is not allowed per the Development Code section 20-222.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response: *2 years.*

A portion of the subject property was included in a development initiated in 2005 and approved in 2006. The commercial and industrial portions of the original request have not been published because conditions of approval have yet to be satisfied. The residential portions of the 120-acre original development including the RM24 zoning have been in place since 2006.

Staff Finding – The subject property is currently vacant and has been zoned since 2006. Development of the UR portion of the subject property requires rezoning prior to development to a suitable and appropriate zoning district as required in section 20-222 (b)(1).

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response: *No significant detrimental affect. Rezoning changes the tract from commercial and multi-family to commercial.*

The purpose and intent of the CC district is set out in Article 2 of the development code. The purpose is defined as follows:

20-211: The CC, Community Commercial Centers District, is primarily intended to implement the Comprehensive Plan's Community Commercial Centers policy for commercial development at a community scale to serve multiple neighborhoods. Within the Community Commercial Center classification there are two categories of commercial centers; the CC200

Center and the CC400 Center. Permitted uses are the same in both categories; density and dimensional standards are greater in the CC400 Center than in the CC200 Center.

The Primary Purpose of the CC200 Center is to provide for the redevelopment of existing Community Commercial Centers and to provide an alternative for the existing highway strip commercial areas.

The area is planned for commercial development at this scale. The development code sets out specific limits on building size within the CC200 district that will be applicable through the site plan phase of development review processes. The total maximum allowed square feet for a CC200 center is 200,000 GSF for the entire node and the maximum floor area of any structure for a principal use shall not exceed 100,000 GSF.

No detrimental effects are anticipated. Approval of the request will provide commercial shopping and services to existing and developing neighborhoods for the surrounding area.

Staff Finding –Approval of the CC200 district is consistent with planned development.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicant's Response: *Will provide a more viable neighborhood commercial center for surrounding residential developments as anticipated in the Southeast Area Plan.*

Evaluation of this criterion includes weighing the benefits to the public versus the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

The UR portion of the subject property has previously been considered and approved for commercial zoning under the previous zoning code. Approval of CC200 zoning for the UR portion of the request is consistent with plans for the area and will provide access to goods and services to the existing and developing neighborhoods in the area. The additional land area will facilitate the larger development scale of a community commercial center over a neighborhood center as initially envisioned.

Staff Finding – Approval of the subject property to an appropriate zoning designation is a prerequisite of development. Approval of the CC200 will facilitate the development consistent with the adopted and amended area plan.

10. PROFESSIONAL STAFF RECOMMENDATION

The development code requires the submission of a retail market study per section 20-1107. Analysis of that study follows below:

The applicant has submitted a project specific retail market study as required by Section 20-1107 of the Land Development Code. That market study includes all of the required information, including analysis based on vacancy rates, income trends, population trends, and mix of businesses, etc. pursuant to Section 20-1007 (c) of the Land Development Code.

The Development Code uses a vacancy rate threshold of 8% to determine market health, and the most recently completed citywide market study completed in Fall of 2007 figured the vacancy rate at 6.7%. (<http://www.lawrenceplanning.org/documents/2006Retail.pdf>)

While the market study shows that the project, upon completion, will push the city-wide vacancy rate above 8%, this figure alone is not an adequate representation of the impact of this development. This figure is computed by assuming that the project will either be entirely vacant upon completion, or that it will cause the same amount of space to become vacant in other areas of town. The applicant has stated that it is highly unlikely that all of the space will be vacant upon completion. If the project were only 50% vacant upon completion, then the city-wide vacancy rate would be under 8%.

Other factors, such as income, employment and population need to be taken into account as well, when looking at the overall impact of this project on the market as a whole. As the market study shows, income per capita, population and retail sales have all shown increases from 1995 to 2007, which shows that demand exists in the market.

The Development Code, under Section 20-1107 (e), states “the market impact analysis should be used in conjunction with the appropriate review and decision making criteria in the evaluation of zoning map amendment applications”. No one factor should be considered alone and based on the data presented in the market study, it shows that there is sufficient demand in the market to absorb this commercial development. Therefore, staff is of the opinion that this market study satisfies the requirements of Section 20-1007.

It should be noted that there is also more general language contained in Chapter 6, Commercial Land Use of *Horizon 2020* regarding requirements for retail market studies. This language is more general than the language contained in the Development Code, and multiple Comprehensive Plan Amendments (CPA's) have been drafted to address inconsistencies between the Development Code language that was more recently adopted in 2006. These CPA's, that would better align the language in the current Development Code with language in *Horizon 2020*, have been initiated, and in some cases recommended for approval by the Planning Commission, but these have yet to be scheduled with the City Commission for action. Since the Development Code was revised more recently in 2006, staff has used its requirements to review project specific market studies.

Staff recommends approval of the proposed request from UR and RM24 zoning to CC200 based upon the findings of fact outlined above.

