

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
12/15/08

**ITEM NO. 3A RS-7 TO RM-12D; 6.14 ACRES; 4145 SEELE WAY (MKM)**

**Z-10-17A-08:** Consider a request to rezone a tract of land approximately 6.14 acres from RS-7 (Single-Family Residential) to RM-12D (Multi-Dwelling Residential Duplex), located at 4145 Seele Way. Submitted by Landplan Engineering PA, for Doolittle Farms, LLC property owner of record.

**STAFF RECOMMENDATION:** Staff recommends denial of the rezoning request for approximately 6.14 acres from RS-7 (Single-Dwelling Residential) District to RM-12D (Multi-Dwelling Residential) District and forwarding it to the City Commission with a recommendation for denial based upon the findings of fact outlined in the staff report.

**Applicant's Reason for Request:** *To create a more sustainable neighborhood development by utilizing existing infrastructure and subdividing context sensitive single-family-attached lots within a mixed residential environment.*

**KEY POINTS**

- The intent of the applicant is to rezone the property to permit a mixed single- and duplex-dwelling development.
- This rezoning request is part of a development proposal which includes a preliminary plat for 19 single-dwelling lots and 22 duplex-dwelling lots and a rezoning request for 3.57 acres from the RS7 to the RS5 (Single Dwelling Residential) Zoning District.

**GOLDEN FACTORS TO CONSIDER**

**CHARACTER OF THE AREA**

- The area is developed predominately with single-dwelling residences. A church is located to the east and duplexes/townhomes are located to the south. These multi-dwellings serve as a transition from the commercial development along W 6<sup>th</sup> Street. Limited multi-dwelling development is located in the area.

**CONFORMANCE WITH *HORIZON 2020***

- The Future Land Use Map designates this area for low- density residential uses. The RM12D Zoning being requested is classified as medium density.
- The rezoning of this area from the RS7 to the RM12D District is not in conformance with many of the recommendations in *Horizon 2020*.

**ASSOCIATED CASES**

- Z-07-46-05; A (Agricultural) District to RS-2 (Single-Family Residence) District; 10.281 acres. Ordinance adopted on December 6, 2005. (Zoning Designation converted from RS-2 to RS7 with the adoption of the 2006 Development Code.)
- Z-10-17B-08; RS7 (Single-Dwelling Residential) to RS5 (Single-Dwelling Residential). This rezoning request is being considered at the December Planning Commission meeting.
- PP-10-13-08: Preliminary Plat for Maple Leaf Square, a 10.24 acre subdivision

consisting of 41 lots which is also being considered at the December Planning Commission meeting.

#### **OTHER ACTION REQUIRED**

- Planning Commission approval of associated rezoning, RS-10-17B-08.
- City Commission approval of the requested rezonings and adoption/publication of rezoning ordinances.
- Approval of the variance requested from the Subdivision Regulations by the Planning Commission.
- Approval of the waiver requested from the Subdivision Regulations by the City Commission.
- Approval of the preliminary plat by the Planning Commission.
- Acceptance of dedications on the Preliminary Plat by the City Commission.
- Submittal, administrative approval, and recordation of a final plat.
- Submittal and approval of public improvement plans.

#### **PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- A letter was provided by Jason Pendleton which expressed his opposition to the rezoning to permit duplexes and more dense single-family development.
- E-mail from Doug Flessing expressing his opposition to the duplex rezoning and the requested variance, based on concerns with increased traffic congestion in the area. Both property owners expressed concern that the duplex zoning would devalue property values in the area.
- A letter from Larry Sherraden, President Lawrence Bible Fellowship expressing opposition to the rezoning to the RM12D District based on concern with the change in the general composition of the neighborhood. He also expressed concerns with the drainage easement and the maintenance of the property.

These communications are included with this staff report as an attachment.

#### **GENERAL INFORMATION**

Current Zoning and Land Use:	RS7 (Single-Dwelling Residential) District; undeveloped land platted in February 2006 as Doolittle Subdivision.
Surrounding Zoning and Land Use:	RS7 (Single-Dwelling Residential) District to the north east and west; existing single-dwelling residences to the north and west and a religious institution to the east.  Proposed RS5 (Single-Dwelling Residential) District to the north per application Z-10-17B-08; undeveloped property part of this development proposal.  PCD [Monterey Center] Planned Commercial Development; mixed commercial and residential development. Duplex units abut south property line of subject property.

