

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

**ITEM NO. 9: UR TO CO; 2.98 ACRES; 525 WAKARUSA DR (MKM)**

**Z-11-20-09:** Consider a request to rezone approximately 2.98 acres from UR (Urban Reserve) to CO (Office Commercial), located at 525 Wakarusa Drive. Submitted by Bartlett & West, Inc., for CPC Ventures, Inc., property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request for approximately 2.982 acres from UR (Urban Reserve) District to CO (Office Commercial) 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 owner would like to build a bank and other office buildings on the site. Therefore we are requesting a change to CO zoning."*

**KEY POINTS**

- A rezoning to the POD (Planned Office Development) District [Z-08-29-01] was approved subject to the approval of a Preliminary Development Plan and completion of all conditions of approval. The rezoning approval expired because a Preliminary Development Plan for this particular property was never submitted.

**GOLDEN FACTORS TO CONSIDER**

**CHARACTER OF THE AREA**

- The area contains a mixture of uses, with a commercial center at the intersection of W 6<sup>th</sup> Street and Wakarusa Drive and open space and general public or institutional uses to the north.

**CONFORMANCE WITH *HORIZON 2020***

- The proposed rezoning request from UR (Urban Reserve) District to CO (Office Commercial) District is consistent with land use recommendations found in *Horizon 2020* specifically in the *Area Plan for the Intersection Area of W 6<sup>th</sup> Street and Wakarusa Drive*.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

Other action required:

- City Commission approval of the rezoning request and publication of ordinance.
- Administrative approval of site plan prior to development.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None.

**GENERAL INFORMATION**

Current Zoning and Land Use: UR (Urban Reserve) District; undeveloped.

Surrounding Zoning and Land To the east: PD-Bauer Farm (Planned Commercial)

Use: Development) District; approved mixed use commercial/office/residential development which is partially developed with pharmacy and restaurants.

To the north: OS (Open Space) District; City parkland.

To the west: PD-6Wak (Planned Commercial Development) District; retail store.

To the south: PD-6Wak (Planned Commercial Development) District; undeveloped land with pad sites for retail uses approved in final development plan.

### **Project Summary**

The property is currently zoned UR (Urban Reserve). A rezoning to the POD (Planned Office Development) District [Z-08-29-01] was approved by the City Commission in 2002 subject to the approval and completion of all conditions of a preliminary development plan for the property. This condition was not met and the rezoning approval expired. This property was shown in context on the PDP for the commercial portion of Wakarusa Place [PDP-08-07-01]. A preliminary and final development plan for the Wakarusa Place Development [FDP-11-14-01] was approved; however this development plan did not include the subject lot.

The subject property is adjacent to the 6Wak Development. The Final Development Plan for this area [FDP-08-12-07] was approved by the Planning Commission in December of 2007 for a 99,840 sq ft retail store (Wal-Mart) and four smaller outlying pad sites. The Bauer Farm Planned Commercial Development is located to the east of the subject property. Commercial, office, and multi-dwelling uses have been approved for this development, with the multi-dwelling uses being located to the east of the subject property across Wakarusa Drive. The property is separated from parkland and a City high school/indoor aquatic center to the north by a small lot which is not included in this rezoning request.

The applicant proposes to construct a bank on the subject property. Other uses permitted within the CO District are planned, but are speculative at this time.

### **REVIEW & DECISION-MAKING CRITERIA**

The CO District is intended to function as a medium-intensity office zoning district. The district is intended to prevent strip commercial development by allowing office uses but not allowing other commercial uses. The Non-Residential District Use Table in Section 20-403 lists the following 'non-office' uses that are permitted in the CO District: Cemetery, College, Postal and Parcel Service, Public Safety, School, Social Service Agency, Extended Care Facility-Limited, Outpatient Care Facility, Religious Institution, Veterinary and Animal Sales and Grooming, Business Support and Communications and Mixed Media Store (limited to no more than 5000 sq ft). The CO District permits limited retail uses such as Fast Order Food, Quality Restaurant, Food and Beverage Sales, and General Retail Sales with the condition that the total floor area of the use not exceed 10% of the total gross floor area of all floors in the office building or of all buildings in the office complex in

which the use is located. These retail uses are meant to serve primarily the office complexes in which they are located.

The Development Code also permits banks and offices in the RMO (Multi-Dwelling Residential-Office) and RSO (Single-Dwelling Residential-Office) District; however, there are restrictions on ATMs and drive-throughs in these zoning districts which would prevent the development of the proposed bank.

### **CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response:

*"The Area Plan for the Intersection Area of West 6<sup>th</sup> Street and Wakarusa Drive states that this area is 'recommended as most appropriate for commercial development of a retail focus.' The CO Zoning requested would provide for a limited amount of retail space, while the majority of any building square footage would be office, in order to ensure that total square footage limitations on commercial space at the intersection are not exceeded."*

*Horizon 2020* identifies the intersection of W 6<sup>th</sup> Street and Wakarusa Drive as an existing Community Commercial Center. The intersection was designated as a CC200 with a nodal development pattern. The *Area Plan for the Intersection Area of West 6<sup>th</sup> Street & Wakarusa Drive*, adopted by the City of Lawrence in December, 2003, recognized that more than 200,000 sq ft of commercial uses currently existed at this location and recommended that the retail development in the intersection be limited to 420,000 gsf. The total retail approved at this intersection is 429,924 sq ft. As the amount of commercial currently approved at this intersection exceeds that recommended in the Area Plan, commercial zoning would not be appropriate for this property. The CO District includes standards that specifically limits retail uses. The Development Code does not include a stand alone Office District.

