

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

ITEM NO. 8D : OS TO OS-FP; PUMP STATION 25; NORTH OF 3800 GREENWAY CIR (MKM)

Z-5-8-09: Consider rezoning approximately 4 acres from OS (Open Space) to OS-FP (Open Space with Floodplain Overlay) for Pump Station 25, located in the NW ¼ of S3-T13S-R20E, generally located north of 3800 Greenway Circle. Submitted by BG Consultants for the City of Lawrence, property owner of record.

1. **STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request for 4 acres from OS (Open Space) District to OS-FP (Open Space with Floodplain Overlay) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

APPLICANT'S REASON FOR REQUEST

"Annexation and rezoning is required for the development of a pump station at this location."

KEY POINTS

- Rezoning is being requested to OS to permit development of a pump station.
- The property lies outside the city limits, in Service Area 1 of the Urban Growth Area. An annexation request was submitted concurrently with this rezoning request and is also being considered at the July Planning Commission meeting.
- The Floodplain Overlay District is defined differently for properties within the City and for properties which have been annexed after March 1st, 2003 per Section 20-1201 (b) and (c). The Floodplain Overlay District for properties which are annexed after March 1, 2003 include additional lands than those shown on the Flood Insurance Rate Maps (FIRM) or the Flood Insurance Study (FIS) and zoning is necessary to place these lands within the Overlay District.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The area contains significant amounts of floodplain. The subject property and the property to the north and east are located within the 100 year regulatory floodway fringe and the property to the south is located within the 500 year regulatory floodway fringe. Industrial uses are located south and west of the subject property and agricultural uses to the north and east.

CONFORMANCE WITH *HORIZON 2020*

- The proposed rezoning request from OS (Open Space) District to OS-FP (Open Space with Floodplain Overlay) District is consistent with land use recommendations found in *Horizon 2020*.

ASSOCIATED CASES/OTHER ACTION REQUIRED

On the July Planning Commission Agenda

- Annexation request [A-5-1-09]

- Preliminary Plat [PP-5-1-09]
- Rezoning Request [Z-5-9-09] from I-4 (Heavy Industrial) to OS (Open Space) District
- Special Use Permit [SUP-5-6-09]

Future Action

- City Commission approval of annexation and publication of ordinance.
- City Commission approval of the rezoning requests and publication of ordinances.
- City Commission acceptance of easements and road right-of-ways as shown on the preliminary plat.
- Final plat submittal for administrative review/approval and recordation at the Douglas County Register of Deeds.
- Special Use Permit for the pump station approved by the City Commission and publication of ordinance.

Associated Cases

- Administrative review and approval of floodplain development permit [FP-5-7-09] for development within the floodplain.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None.

GENERAL INFORMATION

Current Zoning and Land Use: I-4 (Heavy Industrial) District and the Floodplain Overlay District / Rezoning request to OS (Open Space) District has been recommended for approval.

Surrounding Zoning and Land Use: To the west and east: I-4 (Heavy Industrial) District and the Floodplain Overlay District; undeveloped land within the unincorporated portions of the county.

To the north: strip of I-4 (Heavy Industrial) with railroad right-of-way and beyond that: V-C (Valley Channel) District and the Floodplain Overlay District; agricultural land with residence; all within the unincorporated portions of the county.

To the south: IG (General Industrial) District and the Floodplain Overlay District; manufacturing and warehouse facility within city limits.

Project Summary

The City Utility Department is proposing the construction of a new pump station to replace the existing Pump Station 25 located at 3800 Greenway Circle. The new pump station will serve existing development and accommodate future development in the area. As the subject property is located within Service Area 1 of the Urban Growth Area, it is necessary to annex and rezone to an appropriate City zoning district. A rezoning request to the OS District has been submitted and is being considered by the Planning Commission at their July meeting with a staff recommendation for approval.

The Development Code requires that floodplain plus an additional 2 feet of freeboard on newly annexed lands be included in the Floodplain Overlay District. The subject property is completely encumbered with Zone AE of the Floodplain (Figure 1).

REVIEW & DECISION-MAKING CRITERIA

CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The request conforms with Horizon 2020, specifically Policy 2.4 of Chapter 10."

Horizon 2020 recommends protection of floodplains but does not provide specific goals or policies for floodplain protection.

