

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

ITEM NO. 2B : **PUD TO OS; 8.18 ACRES; SE OF W 27TH ST & CROSSGATE DR
(MKM)**

Z-1-2-10: Consider a request to rezone approximately 8.18 acres from PUD (Planned Unit Development) to OS (Open Space), located southeast of W 27th St. & Crossgate Dr. Submitted by the City of Lawrence, property owner of record.

1. **STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request for approximately 8.18 acres from PUD (Planned Unit Development) District 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 requested zoning is more appropriate for the existing use, as a Public Utility Facility, than the current PUD designation."

KEY POINTS

- The intent of the applicant is to rezone the site to OS to permit the expansion of an existing minor utility.
- The requested project is part of the adopted 2003 Wastewater Master Plan.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The surrounding area is completely encumbered with regulatory floodplain. The subject property is developed with a pump station and 2 wet weather detention basins. The area surrounding the property to the north, west and south is owned by the City and is used as farmland. The land to the east has been dedicated as a City park. A multi-use path that is part of the Lawrence Bike Trail system borders the property on the east and north.

CONFORMANCE WITH *HORIZON 2020*

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

ASSOCIATED CASES/OTHER ACTION REQUIRED

Also on the March Planning Commission Agenda

- Preliminary Plat [PP-1-1-10]
- Special Use Permit [SUP-1-2-10]

Future Action

- City Commission approval of the rezoning request and publication of ordinance.
- City Commission acceptance of easements 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.
- Administrative review and approval of a floodplain development permit for development within the floodplain.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None.

GENERAL INFORMATION

Current Zoning and Land Use: PUD-Four Seasons (Planned Unit Development) and Floodplain Overlay Districts; Minor Utility.

Surrounding Zoning and Land Use: To the north and west: PUD-Four Seasons (Planned Unit Development) and Floodplain Overlay Districts; property is owned by the City and is being platted as part of the Four Seasons Pump Station Addition; agricultural land uses.

To the east: OS (Open Space) and Floodplain Overlay Districts; City parkland.

To the south: OS (Open Space) District and floodplain; property owned by the City with woodland and row crops.

Project Summary

The City's 2003 Wastewater Master Plan recommends the expansion of Pump Station 09 through the addition of a wet weather detention basin to improve existing service and to accommodate future development in the area. Access to the pump station is currently taken through a drainage/utility easement located north of the property. A municipal access and utility easement will be dedicated to provide access through the platted property to the pump station on Lot 1.

As the subject property has no road frontage, it would be appropriate only for very low intensity land uses.

The proposal is to construct an additional open wet weather detention basin, similar to the existing one in order to detain excess flow during extreme storm events. This will allow the flow to be detained until capacity is available in the pipes to transport it to the wastewater treatment plant.

REVIEW & DECISION-MAKING CRITERIA

CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The requested project is part of the adopted 2003 Wastewater Master Plan. This plan utilized Horizon 2020 as one of its inputs regarding growth and land use."

Following are sections of *Horizon 2020* that relate to this development (staff comments are in italics):

Parks, Recreation and Open Space:

Policy 3.1 Identify Future Parklands and Open Space Areas:

(e) Encourage open space uses in the community's privately or publicly owned floodplains and drainageways. (Page 9-16)

As the property is completely encumbered with floodplain, the rezoning to OS would be in conformance with the open space recommendation in Horizon 2020.

Community Facilities:

Policy 1.1 Maintain Existing Facilities

(b) Maintain or upgrade existing facilities and services where necessary to serve existing development.

Policy 2.4: Utilize Locational Criteria for Utility Structures:

(a) Choose locations and design sites in a manner which minimizes the impact on adjacent properties. (Page 10-17)

The pump station is located on City owned land and the open space surrounding the property serves to buffer the use from adjacent properties.

Staff Finding --

The proposed rezoning request conforms with *Horizon 2020* policies related to community facilities/public utilities and open space.

ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

The subject property is part of a larger parcel zoned PUD-Four Seasons that is not part of this rezoning request. This parcel is owned by the City and is currently in agricultural production. The City Utility Engineer indicated that it was their plans to continue to use the property for agricultural uses. Other property to the west, south and east are all zoned OS and are in open space uses as a City-park, a City-natural area, and agriculture. The subject property and the surrounding area are encumbered with the regulatory floodplain which includes large areas of regulatory floodway. (Figure 1)

Staff Finding --

CHARACTER OF THE AREA

The area is very level and is heavily encumbered with floodplain. Much of the area has been zoned to the OS District and open space and agriculture are the predominate land uses in the area. A multi-use path which is part of the City Bike Trail passes through the area.

Staff Finding -- The area contains both open space 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.

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

Applicant's Response:

"Not suitable because the property's existing zoning does not apply the current zoning standards."

The property is currently zoned PUD-Four Seasons (Planned Unit Development). The Four Seasons Development proposal included residential land uses for this area. The property is not suitable for residential land uses as it has no road access and is heavily encumbered with the regulatory floodplain. Any development proposal to a use which was not approved with the PUD Zoning would require rezoning.

The Open Space District permits low-intensity uses by right, and other more-intense uses only through approval of a Special Use Permit. Uses permitted by right in the Open Space District include cemeteries, minor utilities that serve a specific subdivision, passive recreation, nature preserve, and private recreation.

