

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
8/24/2015

ITEM NO. 2B RS10 TO OS; 6.07 ACRES; SE CORNER SLT & US-59 HWY (JSC)

Z-15-00328: Consider a request to rezone approximately 6.07 acres from RS10 (Single-Dwelling Residential) District to OS (Open Space) District, located at the southeast corner of the South Lawrence Trafficway and US-59. Submitted by Landplan Engineering P.A. on behalf of Armstrong Management L.C. and Grisham Management L.C., property owners of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone 6.07 acres from RS10 (Single-Dwelling Residential) District to OS (Open Space), located at the southeast corner of the South Lawrence Trafficway and US-59 Highway based on the findings presented in this staff report, and forwarding it to the City Commission with a recommendation for approval, subject to the following condition:

1. The following uses shall be prohibited:
 - a. Public and Civic Use Groups:
 - i. Community Facilities; Cemetery, Cultural Center/Library and Funeral and Interment, Utility Minor, and Utility Major
 - ii. Recreation Facilities; Active Recreation and Entertainment & Spectator Sports, Limited
 - b. Commercial Use Groups:
 - i. Transient Accommodation; Campground
 - ii. Parking; Accessory Parking
 - c. Other Use Groups
 - i. Communication Facilities; Amateur & Receive-Only Antennas, Telecommunications Antenna, Telecommunications Tower and Satellite Dish
 - ii. Recycling Facilities; Small Collection Recycling Facilities

Reason for Request:

This rezoning request is part of a package of development applications, including a commercial zoning request and a comprehensive plan amendment that proposes retail/commercial center development at this location.

KEY POINTS

- Property includes areas encumbered by regulatory floodplain.
- This designation would provide a more substantial buffer for the Wakarusa River riparian areas from the proposed commercial development.
- Automatic designation as –FP (Floodplain) is not applicable as this property is currently within the City of Lawrence.

ASSOCIATED CASES/OTHER ACTION REQUIRED

CPA-15-00335: Consider a Comprehensive Plan Amendment to *Horizon 2020* Chapter 6 to change the designation from Auto-Related Commercial to Regional Commercial, and to Chapter 14 (Revised Southern Development Plan) to revise the future land use designations from open space and auto-related commercial uses to open space and commercial use at the southeast corner of the intersection of South Lawrence Trafficway and US-59. Submitted by Landplan Engineering, P.A. for Armstrong Management L.C. and Grisham Management L.C., owners of record.

Z-15-00327: Consider a request to rezone approximately 59.8 acres from RS10 (Single-Dwelling Residential) District to CR (Regional Commercial) District, located at the southeast corner of the South Lawrence Trafficway and US-59. Submitted by Landplan Engineering P.A., on behalf of Armstrong Management L.C. and Grisham Management L.C., property owners of record.

PLANS AND STUDIES REQUIRED

- *Traffic Study* – Not required for rezoning
- *Downstream Sanitary Sewer Analysis* – Not required for rezoning
- *Drainage Study* – Not required for rezoning
- *Retail Market Study* – Not applicable to request

Rezoning Requests	
Zoning	Acres
OS Zoning (Z-15-00328)	6.07
CR Zoning (Z-15-00327)	
- Right of Way	28.82
- Private Parcel	30.98
Total	66.50

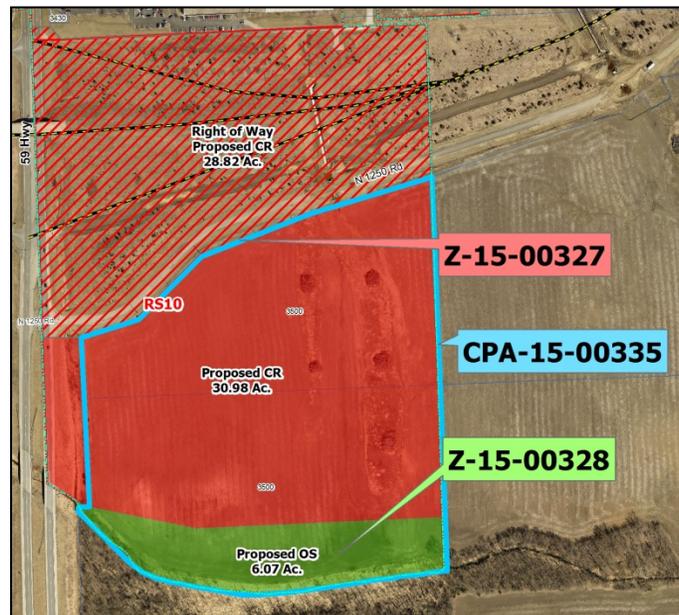
Note regarding development study requirements: Traffic study, drainage study, and sanitary sewer studies have been discussed with the applicant. These studies will be provided with the submission of a preliminary plat and will be considered throughout the development process as the details of the project are defined. Floodplain Development Permits will also be required for structures constructed in the regulatory floodplain.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

General inquiries from public regarding scope of development requests. Staff has clarified for callers that the current requests are for the Comprehensive Plan Amendment and zoning. A concept plan has been submitted with the development package. Specific development proposals are not available at this time.

