

**PLANNING COMMISSION REPORT
REGULAR AGENDA
PUBLIC HEARING ON THE VARIANCE REQUESTS ONLY**

PC Staff Report
03/22/10

**ITEM NO 2A: PRELIMINARY PLAT FOR FOUR SEASONS PUMP STATION;
30.894 ACRES; SE OF W 27TH ST & CROSSGATE DR (MKM)**

PP-01-01-10: Consider a 2 lot Preliminary Plat for Four Seasons Pump Station, containing approximately 30.894 acres, located southeast of W 27th St. & Crossgate Dr. Request for variance from Section 20-810(b) to permit the creation of a lot without road frontage and Variance from Section 20-801(c) to permit the platting of a lot without requiring the platting of all contiguously owned lands that are not platted. Submitted by Bartlett & West for the City of Lawrence, property owner of record.

STAFF RECOMMENDATIONS:

Staff recommends approval of the variance requested from Section 20-810(b) to permit the creation of 2 lots without street frontage subject to the condition that any development proposal on Lot 1 would require the variance be re-evaluated and re-enacted by the Planning Commission.

Staff recommends approval of the variance requested from Section 20-801(c) to permit the platting of the subject property without the platting of all contiguous property under the same ownership.

Staff recommends approval of the Preliminary Plat of the Four Seasons Pump Station Subdivision and referring it to the City Commission for consideration of dedication of easements subject to the following conditions of approval:

- 1) The preliminary plat shall be revised with the following changes:
 - a. A detail shall be included which illustrates how the facility is accessed and the easements which are utilized (both on- and off-site) shall be noted.
 - b. The on-site easement used to access to the facility shall be renamed a 'municipal access and utility' easement to clarify its purpose.
 - c. The floodplain note will be revised to reference the Base Flood Elevation, rather than the 'surface elevation'.
 - d. If the Planning Commission votes to grant the variances requested, the plat shall be revised to reference the variances identified in this staff report and note the date the Planning Commission granted them.
 - i. The note for the variance from the requirement that each lot shall have street frontage shall include the following condition: *"The variance for Lot 1 shall be re-evaluated and re-enacted by the Planning Commission prior to approval of any development proposal on Lot 1."*

Applicant's Reason for Request: Subdivision requirement prior to construction of minor utility.

KEY POINTS

- The property has no frontage on a public street.
- The property currently contains a Pump Station and 2 wet weather detention facilities which were constructed prior to the adoption of the 2006 Development Code.
- The property is completely encumbered with regulatory floodplain.

SUBDIVISION CITATIONS TO CONSIDER

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 1, 2007.
- Section 20-813 states that building permits will not be issued for unplatted property.
- Section 20-810 (b) requires all lots to have frontage on a public street with some exceptions. As this lot does not meet the exceptions, a variance is being requested.
- Section 20-801(c) requires that all congruously owned property be platted. A variance is being requested from this requirement.

ASSOCIATED CASES/OTHER ACTION REQUIRED

Associated applications also being considered at the March Planning Commission meeting:

- Rezoning request [Z-1-2-10] from PUD-Four Seasons to OS.
City Commission approval of rezoning and adoption/publication of ordinance.
- Special Use Permit [SUP-1-2-10] for wet weather detention expansion of Pump Station 09.
City Commission approval of the special use permit and adoption/publication of ordinance.

Other:

- City Commission acceptance of easements as shown on the preliminary plat
- Final Plat submitted to Planning Office for administrative approval and recordation at the Douglas County Register of Deeds.
- Administrative approval of Floodplain Development Permit.

PLANS AND STUDIES REQUIRED

- *Traffic Study* – Not required for project.
- *Downstream Sanitary Sewer Analysis* – The City Utility Engineer indicated that a DSSA is not required.
- *Drainage Study* – A drainage study is not required for this project because downstream flooding is confined to the regulatory floodplain. [Stormwater Management Criteria Section 1.6.E.2.a]
- *Retail Market Study* – Not applicable to project.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None

Site Summary

| | |
|-----------------|-------------|
| Gross Area: | 30.89 acres |
| Number of Lots: | 2 |
| Area of Lot 1: | 22.63 acres |
| Area of Lot 2: | 8.26 acres |

GENERAL INFORMATION

Current Zoning and Land Use: PUD-Four Seasons (Planned Unit Development) and the Floodplain Overlay Districts; minor utility (pump station and wet weather detention basins) and agricultural uses. Rezoning request to the OS (Open Space) District is under consideration for Lot 2 of proposed Four Seasons Pump Station Addition.

