

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
7/22/13

ITEM NO. 5A: OS-FP TO RM12-FP; .06 ACRE; 3309 W 31ST ST (MKM)

Z-13-00199: Consider a request to rezone approximately .06 acre from OS-FP (Open Space with Floodplain Management Regulations Overlay) District to RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District, located at 3309 W 31st St. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately .06 acres OS-FP District to RM12-FP 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 subject to the following condition:

Maximum density is restricted to no more than 9 dwelling units per acre.

APPLICANT'S REASON FOR REQUEST

"This request is to rezone a small portion of OS zoning on this property to RM12 based on the proposed development now planned on this site. We are also requesting that the density restriction of 6 units per acre be increased to 9 units per acre. The density restriction increase request is related to the net area we are proposing to develop on the property. If the church tract (Lot 1, block 2), the open space 'OS' zoning, and the right-of-way areas are excluded from the density calculations, we are proposing 126 units on 14.791 acres which is a density of 8.52 units per acre. If the entire area of the development, less right-of-way, are included, the area would increase to 28.339 acres and the proposed density would be 4.45 units per acre – well below the current restriction and in compliance with the adopted "Southern Development Plan"."

KEY POINTS

- The current RM12-FP Zoning District is conditioned to limit the maximum density to 6 dwelling units per acre. The rezoning request for the RM12-FP District is for a permitted maximum density of 9 dwelling units per acre.
- The Open Space District currently contains approximately 4.36 acres. With the rezoning this would be reduced to approximately 4.30 acres. (Figure 1)
- The property is encumbered with floodplain. The FP Overlay District is required for newly annexed properties and includes additional area that is not included in the floodplain shown on FEMA's Flood Insurance Rate Maps. (Figure 2) This is meant to be added protection due to increase in floodplain as a result of additional watershed development.

ATTACHMENTS

A: Concept plan

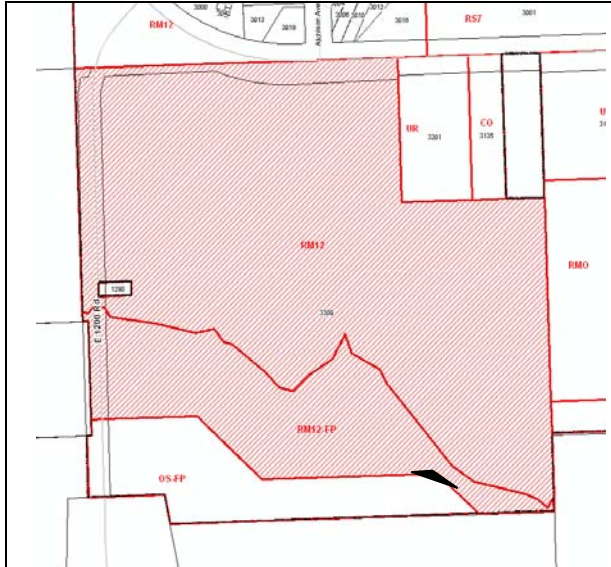


Figure 1. Area included in rezoning request (approximate) shown in black.



Figure 2. Regulatory floodway and floodway fringe, shown in dark and light green, and the FP Overlay District north boundary in red.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

The subject property is on the urban/rural interface on the southwest side of Lawrence. The subject of the rezoning request is within the city limits but is adjacent to property in the unincorporated portion of the County on the south and west sides. The area is heavily encumbered by floodplain and floodway; agriculture and residential uses are the principal land uses. (Figure 3).