Project Summary:

The proposed request is for the southern portion of the development known as Southpoint Center. This area of the development has the most substantial encumbrance of floodplain within the immediate area. The map to the right shows the various applications and intended zoning districts associated with this project.



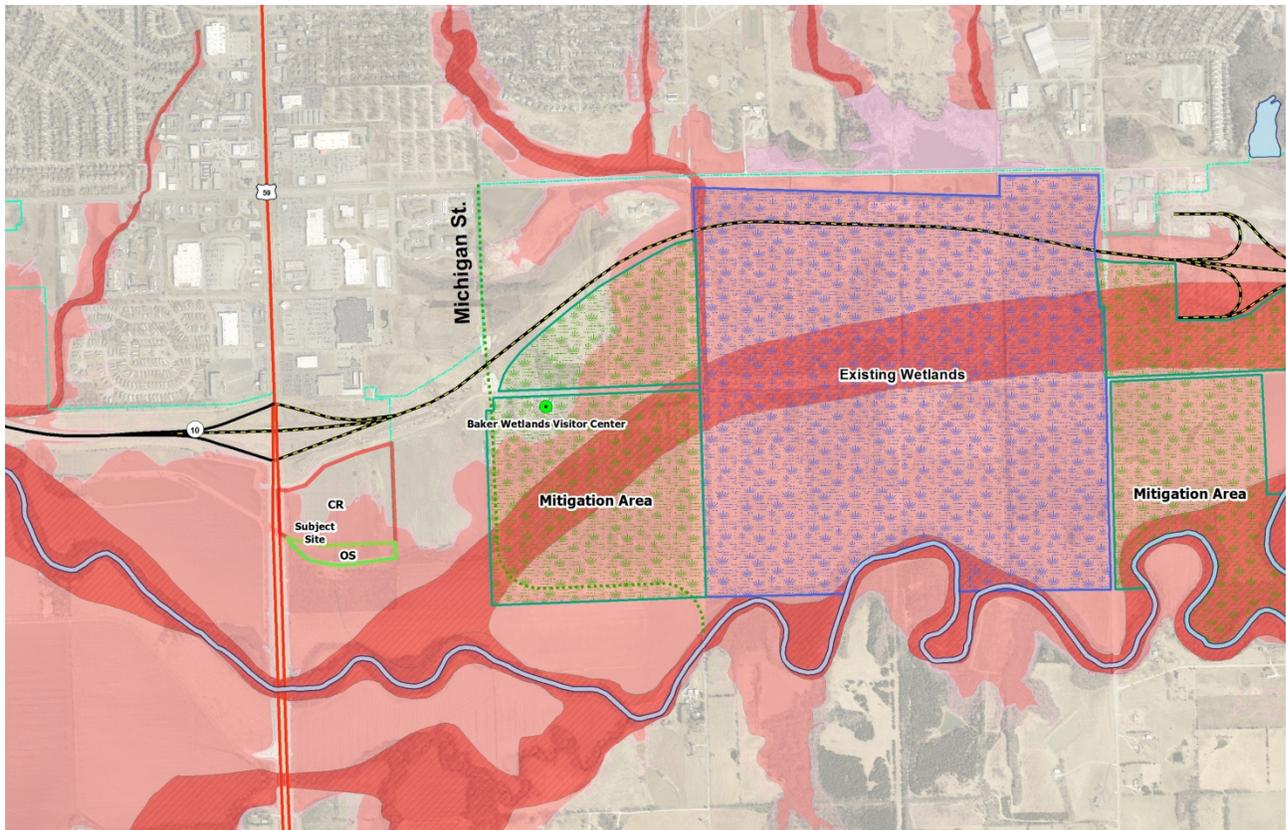


Figure 1: Subject Property with Wakarusa Floodplains

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *This request conforms to the land use recommendations of the Revised Southern Development Plan (incorporated into H2020 as part of Chapter 14) as well as key strategies in Chapter 9 of H2020 by reserving land encumbered by floodplain for open space land uses.*

A key feature of the Comprehensive Plan (*Horizon 2020*, Chapter 3) states: *The plan recommends the protection and preservation of the extensive floodplains and riparian ways throughout the planning areas. These resources often are a constraint to urban development.*

The Wakarusa River, and its attendant floodplain, establishes a southern boundary for development of the current urban area for the City of Lawrence. The subject property is located between the boundary of the South Lawrence Trafficway (K-10 Highway) and the Wakarusa River. Development south of the Wakarusa River at this time would be considered leapfrog development, which is not supported by the Comprehensive Plan.

