

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

ITEM NO. 3B: A & V-C TO OS-FP; 15,960 SF; 240 N MICHIGAN ST (MKM)

Z-5-8-12: Consider a request to rezone approximately 15,960 SF from County A (Agriculture) and County V-C (Valley Channel) to OS-FP (Open Space-Floodplain Overlay), located at 240 N. Michigan Street, to accommodate development of Pump Station No. 15, a *minor utility*. Submitted by The City of Lawrence, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 15,960 sq ft from A (Agricultural) District and County V-C (Valley Channel) to OS-FP (Open Space with Floodplain Management Regulations Overlay) 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

"Required for use of property as a pump station site."

KEY POINTS

- Rezoning to the OS-FP District has been requested to permit relocation of a pump station to the subject property.
- The City's 2003 Wastewater Master Plan recommends upgrading existing pump stations.
- The property lies outside the city limits, in Service Area 1 of the Urban Growth Area. Per Section 20-803 of the Subdivision Regulations, property within Service Area 1 is required to annex prior to development. An annexation request was submitted concurrently with this rezoning request and is also being considered at the July Planning Commission meeting.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The area contains lands that are within the City limits as well as land that is located in the unincorporated portion of the County. N Michigan Street is the dividing line in the immediate area between the City and County properties. Land to the west of N Michigan Street is developed residentially, with a mix of housing ranging from detached dwellings to townhomes. The area is heavily encumbered with regulatory floodplain along the Hallmark Tributary.

CONFORMANCE WITH *HORIZON 2020*

- The proposed rezoning request from the A (Agricultural) and V-C Districts to the OS-FP (Open Space with Floodplain Management Regulations Overlay) District is consistent with land use recommendations found in *Horizon 2020*.

ASSOCIATED CASES/OTHER ACTION REQUIRED

Variance request from side yard setback requirement [B-5-9-12] was approved by the Board of Zoning Appeals at their July 5, 2012 meeting to allow the interior side setback to be reduced from the 15 ft required in the OS District to 10 ft along north property line, subject to one condition stipulating the approval is valid after the City's annexation and rezoning of the property.

Other items being considered at the July Planning Commission meeting:

- Annexation request [A-5-3-12] for the 15,960 sq ft of the subject parcel and one-half the adjacent road right-of-way to accommodate development of a pump station, a *minor utility*.
- Preliminary Plat [PP-5-5-12]; Pump Station No. 15 Addition, a one-lot subdivision of approximately .3 acres.
- Special Use Permit [SUP-5-6-12] for the construction of the pump station.

Other action required:

- City Commission approval of annexation and adoption of ordinance.
- City Commission approval of rezoning request and adoption of ordinance.
- City Commission approval of the Special Use Permit and adoption of ordinance.
- Publication of rezoning, annexation and special use permit ordinances.
- City Commission acceptance of dedication of easements and rights-of-way for the Final Plat.
- Submittal of final plat for administrative approval and recordation.
- Administrative review and approval of Floodplain Development Permit for development activity associated with the pump station.
- Release of Special Use Permit site plan to Development Services for Building Permits.

PUBLIC COMMENT

- No public comments were received prior to the printing of this staff report.

GENERAL INFORMATION

Current Zoning and Land Use: A (County-Agricultural) and V-C (County-Valley Channel) with F-F (County-Floodway Fringe Overlay) Districts; undeveloped.

Surrounding Zoning and Land Use: To the west:
RM12D (Multi-Dwelling Residential) and FP (Floodplain Management Regulations Overlay) Districts; townhouse development west of N Michigan Street.

To the northwest:
PD-Woodcreek Townhouses; Townhouse development, and RM12, Apartments.