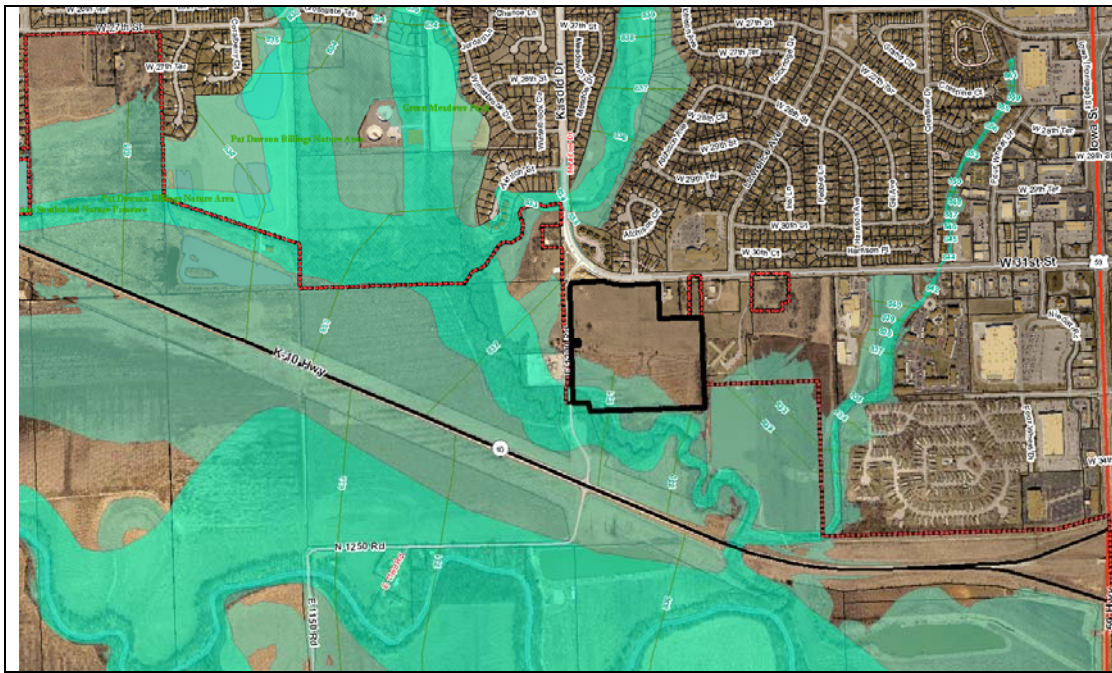


Figure 3. City limits shown in red dashed line. Subject property outlined. Floodplain in area shown in bright green (Floodway) and lighter green (Floodway Fringe).

CONFORMANCE WITH *HORIZON 2020*

- The proposed request is consistent with land use recommendations found in *Horizon 2020* and the *Revised Southern Development Plan*.

ASSOCIATED CASES/OTHER ACTION REQUIRED

Associated Cases:

- PP-13-00195: Yankee Tank Estates Preliminary Plat; a 56-lot subdivision of approximately 36 acres. This plat is also on the Planning Commission's July agenda for consideration.
- Z-13-00249: Rezoning request from RM12 to RM12 to revise the condition restricting maximum density from 6 du per acre to 9.
- Z-13-00250: Rezoning request from RM12-FP to RM12-FP to revise the condition restricting maximum density from 6 du per acre to 9.

Other Action Required:

- City Commission approval of rezoning request and adoption/publication of ordinances.
- Planning Commission approval of preliminary plat.
- Submittal of a final plat for administrative review and placement on the City Commission agenda for acceptance of dedications.
- Recording of final plat.
- Administrative approval of site plan for church and multi-dwelling development other than duplexes on one lot.
- Application and release of building permit prior to development.
- Floodplain Development Permit required prior to any development activity on property which contains floodplain.

PUBLIC COMMENT

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

Project Summary

The subject property was annexed in 2009 in preparation for the relocation of the Wesleyan Church from its current location at 3705 Clinton Parkway. This request proposes to rezone approximately .06 acres from the OS-FP (Open Space with Floodplain Management Regulations Overlay) District to the RM12-FP (Multi-Dwelling Residential Development with Floodplain Management Regulations Overlay) District.