The proposed OS zoning designation would protect the floodplain and establish a buffer between the proposed commercial rezoning (Z-15-00327) and the Wakarusa River. A map of the wetlands mitigation areas related to the South Lawrence Trafficway project is attached to this report.

Horizon 2020: Chapter 9 Parks, Recreation, Open Space Areas and Facilities:

Chapter 9 of *Horizon 2020* lists several key strategies that are applicable to the proposed development and supports the proposed request.

STRATEGIES: PARK, RECREATION, OPEN SPACE AREAS AND FACILITIES

The principal strategies for the development and maintenance of park, recreation, and open space areas and facilities are:

- *Continue to develop and improve the community's park, recreation, and open space system, building upon the existing system and integrating recommendations and direction from the PRCMP, this Comprehensive Plan, and relevant area and neighborhood plans.*
- *Preserve, protect and utilize natural and environmental features as focal points for new development areas and to the extent possible, new parks and recreational facilities should extend and enhance the existing and/or future open space system.*
- *Coordinate parks, recreation, and open space planning and development between the City of Lawrence and unincorporated Douglas County to provide overlapping and connecting park and recreation opportunities. Additionally, the City and County should more carefully coordinate park and open space acquisition in the Lawrence Urban Growth Area.*
- *Development of the park, recreation, and open space system for the City of Lawrence should be based on priorities contained within the PRCMP.*
- *Improve coordinated planning efforts between the Park and Recreation Department/Advisory Board and the Lawrence/Douglas County Metropolitan Planning Office/Commission in recommendations involving the location and features of future park, recreation, and open space sites.*
- *Develop a communication network between all city and county departments, the partners who aide in parks and recreation, and the community to increase awareness, understanding, and advocacy.*
- *Create a better understanding and support of operational costs and funding with key city and county leaders during the design of all capital projects to ensure the operational and maintenance dollars are available prior to construction.*
- *Develop regional parks that create a strong sense of community pride and livability.*
- *Coordinate with private property owners to provide additional opportunities for open space preservation beyond publicly owned parks, such as, through agricultural use, land trusts, buffers, and easements.*

P. 9-2, Horizon 2020

Chapter 9 predominantly focuses on public parks. Open space preservation can occur within a park, as well as through private designations such as the OS zoning the applicant is proposing with this application.

The South Lawrence Trafficway project includes many connecting links for non-motorized access (bike lanes, bike routes, and recreation paths) that will extend the network east of US-59. As development plans become defined in this proposed location, additional links and connections

between the proposed open space area and the existing/planned open space areas to the east can become viable. Approval of this request will facilitate these interests.

Chapter 16 of *Horizon 2020* addresses several natural environment issues including water resource management. The plan states that floodplain areas should be protected. This application does not include a Floodplain Overlay District designation that would be applied to the entire property if it was being annexed into the City of Lawrence as part of this process.

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

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

Current Zoning and Land Use: RS10 (Single-Dwelling Residential – 10,000 square feet); existing agricultural.

Surrounding Zoning and Land Use: To the north:
Proposed CR (Community Regional) District. Existing use is agricultural. See Z-15-00327 regarding proposed zoning.

To the east (east side of future Michigan Street):
A (County-Agricultural), VC (Valley Channel) Districts; Wetlands Mitigation Areas/ Baker Wetlands, and Baker Wetlands Visitor Center Complex (SUP-12-00248).

To the west (west side of US-59):
A (County-Agricultural), VC (Valley Channel), and FW – FF (County Floodway and Floodway Fringe Overlay) Districts. Existing agricultural.

To the south:
A (County-Agricultural), VC (Valley Channel) District and FW –FF (County Floodway and Floodway Fringe Overlay) District. Existing agricultural use.