### **1. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

#### **Applicant's Response –**

*"H2020 recommends low-density residential use in the subject area. This application combines with the accompanying [RS-5] request for lower-density*

*development; existing adjacent properties consist of compatible duplex residential uses."*

The subject property is located in the northwest area of Lawrence which is designated on the Future Land Use Map, Map 3-2, of *Horizon 2020* for very low density or low density residential uses. *Horizon 2020* defines low density as 6 or few dwelling units per acre and medium density as 7 to 15 dwelling units per acre. (page 5-4) The RM12D Zoning District has a maximum possible density of 12 units per acre and is therefore medium density.

The following goals and associated policies from *Horizon 2020* provide recommendations regarding low-density and medium-density residential development:

## **RESIDENTIAL LAND USE GOALS AND POLICIES**

### **Low-Density Residential Land Use**

#### **Goal 3: Neighborhood Conservation** (page 5-15)

The character and appearance of existing low-density residential neighborhoods should be protected and improvements made where necessary to maintain the values of properties and enhance the quality of life.

#### **Policy 3.3: Encourage Compatible Infill Development** (page 5-15)

- a. Encourage redevelopment and infill as a means of providing a variety of compatible housing types within neighborhoods.
- c. Infill development should conform to lot size, housing type, scale and general architectural style of the area in which it is proposed.

#### **GOAL 4: Criteria for Location of Low-Density Residential Development** (Page 5-17)

#### **Policy 4.2: Protect Areas Planned for Low-Density Development** (Page 5-17)

Avoid concentrations of medium- or higher-density residential development within the interior of a neighborhood.

### **Medium- and Higher- Density Residential Land Use**

#### **GOAL 1:**

#### **Policy 1.1 Consider Land Use Relationships** (page 5-23)

- a. Development proposals shall be reviewed for compatibility with existing land uses.
- b. Careful attention shall be given to the transition areas between different housing types and different densities and intensities of use so as to ensure compatibility of uses.

#### **Policy 1.3 Identify Suitable Sites** (page 5-23)

Medium- and higher-density developments should be arranged in small clusters as transitions from more intensive land uses, or located at the intersection of major street/roads.

#### **Policy 1.5 Ensure Adequate Infrastructure** (page 5-24)

Ensure that medium- and higher-density development occurs in areas which can be adequately and efficiently served by infrastructure facilities.

#### **GOAL 2:**

#### **Policy 2.6: Consider Residential Density and Intensity of Use**

The number of dwelling units per acre in any residential category should be viewed as representing a potential density range rather than a guaranteed maximum density. Potential development should be approved based upon consideration of natural features, public facilities, street/roads and traffic patterns, neighborhood character, and surrounding zoning and land use patterns.

**GOAL 3:**

**Policy 3.2: Medium-Density Residential Development as Transitional Use.** (page 5-28)

**Policy 3.4: Encourage Compatible Infill Development** (page 5-29)

Encourage new and existing medium- and higher-density residential development which is compatible in size, architectural design, orientation, and intensity with the surrounding land uses in established areas.

**Staff Review** –The rezoning request is not in conformance with the Future Land Use Map, within *Horizon 2020* which designates this area for ‘very low- or low-density residential’ development.

Infrastructure is defined in the glossary of *Horizon 2020* as “*streets, sidewalks, storm sewers, pumping stations, sanitary sewer lines, water lines, utilities, etc.*” Adequate infrastructure is in place for the single-dwelling residential development which has been approved with the RS7 Zoning. Changes to the infrastructure have been identified which are necessary to accommodate the increase in density and the lot reconfiguration. The sanitary sewer and water facilities can be modified to accommodate the proposed multi-dwelling development. The development’s street system, however, is designed with only one access to the street network. Per the requirements in the Design Standards of the Subdivision Regulations, developments with more than 35 dwelling units require more than one access to the street network.