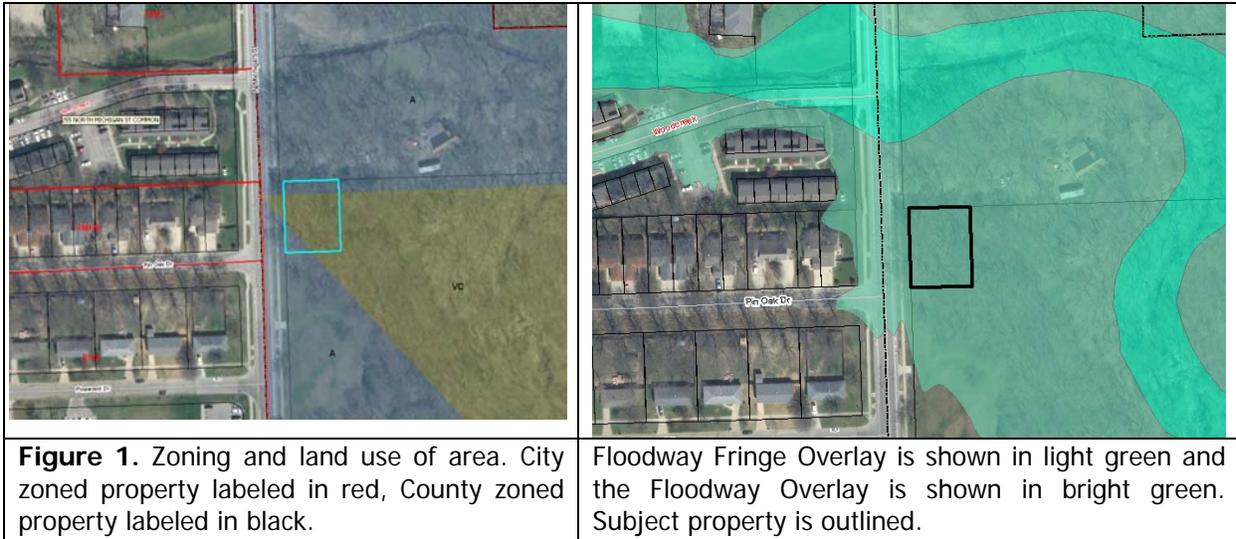
To the north:
A (County-Agricultural), F-F (County-Floodway Fringe Overlay), and F-W (County-Floodway Overlay) Districts; large parcel with a rural residence.

To the east:
V-C (County-Valley Channel) and F-F (County-Floodway Fringe Overlay), and F-W (County-Floodway Overlay) Districts; undeveloped.

To the south:
A (County-Agricultural), V-C (County-Valley Channel) and FF (County Floodway Fringe Overlay) Districts; undeveloped.

To the southwest:

RS10 (Single-Dwelling Residential) District;
Detached Dwellings and Day Care Center.
(Figure 1)



Project Summary

The City's 2003 Wastewater Master Plan recommends that upgrades be made to existing pump station facilities. In order to maintain a high level of service for the area, the Utility Department determined that the existing above-ground pump station located on private property within the PD-Woodcreek Townhouse PRD just west of N Michigan Street, should be replaced with one which utilizes equipment which can be kept underground. Underground equipment requires less maintenance and reduces the visual impact of the station. The pump station site is being relocated from the private property to City owned property as shown in Figure 2.

Access to the pump station will be taken directly from N Michigan Street.

As the subject property is completely encumbered with the regulatory floodplain, it



would not be appropriate for commercial, residential, or industrial uses. (Figure 1) The SUP plan delineates an area on the west and south of the pump station where no disturbance to the vegetation or topography is to occur. This will help minimize the impact to the floodplain.

REVIEW & DECISION-MAKING CRITERIA

CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"Providing utility service to surrounding community."

The Lawrence Future Land Use Map in *Horizon 2020* (page 3-4) shows this property in Service Area 1 and recommends low density residential uses in this area. The proposed use is not residential, but is intended to provide sanitary sewer service to residences in the area.

Following are sections of *Horizon 2020* that relate to this development:

Chapter 5-Residential Land Use: Specific Recommendations for Select Areas 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)

The property is completely encumbered with regulatory floodplain; therefore, the rezoning to OS would be in conformance with the open space recommendation in *Horizon 2020*.

