

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

**ITEM NO. 2B : UR TO CO; 3.113 ACRES; NE CORNER W 6TH ST & STONERIDGE DR
(MKM)**

Z-5-7-10: Consider a request to rezone approximately 3.113 acres from UR (Urban Reserve) to CO (Office Commercial), located at the Northeast corner of W. 6th Street and Stoneridge Drive. Submitted by Olsson Associates for Pear Tree Village L.P., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 3.113 acres from UR (Urban Reserve) to CO (Office Commercial), located at the northeast corner of the intersection of W 6th Street and Stoneridge Drive, 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.

REASON FOR REQUEST

"The current UR zoning district only allows for agriculture uses. It is our desire to build a first class community on the proposed property."

KEY POINTS

- This rezoning request is part of a development proposal which includes 1 lot, 34.57 acres, of multi-dwelling residential development; 1 lot, 3.158 acres, of commercial development and 1 lot, 3.113 acres (the subject property), of office-commercial development.
- The property is currently unplatted. Plats and site plans will be required prior to development.
- The CO District is primarily an office district, but does permit limited commercial retail uses.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The principal character of this area as developed, or approved, is residential. Different levels of development are present on the north and south sides of W 6th Street, a principal arterial and State Highway. The area south of W 6th Street is mostly-developed with residential uses and the area north of W 6th Street is partially-developed with a church, a City water tower, a few rural residences and two properties with development approvals for residential uses.

CONFORMANCE WITH *HORIZON 2020*

- The proposed rezoning request from UR to CO is generally consistent with land use recommendations found in *Horizon 2020* and specifically the *Northwest Plan*.

ASSOCIATED CASES/OTHER ACTION REQUIRED

PREVIOUS REZONING REQUESTS AND ACTION (all files have been closed due to inactivity):

- Z-02-07A-08: 6.99 acres from UR to RM12; (approved by City Commission on June 3, 2008. Ordinances were not prepared for adoption as the applicant indicated they would be revising the rezoning request. Applicant requested deferral on August 1, 2008).

- Z-02-07B-08: 20.92 acres from UR to RM15 (approved by City Commission on June 3, 2008. Ordinances were not prepared for adoption as the applicant indicated they would be revising the rezoning request. Applicant requested deferral on August 1, 2008).
- Z-01-07C-08: 7.23 acres from UR to CN2 (Planning Commission deferred action on this rezoning to allow applicant time to resubmit on April 22, 2008. Applicant requested deferral on August 1, 2008).
- Z-02-07D-08: Rezoning of 5.669 acres from UR to CO. (Planning Commission forwarded to City Commission with recommendation for approval on April 22, 2008. City Commission voted on June 3, 2008 to defer until associated rezoning for remainder of property has been submitted. Applicant requested deferral on August 1, 2008).
- Z-05-11-08: Rezoning of 7.23 acres from UR to CO (replacing Z-02-07C-08) Deferred by applicant prior to Planning Commission meeting.

ASSOCIATED CASES

- Current rezoning requests: Z-5-8-10: 3.158 acres from UR to CN2; Z-5-9-10: 34.527 acres from UR to RM24. These rezoning requests are also on the July Planning Commission agenda for consideration.

OTHER ACTION REQUIRED

- City Commission approval of zoning requests and publication of zoning ordinances.

ACTION REQUIRED PRIOR TO DEVELOPMENT

- Submittal and Planning Commission of Preliminary Plat, City Commission acceptance of dedications.
- Submittal and approval of Public Improvement Plans.
- Submittal and administrative approval of final plat. Recordation of final plat with the Douglas County Register of Deeds.
- Submittal and administrative review of site plans.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None

GENERAL INFORMATION

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

Surrounding Zoning and Land Use: To the west:

- RS10 (Single-dwelling Residential) District; a church;
- GPI (General Public and Institutional Use) District; a City water tower.

To the east:

- UR (Urban Reserve) District; A rezoning request to the RM24 (Multi-dwelling Residential) District has been submitted with this development proposal for the property immediately to the east; undeveloped.
- Further to the east, beyond the project's boundary, is UR Zoning with detached dwellings.