Surrounding Zoning and Land Use: To the east and west: OS (Open Space) and the Floodplain Overlay Districts; City parkland consisting of Green Meadows Park to the east and Pat Dawson Billings Natural Area to the west.

To the north:
RS7 (Single-Dwelling Residential) and Floodplain Overlay Districts; residential development.

PUD-Four Seasons (Planned Unit Development) and Floodplain Overlay Districts. Property is platted for residential uses but is not developed.

To the northwest:
PUD-Four Seasons (Planned Unit Development) and Floodplain Overlay Districts. County-owned property containing a radio broadcasting tower.

To the south: OS (Open Space) District and Floodplain Overlay District; City-owned property with woodland and agricultural land uses.

STAFF REVIEW

The subject property is developed with a pump station and two wet weather detention basins. The property is being platted so a building permit can be obtained for the construction of an additional open, wet weather detention basin on proposed Lot 2. The property's potential for future development is limited due to the lack of street frontage and the fact that it is completely encumbered by the regulatory floodplain.

Zoning and Land Use

The subject property is currently zoned PUD (Planned Unit Development) District. As the property contains a minor utility which is being proposed for expansion, a request has been submitted to rezone to an appropriate zoning district. A minor utility is permitted in all non-residential zoning districts, with the exception of the H (Hospital) District. This property has been previously divided and is currently landlocked—with no access to a neighboring road or street network. (Figure 1) In this configuration, it would not be suitable for any use other than Open Space, or other very low-intensity uses. In addition, the property is completely encumbered with regulatory floodplain which would be more appropriate for open space uses.

A rezoning application has been submitted to rezone the subject property to the OS (Open Space) District.

Streets and Access

The property lies southeast of W 27th Street and Crossgate Drive. Street right-of-way had been dedicated along the north property line for W 26th Street when the property to the north was platted as Four Seasons No. 3. When the residential property north of the subject property was re-platted (Four Seasons No. 7) the north half of the original 26th Street right-of-way was vacated and platted into individual lots. Adequate right-of-way does not exist in this area for the extension of a street. The subject property is bounded on the north by a multi-use path in the remaining of right-of-way but has no street frontage. (Figure 1) Per Section 20-810(b) lots are required to have frontage on a public street; therefore a variance has been requested. The variance request will be discussed later in this report.

The pump station is unmanned and will require minimal access. Access to the station will be provided from the City drainage/utility easement located to the north. An easement is shown on the preliminary plat for access to Lot 2. This easement currently exists and was originally named a 'construction and maintenance' easement, but should be renamed with this plat to a 'municipal access and utility' easement to clarify its purpose.

Utilities and Infrastructure

The site currently contains a pump station and two wet weather detention basins. An additional wet weather detention basin is being proposed. Adequate utilities currently exist, and will continue to be provided, to serve this facility. Infrastructure to accommodate the additional wet weather detention basin will be developed as part of the project.

Easements and Rights-of-way

As the property has no street frontage, no right-of-way is being dedicated with this plat. A multi-use path is currently located in the remaining right-of-way on the north property line and this right-of-way is not being altered. An easement is being dedicated along the eastern property line to insure utility and emergency access to the facility.

VARIANCES

The property owner is requesting variances from Section 20-810(b) which requires that lots have frontage on public streets and from Section 20-801(c) which requires that all contiguously owned property be platted.

Section 20-813(g) states that the Planning Commission may grant a variance from the design standards of these regulations only if the following three criteria are met: that the strict application of these regulations will create an unnecessary hardship upon the Subdivider, that the proposed variance is in harmony with the intended purpose of these regulations and that the public health, safety and welfare will be protected. Following is a review of each variance request in relation to these criteria.