The development is proposed to occur in two phases, with one phase being a church in the northwest corner of the property and the other being duplex residential development. 55 lots are planned for duplex development and 1 lot will contain a group of duplexes as a unit.

The subject property was rezoned to the OS District in compliance with the recommendations in the *Revised Southern Development Plan* when the property was annexed in 2009. The .06 acre, approximately 2500 sq ft, included in this rezoning request will provide the required lot area for 2 lots in the preliminary plat.

Rezoning requests (Z-13-00249 and Z-13-00250) have been submitted to revise the condition limiting density to permit development at a maximum density of 9 dwelling units

per acre throughout the site. This rezoning application also requests a maximum density of 9 dwelling units per acre.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The request for increasing the density restriction from 6 units per acre to 9 units per acre is not in compliance with the Southern Development Plan if the church lot and open space are removed from the density calculations."

The *Revised Southern Development Plan*, incorporated into the Comprehensive Plan by reference in Chapter 14, recommends open space land uses in the areas encumbered with floodplain in this area. The intent is to protect the FEMA designated floodplain by allowing very minimal development for the public use. While floodplain was included within the OS-FP District a portion of the floodplain was also included in the RM12-FP District. The area being removed from the OS district is approximately 2500 sq ft. The change to the OS District is slight therefore it remains compliant with the intent of the *Revised Southern Development Plan* to protect the FEMA designated floodplain.

The *Revised Southern Development Plan*, (incorporated into Chapter 14) provides the following recommendations for this area:

- Low-Density Residential, density of 6 or fewer dwelling units per acre.
- Applicable zoning districts: RS7, RS5, RM12, RM12D and PD Overlay.
- Primary uses: single-family dwellings, duplex, attached dwellings, group home, public and civic uses. (Page 18)

'Low Density' is defined in the Residential Chapter of the Comprehensive Plan, Chapter 5, as reflecting a density of six or fewer dwelling units per acre. This section also states, "In general new development should be of a scale and character, including building type, the same as and compatible with existing or planned homes in the immediate area." (Page 5-4, *Horizon 2020*)

There are very few residences near the property south of W 31st Street. There is a church, an extended care facility, and 2 rural residences south of W 31st Street. North of 31st Street is predominately developed with duplex and townhouses. The proposed duplexes are compatible with existing homes in the immediate area.

The proposed density is greater than 8 du/acre; however, when the open space area that is designated for the residential use is taken into account, the density is reduced to slightly over 6 dwelling units per acre. The OS-FP zoned area is being set aside as Tract A with the preliminary plat and will be made available to the residents in the development; therefore, this area could be interpreted as contributing to the density. Density is calculated as the number of dwelling units divided by the net developable area: du/acre.

Calculating only the net developable residential area, the total density is:

- **126 units / 14.791 acres = 8.52 dwelling units per acre.**

When the open space in Tract A is included in the density calculation, the total density is:

- **126 units / 19.551 acres = 6.44 dwelling units.**

While the actual density remains at 8.52 du/acre, the practical density (residential uses plus dedicated open space) is 6.44 du/acre. This density would qualify as low density. The density requested with the revised condition is compliant with the recommendations in the *Revised Southern Development Plan* when the dedicated associated open space is considered.

Staff Finding – The proposed rezoning request conforms with *Horizon 2020* policies related to Residential Land Uses and to the future land use recommendations in the *Revised Southern Development Plan*.

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

Current Zoning and Land Use: OS-FP (Open Space with Floodplain Management Regulations Overlay) District; undeveloped.

Surrounding Zoning and Land Use: To the east:
RMO (Multi-Dwelling Residential-Office) District with a portion located within the Floodplain Overlay District; extended care facility-general.

UR (Urban Reserve) District; church and a single-dwelling residence.

CO (Commercial Office); single-dwelling residence.

RS10 (Single-Dwelling Residential) District with a portion located within the Floodplain Overlay District; undeveloped.

A (County-Agricultural) District with portions of the property encumbered with floodplain; agricultural uses.

