

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
09/26/16

**ITEM NO. 6B:    A TO RM15; 30 ACRES; SE CORNER 31<sup>ST</sup> & MICHIGAN (MKM)**

**Z-16-00306:** Consider a request to rezone approximately 30 acres from County A (Agricultural) District to RM15 (Multi-Dwelling Residential) District, located at the SE corner of 31<sup>st</sup> & Michigan Streets. Submitted by BG Consultants on behalf of Reylan Properties LC, property owner of record.

**ITEM NO. 6C :    A TO RM15-FP; 25.13 ACRES; SE CORNER 31<sup>ST</sup> & MICHIGAN (MKM)**

**Z-16-00307:** Consider a request to rezone approximately 25.13 acres from County A (Agricultural) District to RM15-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District, located at the SE corner of 31<sup>st</sup> & Michigan Streets. Submitted by BG Consultants on behalf of Reylan Properties LC, property owner of record.

**STAFF RECOMMENDATIONS:**

**Z-16-00306:** Staff recommends approval of the rezoning request for approximately 30 acres from County A (Agricultural) District to RM15 (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.

**Z-16-00307:** Staff recommends approval of the rezoning request for approximately 25.13 acres from County A (Agricultural) District to RM15-FP (Multi-dwelling Residential 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.

**REASON FOR REQUEST**

Applicant's Response:

*"The subject property (the "Property") consists of approximately 55 acres located at the Southeast corner of 31<sup>st</sup> Street and Michigan Street, and is presently zoned "A – Agricultural District" under the Douglas County Code. The Property is vacant and undeveloped, and abuts the City of Lawrence along its northern and western boundaries. The Property currently lies within Service Area 1 of the Lawrence Urban Growth Area, and has access to existing city infrastructure, including a water line along the north property line and sanitary sewer main. The applicant's proposed project is an approximate 240-unit multi-family housing development. The site will have good access to the newly completed South Lawrence Trafficway, and the walking, jogging, and biking routes along 31<sup>st</sup> Street. The project will not materially affect the floodplain. This application is necessary to enable the development of the Property for uses expressly contemplated by Horizon 2020 and the Revised Southern Development Plan."*

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## KEY POINTS

- The subject property is not developed and has been used for agricultural purposes since the adoption of the County Zoning Regulations in 1966.
- The subject property is located within the boundaries of the *Revised Southern Development Plan*. The proposed zoning is consistent with the recommendations of the plan.
- Infrastructure to accommodate the proposed development is immediately available.
- The FP Overlay District is a Code requirement when annexing property that contains floodplain. Area adjacent to the floodplain that is up to 2 ft above the Base Flood Elevation is included in the FP Overlay District as it is anticipated that the Floodplain area may increase as the watershed is developed. The FP Overlay Zoning is included in this report; but the focus of the review is on the RM15 District as the FP is a Code requirement.

## OTHER ACTION REQUIRED

- City Commission approval of rezoning request and adoption/publication of ordinance.
- Platting of the property through the Major Subdivision Process. (Planning Commission approval of Preliminary Plat. Final Plat reviewed administratively and placed on the City Commission agenda for acceptance of dedications.)
- Submittal and approval of a site plan application for any proposed site improvements.
- Submittal of construction plans to Development Services for processing of building permits. Building Permit must be obtained prior to construction activity.
- Floodplain Development Permit obtained prior to development on parcels containing floodplain.

## PUBLIC COMMENT

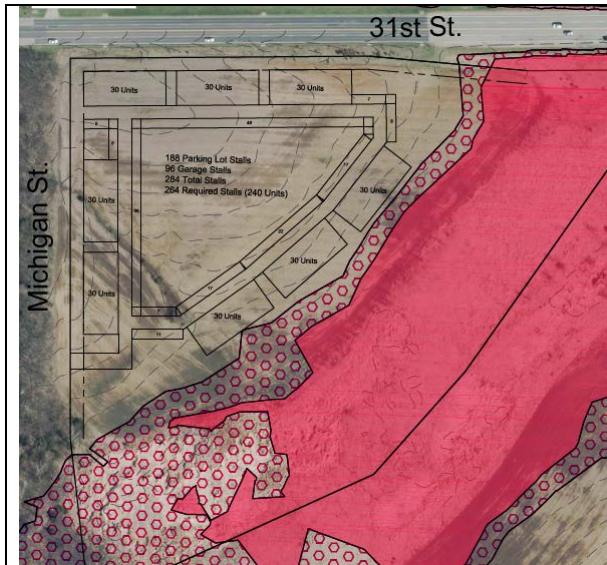
No public comment was received prior to the printing of this staff report.