The property will be developed with a pump station; however, the pump station facility will be primarily underground. Above ground improvements include the driveway, meter board/control panel, retaining wall and vents; with the remainder of the property remaining as open space. (Figure 3)

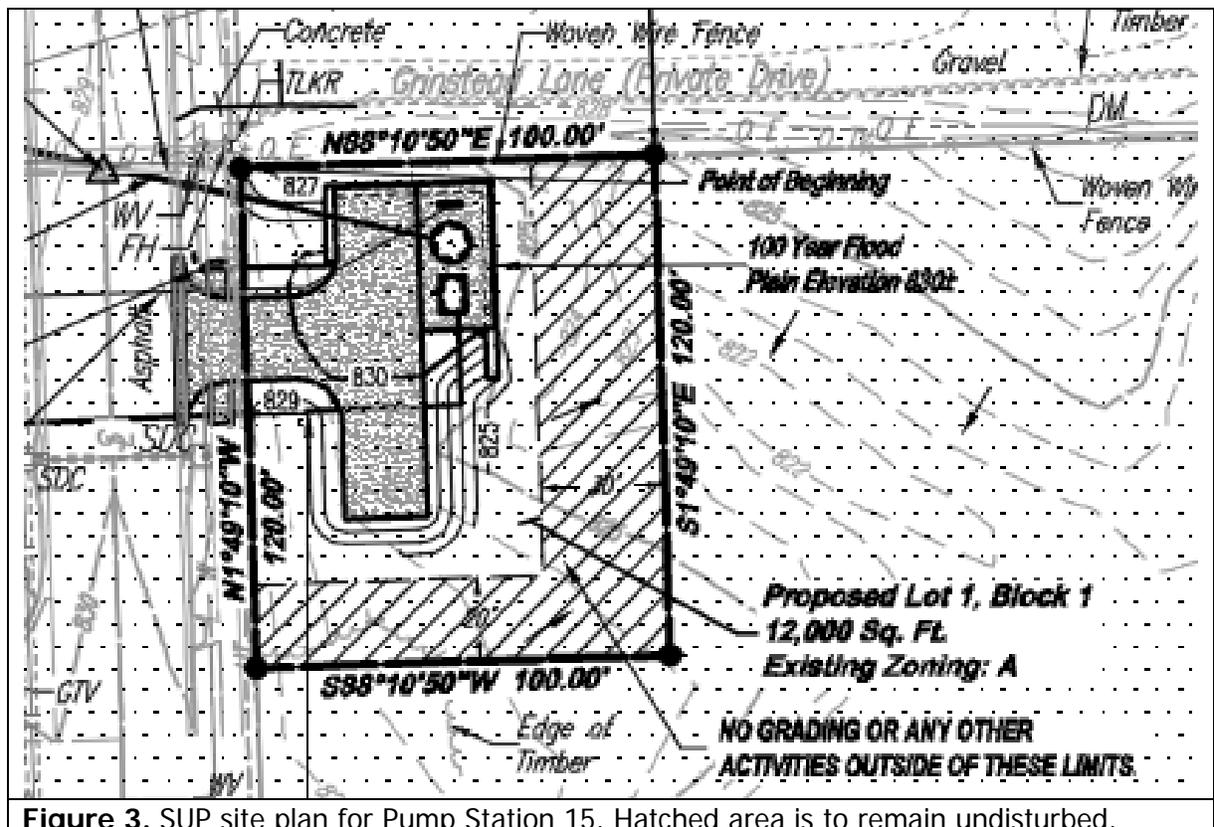


Figure 3. SUP site plan for Pump Station 15. Hatched area is to remain undisturbed.

Community Facilities:

Policy 2.4: Utilize Locational Criteria for Utility Structures: Choose locations and design sites in a manner which minimizes the impact on adjacent properties. (Page 10-17)

The pump station site is being relocated to City owned land. The subject location was selected by the City Utilities Department as the optimal location for the station due primarily on the location of existing sanitary sewer mains in the area. The property is located east of North Michigan Street and is west of a rural residence. Adequate screening shall be required as part of the Special Use Permit plan to screen the utility from the roadway and from adjacent residences.

Staff Finding – The proposed rezoning request conforms with *Horizon 2020* policies related to community facilities/public utilities and open space as well as floodplain.

ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

The subject property is surrounded by City residential zoning (RM12D, RS10, and PD-Woodcreek Townhouses) on the west and County-agricultural zoning (A and V-C) on the north, east and south. The County-FF (Floodway Fringe Overlay and F-W (Floodway Overlay) Districts are also located in this area. (Figure 2) The nearby City properties are developed with residences, a private school and a day care center. The properties outside the city limits contain a rural residence on a parcel of approximately 5 acres and an undeveloped parcel of approximately 8 acres in addition to the subject property. Properties to the north and south, have been annexed into the City and the portions that are not located within the 100 year floodplain have been developed. The subject property was a part of the parcel south of the rural residence and was acquired through condemnation proceedings in April of 2012.

Staff Finding – The predominate land uses and zonings in the area are residential and community facilities. Properties to the west of N Michigan Street have a variety of residential zonings and are developed with detached, attached, and multi-dwelling residences and a day care center. Property east of N Michigan that is within the city limits has been developed with a private school and multi-dwelling residences. The property that remains outside the city limits is heavily encumbered with floodplain and the only development has been a rural residence.

CHARACTER OF THE AREA

Applicant's Response:

Generally residential to south and west (multi-family).

The subject property abuts the Lawrence city limits along N Michigan Street on the west and is being annexed concurrently with this rezoning. The property is bounded on the north, east, and south by property outside the City limits which is heavily encumbered with the regulatory floodplain including the Hallmark Tributary floodway. A day care center is located southwest and a private school is located north of the subject property; both are located within the City limits.

Staff Finding – The predominate land uses in this area are residential, community facilities (pre-school and private school), and undeveloped open space. The Hallmark Tributary floodplain traverses the area and heavily encumbers the property outside the city limits.

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:

"Property is suitable for proposed use as a pump station site."

The property is currently zoned A (Agricultural) and V-C (Valley Channel) Districts. The Agricultural District is intended to provide for a full range of agricultural activities. Uses permitted within the A District include agricultural uses, animal hospitals, commercial dog kennels, commercial riding stables, detached dwellings, schools, and churches. The V-C District permits only agricultural uses and rural residential uses on properties containing more than 5 acres. The property is suited for agricultural uses; but is not suited for the other uses permitted within the A District due to the fact that it is completely encumbered by the regulatory floodplain.

A request has been submitted for the annexation of the property into the City of Lawrence. Rezoning to a City Zoning District is required with annexation and the applicant is requesting a rezoning to the OS District. The OS District is intended to preserve and enhance major open space and recreational areas and permitted uses are limited in this district as follows:

| Permitted by Right | Require Special Use Permit |
|---|---|
| Cemetery | Cultural Center/Library |
| Minor Utility which serves a specific development | Minor Utility which serves more than one specific development |
| Passive Recreation | Major Utility |
| Nature Preserve | Active Recreation |
| | Campground |
| | Adaptive Reuse of Designated Historic Property |
| | Telecommunication Tower |

The proposed use, a *Minor Utility*, serves more than one specific development; therefore it requires approval of a Special Use Permit. A Special Use Permit entails public review and the evaluation of a use's operational characteristics and site development features to ensure that the proposed use will not have a significant adverse impact on surrounding uses or the community at large. A Special Use Permit application has been submitted and is also being considered at the July Planning Commission meeting.

Staff Finding – The property is suitable for the agricultural uses to which it is restricted with the current A and V-C Zoning; however, it is not suitable for the other permitted uses in the A District given the presence of the regulatory floodplain. The property is suitable for the limited uses permitted with the OS Zoning, again because it is completely encumbered with the regulatory floodplain. The additional review required with the Special Use Permit will insure compatible development.

LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Staff Finding – The subject property has never been developed.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's response:

"No detrimental effect to adjacent land owners/properties."

The pump station will be unmanned and will generate very little traffic. The majority of the mechanics of the pump station will be underground so there should be little, if any, negative effects. The facility will be raised out of the floodplain, so the area will be elevated and a meter panel and valves will be located above ground in addition to the retaining wall. (Figure 4) The Special Use Permit process will allow the addition of landscaping where necessary to minimize any negative visual impact the raised station may have on the adjacent road right-of-way and adjacent residences.

