

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report (Corrected 7/23/13; corrections underlined)
7/22/13

ITEM NO. 5B: RM12 TO RM12; 13.06 ACRES; 3309 W 31ST STREET (MKM)

Z-13-00249: Consider a request to rezone approximately 13.06 acres located at 3309 W 31st St from RM12 (Multi-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District to revise the condition which limits maximum density to 6 dwelling units per acre to 9 dwelling units per acre. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

ITEM NO. 5C: RM12-FP TO RM12-FP; 6.39 ACRES; 3309 W 31ST ST (MKM)

Z-13-00250: Consider a request to rezone approximately 6.39 acres located at 3309 W 31st St from RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District to RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District to revise the condition which limits maximum density to 6 dwelling units per acre to 9 dwelling units per acre. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

STAFF RECOMMENDATION:

Item 5B, Z-13-00249: Staff recommends approval of the rezoning request for approximately 13.06 acres from the RM12 District to the RM12 District with revised condition 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 revised condition:

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

Item 5C, Z-13-00250: Staff recommends the approval of the rezoning request for approximately 6.39 acres from the RM12-FP District to the RM12-FP District with revised condition 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 revised condition:

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

APPLICANT'S REASON FOR REQUEST

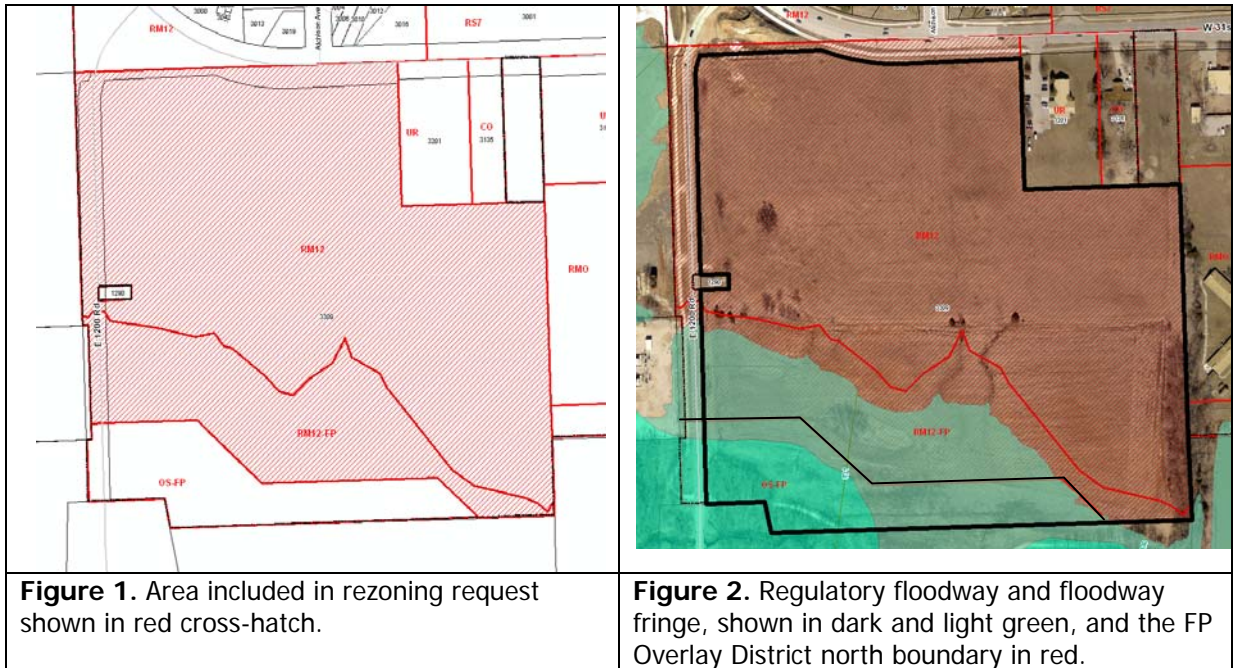
"We are requesting that the density restriction of 6 units per acre be increased to 9 units per acre. The density restriction increase request is related to the net area we are proposing to develop on the property. If the church tract (Lot 1, block 2), the open space 'OS' zoning, and the right-of-way 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 RM and RM12-FP Zoning Districts are conditioned to limit the maximum density to 6 dwelling units per acre. The rezoning request is to maintain the zoning districts but revise the condition to permit a maximum density of 9 dwelling units per acre. As the districts occur on the same property and the only change proposed is a revision to a condition common to both districts, both rezoning requests will be discussed in this report.
- The property is encumbered with floodplain. Rezoning to the FP Overlay District is required for newly annexed properties and includes additional area outside the floodplain shown on the FEMA 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.
- Per Section 20-204(a)(2), multi-dwelling districts are differentiated on the basis of maximum allowed net density, which is defined in Section 20-1701 as " *The numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land upon which the dwelling units are proposed to be located, excluding rights-of-way of publicly dedicated streets.* "

ATTACHMENTS

A: Rezoning Exhibit



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 agriculture and residential uses are the principal land uses. (Figure 3).