*Horizon 2020* recommends that CC200 Centers include a variety of uses such as office, employment-related uses, public and semi-public uses, parks and recreation, and multi-family residential (Page 6-7) and also recommends that the northern portion of the W 6<sup>th</sup> Street/Wakarusa Drive intersection be developed, not only with commercial uses, but also a variety of other uses, including office. (Page 6-16)

**Staff Finding** -- The proposed rezoning request conforms with *Horizon 2020* policies related to Community Commercial Districts (CC200) and land use recommendations in the *Area Plan for the Intersection Area of West 6<sup>th</sup> Street & Wakarusa Drive*.

### **ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING ANY OVERLAY ZONING**

The subject property is surrounded on the west and south by Commercial uses (both existing uses and uses which have been approved but not yet developed) which are a part of the Wal-Mart development. To the east is the Bauer Farm Planned Commercial District which has approval of retail and office uses and multi-dwelling residences. Bauer Farm is being developed and currently contains a pharmacy and several restaurant uses.

The property to the north contains a lot which had been included in the previous zoning approval to the POD (Planned Office District) but which is now zoned UR and remains

undeveloped, following the expiration of the zoning approval. A 30 acre city park zoned OS (Open Space) and high school athletic fields zoned GPI (General Public Institutional uses) are located north of this lot.

**Staff Finding** -- A mix of land uses and zonings are found in this area. The more intense commercial uses border the subject property closer to W 6<sup>th</sup> Street and institutional uses or open spaces are located to the north.

#### **CHARACTER OF THE NEIGHBORHOOD**

Applicant's response: *"This parcel is within an existing commercial development. Immediately to the west is a 99,000 square foot retail building."*

The neighborhood is a developing commercial/mixed use area which includes Wal-Mart, the Bauer Farm development (which has approved development plans for commercial/office/and multi-family uses) as well as community facilities such as a large city park, a public high-school with athletic fields and the indoor city aquatic center.

**Staff Finding** -- The neighborhood is characterized by mixed uses. High intensity commercial uses are located nearer to W 6<sup>th</sup> Street as part of the Commercial Center and recreational and general public or institutional uses are located to the north.

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

The *Area Plan for the Intersection Area of W 6<sup>th</sup> Street and Wakarusa Drive* was adopted in 2003. The plan was intended to help ensure appropriate and compatible development of the West 6<sup>th</sup> Street/Wakarusa Drive intersection. The plan noted that the south side of the intersection had developed into a commercial node and the Lawrence City Commission had directed Planning staff to develop a plan ensuring the north side of the intersection does not become oversaturated with commercial, primarily retail, development. The proposed rezoning is in compliance with the recommendations in the area plan.

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

Applicant's Response:

*"The site is an urban area, surrounded by commercial use, and the existing agricultural use no longer seems suitable."*

The property is currently zoned UR (Urban Reserve) District, which is a placeholder district for recently annexed lands pending submittal and approval of development applications. Permitted uses in the UR District are limited to only those agricultural uses which were in place prior to annexation. As development is being proposed and city services are available to serve the proposed development, the UR Zoning District and the agricultural uses it is limited to are no longer suitable for the subject property.

**Staff Finding** -- City services are available to serve the development and development applications have been submitted; therefore, this property is no longer suited to the uses it has been restricted to under the UR (Urban Reserve) Zoning.

## **LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED**

Applicant's Response:

*"Unknown."*

**Staff Finding** – The property has never been developed.

## **EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES**

Applicant's response:

*"The rezoning should not have a detrimental effect on neighboring properties, as the majority of them are currently zoned for an even more intense use."*

The rezoning is in compliance with recommendations in *Horizon 2020* and the *Area Plan for the Intersection Area of W 6<sup>th</sup> Street and Wakarusa Drive*. The removal of restrictions will permit the property to be developed with office uses, and potentially limited associated retail. This office zoning will serve as a transition from the higher intensity uses in the commercial center to the public/institutional uses to the north and the mixed uses (including multi-family) approved to the east.

**Staff Finding** – No negative impacts are anticipated with the removal of 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:

*"Approval would allow for development/increase in taxable value of a vacant piece of land. Denial would result in the owner's inability to build a bank or use the land in any meaningful way."*

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.

As the development being proposed is compliant with the Comprehensive Plan and should have no negative impact on surrounding properties; there would be no benefit to the public by denying the rezoning request. If the request is denied, it would be difficult for the property owner to find a suitable zoning district for development of this property, given its proximity to high intensity commercial uses.

**Staff Finding** – Denial of the rezoning request would have no positive impact on the public health, safety and welfare while it would restrict the developer's ability to develop.

## **PROFESSIONAL STAFF RECOMMENDATION**

Staff recommends the approval of the rezoning request to the CO District. This rezoning request is compliant with the recommendations of *Horizon 2020*.

