
PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
08/23/10

ITEM NO. 2C: UR TO RM24; 34.527 ACRES; BETWEEN STONERIDGE DR & QUEENS RD (MKM)

Z-5-9-10: Consider a request to rezone approximately 34.527 acres from UR (Urban Reserve) to RM24 (Multi-Dwelling Residential), located north of W. 6th Street between Stoneridge Drive and Queens Road. Submitted by Olsson Associates, for Pear Tree Village L.P., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for 34.527 acres from UR (Urban Reserve) to RM24 (Multi-Dwelling Residential) 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 and with the following condition:

1. The net density shall not exceed 20 dwelling units per acre.

Applicant's reason for request: *"It is our desire to build a first class residential community."*

KEY POINTS

- This rezoning request is part of a development proposal which includes a 1 lot, 3.158 acres, of commercial development; 1 lot, 3.113 acres, of commercial-office development; and 1 lot, 34.57 acres, of multi-dwelling residential development (the subject property).
- The property is currently unplatted. Platting and site-planning will be required prior to development.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The principal character of this area as developed, or approved, is residential. Development to the south of W 6th Street/Highway 40 is more complete than to the north. The area south of W 6th Street contains residential uses and an undeveloped platted lot. The majority of the property to the north of W 6th Street is undeveloped, although some properties have been platted or had preliminary development plans approved for residential development. Development north of W 6th Street consists of a church, water tower and a small development of townhomes.

CONFORMANCE WITH *HORIZON 2020*

- The proposed rezoning request from UR to RM24 is consistent with land use recommendations found in *Horizon 2020* and specifically is in substantial compliance with the *Northwest Plan* (the density is higher as discussed in this report).

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-5-7-10: 3.113 acres from UR to CO; Z-5-8-10: 3.158 acres from UR to CN2. 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.

PRIOR TO DEVELOPMENT

- Submittal and Planning Commission approval of Preliminary Plat, City Commission acceptance of dedications.
- Submittal 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

- No public comment has been received prior to printing this Staff Report.

GENERAL INFORMATION

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

Surrounding Zoning and Land Use:

To the west:

- RM12D (Multi-dwelling Residential) District which is limited to duplex development; This property has been platted but has not yet been developed; and
- GPI (General Public and Institutional Use) District; City Water Tower.
- Additional property within this development proposal, zoned UR (Urban Reserve) with rezoning request to the CO (Commercial Office) District. Concept plan submitted with this rezoning shows this property developed with a bank.
- Further to the west, beyond the project boundary:

RS10 (Single-Dwelling Residential) District; church.

To the east:

- RM12 (Multi-dwelling Residential) District; multi-dwelling residences; and,
- UR (Urban Reserve) District; detached dwellings.
- Additional property within this development proposal, zoned UR (Urban Reserve) with rezoning request to the CN2 (Commercial Neighborhood Center). Concept plan submitted with this rezoning shows this property developed with a drugstore.

To the north:

- UR (Urban Reserve) District; 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.
- RS7 (Single-dwelling Residential Development) District; platted property which is undeveloped.

I. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"We believe that this residential community conforms with the Comprehensive Plan, Horizon 2020."

The following statements are recommendations from *Horizon 2020* regarding higher-density development. Staff comments follow in *italics*.

The Comprehensive Plan recommends 'high-density' residential development near high-intensity activity areas or near existing high density residential developments. Large concentrations of high-density housing is not considered compatible with the overall character and development pattern of the City and *Horizon 2020* recommends that it should not be permitted. (page 5-5)

This would be the only RM24 zoning in the immediate area. Nearby residential properties are zoned RM12 (Multi-Dwelling Residential, with a maximum density of 12 dwelling units per acre), RM12D (Multi-Dwelling Residential, duplex, with a maximum density of 12 dwelling units per acre), and RS7 (Single-Dwelling Residential, with maximum density of 6.2 dwelling units per acre). Approval of this rezoning would not result in large concentrations of high-density development assuming that other undeveloped properties along the corridor do not seek and receive high density zoning. (see Figure 1)

Policy 1.3 recommends that higher-density developments should be located at the intersection of major street/roads. (page 5-23)

The RM24 development is being proposed for the area near the intersections of Overland Drive and Stoneridge Drive and Overland Drive and Queens Road, all collectors. No local roads are located within this area.

