

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

ITEM NO. 4C : A & V-C TO OS; ~~4.24~~ 4.36 ACRES; 31ST & KASOLD DR (MKM)

Z-8-15-09: Consider a request to rezone approximately ~~4.24~~ 4.36 acres from A (Agricultural) and V-C (Valley Channel) to OS (Open Space) for Wesleyan Church Development, located southeast of 31st and Kasold Drive. Submitted by Dean Grob, for Chester B. Spray Trust, property owner of record and Wesleyan Church, Contract Purchaser.

1. **STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request for ~~4.24~~ 4.36 acres from County A (Agricultural) and County V-C (Valley Channel) Districts to OS (Open Space) 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

"The rezoning is being requested to allow the Lawrence Wesleyan Church to construct a 'Religious Assembly Campus or Community Institution' church facility and allow for residential development on the adjacent property. The OS Rezoning is to provide and reserve open space within the floodplain prone portion of the development"

KEY POINTS

- The amount of acreage being rezoned is greater than that originally requested due to the inclusion of the road right-of-way with the annexation.
- The property is encumbered with floodplain and floodway.
- 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 October Planning Commission meeting.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The area contains significant amounts of floodplain and floodway. Agriculture and residential uses are the principal land uses in the area.

CONFORMANCE WITH *HORIZON 2020*

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

ASSOCIATED CASES/OTHER ACTION REQUIRED

Associated items also being considered at the October Planning Commission meeting:

- Annexation request [A-8-3-09]
- Rezoning Request [Z-8-14-09] from County A (Agriculture) District to the RM12 (Multi-Dwelling Residential) District
- Rezoning Request [Z-8-16-09] for to OS-FP (Open Space Floodplain Overlay District)

Other action required:

- City Commission approval of annexation and publication of ordinance.

- City Commission approval of the rezoning requests and publication of ordinances.
- Submittal of preliminary plat for approval by Planning Commission and acceptance of dedication of easements and rights-of-way by the City Commission.
- Final plat submittal for administrative review/approval and recordation at the Douglas County Register of Deeds.
- Submittal and administrative approval of site plan for the church and multi-dwelling residential developments—unless the proposed residential development contains duplexes which do not share common space (Per Section 20-1305(c)(1) of the Development Code).
- Submittal and administrative review of Floodplain Development Permit for development proposed on property which is encumbered by the floodplain.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None.

GENERAL INFORMATION

Current Zoning and Land Use: A (County-Agricultural), V-C (County-Valley Channel) and Floodplain Overlay Districts; undeveloped land in the unincorporated portion of the County used for agricultural purposes.

Surrounding Zoning and Land Use:

To the east:

RMO (Multi-Dwelling Residential-Office) District with a portion located within the Floodplain Overlay District; extended care facility-general;

UR (Urban Reserve) District; church;

CO (Commercial Office); single-dwelling residence;

RS10 (Single-Dwelling Residential) District with a portion located within the Floodplain Overlay District; undeveloped;

A (County-Agricultural) District with portions of the property encumbered with floodplain; agricultural uses;

To the north: A (County-Agricultural) District with floodplain overlay, [a rezoning to the RM12 (Multi-Dwelling Residential) District is being considered with this development proposal]; Agricultural land uses.

To the west: A (County-Agricultural), and V-C (County-Valley Channel), Districts with portions of the property encumbered with floodplain; electrical sub-station, a minor utility, and agricultural uses

To the south: A (County-Agricultural) District and V-C (County- Valley Channel) District; property is encumbered with floodplain; woodland, agricultural uses and a multi-use path.

Project Summary

The property owner is interested in developing the property in two phases. One phase will be the construction of a church on approximately 18.44 acres in the northwest corner of the property. The other phase will be the development of a multi-dwelling residential development on the northeastern 14.34 acres. The southern 4.36 acres are being rezoned to Open Space and are proposed to remain open as natural open space or playing fields. The regulatory floodway located on the property is within the OS District. The concept plan shows the areas being proposed for these uses.

The amount being requested for the rezoning to the OS District is slightly more than was included in the original application. The original annexation and rezoning requests did not include the complete road right-of-way. When this right-of-way was included, the gross area of the property and the areas included within the proposed zoning districts increased. The OS District was calculated at 4.24 acres without the additional road right-of-way. With the additional right-of-way the area of the District is calculated at 4.36 acres. The original concept plan, without the additional road right-of-way, is shown in Figure 1.



Figure 1. Original concept plan, proposed annexation and rezoning without the additional road right-of-way.

REVIEW & DECISION-MAKING CRITERIA

CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The request conforms to the Comprehensive Plan in every aspect, from general growth, annexation, and proposed land use. The OS zoning comprises twelve percent (12%) of the land annexation"

The Lawrence Future Land Use Map in *Horizon 2020* (page 3-4) shows this property in Service Area 1. The area has been planned with the *Revised Southern Development Plan* which is incorporated by reference in Chapter 14 of *Horizon 2020*. (Page 14-2) Following are sections of *Horizon 2020* that relate to this development:

Revised Southern Development Plan (incorporated by reference on page 14-2, *Horizon 2020*)

Maps 3-1 and 3-2 both recommend 'open space' land uses for the southern portion of the subject property which is encumbered with floodplain. The recommendations in the plan (Page 20, *Revised Southern Development Plan*) indicate that the intent of the Open Space use is to protect the floodplain by allowing very minimal development for the public use. Primary uses which are recommended are passive recreation, nature preserve or agricultural. The church indicated that these areas will be used for passive recreation, or may be utilized as ball-fields, which require minimal development.