Chapter Three of *Horizon 2020* provides an overview of the plan. Key features are listed on page 3-1 which provide the basic framework for specific land use recommendations found within the plan. *"The Plan recommends the protection and preservation of the extensive floodplains and riparian ways throughout the planning area."*

Chapter Four-Growth Management states that uses appropriate for floodplain areas are agricultural uses, public or private open spaces, public or private utilities and recreational uses such as bike/walking trails, recreational paths and field sports. (page 4.3, *Horizon 2020*)

Staff Finding -- The proposed rezoning request conforms with *Horizon 2020* policies related to protection of floodplain and open space.

ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Staff Finding -- The subject property is surrounded by industrial zoning to the east and west (I-4; Heavy Industrial, unincorporated portions of the County) and south (IG; General Industrial, within the City limits). Manufacturing/warehouse uses are located in an industrial park to the south and the properties to the east and west are undeveloped. The area to the north is zoned V-C (Valley Channel), a district in the unincorporated portions of the County intended to protect areas subject to periodic or potential flooding. This area is used for agriculture and a farm residence.

CHARACTER OF THE AREA

The subject property is located at the border of industrial and agricultural land uses. The subject property and the parcel to the west are undeveloped, wooded properties; while industrial uses are located to the south and west and agriculture is the predominate land use to the north and east. Floodplain is a major feature of the area, with the 100 year floodway fringe being located on the subject property and extending to the north and east. The majority of the property to the west and south is within the 500 year floodway fringe.

Staff Finding -- The area contains both industrial and agricultural uses in a floodplain area.

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

The subject property is not included in any adopted area and/or sector plans. *Horizon 2020* is the guiding plan for this property. The Farmland Industries Redevelopment Plan was adopted for the property to the west which contains the abandoned Farmland Industries. This plan recommends a mix of industrial, civic, and open space uses for the Farmland property and recommends open space as the future land use for the area adjoining the subject property.

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

Applicant's Response:

"The project is not suitable for the existing zoning as the property does not have direct access to a public roadway."

The property is currently zoned I-4 (Heavy Industrial). According to the County Zoning Regulations the primary purpose of the Heavy Industrial District is to provide for industrial operations of all types. The property is not suitable for industrial uses; however, as it has no road access.

A request has been submitted for the annexation of the property into the City of Lawrence. Rezoning to City Zoning Districts is required with annexation a rezoning request to the OS District is before the Planning Commission with a staff recommendation for approval.

The Development Code requires that the floodplain plus two additional feet of freeboard be zoned to the floodplain overlay district on newly annexed lands. The property is suitable for uses permitted within the OS District. The rezoning to the FP overlay district will not increase the amount of floodplain which is on the property, as the entire property is within the AE zone of the floodplain.

Staff Finding -- The property is suitable for the uses to which it is restricted with the recommended OS (Open Space) Zoning given the lack of road access. The rezoning to the FP (Floodplain Overlay) District is being done in compliance with Section 20-1201(c) of the Development Code. There is no change in permitted uses with the rezoning to the overlay district.

LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

"The property has never been developed."

Staff Finding – The property has never been developed.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's response:

"The rezoning will not detrimentally affect nearby properties."

The FP Overlay District will add restrictions to the recommended OS (Open Space) District. A Floodplain Development Permit must be obtained for any development activity so the impact on the floodplain can be monitored and regulated. The restrictions allow the amount of impervious surface to be regulated in order to minimize any negative impact development would have on other nearby or downstream properties.

Staff Finding –The FP (Floodplain) Overlay District will add restrictions to the OS (Open Space) District rather than remove restrictions.

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:

"The approval of the rezoning will allow the construction of a pump station which is needed to convey wastewater flows to the treatment plans. Denial of the zoning would not allow construction of the needed pump station."

Approval of the rezoning to the Floodplain Overlay District will provide additional protection to developing properties within the Urban Growth Area as additional lands are developed and impervious surface is added. Denial of the rezoning request would prevent these additional protection strategies from being implemented.

Staff Finding – The rezoning will have positive public impact by providing additional protection measures to the property within the floodplain.

PROFESSIONAL STAFF RECOMMENDATION

Staff recommends the approval of the rezoning request to the OS-FP (Open Space Floodplain) Overlay District as it is required by the Development Code for newly annexed lands which are encumbered with floodplain.