To the north:

- UR (Urban Reserve) District; crop land. A rezoning request to the RM24 (Multi-dwelling Residential)

District has been submitted with this development proposal for the property immediately to the north.

- Further to the north, beyond the project's boundary, is UR Zoning with agricultural uses. A residential subdivision and rezoning were previously approved for this property, but expired.

To the south:

- PRD (Planned Residential Development) District; Multi-dwelling residences.

Project Summary

This request is to rezone the property in preparation for development consisting of multi-dwelling residential, commercial and office-commercial uses. A rezoning request to the CO District has been submitted for the subject property to allow the development of a bank in this location, but other CO uses would be permitted if the request is approved.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"We believe that the office lot conforms with the Comprehensive Plan, Horizon 2020."

The following statements are recommendations from *Horizon 2020* regarding Commercial Development and Neighborhood Commercial Centers. Staff comments follow, in *italics*:

New Commercial Areas

All new commercial and office development shall occur in accordance with the plan recommendations. New commercial, retail and related uses shall be developed as a node with shared parking areas, and common access drives. Nodes shall be positioned and oriented to the primary street intersections where they are located, avoiding a 'strip' pattern as a result of extension of commercial uses along the streets from where the node originated. (page 6-19)

Staff looks to the Northwest Plan for policy guidance for the subject property. The plan designates the property for an office/residential mix, of which this request complies.

Section 20-209 of the Development Code states, "The CO, Office Commercial Zoning District, is generally 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 and to serve as a land use buffer between arterial or collector streets and residential neighborhoods." Horizon 2020 recommends that strip commercial development be avoided along W 6th Street.

Staff Finding -- The proposed rezoning request is in compliance with *Horizon 2020* policies and recommendations based on the *Northwest Plan*. The use, as restricted in the Development Code, does not contribute to strip commercial development along W 6th Street.

2. ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Property to the west of this development proposal is zoned GPI, and has been developed with a City water tower; and RS10, developed with a church. Property adjacent to the subject property on the east and north are part of this development proposal. These areas have an RM-24 rezoning request which is also being considered at the July Planning Commission meeting. Property farther to the north, beyond this proposal, had a plat for single family and duplex lots and zonings of RS7 and RM12D approved. The plat, Loges Addition, expired; therefore, the zoning remains UR (Urban Reserve) and the land remains in agricultural uses. Property farther to the east, beyond this development proposal contains existing residences along Queens Road that are zoned UR. To the south, across W 6th Street is property zoned PRD with a maximum density of 12 units per acre which has been developed with 4 and 8-plex units (Alvadora).

Staff Finding -- The surrounding properties, beyond the limits of this development proposal, are zoned for residential purposes, general public or institutional uses or have not yet been rezoned for urban development. The immediate area is partially developed with St. Margaret's Episcopal Church and a City water tower to the west, and multi-dwelling residential development to the south.

3. CHARACTER OF THE AREA

Applicant's Response:

"We would like the character of the neighborhood to be upscale."

The area contains W 6th Street/Highway 40, which is designated as a principal arterial on the Major Thoroughfares Map; K-10 Bypass, which is designated as a freeway on the Major Thoroughfares Map; Queens Road, which is designated as a major collector on the Major Thoroughfares Map; and Wakarusa Drive, which is designated as a principal arterial on the Major Thoroughfares Map. The area north of W 6th Street is largely undeveloped at this time, but there are several development proposals pending which have had rezonings and Preliminary Development Plans approved. Figure 1 illustrates the location of existing and proposed commercial development in the area.