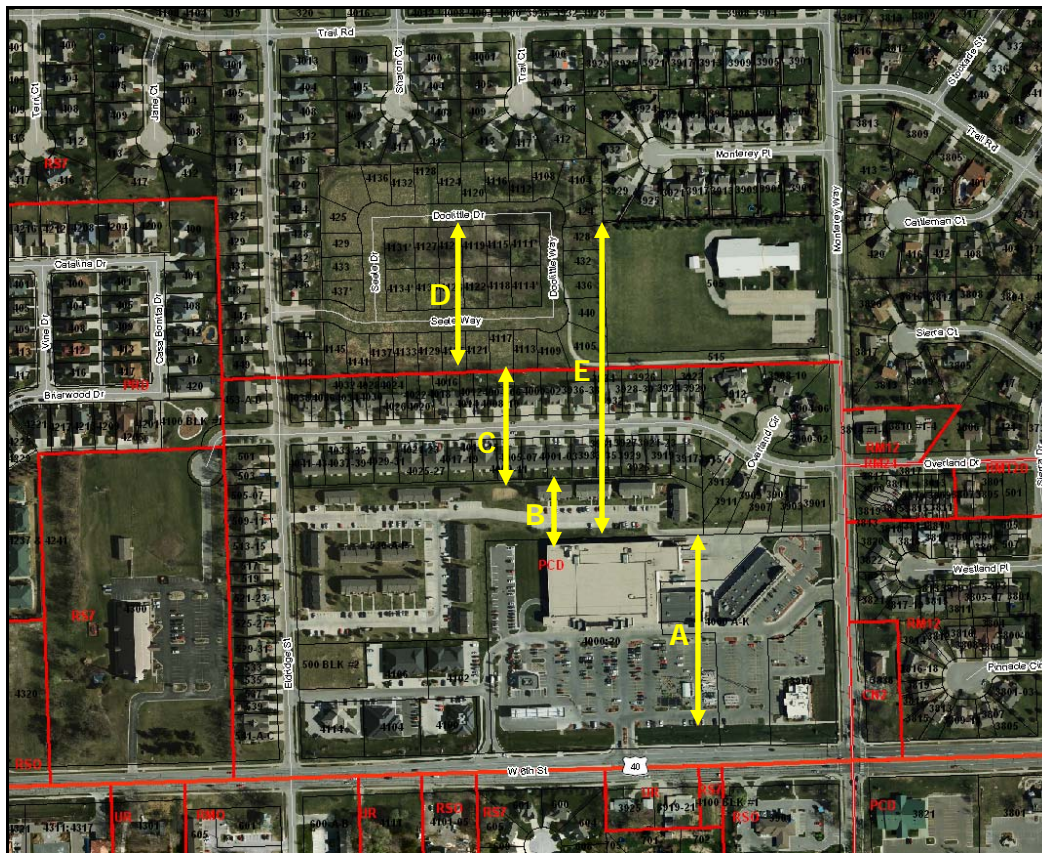
*“No new subdivision shall be approved in which more than 35 residential lots or potential residential dwelling units, or more than 25,000 square feet of nonresidential space will have access to the public road system via a single outlet to the arterial and collector street system as shown on the adopted major Thoroughfares Plan.”* [Section 20-810(d)(2)(iii); Subdivision Design Standards, Streets, Connections]

The development does not contain adequate street connection/access for the density being requested.

The development proposes mixed multi- and single- dwelling infill development in an established single-dwelling neighborhood. The development proposal is to locate the duplex development in the interior of the development with single-dwelling residences providing a transition from the lower-density homes to the west, north and northeast. The area being included in the transition is larger than the commercial development being transitioned from. (Figure 1) Higher density duplexes and townhomes located to the south serve as a transition between the commercial development along W 6<sup>th</sup> Street and the low density residential area. The duplexes on the southern border would extend the transitional area, but the duplexes in the interior block and on the east side of the property would not be serving as transition.

The project will provide the opportunity for infill development that is compatible with the surrounding land uses to the south in architectural design, and orientation; however the housing type and intensity of use would not be similar to the established pattern to the north and west.

**Staff Finding** – The rezoning request is for a medium-density, multi-dwelling zoning district to permit the development of duplexes in the area. The Comprehensive Plan recommends very-low or low density residential development in this area and recommends the use of medium-density zoning as a transition between higher intensity uses and single-dwelling residences. The rezoning request is not in conformance with the recommendations in *Horizon 2020*.



**Figure 1. The arrows on the figure indicate the following:**

- A -- the depth of the commercial development along W 6<sup>th</sup> Street.**
- B -- the depth of the multi-dwelling (apartment) development.**
- C -- the depth of the existing townhome/duplex .**
- D -- the depth of the proposed duplex zoning.**
- E -- the depth of the area which would contain multi-dwelling structures to serve as transition with the proposed rezoning.**

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

**Staff Finding –** The subject property is surrounded by single-dwelling, detached homes reflective of the RS7 zoning on the north, west, and northeast. A church, also zoned RS7, is located to the east of the subject property. Multi-dwelling residential uses, duplexes and townhomes, are located along the south property line as part of the Monterey PCD. This request would create an incompatible area of RM12D Zoning within a large area of RS7 Zoning.