## Project Summary

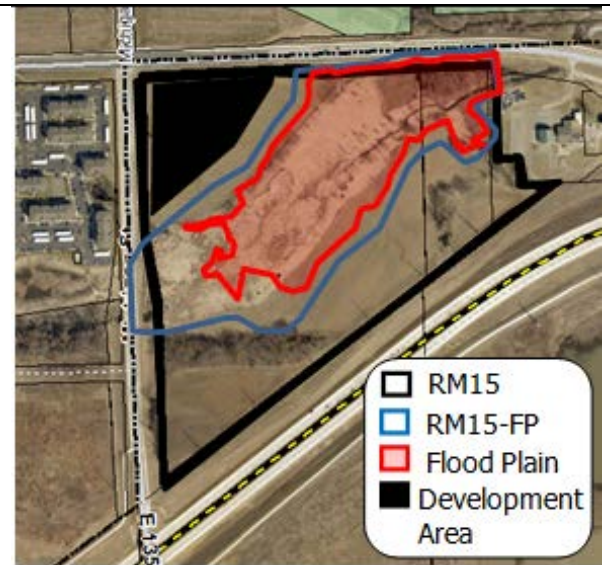
The subject property is adjacent to the city limits and is located in the southeast corner of the intersection of W 31<sup>st</sup> and Michigan Streets. Development proposals have been discussed for this property in the past, but the timing was seen as premature when the configuration of the K10 Highway/South Lawrence Trafficway was undecided and the sanitary sewer line crossing the property was near capacity.

The South Lawrence Trafficway configuration was established and the Trafficway is under construction. Michigan Street south of W 31<sup>st</sup> Street was constructed as part of the Trafficway project. The K10 Highway/SLT is expected to open in late November of this year. The capacity of the sewer line will be increased when the Wakarusa Wastewater Treatment Plant and Pump Station 10 (at the intersection of Louisiana Street and W 31<sup>st</sup> Street) are in service. Service is expected to commence in January of 2018. With the completion of the South Lawrence Trafficway and the Wastewater Treatment Plant and pump station, the timing of the project is appropriate.

Multi-Dwelling Residential development, apartments, is being proposed with this project. As seen in the concept plan (Figure 2) the apartment buildings are proposed along the perimeter of the northwest portion of the property that is not encumbered with floodplain. Figure 3 illustrates the area within each rezoning request, the area that is encumbered with the floodplain, and the area that is currently being proposed for development. Additional development may occur south of the floodplain in a future phase.



**Figure 2.** Concept plan



**Figure 3.** Proposed rezonings and layout.

The rezoning request includes two zoning districts: the RM15 District to accommodate the project and the RM15-FP (Floodplain Management Regulations Overlay) District which is required by Code when annexing properties containing floodplain. The Development Code notes that the Base Flood Elevations and floodplain widths identified by the Flood Insurance Rate Map may increase over time as a result of additional watershed development; therefore, the City has identified the FP Overlay district for property annexed into the city's corporate limits after March 1, 2003 as the area that includes the following:

- All Zone A Floodplain (no Base Flood Elevation identified)
- All Zones AE, and AH Zones and all adjacent areas having an elevation of the Base Flood Elevation plus an additional 2 feet of freeboard, additional height above flood level.
- All zones AO and all adjacent areas having an elevation of the FIS average depth of flooding plus an addition 2 ft of freeboard.
- All stream tributaries having a drainage area of 240 acres or more regardless of the limits of the FIS. (Section 20-1201(c))

The RM15-FP Overlay District has been requested based on these code requirements. This report will focus on the rezoning request to the RM15 District as the –FP Overlay District is a Code requirement based on technical factors such as Base Flood Elevation and drainage areas.

## REVIEW & DECISION-MAKING CRITERIA

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

*"The request conforms to the expansion of the Lawrence Urban Growth Area and future land use map of Horizon 2020. Map 3-1 indicates that the subject property is located within Service Area 1 of the Lawrence Urban Growth Area. The Property is adjacent to the existing City limits and can be readily served by City facilities and services. Applicant is seeking to voluntarily annex the Property consistent with Policy 3.1 of Horizon 2020. As guidance for the future development of property located generally south of 31<sup>st</sup> Street, the Revised Southern Development Plan directs future development of a large portion of the property as "Medium-Density Residential", which includes RM15 zoning district. See map 3-1. The intent of the medium-density residential use is "to allow for a variety of types of residential options for the area", including multi-dwelling structures. See Revised Southern Development Plan, at 18."*

Recommendations in *Horizon 2020* are discussed below, with staff comments in red.