The immediate area contains primarily residentially zoned property, or property which has not yet been rezoned to an urban zoning district. The subject property is located between two commercial nodes at the intersections of W 6th St and the K-10 Bypass and W 6th St and Wakarusa Dr. A Preliminary Development Plan for a Community Commercial Center under 400,000 sq. ft (CC400) has been approved and is pending for the northeast corner of the intersection of W 6th Street and the K10 Bypass. The intersection of W 6th Street and Wakarusa Drive is developed with commercial uses, with the exception of a few pad sites on the 6th and Wak property and the Bauer Farm Planned Commercial Development, which is being developed in phases and is currently partially developed. (Figure 2)

Staff Finding -- The subject property is located in a high traffic area with access restrictions, along a principal arterial, W 6th Street/40 Hwy with intersecting collectors, Queens Road, Stoneridge Drive and arterial streets, George Williams Way and Wakarusa Drive nearby. The area is partially developed, with commercial uses either developed or approved at the W 6th Street and K-10 Bypass and the W 6th Street and Wakarusa Drive Intersections. The property along W 6th Street between commercial areas near the K-10 Bypass and Wakarusa Drive is zoned for residential uses or remains in the UR Zoning District pending development proposals. Commercial development in the area, both current and approved, is in a nodal pattern.

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

The *Northwest Plan* recommends a multi-family/office mixed development in this area on the future land use map (Figure 3).

Staff Finding -- The proposal is for office-commercial use in this area in combination with a multi-family development as recommended in the *Northwest Plan*. The rezoning request, in conjunction with the multi-dwelling rezoning to the east, is compliant with plans which have been adopted for the area.

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

Applicant's Response:

"The property is currently zoned UR, Urban Reserve, which only allows agriculture uses. This area of the city is growing and agricultural uses do not meet the intent of the Comprehensive Plan."

The UR (Urban Reserve) District is a special purpose district which the Development Code states is intended to provide a suitable classification for newly annexed land. The district is intended to avoid premature or inappropriate development that is not well served by infrastructure or community services. The only principal uses allowed in the UR District are crop agriculture and any lawful uses in existence immediately prior to annexation. Rezoning is necessary for the property to be used in any other manner. As infrastructure and community services are available and a development proposal has been submitted, the UR District is no longer appropriate for this property.

Staff Finding -- The property as zoned would allow for only crop agriculture. Given the proximity to Highway 40/W 6th Street and the K-10 Bypass, the availability of infrastructure and community services, and the submittal of a development proposal the zoning of UR is no longer appropriate.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Staff Finding – The property has never been developed but has been used for agricultural purposes.

7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response:

"We believe it will have no detrimental effect. To the contrary we believe it will have a positive effect on nearby properties."

The rezoning request would permit commercial/office development in the northeast corner of the intersection of W 6th Street and Stoneridge Drive. With previous rezoning requests in this area, Neighborhood Associations in the area have expressed concern with the additional traffic anticipated with new commercial development and the impact on the streets through their neighborhood. Rezoning the subject property as commercial/office may increase the amount of traffic generated; however, as the subject property is adjacent to collector streets and a principal arterial which were designed for higher levels of traffic the additional traffic should not

negatively impact the nearby properties. The subject property is located near the intersection of W 6th Street and Stoneridge Drive and traffic would not need to pass through the neighborhood to access this property.

The Comprehensive Plan does not recommend commercial retail uses along W 6th Street, except in nodal developments in order to avoid a 'strip commercial' development pattern along W 6th Street. The rezoning would locate a small area of Office Commercial District, which permits primarily office uses with limited retail, in a corner of an intersection of a principal arterial. The Office Commercial District is intended to prevent commercial strip development.

Staff Finding – The inclusion of CO zoning in this area should not detrimentally impact nearby properties.

8. 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:

"We have already agreed to cooperate with the city with expensive road benefit districts and sewer benefit districts."

Evaluation of these criteria includes weighing the benefits to the public versus the benefits to 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. If the rezoning request were not approved, the land would remain undeveloped.

If the rezoning request were not approved, the applicant could not develop the property with a bank with a drive through, as planned. This would be a hardship given that the planning documents lend support for this land use type and the owner should expect to implement the plan through appropriate zoning.

Staff Finding – The denial would change the nature of the office use permitted in this area by preventing the development of a bank with drive-thru teller lanes or a drive-up ATM. Given the nature of the proposed adjacent RM24 District, the denial would have no positive benefit on the public health, safety, or welfare.