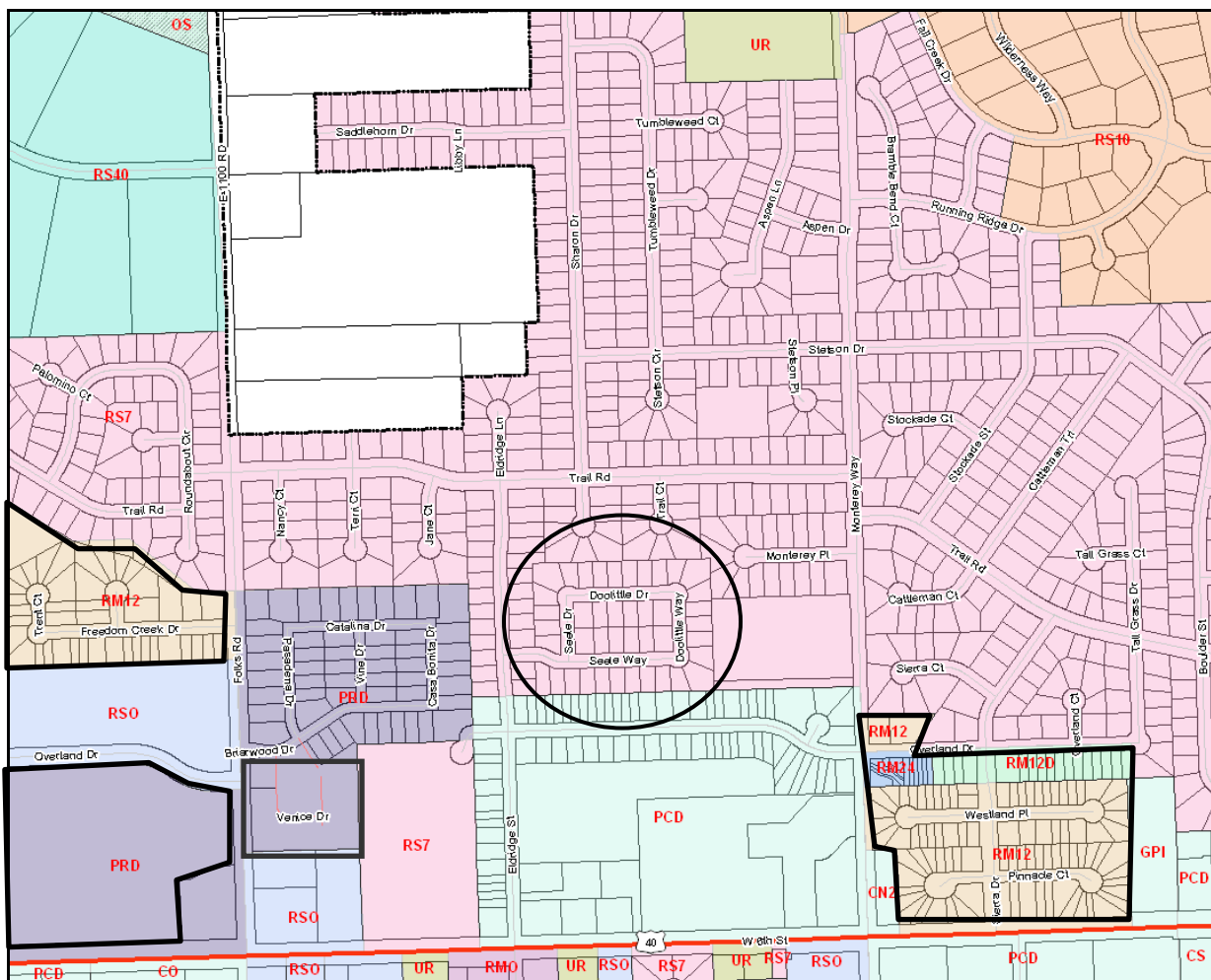
## 3. CHARACTER OF THE NEIGHBORHOOD

### **Applicant's Response –**

*"Existing duplex immediately to the southeast, south and west. Undeveloped (existing infrastructure only) immediately to the north, with existing single-family residential further to the northwest, north and northeast. Existing church to the east."*

