

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

PC Staff Report
1/27/14

ITEM NO. 1: RS7 & IG TO OS; .6 ACRE; 547 MAPLE ST & 500 PERRY (MKM)

Z-13-00479: Consider a request to rezone approximately .6 acre from RS7 (Single-Dwelling Residential) District & IG (General Industrial) District to OS (Open Space) District. Property contains four lots located at 547 Maple St. and 500 Perry St. and adjacent alley right-of-way. Submitted by Bartlett & West, for the City of Lawrence, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately .6 acres from RS7 (Single-Dwelling Residential) and IG (General Industrial) Districts to OS (Open Space) 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:

"To conform to the land use for the proposed stormwater pump station facility."

KEY POINTS

- The subject property contains 2 platted lots south of the alley right-of-way and 2 platted lots north of the alley right-of-way. These are being replatted through the Minor Subdivision process in conjunction with this rezoning so there is 1 platted lot to the north and 1 platted lot to the south of the alley right-of-way.
- The property is completely encumbered with the Regulatory Floodway Fringe.

ASSOCIATED CASES

- MS-13-00507: Minor Subdivision for 6th & Maple Addition. Under administrative review.
- SUP-14-00007 Special Use Permit for stormwater pump station, a *Minor Utility* which will serve more than one subdivision. This application will be before the Planning Commission at their February meeting.

OTHER ACTION REQUIRED

- City Commission approval of rezoning request and adoption/publication of ordinance.
- Administrative approval of the Minor Subdivision/Replat.
- Recording of the Minor Subdivision/Replat with the Douglas County Register of Deeds.
- Planning Commission consideration and recommendation of Special Use Permit application.
- City Commission approval of Special Use Permit application, SUP-14-00007, and adoption/publication of ordinance.
- Submittal and administrative approval of Floodplain Development Permit prior to release of Building Permits.
- Application and release of Building Permits prior to development.

PUBLIC COMMENT

A neighbor to the east contacted the Planning Office to discuss the proposed rezoning to determine if the rezoning would have any impact on the use of their property. The rezoning will not impact the use of other properties in the area.

Project Summary

This project includes the rezoning of approximately .6 acres located on the west side of N. 6th Street between Maple Street and Perry Street. The property is being rezoned and replatted to accommodate the development of a City Stormwater Pump Station, which is a *Minor Utility*. As the minor utility will serve more than one subdivision approval of a Special Use Permit is required.



Figure 1. Zoning Exhibit. Subject property outlined.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The south lot fits with what is laid out in the Horizon 2020 document. The north lot calls for Low Density Residential and we are rezoning it to the Open Space-Flood Plain."

A review of the Comprehensive Plan recommendations follows with staff's comments in red.

- **The Lawrence Future Land Use Map (Map 3-2, page 3-4)**, shows this area as Office, Research, Industrial/Warehouse Distribution and Low Density Residential. The property is currently zoned in compliance with these recommendations with the north lot being zoned for low density residential uses (RS7) and the south lot being zoned for general industrial uses (IG). The proposed use, a minor utility, is a 'Community Facility' type use which is permitted in these zoning districts. The OS District does not permit the uses which are shown on the land use map; however, the discussion below reviews other recommendations in *Horizon 2020* related to the zoning and use of this property.
- **Chapter 10-Community Facilities City of Lawrence Stormwater Management (page 10-11)** *Horizon 2020* recommended that a community-wide stormwater management study should be conducted to provide the city with the following:
 - *"Any remedial actions and improvements to correct existing conditions should be identified. This should include a re-evaluation of conditions in North Lawrence.*
 - *Recommended stormwater improvements throughout the planning area should be incorporated into the development review process."*A drainage study of North Lawrence, *The North Lawrence Drainage Study*, was prepared in 2005 by HNTB. One of the recommendations in this study was the replacement of the existing pump station near this location in order to increase the capacity. This project is the implementation of that recommendation.
- **Chapter 9-Parks, Recreation, Open Space:** *Horizon 2020* defines the purpose of the open space areas as: *"..... open space areas; areas can be used by the public, but the*

purpose is to preserve unique areas such as floodplains, wetlands, wildlife habitat, steep slopes & rock outcroppings, native prairie remnants, historic sites, agricultural lands, & other environmentally sensitive areas.” (Page 9-5

Policy 3.1 Identify Future Parklands and Open Space Areas (page 9-16):

(e) *“Encourage open space uses in the community’s privately or publicly owned floodplains and drainageways.”*

The property is completely encumbered with regulatory floodplain; therefore, the rezoning to OS would be in conformance with the open space recommendation in *Horizon 2020*. The southern portion of the property will be developed with a stormwater pump station; however, no development is being proposed for the lot to the north of the alley. (Figure 2)

Community Facilities:

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

The pump station will be located on a lot that is adjacent to industrial zoning. The pump station will be adjacent to a tow company on the west and is separated from the residence to the east by Maple Street. The pump station will be an unmanned, low intensity use and will be designed to be compatible with nearby development. The location and design of the site will minimize the impact on adjacent properties.