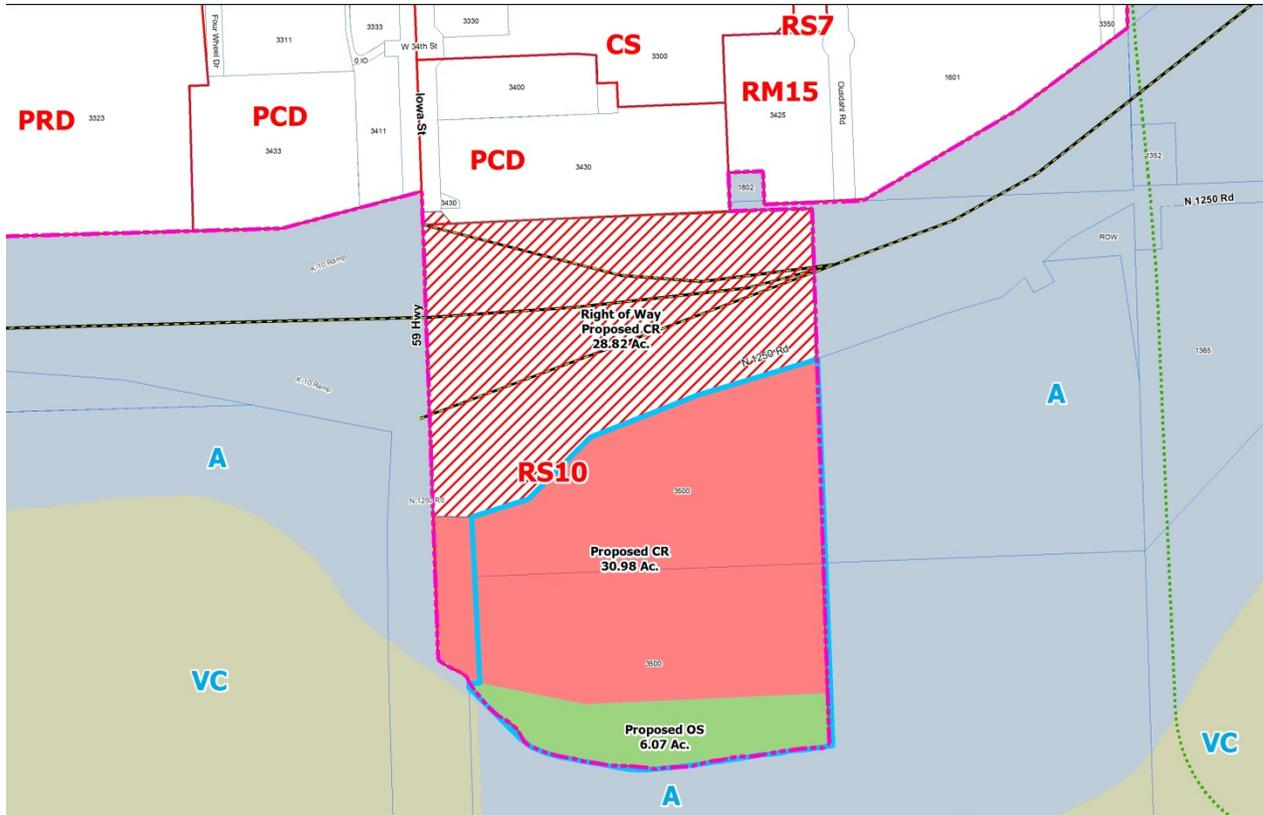


Figure 2: Proposed and Existing Zonings

Staff Finding: Nearby properties are zoned V-C (Valley Channel) and A (Agricultural) with F-F (Floodway Fringe) and F-W (Floodway) Overlay Districts. Agriculture and natural open space are the principal land uses in the vicinity.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *The subject property lies at the southeast corner of the interchange between Kansas Highway 10, a.k.a. the South Lawrence Trafficway, or SLT, and U.S. Highway 59, a.k.a. S. Iowa Street. The property is bounded to the north by N 1250 Road and SLT right-of-way. The property is bounded to the west by Hwy 59 right-of-way. Nearby properties to the west and south are generally located within the Wakarusa River floodplain and are actively farmed. The property to the east is agricultural land under the same ownership as the subject property. Further east rests the Baker Wetlands.*

The subject property is located within the City of Lawrence. This is a rural area with agriculture and open space being the primary land uses. Natural features in the area include the Wakarusa River, south of the subject property; riparian woodlands along the Wakarusa River; floodplain; and wetlands. A major thoroughfare, the South Lawrence Trafficway, is under construction north of the subject site.

A dominating feature in the area is the Baker Wetlands and the Baker Wetlands Visitor Center to the east of the proposed project area.