Staff Finding – The property is not suitable for the residential uses to which it is restricted with the current PUD Zoning given the lack of road access and the fact that it is heavily encumbered with the regulatory floodplain. It is suitable for the uses to which it would be restricted with the proposed OS Zoning.

LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

"The property is not vacant."

Staff Finding – The property has never been developed with residences, but has been developed with a minor utility.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's response:

"Rezoning will not detrimentally affect nearby properties. Rezoning is applying current zoning standards to the existing use."

The property is currently developed with an unmanned pump station and two wet weather detention basin which generate very little traffic. The proposed wet weather detention basin will not increase the amount of traffic to the site and will serve to improve the service of the existing station by detaining excess flow during severe storm events.

Staff Finding – Negative impacts associated with the development should be minimal, as the rezoning will permit the addition of a wet weather detention basin which will serve to

improve the service of the pump station. No increase in activity is being proposed to the pump station.

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 this application allows pending construction of expanded City sanitary sewer facilities."

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.

The wet weather detention basin is an expansion to an existing pump station which will benefit the City as a whole by accommodating future growth in the area.

If the rezoning were denied, future growth in this area would be restricted by the existing sanitary sewer capacity and the service level of the pump station could not be improved.

Staff Finding – The rezoning will have positive public impact by providing a utility service to accommodate future growth in the area and improving the service of the existing pump station. If the rezoning were denied, future growth in the area would be restricted.

Two lots are being created with the Four Seasons Pump Station Addition preliminary plat. Both lots are undeveloped portions of the Four Seasons PUD without street frontage and are currently zoned PUD-Four Seasons. This rezoning request is for Lot 2 from the PUD to OS Districts, but rezoning has not been requested for the larger lot, Lot 1. The Utility Engineer indicated they have no plans to develop this lot but intend to use it as a buffer for the minor utility. They requested this rezoning to accommodate the expansion of the wet weather detention system. Staff suggests that the Planning Commission initiate rezoning of the remainder of this property (Lot 1 on the Four Seasons Pump Station Addition) from the PUD to OS District. This would be an appropriate district for the lot as it has no street frontage and the adjoining City owned property is also zoned OS.

PROFESSIONAL STAFF RECOMMENDATION

Staff recommends the approval of the rezoning request to the Open Space District as it is an appropriate zoning district for property encumbered with the floodplain. As the Open Space District permits very low-intensity uses, it does not have as strong a need for street access as the other zoning districts within the City.



Figure 1. Base Zoning Districts in nearby area.

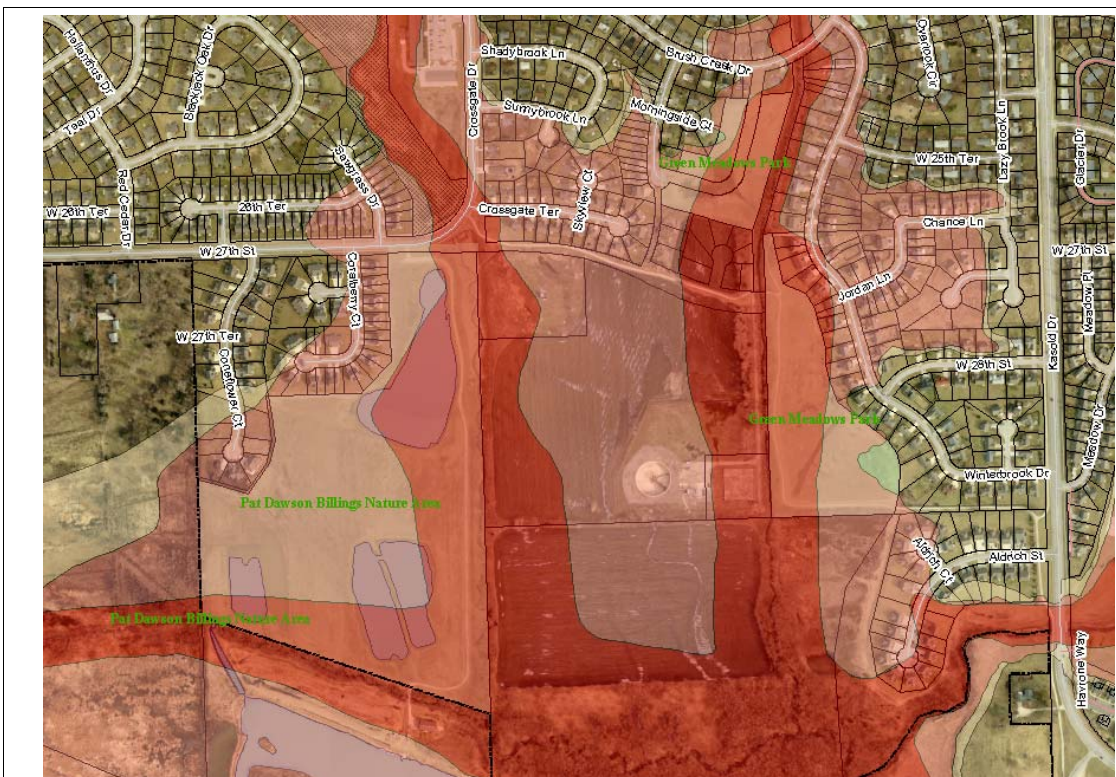


Figure 2. Floodplain Overlay District. Regulatory Floodway (red) and Regulatory Floodway Fringe (Pink).