Allowing the relocation of the pump station site from the west side to the east side of N Michigan Street should result in an overall positive impact on nearby properties due to the improved operational characteristics.

Staff Finding – Negative impacts associated with the development should be minimal, as the facility is unmanned and is designed to produce very little noise or odor. Screening would be considered with the review of the Special Use Permit to minimize the visual impact on the adjacent N Michigan Street right-of-way and on adjacent residences.

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:

"Improved efficiency and reliability of sanitary sewer service to the community at large."

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 pump station is a minor utility which will benefit the City as a whole by improving the level of service for this area. The City Utilities Engineer indicated that increased capacity to compensate for deficiencies in the existing systems or future expansion of the service areas was accounted for as part of the design phase of the project.

If the rezoning were denied, it would not be possible to relocate the pump station site to City owned property, and upgrades would need to be made in place.

Staff Finding – The rezoning will have positive public impact by providing an upgraded utility facility to improve the level of service in the area. If the rezoning were denied, it would not be possible to construct the new pump station facility on city owned property.

PROFESSIONAL STAFF RECOMMENDATION

The OS (Open Space) District is appropriate given the proposed use of a *minor utility* and the limited uses permitted in the OS District and the floodplain on the property. The FP (Floodplain Management Regulations Overlay) District is an appropriate zoning district for property encumbered with the floodplain. The requirement to review the development proposal through the Special Use Permit process will insure development that is compatible with surrounding properties. Staff recommends approval of the rezoning request to the OS-FP District.

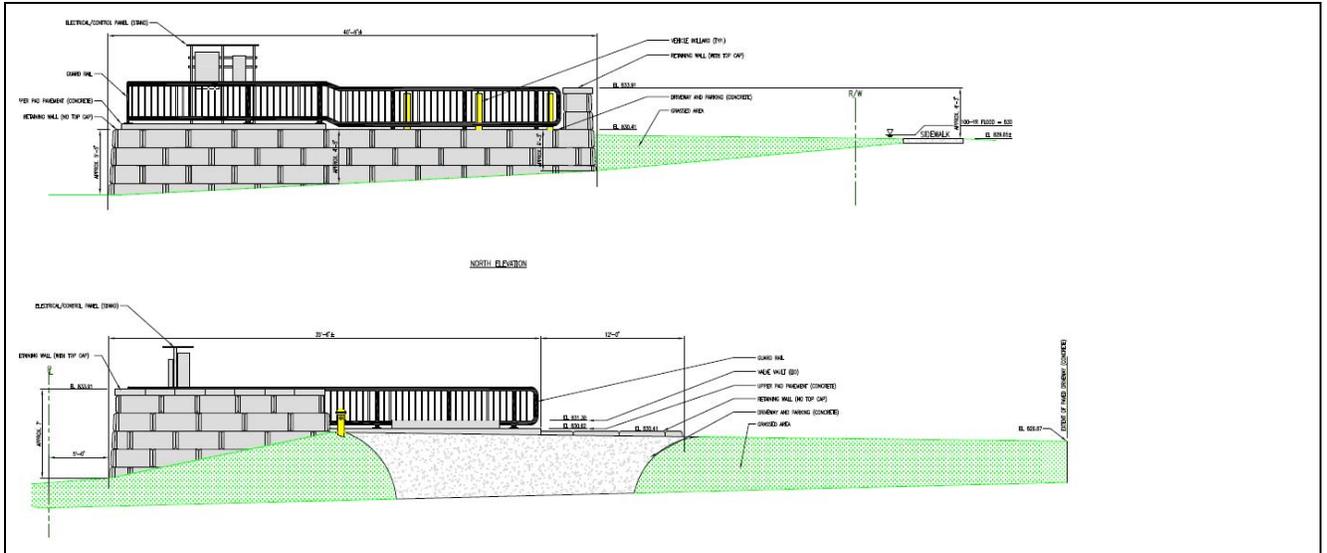


Figure 4. Elevation showing the retaining wall, railing, and meter board. The top graphic shows the elevation from the north and the bottom shows the elevation from N Michigan Street.