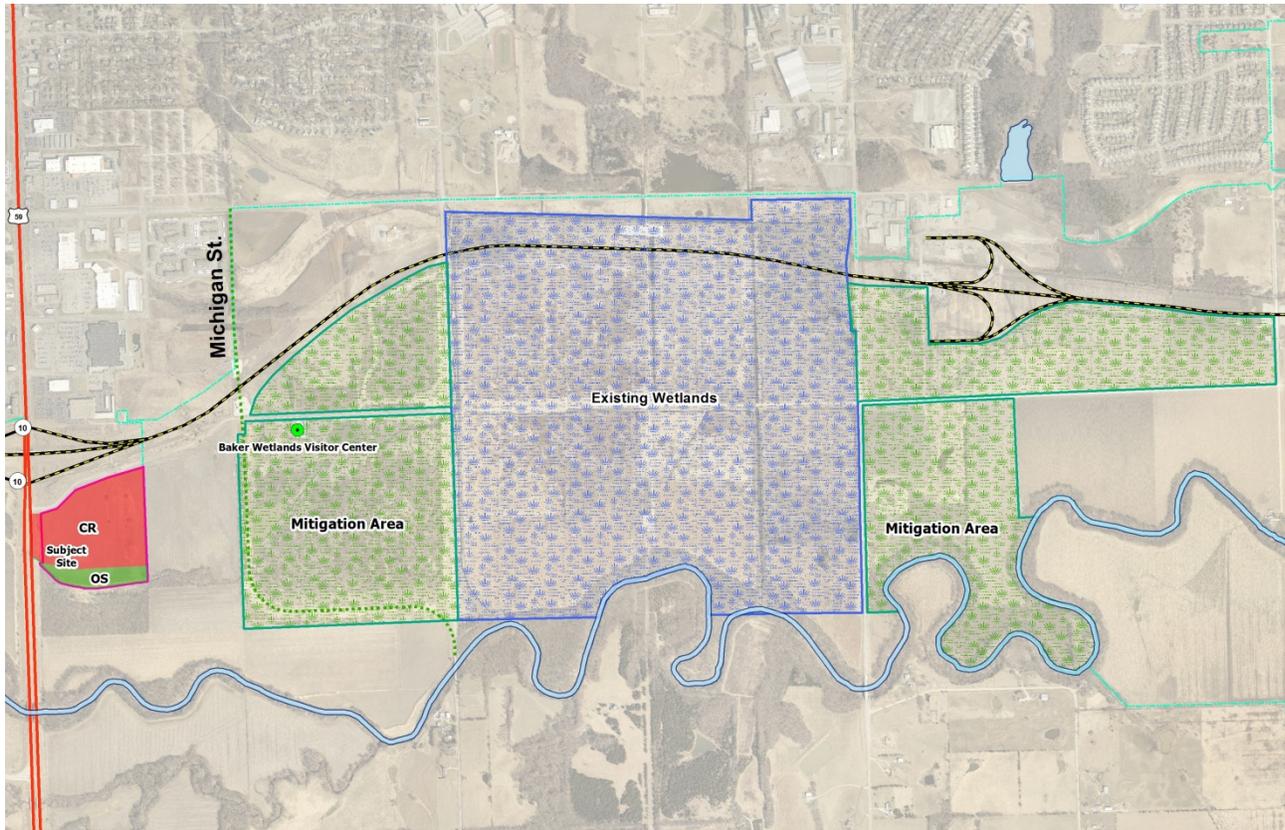


Figure 3: Existing and Proposed Wetlands as part of the South Lawrence Trafficway Construction Project

Staff Finding: The area contains primarily natural open space and agricultural land uses. The subject property is located adjacent to a major transportation corridor within the Lawrence Urban Growth Area. There are no specific established neighborhoods in this area. The proposed Open Space zoning is consistent with the planned land use for the area in the *Revised Southern Development Plan* regardless of any additional consideration of the proposed commercial development to the north.

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

This property is included within the plan boundary of the *Revised Southern Development Plan*. An application for a Comprehensive Plan Amendment (CPA-15-00335) was concurrently submitted with the commercial rezoning (Z-15-00327) and this application. The proposed changes do not impact the approved open space recommendations included in the *Revised Southern Development Plan*. This proposed request for Open Space District can be independently evaluated from the commercial request.

The plan identifies existing floodplain areas as appropriate for open space designation. This plan identifies the area along the Wakarusa River and associated floodplain as suitable for open space uses. The proposed request is consistent with recommended land use noted in the *Revised Southern Development Plan*, though at a reduced area than what the plan designates. This OS zoning will implement the land use recommendations of the *Revised Southern Development Plan*.