9. PROFESSIONAL STAFF RECOMMENDATION

An independent Retail Market Impact Analysis is required per Section 20-1107(a) of the Development Code for any proposed commercial development which could result in over 50,000 sq. ft. or more of additional floor area for retail businesses in the City. As the amount of Commercial use is limited in the CO District to 10% of the total office space, it would not be possible to develop 50,000 sq ft of retail business in this district; therefore, a Retail Market Impact Analysis is not required.

The location of the office-commercial land use is compliant with the recommendations in *Horizon 2020* and the *Northwest Plan*. This area was planned as part of the *Northwest Plan* in 1997. The land use map (figure 3) shows that residential/office uses were recommended at this location. The office use, in connection with the multi-family use being proposed to the north and east, would constitute a mixed multi-family/office use. The Development Code indicates

that the CO District is intended to prevent strip commercial development by allowing primarily office uses with limited accessory retail uses.

The CO District permits very limited commercial uses along with office uses. Retail uses that are permitted in the CO District in addition to office uses are listed below:

- Quality restaurant (limited to 10% of total office area)
- Fast order food (limited to 10% of total office area)
- Mixed media store (limited to 5000 sq ft)
- Food and Beverage (limited to 10% of total office area)
- Retail Sales General (limited to 10% of total office area)

If a 10,000 sq ft building were proposed for the subject property the following retail uses would be possible:

- 1,000 sq ft could be developed as a quality restaurant,
- 1,000 sq ft could be developed as fast order food,
- 1,000 sq ft could be food and beverage sales, such as a grocery or convenience store, and
- 1000 sq ft could be general retail sales.

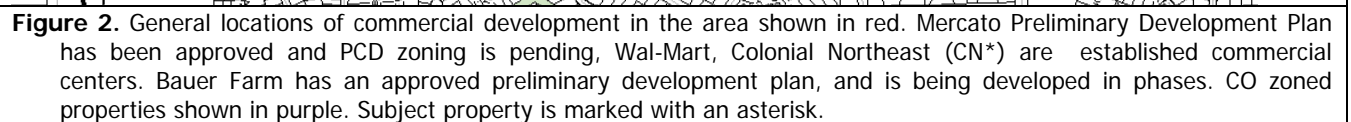
If each of these uses were included, 4,000 sq ft of retail space could be included on this property.

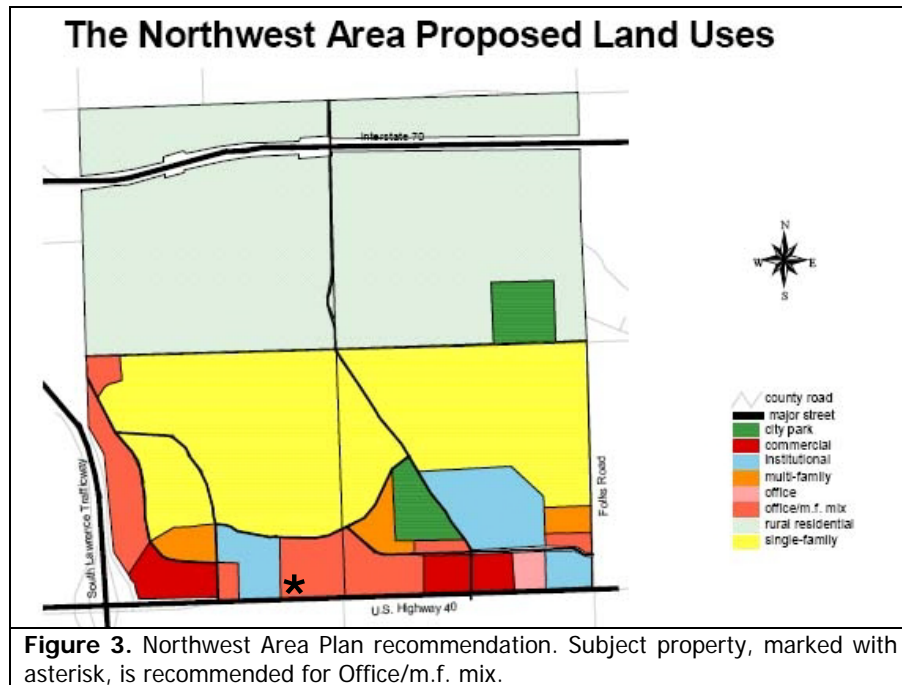
A mixed media store would also be permitted with a maximum floor area of 5000 sq ft. A mixed media store is a sexually oriented business defined in Section 20-1761(5) as "An establishment or business offering goods for sale or rent that is not a sex shop or sexually oriented media store but where (i) more than 10 percent (10%) of the gross public floor area is devoted to sexually oriented media, or (ii) more than 10 percent (10%) of the stock in trade consists of sexually oriented media." The size of the mixed media store is not dependent upon the size of the office building or complex.