Map 3-1, Lawrence Urban Growth Area Service Areas & Future Land Use shows the subject property in Service Area 1 and recommends higher density residential land uses in this area. (Page 3-3, *Horizon 2020*) The land use recommendations for this area were superseded by the recommendations in the *Revised Southern Development Plan*, which will be discussed in Section 4 of this report.

Infill residential development should be considered prior to annexation of new residential areas. (Page 5-1)

'Infill' is defined on Page G-2 of the Comprehensive Plan as: "...a process by which vacant land in developed areas is utilized for development." One of the benefits of infill development is the use of existing infrastructure. In this case, the site is located adjacent to developed properties on the west and east and open space, City parkland and the Baker Wetlands, are located to the north and south. City infrastructure is in place either on the property or adjacent to it. No extension of the City sanitary sewer or water mains is necessary to serve this property. This project, based on its proximity to developed properties, infrastructure, and City services would meet this definition of infill development.

Medium-Density Residential Development is recommended as clustered development at selected locations along major roadways, near high-intensity activity areas, and when adjacent to important natural amenities. This type of land use may be a likely choice for cluster development where density can be transferred from the natural area to the remainder of the property to creatively retain natural features which will enhance the overall development. (Page 5-4, *Horizon 2020*)

The subject property meets this recommendation:

- 1) It is located along major roadways: W 31<sup>st</sup> Street, a principal arterial, to the north; Michigan Street, a minor arterial, to the west; and K10 Highway/SLT a freeway, to the south;
- 2) It is near a high intensity activity area: the South Iowa Commercial Area including the Menards property on W 31<sup>st</sup> Street; and
- 3) It is adjacent to important natural amenities: Naismith Valley Park to the north and Baker Wetlands to the south.

- 4) In addition, the residential development will be clustered in the northwest portion of this site to protect the floodplain.

**Staff Finding** – The proposed rezoning and development of the property is compliant with the recommendations of the Comprehensive Plan.

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

Current Zoning and Land Use: County zoning: A (Agricultural) and F-F (Floodway Fringe Overlay) Districts; *Agriculture*.

Surrounding Zoning and Land Use: To the north:  
CR-FP (Regional Commercial with Floodplain Management Regulations Overlay); Undeveloped OS-FP (Open space with Floodplain Management Regulations Overlay) District, City parkland.

To the north of these districts: RS5-FP (Single-Dwelling Residential with Floodplain Management Regulations Overlay) and RS5 (Single-Dwelling Residential) Districts; properties were rezoned in 2016, but have not yet been developed.

To the west:  
RM15 (Multi-Dwelling Residential) and OS (Open Space) Districts; *Multi-Dwelling Structures*, and *Undeveloped*.

To the east:  
County Zoning: B-2 (General Business), A (Agricultural) and (Floodway Fringe Overlay) Districts and V-C (Valley Channel) District to the southeast; *Amusement Place*, *Steve's Place*, an event center/reception hall; *Agriculture*, and the K10 Highway/South Lawrence Trafficway (SLT))

To the south:  
County Zoning: A (Agricultural), F-F (Floodway Fringe Overlay) and V-C (Valley Channel) Districts; *Agriculture*, the K10 Highway (SLT), and Baker Wetlands ( (Figures 1 and 2)

**Staff Finding** – The area contains a mix of urban and rural zoning districts and land uses. Commercial uses are present along South Iowa and extend to the northwest of the subject property. The adjacent property to the west is zoned RM15 and the northern portion has been developed with apartments. Rezoning requests to allow medium density single-dwelling residential uses have been approved for the property to the north. A rural business district and business are located to the east. The K10 Highway/South Lawrence Trafficway is adjacent to the south boundary of the subject property and agricultural uses and floodplain are located in the rural areas. The proposed rezoning to allow additional multi-dwelling medium density residential development south of W 31<sup>st</sup> Street is compatible with the zoning and the existing and proposed land uses in the area.