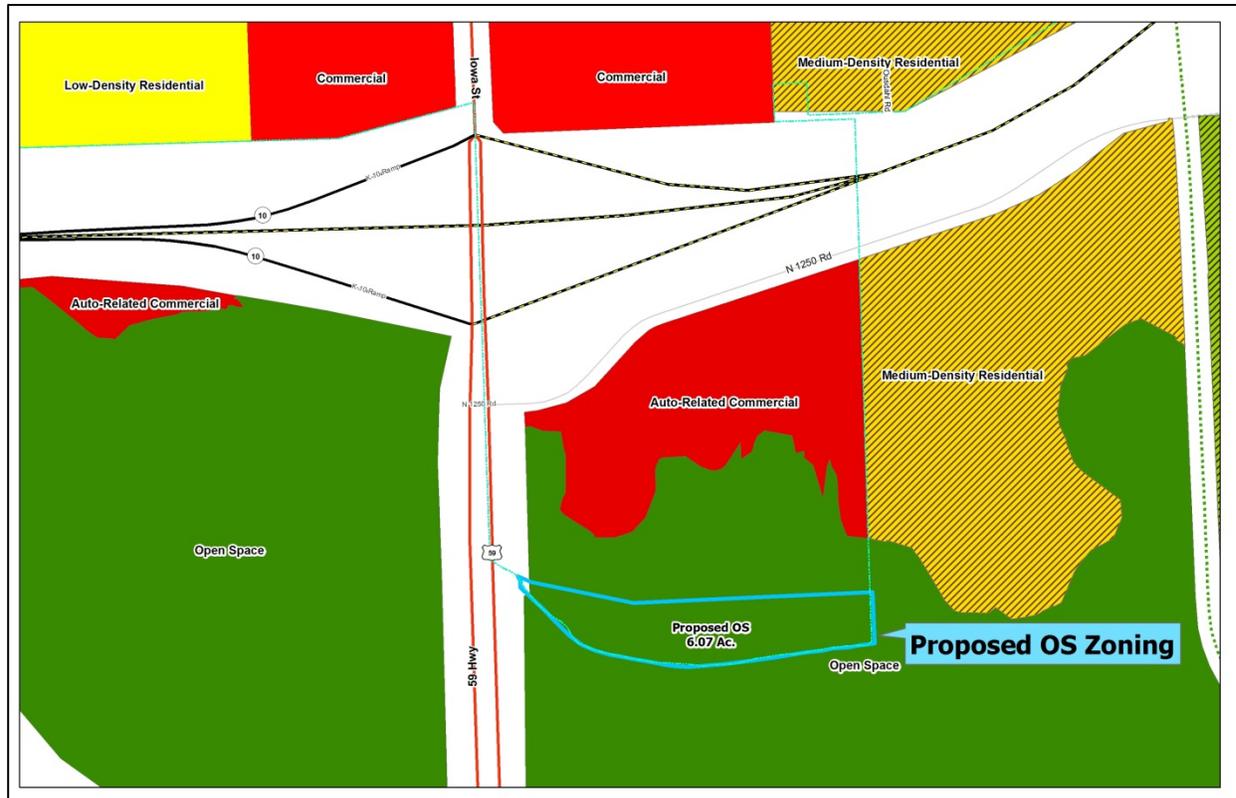


Figure 4: Revised Southern Development Plan: Future Land Use Map

There is a difference in the terminology for “open space” between the Land Development Code and the *Revised Southern Development Plan*. The zoning designation of open space in the Land Development Code as, “The OS, Open Space District, is a Special Purpose Base District intended to preserve and enhance major Open Space and recreational areas by protecting the natural amenities they possess and by accommodating development that is compatible with those natural amenities.” (Section 20-218) The Land Development Code does permit for development to occur within the regulatory floodplains, subject to review and approval to all applicable codes. While within the *Revised Southern Development Plan*, the open space designation is intended to, “Encourage recreational uses that do not alter the natural character of the area,” and, “Encourage preservation of the floodplain or open space through private or public/private partnerships.” The plan also, “Encourage(s) connection between public lands and bicycle/pedestrian trails along the South Lawrence Trafficway (SLT).”

While differing intended purposes exist between the policies of the *Revised Southern Development Plan* versus the Land Development Code, both the Open Space zoning and Open Space sector plan designation work to protect sensitive lands, but have differing end results. Therefore, while a portion of land may be indicated as Open Space within the *Revised Southern Development Plan*, it does not prevent development from occurring under the Land Development Code.

Staff Finding: The proposed OS rezoning conforms to land use recommendations in the *Revised Southern Development Plan*. This land use recommendation is not altered by the proposed Comprehensive Plan Amendment (CPA-15-00335) associated with this project.

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

Applicant's Response: *The subject property is currently zoned RS10, due to the past practice of automatically applying low density residential zoning to land upon annexation as a temporary zoning measure. The subject property is located entirely within regulatory floodplain and accordingly H2020 recommends open space uses for this area. Given those facts, the suitability of the subject property for low-density residential land uses under the existing RS10 zoning district is quite low.*

Prior to 2006, this property was zoned RS-1. In 1979, as properties were annexed into the City Limits, the RS-1 district was commonly used as a holding zone. In 2006, a new zoning district was developed for this purpose titled UR (Urban Reserve). The proposed OS zoning accommodates the anticipated land use as an open space and facilitates the protection of floodplain areas.