CONFORMANCE WITH *HORIZON 2020*

The subject property was annexed in 2009 in preparation for the relocation of the Wesleyan Church from its current location at 3705 Clinton Parkway. With annexation, the property was rezoned to the RM12 and RM12-FP Districts with a condition limiting the maximum density to 6 dwelling units an acre (Z-8-14-09, Z-8-15-09 and Z-8-16-09).

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 of approximately 56 lots. The church plans to sell the residential portion of the property to raise funds needed for construction of the church.

The current rezoning requests are part of a set of rezonings intended to accommodate the proposed development. Another rezoning request, Z-13-00199, has been submitted to rezone approximately .06 acres from the OS-FP District to the RM12-FP District. Rezoning of the RM12 and RM12-FP Districts is being requested to increase the maximum density permitted from 6 dwelling units per acre to 9.

These 2 zoning requests are very similar; while they include 2 zoning districts the actual request being made is a revision to the condition limiting density which was applied to both the RM12 and the RM12-FP zonings. Given the similarity of the request both rezoning requests will be discussed in this staff report to avoid duplication.

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 Revised 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, 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 is little development south of W 31st Street in the area. 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 with detached dwellings further to the north. The proposed duplexes are compatible with existing homes in the immediate area.

The proposed density is greater than 8 du/acre when density is calculated as required by the Development Code; however, when the open space area that is designated for the residential use is taken into account, the density is slightly over 6 dwelling units per acre. As

the open space area is being set aside as Tract A with the preliminary plat and a note on the plat designates the open space for the use of the residents in the duplex development the open space could be interpreted as contributing to the density.

Calculating density using 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.**

If the open space area had been rezoned RM12-FP rather than OS-FP it would be included in the density calculations. As the OS-FP zoned property is to be made available for use of the residents in the RM12 and RM12-FP Districts, it is appropriate to include it within the density requirements when determining compliance with the Comprehensive Plan.

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 proposed density associated with the revised condition with the dedicated associated open space is compliant with the recommendations in the *Revised Southern Development Plan*. The applicant suggested that the church property could also be included in the density calculations; however, this would not be acceptable as the church use is a separate use and is not directly tied or linked to the residences being developed on the property.

Staff Finding – The proposed density associated with the revised condition with the dedicated associated open space 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: RM12 (Multi-Dwelling Residential) District and RM12-FP (Multi-Dwelling Residential 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 single-dwelling residence.

CO (Commercial Office); single-dwelling residence.

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

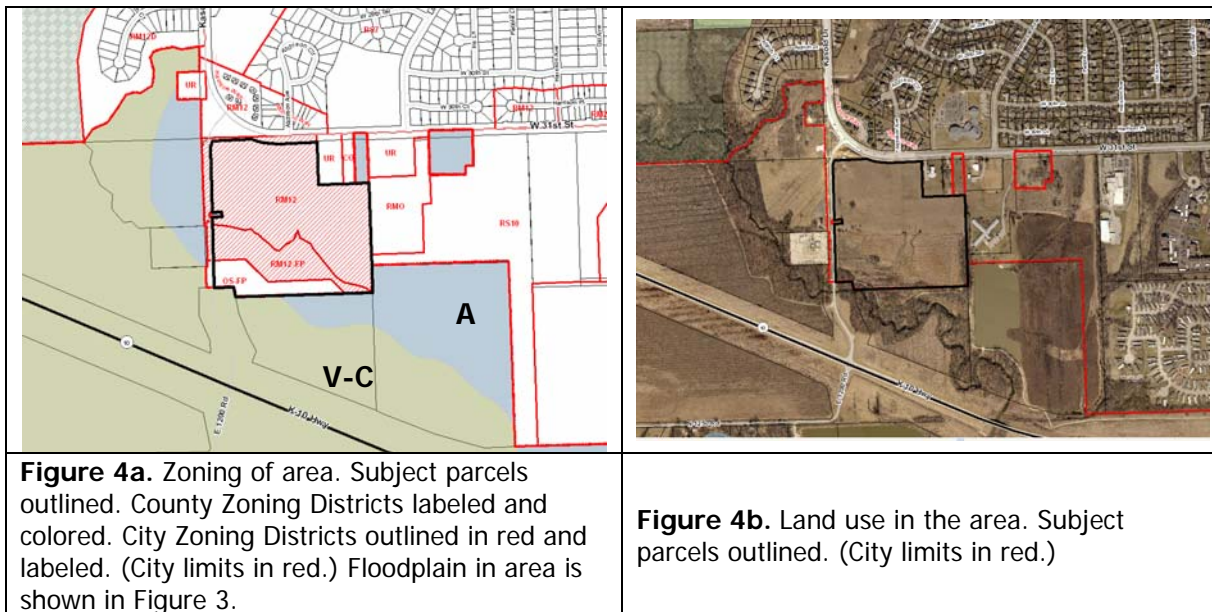
A (County-Agricultural) District with portions of the property encumbered with floodplain; agricultural uses.