Policy 1.5 recommends that higher-density development occur in areas which can be adequately and efficiently served by infrastructure facilities. (page 5-24)

Adequate infrastructure is available to serve the development.

In Policy 1.6(b) recommends that higher density residential developments be located adjacent to arterial, access or frontage roads. (page 5-24)

The south side of the RM24 development is located adjacent to W 6th Street/Hwy 40, a principal arterial.

Staff Finding -- The rezoning requested conforms with *Horizon 2020* policies related to the location of high-density residential development.

II. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Property to the west of this development proposal is zoned GPI, developed with a City water tower; RS10, developed with a church; and RM12D, platted for duplex residences but undeveloped. Land on the west of the subject property, adjacent to W 6th Street, is part of this development proposal and has a rezoning request from UR to CO District on the Planning Commission's July agenda for consideration. Land on the east of the subject property, adjacent to W 6th Street, is also part of this development proposal and has a rezoning request from UR to CN2 District on the Planning Commission's July agenda for consideration. Property to the north had a development proposal for single family and duplex residences 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 to the east contains existing residences along Queens Road that are zoned UR as well as an area zoned RM12 which has been developed with townhomes. 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) and an undeveloped area zoned RS7.

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.

III. CHARACTER OF THE NEIGHBORHOOD

Applicant's response:

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

The area is primarily undeveloped but is in transition at this time, as several development proposals have been approved for nearby properties. A City water tower was recently constructed on the property to the west. The area is near the intersection of the K10 Bypass and W 6th St/Hwy 40 where a Commercial Community Center has been approved for the northeast corner of this intersection. Commercial developments, 6th and Wak and Bauer Farms, have been approved for properties to the east. The 6th and Wak property

has been developed with a Wal-Mart and has pad-sites available. Bauer Farms is partially developed, being developed in phases. Property retaining its UR (Urban Reserve) District is scattered throughout the area and either contains rural residences or is undeveloped.

Staff Finding -- The area contains W 6th Street, which is a State Highway, and the intersection of W 6th and K-10 Bypass. This is a high traffic area which is partially developed and includes access restrictions. Commercial development has been preliminary approved at the intersection of W 6th Street and K-10 Bypass. To the east, commercial developments (Wal-Mart and Bauer Farm) have occurred and will occur in the future with pad-sites available at Wal-Mart and subsequent phases of Bauer Farm.

The area is in transition as the development plans continue through the process and development proposals are submitted for the property which retains its UR zoning.

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

Northwest Plan

The subject property is within the planning area of the *Northwest Plan*. The Plan included land within Sections 20, 21, 28, and 29 and the subject property is located in the southeastern portion of Section 29. The *Northwest Plan* recommends a mix of multi-family and office uses in this location. The *Northwest Plan* also recommends a downward grading of land use intensity as development approaches the northern section lines of sections 28 and 29, where the presence of woods and slopes is greatest, and where a very-low density residential land use would best be applied. (Figure 2)

"Further south, in the central portions of sections 28 and 29, conventional single family residential is planned. Multiple family residential land uses (duplex through multi-unit apartments) is primarily planned only in the southern portions of sections 28 and 29. Multiple family land use in the context of this plan should be limited to medium density, 15 dwelling units per acre, or lower. Multiple family adjacent to single family land use should be of the lowest density multifamily, such as duplex townhomes. (Page 6, Northwest Area Plan)

The rezoning for multi-dwelling development is compliant with the recommendations in the *Northwest Plan* in terms of housing type; however, the density being requested, 24 dwelling units per acre, is higher than recommended. The concept plan submitted with the rezoning request (Figure 3) calculates a density of approximately 20 units per acre, utilizing 3-story buildings. Staff is of the opinion that this density is compatible with the existing development along this portion of the corridor; however, staff believes a zoning condition should be included capping density to this maximum so that undeveloped properties along the corridor do not request zoning to the high density category, thereby creating a concentration of high density development and so as not to stray too far from the land use designation of the *Northwest Plan*. The *Northwest Plan* was adopted in 1996. Since that time, higher densities have been recognized as a tool for reducing sprawl and utilizing infrastructure more efficiently if determined to be compatible with the surrounding properties.