As mentioned earlier, the applicant intends to develop a bank with a drive-thru in this location. If the Planning Commission finds that the retail uses and/or the drive thru is problematic at this location, an alternative zoning district which permits banks but allows less commercial uses than the CO District is the RMO District. However, as the RMO district does not permit drive-thrus, drive-up ATMs, or night deposit windows, it is not seen as a suitable zoning district for most banks. As banks with drive-thrus are not possible in the RMO District the CO District is the only option for the applicant's intended use. See Table 1 for a comparison of the uses permitted in the RMO and the CO Districts.

Staff Finding

The proposed rezoning of the northeast corner of the intersection of W 6th Street and Stoneridge Drive, to the CO District in combination with the rezoning request of the adjoining property to the RM24 District is compliant with the recommendations in the Comprehensive Plan and the *Northwest Plan*; therefore, Staff recommends approval of the rezoning request.





USES PERMITTED IN BOTH CO AND RMO DISTRICTS		
	CO	RMO
Cemeteries	P	P
Funeral & Internment	P	P
Minor Utility	P	P
Extended Care Facility, Ltd	P	P
Outpatient Care Facility	P	P
Health Care Office/Clinic	P	P
Passive Recreation	P	P
Nature Preserve	P	P
Religious Assembly	P	P
Admin & Pro. Office	P	P –no external ATMs, night drop windows or drive thrus
Financial, Insurance & Real Estate Services	P	P —no drive up ATMs, night drop windows or bank drive thrus; gross floor area limited to 5000 sq ft;
Other Offices	P	P –no external ATMs, night drop windows or drive thrus
Veterinary	P	P
Social Service Agency	P	P
Communications Service Establishment	P	P
USES PERMITTED IN CO DISTRICT ONLY		
Animal Sales & Grooming	P	
Fast Order Food	P (area limited to 10% of total floor area/office; no drive-thru)	
Private Dining Establishment	P	
Quality Restaurant	P (area limited to 10% of total floor area/office; no drive-thru)	
Business Support	P	
Food & Beverage	P (area limited to 10% of total floor area/office)	
Mixed Media	P (area limited to 5,000 sq.ft.)	
Retail Sales General	P (area limited to 10% of total floor area/office)	
College & University	P	
Small Recycling Center	P	
Postal & Parcel Service	P	
Public Safety	P	
School	P	
USES PERMITTED IN RMO DISTRICT ONLY		
Personal Improvement	P –no external ATMs, night drop windows or drive thrus	
Private Recreation	P	
Multi-Dwelling Structure	P (must be mixed use.)	
Cluster Dwelling	P	
Duplex	P	
Multi-Dwelling Structure	P (must be mixed use.)	
Zero Lot Line Dwelling	P	
Assisted Living	P	
Extended Care Facility, Gen	P	
Boarding Houses/Cooperatives	P	
Group Home, Ltd.	P	
Adult Day Care Home	P	
Bed & Breakfast	P	
Table 1. Permitted uses in the CO and RMO Zoning Districts. Residential uses are denoted by the yellow shading.		