### 3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

*"The Property is adjacent to an RM15 district to the west, CR district to the north (which buffers OS and RM12D located further north), Douglas County B-2 to the east, and Douglas County A to the south, abutting the newly developed South Lawrence Trafficway."*



**Figure 2.** Neighborhood Area. Areas that have been zoned but have not been developed are marked as follows: ☆ marks future commercial uses and ○ marks future medium density single dwelling residential development. Green highlighted areas are City parkland.

The term 'neighborhood' in this case refers to the area surrounding the subject property. For the purpose of this evaluation the neighborhood is bounded generally by Iowa Street on the west, 29<sup>th</sup> Terrace on the north, Louisiana Street (extended) on the east, and the Baker Wetland Visitor Center on the south.

Commercial uses line South Iowa Street which is a Regional Commercial Center. The commercial uses extend to the northwest of the subject property with the recent rezoning and development of a Menard's home improvement store.

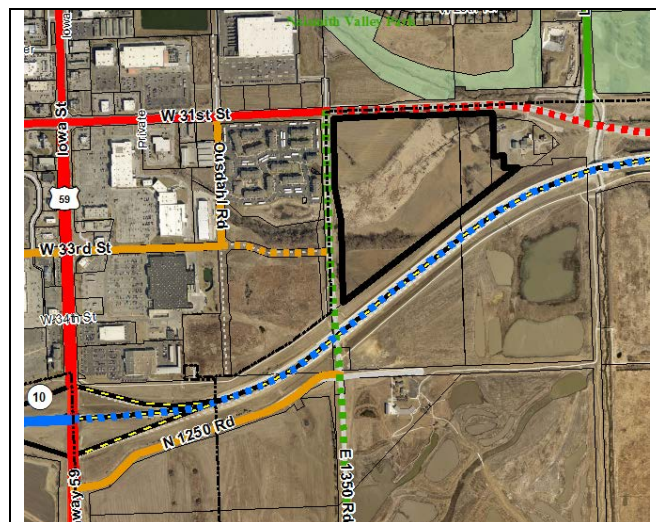
Medium density apartments, The Connection, are located to the west of the subject property. Medium density single-dwelling residences are planned for the property north of W 31<sup>st</sup> Street and the Naismith Valley Park, with existing medium density duplex development further to the north, lining 29<sup>th</sup> Terrace. Steve's Place, a rural event center/reception venue, is located to the east of subject property.

Significant open space is present in the area: Naismith Valley Park, a linear park/transportation corridor, and Broken Arrow Park, a joint City/County Park, are located to the north of W 31<sup>st</sup> Street. The Baker Wetlands are south of the South Lawrence Trafficway and extend to Haskell Avenue to the east. Haskell Indian Nations University is located to the east of Broken Arrow Park. Open space and wetlands are located on the HINU campus along W 31<sup>st</sup> Street.

The neighborhood includes several higher classification roads: South Iowa Street and W 31<sup>st</sup> Street are classified in the Major Thoroughfares Map as 'principal arterials'; the South Lawrence Trafficway is classified as a 'freeway' and Michigan Street west of the subject property is classified as a 'minor arterial'.

This area has a mix of high intensity commercial uses, medium density residential uses, and open space and contains a network of higher classification roads.

**Staff Finding** – This is a mixed use neighborhood with the predominate uses being commercial uses to the west along Iowa Street and extending along W 31<sup>st</sup> Street; Multi-dwelling residential uses in the form of apartments on W 31<sup>st</sup> Street and duplexes along 29<sup>th</sup> Terrace; and open space in the form of city park lands and wetlands. Commercial and medium density residential land uses are planned to the north of the subject property, across W 31<sup>st</sup> Street. The neighborhood contains a mix of higher classification roads.

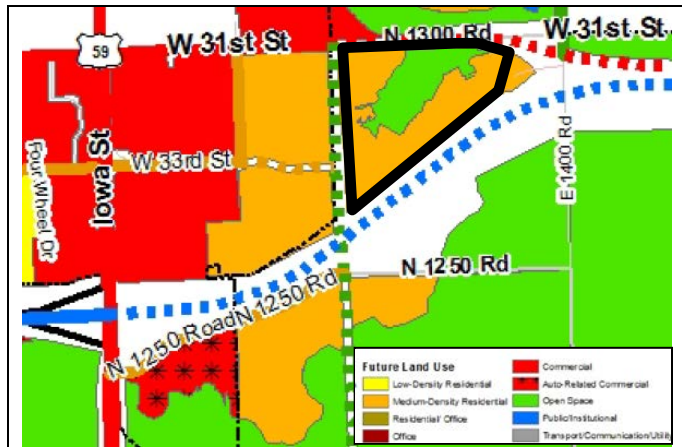


**Figure 4.** Major thoroughfares in the area: blue-freeway; red-principal arterial; green-minor arterial; and gold-minor collector

The proposed use, a medium density multi-dwelling residential development, will be compatible with the character of the neighborhood and with the planned commercial and residential developments in the area.