Staff Finding -- The proposal is for multi-dwelling residential uses at a maximum density of 24 dwelling units per acre. The land use is compliant with recommendations in the

Northwest Plan, to place higher density uses near W 6th Street; however, the density requested is higher than that recommended in the *Northwest Plan*. This proposed multi-dwelling development would create a variety in lot size and development styles within the area. The rezoning request is generally compliant with the *Northwest Plan* if conditioned to contain no more than 20 dwelling units per acre (net).

V. 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 permit only crop agriculture. Given the proximity to other residential development, W 6th Street/Highway 40 and the K-10 Bypass, and the submittal of a development proposal the zoning of UR is no longer appropriate.

VI. 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.

VII. EXTENT TO WHICH APPROVING THE REZONING 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 multi-dwelling residential development north of W 6th Street which is in keeping with the established development pattern of the area. The majority of the street frontage along W 6th would be developed with multi-dwelling residences, which would prevent the development of a commercial strip in this area. The maximum density of this development would be higher than that of the surrounding properties (20 dwelling units per acre would be permitted on the subject property, if conditionally zoned, compared to the 12 units per acre on the properties to the south, east and west); however, this development is unique in that it would be separated from the other lower-density developments by W 6th Street/Highway 40 to the south; Queens Road, a collector, to the east; and Stoneridge Drive, a collector, to the west.

Staff Finding – Given the fact that the proposed multi-dwelling residential development is separated from the other residential developments in the area with collector streets or principal arterial street/highway, no negative impacts are anticipated to nearby properties with this rezoning.

VIII. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF THE 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 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. If the rezoning request were not approved, the land would remain as agricultural crop-land, pending a revised development proposal. Approval of the rezoning request would provide the initial steps necessary for development. The requested rezoning, as conditioned, is compatible with the medium density multi-dwelling zoning districts in the area.

Staff Finding – Approval of this rezoning request would permit a high-density development which is denser and would be larger in structure (taller and greater square feet) than other residential developments that are currently located or have been approved in the area, which may impact the adjacent developments visually. Appropriate transitional methods and compatible design would be determined during the site planning phase. This transition will be aided by the fact that the subject property is separated from adjacent developments by higher classification streets: collectors and principal arterials. Denial of this rezoning request would prohibit urban development at this time, pending a revised development proposal.

IX. PROFESSIONAL STAFF RECOMMENDATION

Staff Review

The applicant provided a concept plan illustrating the proposed development of the property that is the subject of the rezoning requests being considered (Figure 3). The subject property is located adjacent to property which has been zoned for multi-dwelling residential uses and property which remains zoned UR (Urban Reserve) pending development proposals. The applicant indicated it was their intent to develop a multi-dwelling residential area with small area neighborhood scale commercial development.

Figure 1 shows the residential zoning in the area, both existing and pending. The increase in density is indicated by the higher letter in the alphabet and the corresponding darker color.

The predominate residential zoning in the area at this time is the RS7 Zoning District, which allows low density, single-dwelling residences. The red figures in Figure 1 indicate approved Commercial development in the area, and transitional medium density residential zoning has been approved adjacent to these areas. The commercial area near the South Lawrence Trafficway is surrounded by medium and higher densities zonings

with the majority being RM12 Zoning and some RM12D (duplex only) districts and a cluster of RM24 Zoning adjacent to the South Lawrence Trafficway, as recommended by the *Northwest Plan*.

The *Northwest Plan* recommends 'grading' the density of development from more intense along W 6th Street to low density residential in the north portion of Section 29.

Staff Finding – With the condition to not exceed 20 dwelling units per acre (net) and based on the general compliance with the recommendations in the *Northwest Plan* and compliance with the recommendations in *Horizon 2020*, staff recommends approval of the rezoning request.