VARIANCE 1:

SECTION 20-810(B) *All Lots shall have frontage on a public street*

Applicant's request:

"I request a variance be granted to exclude road frontage at Pump Station 09. Pump Station 09 is only accessed by City of Lawrence employees to allow for operation and maintenance of the facility. There is no benefit or detriment to surrounding properties from the exclusion of road frontage. The public health, safety and welfare will be protected by not requiring an unnecessary "public" road. Therefore, requiring the extension of a road would be an unnecessary hardship. Allowing these variances will enable the construction and operations of a new basin. This new basin will help protect the public health, safety, and environment by reducing the likelihood of sanitary sewer over flows during wet weather events."

The evaluation below reviews the proposed development on Lot 2 with the criteria necessary for granting a variance. No development is being proposed on Lot 1 at this time. Since Lot 1 will retain some development potential, the variance, if approved, should be conditioned to require re-evaluation and re-enactment with any future development proposal on Lot 1 to ensure that these criteria are met.

Criteria 1: Strict application of these regulations will create an unnecessary hardship upon the Subdivider.

As the property has no frontage on a public street and does not meet any of the exceptions listed in Section 20-810(b), strict application of these regulations would require the dedication of additional right-of-way and the extension of the street system to both lots being created with this plat. The property is completely encumbered with floodplain and the construction of a new street within the floodplain which would serve only a minor utility would not be in keeping with the general intent of the floodplain regulations. The evaluation this criteria requires a comparison of the purpose of the street with the impact on the regulatory floodplain. (Figure 2)

Criteria 2: The proposed variance is in harmony with the intended purpose of these regulations.

Per Section 20-801(a) of the Subdivision Regulations, these regulations are intended to ensure that the division of land will serve the public interest and general welfare as well as to provide for the conservation of existing neighborhoods.

The division of land requested will result in two lots without street frontage. Lot 2 is proposed to be rezoned to the OS District and a Special Use Permit is proposed for the development of an additional wet weather detention basin. The additional detention basin will improve service and accommodate future development in the area. The improvement of public infrastructure is in the public interest and general welfare. The very low-intensity use of the property that is permitted in the OS District (Table 1) does not require frontage on the public street system.

Criteria 3: The public health, safety and welfare will be protected.

The additional wet weather detention basin will protect and enhance the public health, safety and welfare by providing improved sanitary sewer services. The lack of street frontage for a minor utility and open space would not negatively impact the public health, safety or welfare.

STAFF RECOMMENDATION

Staff recommends approval of the variance request to permit the creation of two lots without street frontage with the condition that the variance for Lot 1 will need to be re-evaluated and re-enacted prior to approval of any development proposal on Lot 1 to ensure that the necessary criteria for approval are met. A note to this effect shall be placed on the face of the plat, if the variance is approved.

VARIANCE 2: Section 20-801(c) "If subdivision is required within the City of Lawrence, the Subdivider shall plat all of their contiguously owned lands that are not platted."

Applicant's request: "I request a variance be granted to plat the Pump Station 09 property without re-platting all contiguous land. The land surrounding Pump Station 09 is owned by the City of Lawrence. The land is currently being used for agriculture and will continue to be used for agriculture following the Pump Station 09 wet weather storage expansion. Any future development of the contiguous land would require re-platting. Re-platting at this time does not serve a purpose and would be an unnecessary hardship. Allowing these variances will enable the construction and operations of a new basin. This new basin will help protect the public health, safety, and environment by reducing the likelihood of sanitary sewer overflows during wet weather events."

Criteria 1: Strict application of these regulations will create an unnecessary hardship upon the Subdivider.

Strict application of these regulations would require the platting of lands for which development is highly unlikely. The City owns approximately 100 acres (Figure 3) of unplatted land contiguous with the subject property. The parcel to the west has been designated a City Natural Area and the parcel to the west has been designated as a City Park. The parcel to the south is heavily encumbered with regulatory floodway. Per Section 20-1204(b) any encroachment, including fill, new construction, substantial improvements, or other development is prohibited within the regulatory floodway, with the following exceptions: flood control and stormwater management structures, road improvements and repair, utility easements/rights-of-way and public improvements or public structures for bridging the floodway. As development is highly unlikely in the contiguous parcels, either through the City's land-use designation or the floodplain management regulations, requiring these properties to be platted would create an unnecessary hardship.

Criteria 2: The proposed variance is in harmony with the intended purpose of these regulations.