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

The property is located within the boundaries of the *Revised Southern Development Plan*. The plan recommends 'Medium Density Residential' as the future land use on the subject property. (Figure 5) The plan notes that Medium Density Residential is intended to accommodate 7 to 15 dwelling units per acre. The RM15 District allows a maximum of 15 dwellings per net acre. The plan recommends a variety of zoning districts and primary uses, which includes the RM15 District and multi-dwelling structures. The proposed rezoning and development is compliant with the recommendations in the *Revised Southern Development Plan*.



**Figure 5.** Future land use recommendations, Map 3-1, *Revised Southern Development Plan*.

**Staff Finding –** The proposed rezoning and development comply with the land use recommendations of the *Revised Southern Development Plan*.

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

Applicant's Response:

*"The current Douglas County A zoning restricts the ability of this Property to develop in conformance with the policy goals of Horizon 2020 and the Revised Southern Development Plan. The location of the Property, together with its designation for medium-density development under the Revised Southern Development Plan, makes the Property an ideal site for multi-family. The project will offer competitively priced multi-family units in an area of strategic growth along the new South Lawrence Trafficway."*

The property is well suited to many of the uses permitted within the A District; however, due to its location in Service Area 1, the use of the property is limited to *Agriculture*. Development may occur only after annexation into the City. As development is proposed and annexation has been requested, the A District would no longer be suitable for this property. An urban zoning designation must be assigned following annexation.

The property is well suited for the uses which are permitted in the RM15 District as it will have access on a minor arterial street and is relatively level. Infrastructure is available in the area with a waterline located along W 31<sup>st</sup> Street and a Sanitary Sewer Interceptor crossing the property. The City Utilities Department indicated there may be a capacity issue with this line; this would be determined with a Downstream Sanitary Sewer Analysis at the platting stage. However, the Wakarusa Wastewater Treatment Plant and Pump Station 10 are expected to be completed and in service by January of 2018. These utility improvements will result in additional capacity in the line. Given the various planning processes which are



necessary: platting, site planning, and obtaining building permits, the early part of 2018 is a feasible starting time for this project.

Floodplain present on the property and the surrounding area with an elevation that is 2 ft higher than the Base Flood Elevation will be rezoned to the RM15-FP Overlay District. Development is discouraged in the RM15-FP District and none is proposed at this time. If development is proposed in the future, it would need to comply with the Floodplain Management Regulations.

**Staff Finding** – Due to its location in Service Area 1, the permitted uses available to the property are limited to Agriculture. Any other development would require annexation into the City. As development is proposed and annexation requested, rezoning to the RM15 and RM15-FP Overlay Districts has been requested. The property is well suited to the uses which are permitted in the RM15 District.

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

Applicant's Response:

*"The Property has been vacant at all times."*

**Staff Finding** – There are no records of development on this property. It has been in agricultural use since the adoption of the Zoning Regulations in 1966.

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

Applicants Response:

*"The rezoning has no detrimental effect on nearby and surrounding properties, because the change in use from agricultural to medium-density multi-family residential is consistent with surrounding residential developments and the objectives of the Revised Southern Development Plan. The location of the Property creates a natural buffer with the newly developed South Lawrence Trafficway, and the proposed project is compatible with the adjacent and nearby multi-family residential developments."*

The removal of restrictions that would occur with this rezoning will allow the property to be used for medium density *Multi-Dwelling Structures*. Nearby properties contain the following land uses:

- To the west, across Michigan Street: *Multi-Dwelling Structures*;
- To the north, across W 31<sup>st</sup> Street: undeveloped commercial land and City parkland, with proposed medium density *Detached Dwellings* further to the north.
- To the east, adjacent property: Rural business, a *Amusement Place* (event center); and
- To the south, across K10 Highway/South Lawrence Trafficway: *Agriculture* and open space, Baker Wetlands.