Parks, Recreation, Open Space (Chapter 9, *Horizon 2020*)

Horizon 2020 indicates that open space and greenways are envisioned to preserve the community's floodplains along with other environmentally sensitive areas. (Page 9-5)

Policy 6.1(a): recommends that floodplains be incorporated into the open space system whenever possible to preserve and enhance the hydrological and ecological functions that the floodplain provides. (Page 9-23)

Staff Finding -- The proposed rezoning request conforms with *Horizon 2020* policies related to open space and land use recommendations in the *Revised Southern Development Plan*.

ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

The subject property is surrounded on the north by agricultural zoning which is being requested to be rezoned to a residential district with this development proposal. It is surrounded on the east by residential zoning with small portions of UR (Urban Reserve) Zoning within the City limits. Development in these districts consists of residential uses and an extended care facility.

Property to the west and south is located outside the City limits and is zoned for agricultural uses. An electric substation is located west of the subject property and a multi-use recreational path borders the south and west sides of the property. The K-10 Bypass is located approximately 500 feet south of the southern property line. Woodlands and agricultural land uses dominate the area to the south and west.

Staff Finding -- Property to the west and south of this development proposal, located outside of the City limits, is zoned and used primarily for agricultural uses. Property to the east and north of this development proposal, located within the City limits, is zoned and used primarily for residential uses.

CHARACTER OF THE AREA

The subject property is located south of the curve where W 31st Street joins with Kasold Drive, both principal arterials. E 1200 Road, a minor arterial is located along the west property line and the K-10 Bypass, a State Highway, is located within 550 feet of the southern property line. The subject property is adjacent to the city limits on the north and east sides. Regulatory floodplain and floodway are both located on the southern portion of the property and extend throughout the area.

Staff Finding -- The area is adjacent to the city limits and is in close proximity to a transportation network consisting of arterials and a state highway. Floodplain, containing both regulatory floodway and regulatory floodway fringe is located in the southern portion of the area.

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

The *Revised Southern Development Plan* is incorporated by reference in Chapter 14 of *Horizon 2020*. This plan recommends open space zoning for the southern portion of the subject property which is encumbered with floodplain.

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

Applicant's Response:

"The property is County Zoned 'A' & 'V-C' and is bound by the north by a major arterial and the west by a major collector or minor arterial so the property is more suitable to residential development than farmland. 'A' and 'V-C' are compatible with 'OS' Zoning."

A request has been submitted for the annexation of the property into the City of Lawrence in preparation for development of this property.

When annexed, the A and V-C Zoning Districts are no longer appropriate. The Development Code requires that an appropriate City Zoning District be established for all newly annexed lands. The *Revised Southern Development Plan* recommends OS as an appropriate zoning district for this property as it contains floodplain. The property is currently suitable for agricultural and could continue to be used for agricultural uses with the OS Zoning. Minimal development is possible within the OS District, so the rezoning would increase the permitted uses only slightly. The proposal is to use the area as play areas and ball fields for the church.

Staff Finding -- The property is suited for Agricultural uses; however, when it is annexed into the City of Lawrence a more urban land use is more appropriate. The OS District is an appropriate zoning district for property which is encumbered with the floodplain.

LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

"The property has generally always been farmland or vacant floodplain."

Staff Finding – The property has never been developed.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's response:

"Complying with the Comprehensive Plan Horizon 2020 and the Revised Southern Development Plan, the proposed rezoning will not detrimentally affect the nearby properties. The OS zoning will provide a buffer to the Wakarusa River Floodplain"

The OS Zoning will remove very few restrictions on the property. As the property is encumbered with both the regulatory floodway and regulatory floodway fringe, the OS Zoning will limit the amount of development possible and will help minimize the impact of flood events in the area.

Staff Finding – The rezoning is not expected to detrimentally affect nearby properties as the OS District permits very limited development.

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 property is suitable generally only for OS zoning because of the existing floodplain and floodway. If the rezoning is denied, then the land would most likely remain unannexed."

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

Denial of the rezoning request would require the property to be rezoned to another zoning district; quite possible the UR (Urban Reserve) District. All uses permitted prior to annexation would be permitted in the UR District. These uses are more expansive than the uses permitted in the OS District. Denial of the rezoning request would not provide any gain to the public health, safety and welfare.

Staff Finding – Denial of the rezoning request would have no positive impact on the public health, safety and welfare as a wider range of uses are permitted in the A and V-C Districts than in the OS District.

PROFESSIONAL STAFF RECOMMENDATION

Staff recommends the approval of the rezoning request to the OS District as this is compliant with the recommendations of *Horizon 2020* and should have a positive impact on the surrounding properties.