To the north: RM12 and RM12FP Zoning, also a part of the Yankee Tank Estates Preliminary Plat. Beyond that: RM12 (Multi-Dwelling Residential) District; duplex and townhome development.

To the west:
A (County-Agricultural), and V-C (County-Valley Channel), Districts with portions of the property encumbered with floodplain; electrical sub-station, a minor utility, and agricultural uses

To the south:
A (County-Agricultural) District and V-C (County-Valley Channel) District; property is encumbered with floodplain; woodland, agricultural uses and a multi-use path.

(Figure 4)

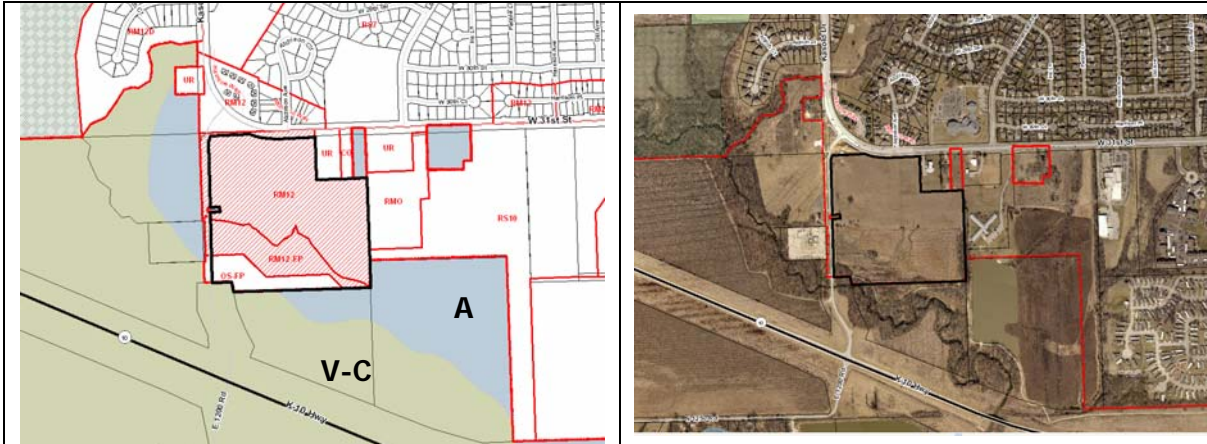


Figure 4a. Zoning of area. Subject parcels outlined. County Zoning Districts labeled and colored. City Zoning Districts outlined in red and labeled. (City limits in red.) Floodplain in area is shown in Figure 3.

Figure 4b. Land use in the area. Subject parcels outlined. (City limits in red.)

Staff Finding – The majority of the nearby properties are zoned for agricultural uses with the A and the V-C Districts and for residential uses with the RM12 zoning. Agriculture and residential uses (townhomes, duplexes) are the principal uses in the nearby area with a religious institution and an extended care facility also present

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"The property is bounded on the west and south by County Zoning "A" with floodplain and Highway K-10. The area north of the proposed development is zoned RM-12 with a mix of apartments and duplexes."

The area is on the edge of the city limits and therefore contains a mix of urban and rural land uses. Agriculture and residential land uses are the principal land uses, with much of the area south of W 31st Street remaining undeveloped. An extended care facility, 2 detached dwellings, and a church are located south of W 31st in this area.

The area has good access to the transportation network. K-10 Highway passes east/west through the area south of the subject property. W 31st Street, a principal arterial, crosses east and west through the area north of the subject property then ends at Kasold/E 1200 Road. The road is named Kasold within the city limits and is named E 1200 Road in the unincorporated portion of the county. Kasold and E 1200 Road are both classified as minor arterials and provide connectivity to the transportation network to the north and south. E 1200 Road connects with K-10 Highway approximately 800 ft south of the subject property.

The Wakarusa River and the Wakarusa Floodplain are defining natural features of this area. A shared use path which circles the south side of the city passes through the area and is located on a portion of the Wesleyan Church property.