Potential negative impacts that could be associated with multi-dwelling developments include the possible effect of increased traffic on the nearby road network, noise and activity levels impacting adjacent single dwelling residences, and exterior lighting levels.

- 1) Traffic. The proposed development will take access to Michigan Street, which is classified on the Major Thoroughfares Map as a minor arterial. Michigan Street does not connect to the South Lawrence Trafficway to the south, but does provide access to W 31<sup>st</sup> Street, a Principal Arterial, to the north. W 31<sup>st</sup> Street connects to Iowa Street to the west and Haskell Avenue to the east, both Principal Arterials. A traffic impact study will be prepared and submitted with the site plan for the property to evaluate any potential impacts on the nearby road network, including Louisiana Street, and determine if improvements are necessary.

---No negative impacts are anticipated from traffic, given the proximity of the property to arterial streets.

- 2) Activity and Noise. The development would have another apartment development as a neighbor to the west and an event center to the east. Open space and agriculture are located to the south. Commercial land, open space, and W 31<sup>st</sup> Street right-of-way separate the proposed apartment development from the proposed detached dwelling development to the north.

---Given the nature of the nearby uses, and the separation and buffering provided between the proposed apartments and the detached dwellings to the north the noise and activity associated with an apartment should have no negative impact on nearby properties.

- 3) Exterior Lighting Levels. A photometric plan is required with the site plan submittal. Lighting levels will be evaluated to insure the lighting levels at the property line are compliant with City standards; thereby minimizing off-site glare and light trespass.

---No negative impacts from exterior lighting are expected based on the Code requirements for lighting that will be implemented during the site planning process.

**Staff Finding** – The removal of the restrictions will allow the property to be developed with *Multi Dwelling Structures* such as apartments. Few negative impacts to nearby properties are expected with this development due to the property's access to the major transportation network, the nature of the adjacent uses, and the Code standards regarding exterior lighting, as well as other Code standards which will be applied during the site planning process.

#### **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**

Applicants Response:

*"The objectives of Horizon 2020 and the Revised Southern Development Plan encourage development of the Property, given its location within Service Area 1 of the Lawrence Urban Growth Area, its access to the South Lawrence Trafficway, and the readily available access to City infrastructure. The Applicant's consent to annexation and the rezoning the Property from Douglas County A to RM15 would also support the city of Lawrence's Annexation policy by encouraging annexation of properties that are located generally in the projected growth areas of Lawrence. See Policy AP-74. The Property, being located within the Revised Southern Development Plan, already has access to water lines and sanitary sewer lines provided by the city. If approved, the project will increase the tax base, as well as help increase the City's and County's budget without need for an election under recently amended K.S.A. 2015 Supp. 79-5a27. Denial of the application may prejudice the Owner's ability to*

*make productive use of this property (other than agricultural land) and would directly contradict established policies and plans.”*

When determining the benefit to the health, safety, and welfare of the public by the denial of a rezoning request the negative impacts that would be avoided are evaluated. As discussed in Section 7 of this report, few negative impacts are expected with this development. If the application were denied, the property would remain in agricultural use rather than being developed with medium density multi-dwelling residences, as recommended in the approved long range plan. Given that this denial would not prevent any negative impacts, the denial of the rezoning request would provide no benefit to the public health, safety, and welfare.

City policies prevent the development of the subject property with any other use than agriculture without annexation and rezoning. It is not possible to develop properties within Service Area 1 with other uses that are allowed in the County zoning district, such as residences, schools, churches etc. Denial of the rezoning request would create a hardship on the applicant by precluding development and limiting the use of the property to *Agriculture*; even though the infrastructure is in place for urban development.

**Staff Finding** – Denial of the rezoning request would have no public benefit as few negative impacts to the public health, safety, and welfare are expected from the RM15 or RM15-FP zoning or the multi-dwelling development. Denial of the rezoning request would create a hardship for the applicant as the use of the property would continue to be limited to agriculture when city services are available to serve the site.

#### **PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, adopted plans for the area, the Golden Factors, and compatibility with surrounding development.

Staff recommends approval of the rezoning request for approximately 30 acres from County A (Agricultural) District to RM15 (Multi-Dwelling Residential) District and recommends approval of the associated rezoning of approximately 25.13 acres to the RM15-FP (Multi-Dwelling Residential and Floodplain Management Regulations Overlay) District for the floodplain and adjacent land that is within 2 ft of the Base Flood Elevation of the 100 year flood and forwarding both rezoning requests to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.