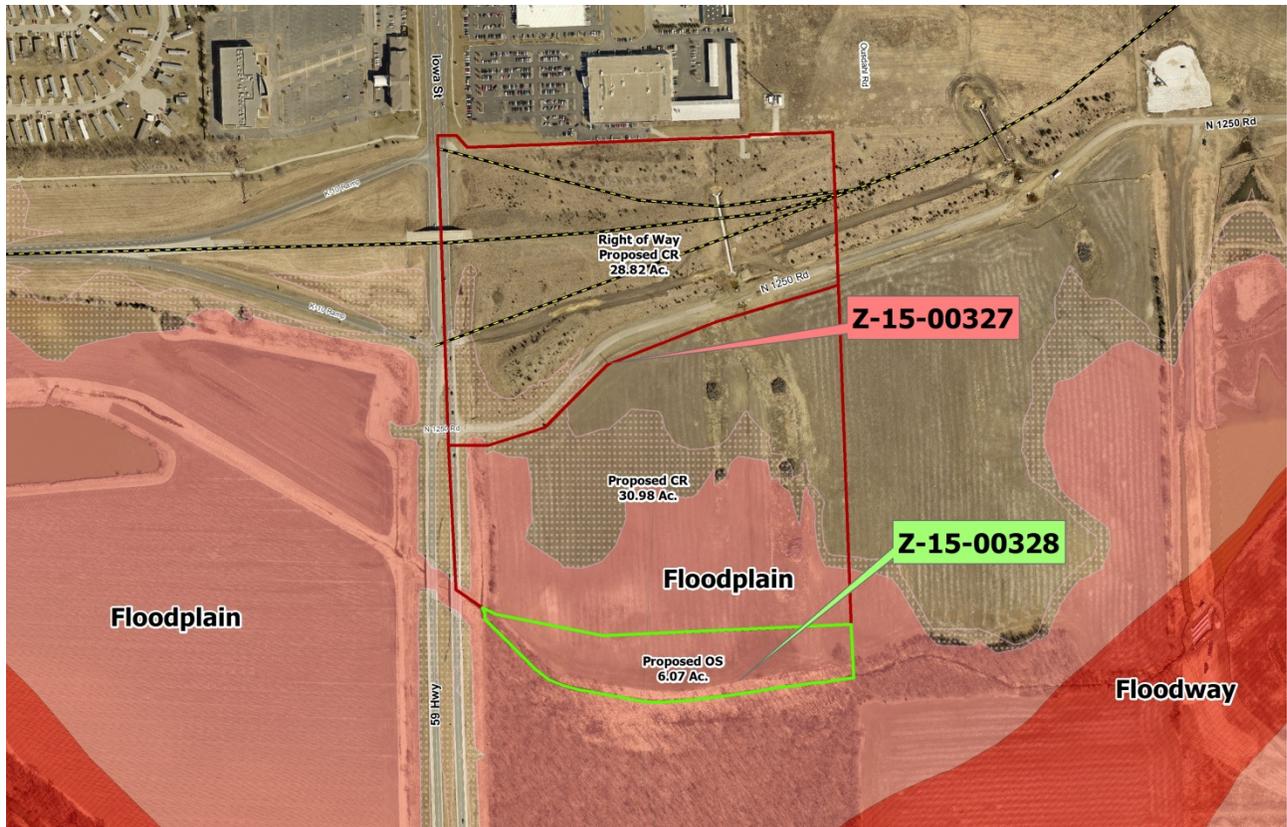


Figure 5: Proposed OS Rezoning in relation to FEMA Flood Maps

Staff Finding: The current RS10 zoning is no longer appropriate for the existing use. The proposed OS District accommodates the anticipated continued use as open space and provides protections by limiting uses within the designated floodplain in this area.

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

Applicant's Response: *The subject property has remained vacant since annexed into the City limits in 1979.*

This portion of the property was annexed by Ordinance No. 5026 in 1979. At that time, when county properties were annexed into the City of Lawrence, a zoning designation of RS-1 was applied automatically. The RS-1 zoning was subsequently converted to RS10 with the adoption of the Land Development code in 2006.

Staff Finding: Since 1966, the property has been undeveloped. The proposed location was zoned RS-1 in 1979, and was converted to RS10 with the adoption of the Land Development Code in 2006.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response: *Approval of this rezoning will provide tangible benefits to nearby properties. This request will facilitate the preservation of low-lying riparian woodlands located immediately upstream from the Baker Wetlands. Rezoning this ground from RS10 to OS ensures low impact use of this area.*

Nearby properties include the Baker Wetlands Visitor Center and Baker Wetlands to the east, agricultural land to the south and the US-59 right-of-way to the immediate west. Commercial development is proposed to the north. The OS zoning district includes a limited number of uses and is generally considered low-impact. *Community Facilities, Utilities, Recreational Facilities, Campgrounds,* and *Communication Facilities* are allowed uses in the OS district. Some of these uses are allowed by right, and some require a Special Use Permit such as a cell tower, campground, some utilities, recreation facilities, and community facilities. Uses included in these groups are Cultural Center/Library, Active Recreation, Entertainment & Spector Sports, Limited, and Campground. A complete list of uses is found in Article 4 of the Land Development Code, and these uses are specifically defined in Article 17.