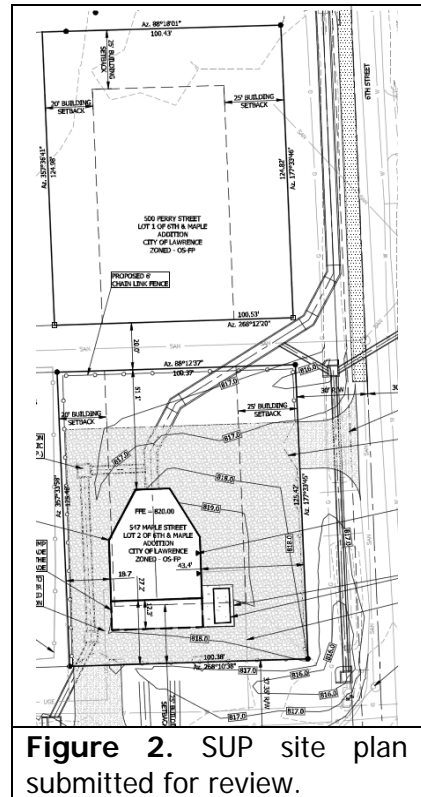


Figure 2. SUP site plan submitted for review.

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 ANY OVERLAY ZONING

Current Zoning and Land Use: RS7 (Single-Dwelling Residential) and IG (General Industrial) Districts with FP (Floodplain Management Regulations) Overlay District; undeveloped lots with unimproved alley right-of-way.

Surrounding Zoning and Land Use: To the west: RS7 (Single-Dwelling Residential) District with FP (Floodplain Management Regulations Overlay) District; *Detached Dwellings*
IG (General Industrial) District with FP (Floodplain Management Regulations) Overlay District, *Inoperable Vehicles Storage* and a *Detached Dwelling*.

To the north: RS7 (Single-Dwelling Residential) District with FP (Floodplain Management Regulations) Overlay District; *Detached Dwellings*.

To the east:

IG (General Industrial) District with FP (Floodplain Management Regulations) Overlay District; *Construction Sales and Services* to the east of the northern lot, *Detached Dwelling*, to the east of the southern lot.

To the south:

IG (General Industrial) District with FP (Floodplain Management Regulations) Overlay District; Undeveloped land and Railroad right-of-way.

(Figure 3.)

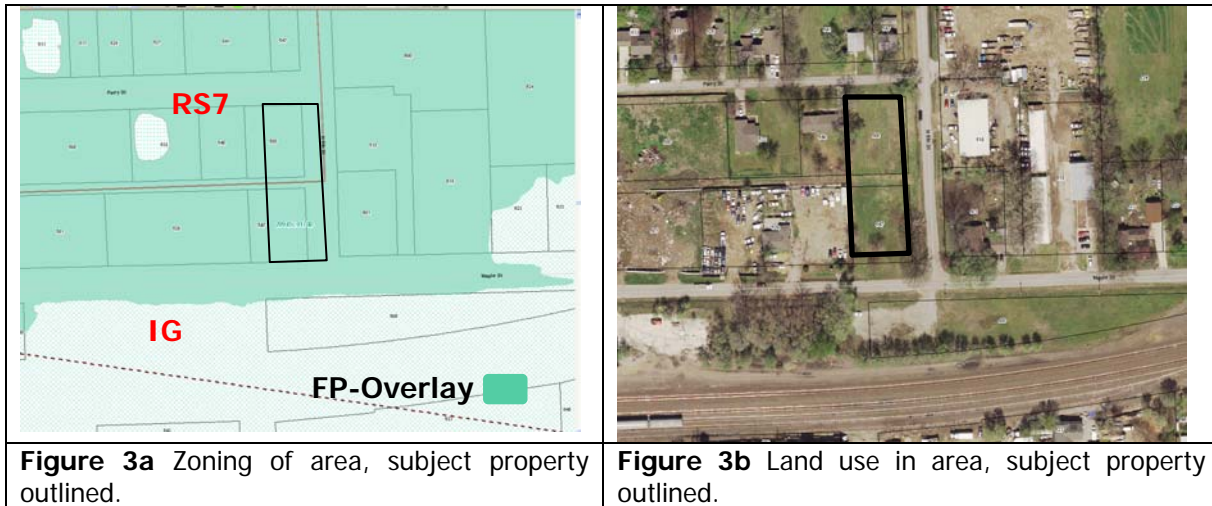


Figure 3a Zoning of area, subject property outlined.

Figure 3b Land use in area, subject property outlined.