Single-dwelling and duplex residences, a church and commercial uses are the predominate land uses in the neighborhood. The development pattern in the immediately surrounding area to the north, east and west is a collection of residential homes with access to short cul-de-sac streets intersecting collector streets with little connectivity between isolated blocks. Other multi-dwelling developments in the area include small areas of RM24, RM12 and RM12D located near the intersection of W 6<sup>th</sup> Street and Monterey Way with a mix of townhomes and duplexes, and an area of RM12 Zoning with townhome development to the west, between the high school and Folks Road. (Figure 2.) The PRD Zoning District to the west is the Briarwood Development which contains single-dwelling homes on the northern portion and apartments to the south. The PRD in the northwest corner of the intersection of Folks Road and W 6<sup>th</sup> Street has a preliminary development plan approved for a mix of single- and multi-dwelling residences in this area.

**Staff Finding –** The area is characterized by single-dwelling residences with some multi-dwelling development located in transitional locations south of the subject property, at the intersection of Monterey Way and W 6<sup>th</sup> Street/Hwy 40 and adjacent to the high school. Maintaining this property as single-dwelling zoning supports the existing character of the area and the clean transition zones currently in existence.



**Figure 2.** Zoning in the area. Property included in current development proposal is circled. The PRD to the west is single-dwelling residences. The PCD to the south contains townhomes and duplexes. Multi-dwelling development is outlined.



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

**Staff Finding** – There are no existing neighborhood or areas plans that include the subject property.

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

**Applicant's Response –**

*"The property is theoretically suitable to the present restrictions, although City-produced data confirms apparent market inactivity. Presently residences are neither being constructed nor sold as currently zoned and platted. Rezoning is most suitable to stimulate market activity by allowing viable dwelling (SF-attached [duplex] lots)."*

**Staff Finding** – Staff concurs with the applicant's assessment that the present restrictions are suitable for the subject property.

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

**Applicant's Response –**

*"The property has been vacant since a former single family residence was removed in 2006."*

**Staff Finding** – The property was rezoned from A to RS-2 by Ordinance 7943 which was published in December of 2005 and established the current single dwelling zoning district in anticipation of planned residential development. The property is vacant and, based on information from the applicant, has been vacant since the house and outbuildings were removed in 2006.

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

**Applicant's Response –**

*"No detrimental affect is identifiable as a result of the rezoning."*

**Staff Finding** – The rezoning would increase the density of the residential development in the area and traffic would increase on Eldridge Street as that would contain the only access point for the development. Based on the traffic impact study which was provided with this application, 440 trips would be generated by the proposed development on an average weekday with 35 trips in the a.m. peak hour and 43 trips in the p.m. peak hour. This represents an increase of 47 trips per day, 3 additional trips in the a.m. peak hour and 1 additional trip in the p.m. peak hour from the existing approved subdivision. The proposed development involves a 53.6% increase in the number of dwelling units; yet the increase in peak hour traffic is anticipated to be only 1 or 3 additional trips.

**8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP**

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**IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION**

**Applicant's Response –**

*"Approval will increase the likelihood of new homes, residents, improved property maintenance and broadened municipal tax base. Denial is likely to result in perpetuation of unused infrastructure in an otherwise beneficial infill location."*

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. If the zoning request is denied, the property will remain in its current state until the market demand increases for single-dwelling residences. The density would remain as recommended in *Horizon 2020* and provide area property owners with consistency when making their long range plans. The hardship imposed upon the landowner may be that the property may not be developed until the market demand has increased. Approving the rezoning request would allow the property owner to develop at a higher density and the applicant anticipates this will improve the marketability of the property.

**Staff Finding –** Denial of the rezoning request would provide consistency with the recommendations in *Horizon 2020*. Land Development that is consistent with adopted plans allows property owners to rely on adopted plans when making property investments. Denial of the rezoning request to a multi-dwelling district would preserve the character of the neighborhood as single-dwelling residential.

Denial of the rezoning request may prevent the landowner from increasing the marketability of the property and delay the development of the property.

**9. PROFESSIONAL STAFF RECOMMENDATION**

Based on the lack of compliance with the recommendations in *Horizon 2020*, primarily the uses shown on the Future Land Use Map, recommendations for compatible infill development and the provision of adequate infrastructure (streets) for the proposed development, Staff recommends denial of the rezoning request.