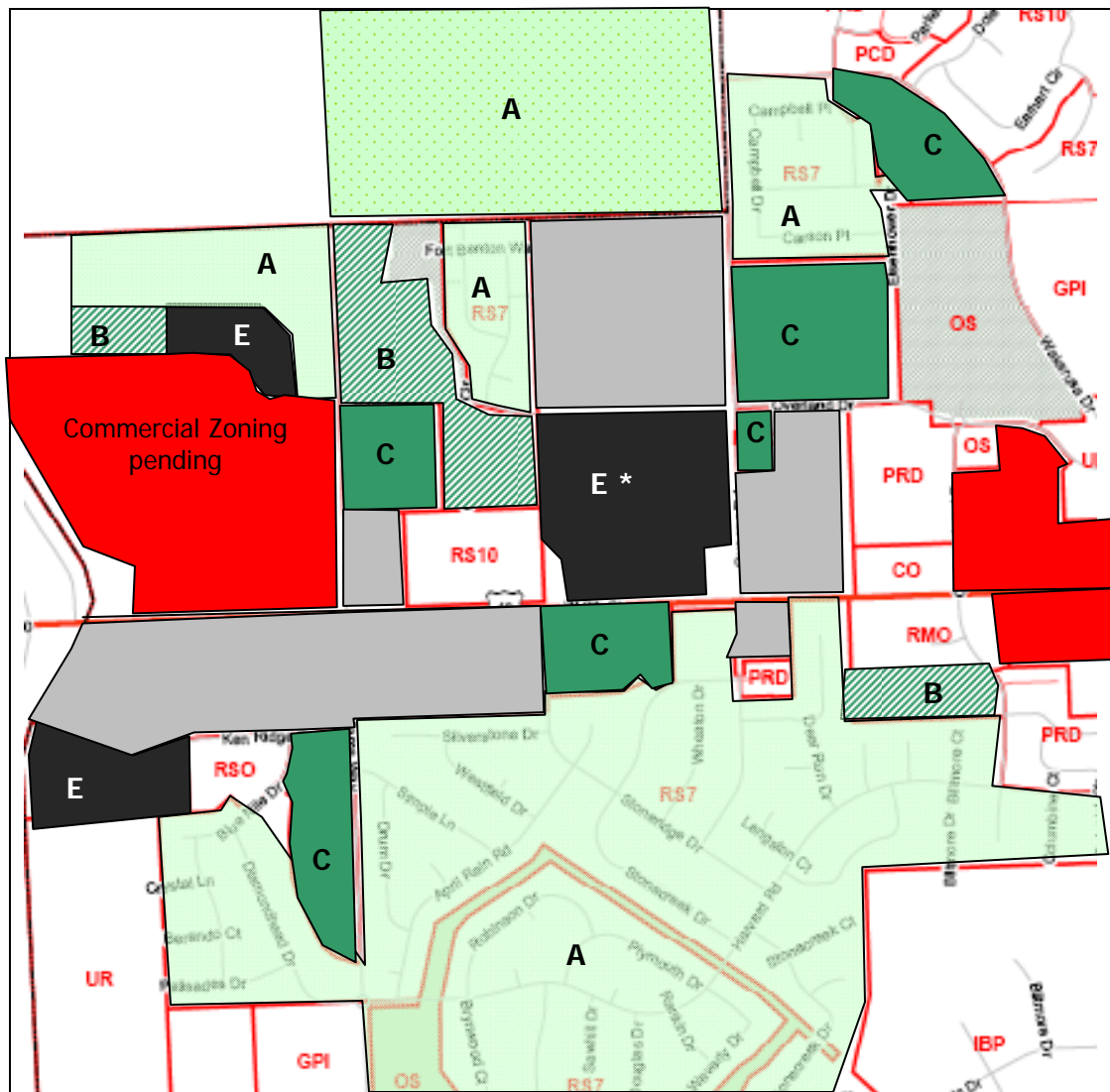


Figure 1. Land uses in the area and variation in residential densities.

- Commercial (preliminarily approved, or developed)
- Land zoned UR, pending urban development proposal
- A** Low density Single-dwelling Residential (RS7)
- A** Low density Multi-dwelling Residential (PD-The Links at Lawrence)
- B** Medium Density Multi-dwelling limited to duplex development (RM12D)
- C** Medium Density Multi-dwelling. (RM12)
- E** High Density Multi-dwelling (RM24) **E*--subject property**