Staff Finding – The subject property is located near properties that are zoned for single-dwelling residential and industrial uses. Residential and industrial land uses are located in close proximity to the subject property. The proposed land use, *Minor Utility*, will be adjacent to industrial zoning to the east and west and will be adjacent to a *Inoperable Vehicles Storage* use on the west and across the street from a *Detached Dwelling* to the east. The pump station will be low impact and the site design will be compatible with the character of the area. The north lot will remain undeveloped at this time.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"The existing neighbors surrounding this property are residential, industrial, and commercial. There is a railroad to the south, a tow service and single family home to the west, a single family home to the north, and a business and single family home to the east."

The Union Pacific Railroad passes east/west through this area south of the subject property. Uses near the railroad corridor include a landscape company (*Contractor Sales and Services*), a tow lot (*Inoperable Vehicles Storage*), a recycling facility (*Processing Center*) and other light industrial uses as well as some single-dwelling residences. The majority of the residential uses are located further to the north. Most of the area is located within the floodplain and the streets have been constructed with ditches rather than curb and gutter. The area surrounding the subject property is served with local streets with the nearest Collector Streets being Lyons to the north, N 7th to the east, and Locust to the south.

Staff Finding – The neighborhood contains a mix of land uses (single-dwelling residential, vehicle storage, recycling, landscape company, and light industrial uses) with the non-residential uses located closer to the railroad corridor which passes east/west south of the subject property. The area is heavily encumbered with floodplain and has a rural/small town character as the streets have been constructed with ditches rather than curb and gutter.

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

Staff Finding – The property is located within the North Lawrence Improvement Association area. No area or neighborhood plans have been adopted for this area. The Comprehensive Plan is the guiding plan for this area.

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

Applicant’s Response:

“The proposed rezoning is in clear compliance with any land use restrictions or guidelines that could happen inside the zoning district. The granting of this rezoning application in no way opposes the general spirit of the Zoning Ordinance, Subdivision Regulations or City of Lawrence Land Development Code.”

The property is currently zoned RS7 (Single-Dwelling Residential) north of the alley right-of-way, and IG (General Industrial) to the south. Both districts permit the proposed use, a *Minor Utility*. The lots north of the alley meet the dimensional requirements for residential lots; however, the property is completely encumbered with the 100 year floodplain. The suitability of these lots for residential development is limited by the amount of floodplain present on the property. (Figure 3a)

The lots south of the alley, combined, contain approximately 13,000 sq ft which meets the dimensional requirements of the IG District; however, it may not be adequate for some of the more intense industrial uses permitted in the district. These southern lots are also completely encumbered with the 100 year floodplain. The suitability of these lots for industrial development is limited by the amount of floodplain present on the property.

The OS Zoning is being requested to provide the property with a uniform zoning designation and to limit development, thereby protecting the floodplain. Uses permitted in the OS District are fairly limited as shown in the following table:

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

Table 1. Uses permitted in the OS District

Staff Finding – The property is suited for the uses to which it is currently restricted under the existing RS7 and IG Zonings; however the suitability is limited by the fact that the property is completely encumbered by the floodplain. The property is well suited to the uses to which it would be restricted with the OS Zoning.

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

Applicant's Response:

"South lot had a residence as recently as 2009; however, the north portion is assumed to have always been a vacant piece of land and was zoned with original adoption of the zoning ordinance."

The property is currently vacant. The City purchased the property in 2010 and removed a house and accessory structure from the southern lot in March of 2011 in preparation for the pump station improvements. There are no records on file regarding development on the northern lots.

Staff Finding – The property has remained vacant as zoned since 2011. Structures were removed at that time in preparation for the pump station improvements.

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

Applicants Response:

"The proposed use for a storm water pump station conforms appropriately with current and future land use goals laid out by the City of Lawrence. We believe the approval of this rezoning request will in no way detrimentally affect nearby properties or their associated business operations."

Staff Finding – Development on this site will be more limited following the rezoning as rezoning from the RS7 and IG District to the OS District will add use restrictions to the property rather than remove them. The change in zoning will benefit nearby properties by not only limiting development in the floodplain but by accommodating the development of a stormwater pump station to manage stormwater in North Lawrence more effectively.

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 rezoning of this property will help ensure public safety by allowing for a storm water pump station to be constructed to help control flooding in the area."

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.

Staff Finding – The pump station could be developed with the existing zoning but the denial of the rezoning application would leave the area open for development of the uses permitted within the RS7 and IG Districts. Approval of the rezoning would restrict development options for the property to the limited uses permitted within the OS District. This would provide protection for the floodplain.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed location 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 *North Lawrence Drainage Study*. Staff recommends approval of the rezoning request for approximately .6 acres from RS7 (Single-Dwelling Residential) and IG (General Industrial) Districts to the OS (Open Space) 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.