Per Section 20-801(a) of the Subdivision Regulations, these regulations are intended to ensure that the division of land will serve the public interest and general welfare as well as to provide for the conservation of existing neighborhoods.

Platting of all contiguous lands allows for planning to occur over a larger area and ensures that necessary rights-of-way and easements are provided. It also ensures that platting of one parcel does not result in an undevelopable parcel or the need for a variance in the future. As it is highly unlikely that the contiguous parcels will be developed, the public interest and general welfare will be protected with the granting of the variance.

Criteria 3: The public health, safety and welfare will be protected.

Not platting the contiguous parcels makes it less likely that they will develop in the future; thereby retaining open space and parkland in the area and preventing development in the regulatory floodway.

STAFF RECOMMENDATION

Staff recommends approval of the variance request to permit the platting of the subject property without requiring that all contiguous unplatted properties under the same ownership be platted as all three criteria have been met.

Conformance

The Comprehensive Plan recognizes the need to carefully plan for the continued service to existing areas of Lawrence and to select locations for new and expanded utilities. One strategy recommends that plans should emphasize utility improvements and extensions that provide the highest level of service within existing service areas. (page 10-11, *Horizon 2020*) The proposed improvement is in conformance with the recommendations in *Horizon 2020*.

With the approved variances and recommended conditions, the preliminary plat is in conformance with the standards and requirements of the Subdivision Regulations and the Development Code.



Figure 1. Streets in the Four Seasons Pump Station Addition area. Right-of-way was originally platted along the north property line but ½ of this right-of-way was vacated with the platting of the residential property to the north. A multi-use path is adjacent to the property in the remaining right-of-way.

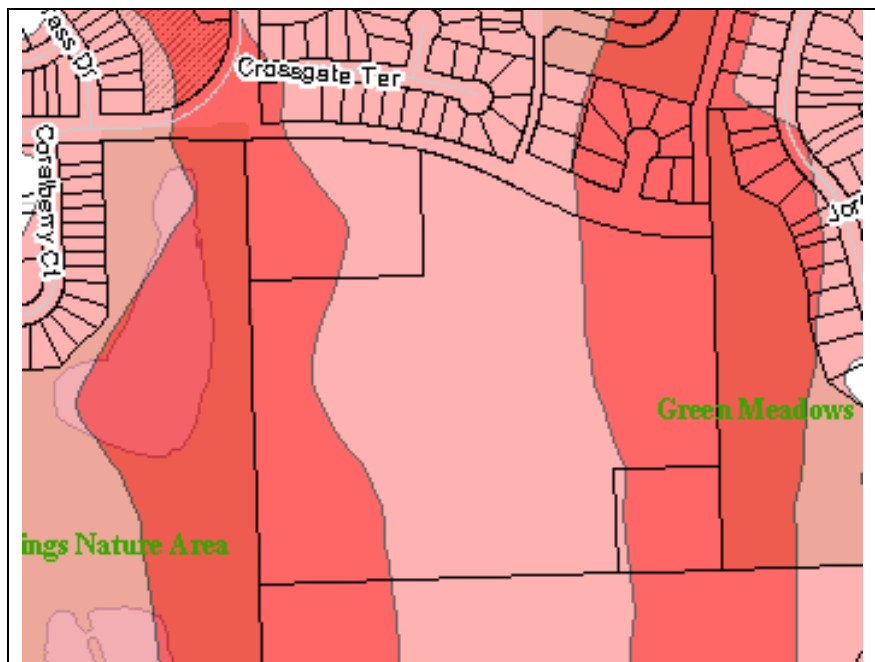


Figure 2. Floodplain located on property. Red indicates the regulatory floodway and pink indicates the regulatory floodway fringe.



Figure 3. Subject property shown in white. Surrounding properties owned by the City of Lawrence are outlined in red and the approximate acreage of each noted.

| Permitted Uses in the OS District | Uses which require a SUP in the OS District |
|---|--|
| Cemetery | Cultural Center/ Library |
| Passive Recreation | Active Recreation |
| Nature Preserve | Entertainment and Spectator Sports |
| Private Recreation | Campground |
| Minor Utilities | Adaptive Reuse of Historic Property |
| | Minor Utilities which serve more than 1 subdivision |
| | Major Utilities |
| | Telecommunications Tower |
| Table 1. Permitted Uses in the OS District | |