Uses listed in Section 20-404:

- Public and Civic Use Groups:
 - Community Facilities,
 - Cemetery
 - Cultural Center/Library
 - Funeral and Interment
 - Recreation Facilities
 - Active Recreation
 - Entertainment & Spectator Sports, Limited
- Commercial Use Groups
 - Transient Accommodation
 - Campground
- Other Use Groups
 - Communication Facilities
 - Amateur & Receive-Only Antennas
 - Telecommunications Antenna
 - Telecommunications Tower
 - Satellite Dish
 - Recycling Facilities
 - Small Collection Recycling Facilities

The applicant has expressed a desire to align the OS District request with the development intent thus has included the following list of uses that would be restricted within this district. If approved the zoning district would be mapped as a conditional zoning district. Restricted uses would be included in an ordinance for this property.

Use Group Table per Section 20-402

<u>Permitted Use Groups</u>
Highlighted uses are proposed to be restricted by applicant.
RESIDENTIAL USE GROUP
<i>Not permitted in the OS district.</i>
PUBLIC AND CIVIC USE GROUP
Community Facilities
Cemetery
Cultural Center/ Library
Funeral and Internment (Accessory)
Utility Minor (P or SUP)
Utility Major (SUP)
Medical Facilities
<i>Not permitted in the OS District</i>
Recreational Facilities
Active Recreation (SUP)
Entertainment & spectator sports, Limited (SUP)
Passive Recreation
Nature Preserve/Undeveloped
Passive Recreation
Religious Assembly
<i>Not permitted in the OS District</i>
COMMERCIAL USE GROUP
Animal Services
<i>Not permitted in the OS District</i>
Eating and Drinking Establishments
<i>Not permitted in the OS District</i>

Office
<i>Not permitted in the OS District</i>
Parking Facilities
Accessory (Accessory)
Retail Sales and Service
<i>Not permitted in the OS District</i>
Sexually Oriented Businesses
<i>Not permitted in the OS District</i>
Transient Accommodations
Campground (SUP)
Vehicle Sales & Service
<i>Not permitted in the OS District</i>
INDUSTRIAL USE GROUP
Industrial Facilities
<i>Not permitted in the OS District</i>
Wholesale, Storage & Distribution
<i>Not permitted in the OS District</i>
OTHER USE GROUP
Adaptive Reuse
— Designated Historic Property (SUP)
Agricultural
<i>Not permitted in the OS District</i>
Communications Facilities
Amateur & receive only antennas (Accessory)
Telecommunication antenna (Accessory)
Telecommunications Tower (SUP)
Satellite Dish (Accessory)
Mining
<i>Not permitted in the OS District</i>
Recycling Facilities
<i>Not permitted in the OS District</i>

In addition to the applicant's list of restricted uses, Staff recommends also restricting Utility, Minor, Utility Major, Accessory Parking, and Designated Historic Property.

The applicant has indicated that they are working with the Baker Wetlands to provide a connection along the OS zoned portion of the project allowing a nature trail to potentially be constructed. This is in-line with the policies of the Revised Southern Development Plan, and would also provide greater connections and linear recreation opportunities along the Wakarusa River. If completed in a manner that is sensitive to the existing natural surroundings and floodplain consideration, the use would be appropriate given this particular area within the county.

Staff Finding: Zoning this property to OS for low impact, passive recreation uses will not generate detrimental effects to adjacent property resulting from this zoning application. Development of recreation facilities, such as a nature trail, may require significant mitigation in design because of the presence of the regulatory floodplain. Staff supports restricting the allowed uses to ensure low-impact use of the area.

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: *Approval of this request will facilitate the preservation of regulatory floodplain. Denial of this and the accompanying development applications will compel future applicants to pursue a different mix of commercial and open space land uses for this location.*

Evaluation of this criterion includes weighing the benefits to the public versus the benefits for the subject owners' property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare. The public stands to gain by preserving a portion of the environmentally sensitive lands adjacent to the Wakarusa River, and also through the preservation of a linear connection of the riparian lands leading into the Baker Wetlands.

Staff Finding: The proposed rezoning facilitates public purposes by providing more protection to the designated floodplain.

9. PROFESSIONAL STAFF RECOMMENDATION

This application facilitates protection of designated floodplain areas along the Wakarusa River. The OS zoning designation is consistent with land use recommendations for the area in the *Revised Southern Development Plan*. Restriction of uses using conditional zoning further mitigates the potential development impact on the surrounding area. This recommendation is independent of the proposed commercial development included in the application for CR zoning adjacent north (Z-15-00327).

CONCLUSION

The proposed OS rezoning is consistent with the planned future land use anticipated for this area. Staff recommends approval of the proposed OS district for this portion of the subject property.