Staff Finding – The area has limited development due partly to the presence of regulatory floodway and floodway fringe. Property to the north of W 31st Street has been developed with residential uses; while development to the south of W 31st Street has been more limited.

The area has good access to the transportation network with E 1200 Road providing a link between K-10 and W 31st Street.

4. 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 located within the planning area in the *Revised Southern Development Plan*. The land use recommendations in this plan identify this area for open space uses. The area was rezoned to OS-FP in compliance with the plan but a small portion is being requested to be rezoned to the RM12-FP District to accommodate the proposed development. The plan also recommends low-density residential development in this area. As mentioned earlier in the report, taking the OS (Open Space) zoned area into account with the residential density calculations the density achieved is slightly over 6 dwelling units per acre. Given the small area to be rezoned, and the fact that the density achieved will be slightly over 6 dwelling units per acre, the rezoning is generally compliant with the recommendations in the *Revised Southern Development Plan*.

Staff Finding: The rezoning request to the RM12-FP District with maximum density limited to 9 dwelling units an acre is compliant with the recommendations in the adopted area plan.

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

Applicant's Response:

"The existing zoning is suitable for the uses proposed, save for the restriction on density and how it is interpreted by City staff during plan review."

The property is currently zoned OS (Open Space). This district permits a very limited range of uses including passive recreation, cemeteries, and utilities. The district is intended to preserve and enhance major open space areas by protecting the natural amenities they possess, which in this case is floodplain.

As the property is encumbered with floodplain, it is suitable for the uses to which it is restricted. The subject property, being in close proximity to proposed residential development would also be suitable to residential development as the floodplain management regulations would be administered through a Floodplain Development Permit. A Floodplain Development Permit is required for any development activity within the regulatory floodplain.

Staff Finding – The property is suitable for the uses to which it is restricted with the current OS-FP zoning. The property is also well suited to the uses to which it will be restricted with the RM12-FP Zoning.

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

Applicant's response:

"The property has been vacant since its rezoning in 2009"

Staff Finding – The property was rezoned to OS in 2009 and has not been developed.

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

Applicant's response:

"This request will have no detrimental effect on adjacent properties as the zoning is not changing – but is simply being adjusted to allow the proposed development."

There are 2 base zoning districts on the subject property, RM12 and OS. The rezoning will remove .06 acres from the OS District and place it within the RM12. The FP (Floodplain Management Regulations Overlay) District will still be in place due to the regulatory floodplain on the site. The proposed change is not anticipated to have any effect on nearby properties as it is of such a small scale and is on the interior of the site.

Staff Finding –

The rezoning of the base district from OS to RM12 should have no detrimental effect on nearby properties.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicant's Response:

"If the rezoning is denied, the residential development may not occur, which will hinder the ability of the Church to be able to afford to plan and construct its new facility."

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.

Denial of this application would require the .06 acres to remain zoned OS. There would be no benefit to the public health, safety, and welfare due to this denial. Keeping the OS zoning would require the applicant to seek a variance from the Planning Commission with the Yankee Tank Estates Preliminary Plat to allow the creation of 2 lots with less than the required lot area. Denial of the request would result in a development which may have a few sub-standard sized lots, if a variance is granted; or may require the developer to reduce the number of lots within the development.

Staff Finding – There would be no measurable gain to the public in the denial of this application. Denial of the rezoning would require the property to be used for open space uses and would require the applicant to either seek a variance for smaller lot area or to reduce the density of the development. The applicant has represented that the costs of improving the property requires the density proposed in order to be a viable project.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed rezoning for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning request is compliant with recommendations in *Horizon 2020* and the *Revised Southern Development Plan*. Staff recommends approval of the rezoning request for approximately .06 acres from OS-FP (Open Space with Floodplain Management Regulations Overlay) District to RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District with a condition limiting the maximum density to 9 dwelling units per acre 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.