STAFF REVIEW/ CONCLUSION

The proposed request has been duly noticed as required by code. The proposed request is consistent with the adopted and proposed revisions to the Southeast Area Plan as discussed in the report. The proposed request is generally consistent with previous land use decisions to establish commercial zoning in this area. The request is consistent with the general location as noted in *Horizon 2020*. The inclusion of the 11 acres of RM24 in the request is consistent with the changes in the Southeast Area Plan to change the Neighborhood Commercial Node to a Community Commercial Node.

Excerpt from *Horizon 2020, Chapter 6 – Commercial Land Use*

Policy 3.6: Criteria for Community Commercial Centers (under 200,000 square feet) CC200

- A. *CC200 Centers shall be located at the intersection of arterial/arterial streets.*
- B. *CC200 Centers shall have no more than 200,000 gross square feet of commercial space.*
- C. *No single store shall occupy more than 100,000 gross square feet.*
- D. *A general merchandise store (including discount and apparel stores) shall not exceed 65,000 gross square feet.*
- E. *The sum of the gross square footage for all stores occupying space between 40,000 and 125,000 shall not be more than 75 percent of gross commercial square footage for the corner of the intersection.*
- F. *Corners of the node not developed with commercial uses shall have extensive on-site screening and shall be utilized for office, employment-related, public and semi-public, parks and recreation, and higher-density residential uses. Encourage the development of mixed-use centers (office, employment-related uses, public and semi-public uses) adjacent to community commercial development to provide mutual attraction to employees and retailers and to enhance the visual image of the area.*
- G. *New or existing CC200 Centers shall not encroach or expand into the surrounding residential or lower-intensity uses.*
- H. *A proposal requiring a revised or new site plan for property in a CC200 Center shall include plan for reducing curb cuts, providing cross access easements to adjacent properties, and buffering for adjacent non-commercial uses.*
- I. *A nodal plan shall be completed before proposals for the redevelopment or expansion of an existing CC200 Center that include more than 50 percent of the existing gross commercial square footage or plans to expand the center by more than 20 percent go before the Planning Commission.*
- J. *Proposals for the redevelopment or expansion of an existing CC200 Center that include more than 50 percent of the existing gross commercial square footage or plans to expand the center by more than 20 percent shall include a building with at least 40,000 gross square feet of commercial space.*
- K. *A nodal plan shall be completed before a proposal for a new CC200 Center goes before the Planning Commission.*
- L. *Proposals for a new CC200 Center shall include a building with at least 40,000 gross square feet of commercial space.*
- M. *CC200 Centers shall develop or redevelop in a manner that is consistent with the city's adopted design guidelines.*

Community Commercial Center (under 200,000 square feet): CC200

The primary purpose of the CC200 category is to provide for the expansion and redevelopment of existing Community Commercial Centers. However, a new CC200 Center can be designated. Expansion of an existing CC200 Center shall not intrude into surrounding residential areas or lower-intensity land uses. Any proposal for commercial expansion or redevelopment occurring in an area designated as a CC200 Center shall include a plan for reducing curb cuts, improving pedestrian connections, providing cross access easements to adjacent properties, and creating and/or maintaining buffering for any adjacent non-commercial uses.

All corners of CC200 Center intersections should not be devoted to commercial uses. CC200 Centers should have a variety of uses such as office, employment-related uses, public and semi-public uses, parks and recreation, multi-family residential, etc.

To insure that there are a variety of commercial uses and that no single store front dominates the CC200 Center, no individual or single store shall occupy more than 100,000 gross square feet. A general merchandise store (including discount and apparel stores) that does not exceed 65,000 gross square feet in size may be located in a CC200 Center. The sum of the gross square footage for all stores that occupy space between 40,000 and 100,000 cannot exceed 50 percent of the gross commercial square footage for the corner of the intersection where it is located. To provide adequate access and adequate circulation, CC200 Centers shall be located at an arterial/collector street intersection or arterial/arterial street intersection.

CC200 Centers shall be located with primary access designed to occur from arterial or collector streets, with secondary access occurring from neighborhood feeder streets or reverse frontage roads. The purpose of the secondary access is to collect internal neighborhood traffic so that accessibility from the adjoining neighborhoods does not require exiting the neighborhood to access community shopping. These secondary access points are intended only for neighborhood traffic. The surrounding street design shall be done in a manner to discourage access to the Commercial Center by non-neighborhood traffic. Pedestrian and bike connection to the neighborhood shall be emphasized along the secondary routes.

In order to facilitate the orderly development of future commercial nodes, Lawrence shall attempt to complete “nodal plans” for each future commercial center in advance of development proposals.

In the absence of a city created nodal plan, the need to create a nodal plan for a specific intersection will be “triggered” by the first development request (rezoning, plat, preliminary development plan, etc.) submitted to the Planning Department for any portion of the node. The creation of the nodal plan may involve input from landowners within the nodal area, adjoining neighborhoods and property owners, and appropriate local and state entities. The appropriate governing body (City or County Commission) shall approve the nodal plan before approval of the development within the nodal area can move forward.