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)



Staff Finding – The majority of nearby property is 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 RM12 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 low density residential uses. The area was rezoned to RM12 and RM12-FP to accommodate duplex development; however, a condition was placed on the zoning limiting the maximum density to no more than 6 dwelling units per acre to insure compliance with the plan. The preliminary plat notes that the area zoned for Open Space is for the use of the residential portion of the development and that a Homeowner's Association will be formed for the maintenance of the open space tract. The open space area has been placed in a tract on the preliminary plat. This is a required by Section 20-1101(d) of the Development Code for the protection of environmentally sensitive lands in a residential zoning district. While the OS District is not a residential district, the land will be utilized by a residential district. The protection measures established exceed Code requirements.

Staff Finding: The rezoning request to the RM12 and RM12-FP District with a revised condition limiting maximum density 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."

Staff Finding – No change in use is being proposed. The rezoning request is seeking only to revise the condition related to density. The property remains suitable for the uses to which it is restricted.

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 RM and RM-FP 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."

The subject property is bounded by agricultural land and a utility substation on the west and south, by residential uses to the north-across the W 31st Street right-of-way, and by an extended care facility to the east. There is a church and a detached dwelling adjacent to W 31st Street. The detached dwelling is located within a CO (Commercial Office) District so it is likely that it will develop with office uses. The nearby properties take direct access to W 31st Street so the increase on density should have no impact on them.

Staff Finding –

The rezoning to revise the condition limiting density from a maximum of 6 to 9 dwelling units per acre 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 request would allow the development of 88 dwelling units at a maximum density of 6 dwelling units per acre (6 du/acre X 14.79 acres). The proposal is to develop 126 dwelling units on this property which would be a density of 8.5 dwelling units per acre. (126 dwelling units /14.79 acres). This density is less than the 12 dwelling units per acre which is permitted by the RM12 Zoning, but exceeds the maximum density which is permitted with this RM12 Zoning as conditioned. Per Code, density is calculated using only the land that is provided for the residential development. In this case, the area that had been rezoned to OS upon annexation is designated for use by the residential portion of the development. Rather than each duplex having a slightly larger lot, a large area of common open space is being provided for the use of all the residents in the area. The use of the common open space is designated by a note on the plat. The open space area is being

platted as a tract with the Yankee Tank Estates Preliminary Plat. The Subdivision Regulations define a tract as a parcel reserved for open space, storm drainage, easement purposes, or an otherwise specific and restricted use. The placement of the Open Space zoned area within the tract places further restrictions upon the uses permitted within this district.

The City Utility Engineer indicated that sanitary sewer capacity is available for the increased density. The development will use an internal street network to access the arterial street network, so the traffic resulting from the increased density would not impact neighboring properties. The Traffic Impact Study determined that the developed would have nominal impact on the capacity of the roadway network, and recommended a westbound left-turn lane on W 31st Street at the Atchison Way intersection to accommodate the increased traffic. The City Engineer indicated that adequate right-of-way is available for this improvement.

The applicant indicated that the increased density is necessary to make this a viable project and that the project may not occur without the increased density

Staff Finding –The increased density would be compatible with surrounding land uses. The existing infrastructure is adequate for the proposed development, with the improvement recommended to W 31st Street and the traffic from the development would utilize internal streets to access the arterial street network. There would be no measurable gain to the public in the denial of this application.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed rezoning requests for compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning requests are compliant with recommendations in *Horizon 2020* and the *Revised Southern Development Plan*.

- **Z-13-00249:** Staff recommends approval of the rezoning request for approximately 6.39 acres from RM12-FP to RM12-FP District with revised condition increasing maximum permitted 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.
- **Z-13-00250:** Staff recommends approval of the rezoning request for approximately 13.06 acres from RM12 to RM12 District with revised condition increasing maximum permitted 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.