

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
10/21/2013

ITEM NO. 3B: A TO CR- FP; 8.4 ACRES; 1900 W. 31st STREET (SLD)

Z-13-00337: Consider a request to rezone approximately 8.4 acres from County A (Agricultural) District to CR (Regional Commercial) and FP (Flood Plain Overlay) District, located at 1352 N 1300 Rd. Submitted by Menard, Inc. for Bruce Snodgrass, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 8.45 acres from A (Agricultural) District to CR (Regional Commercial) District and FP (Floodplain 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 subject to the following conditions:

1. Applicant shall provide a revised legal description of the property describing that portion of the property within the regulatory floodplain for inclusion in the ordinance for the CR-FP portion of the property and a legal description for the remainder of the property for inclusion of an ordinance for the CR portion of the property.
2. Uses shall be prohibited in this CR (Community Regional) District:
 - a. Animal Services: Livestock Sales
 - b. Eating and Drinking Establishments: Bar or Lounge
 - c. Sexually Oriented Business: Sexually Oriented Theater
 - d. Vehicle Sales and Service: Truck Stop, Heavy Equipment Repair, Inoperable Vehicles Storage; and
 - e. Industrial Facilities: Laundry Service

ATTACHMENTS

- A. Reason for Request
- B. Revised Southern Development Plan Map
- C. Table of Restricted Uses
- D. Floodplain Map
- E. Concept Plan
- F. CR ordinance 8870 including use restrictions for existing CR district.
- G. General Boundary of CR and CR-FP

PROPERTY OWNER'S REASON FOR REQUEST

Development of a Menards store in Lawrence. Refer to attached letter.

KEY POINTS

- This is a request to accommodate a Menards home improvement store, as well as additional commercial retail space, at the northeast corner of W. 31st St. and Ousdahl Rd.
- Proposed request will extend commercial zoning east along W. 31st Street.
- Request is consistent with land use recommendations for this area noted in the *Revised Southern Development Plan*.
- Property is encumbered by AE and AH special flood hazard zones. Therefore, the FP Overlay is required as part of the Zoning action for properties annexed into the City Limits after March 1, 2003.
- The FP is an Overlay District to the proposed base-zoning CR District.

- The report focuses on the CR base-zoning district.
- Existing CR (area to the west of subject property) was approved with use restrictions. A copy of the ordinance is attached for reference.

ASSOCIATED CASES/OTHER ACTION REQUIRED

ASSOCIATED ITEMS BEING CONSIDERED AT THE OCTOBER PLANNING COMMISSION MEETING:

- A-13-00340; annexation of 8.4 acres
- **Z-13-00337; A to CR-FP**
- PP-13-00338; preliminary plat

OTHER ACTION REQUIRED:

- City Commission approval of rezoning and adoption of ordinance.
- Publication of rezoning ordinance.

OTHER ACTIONS REQUIRED PRIOR TO DEVELOPMENT

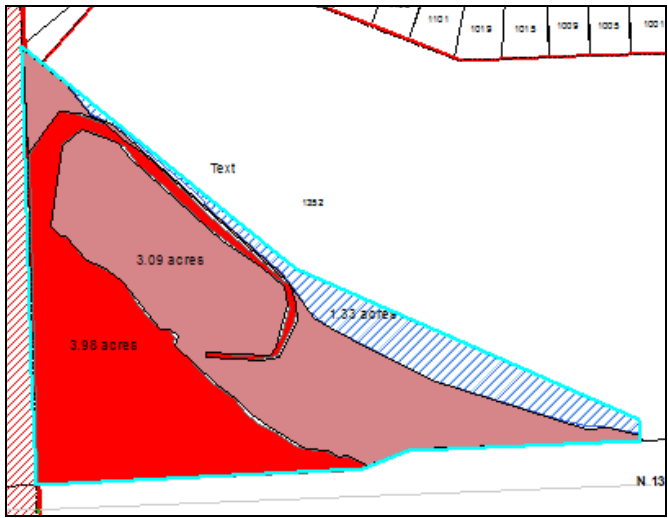



- Platting of the property through the Major Subdivision process.
- Site plan approved prior to release of building permits.
- Local Floodplain Development Permit approved prior to release of the site plan for issuance of a building permit.

PLANS AND STUDIES REQUIRED

See Preliminary Plat Staff Report for comment on related studies.

PUBLIC COMMENT

- Letter from Dan Watkins on behalf of First National Development, Ltd.
- Response letter from Tyler Edwards on behalf of Menards.

GENERAL INFORMATION:	
Request includes 8.4 acres	
<ul style="list-style-type: none">• 1.33 acres is existing floodway 	
<ul style="list-style-type: none">• 3.09 acres is existing floodway fringe [CR-FP] 	
<ul style="list-style-type: none">• 3.98 acres is developable area including 500-year floodplain area. [CR] 	
<i>Note: Staff estimated the acreage of the CR and CR-FP area using GIS. The applicant will be required to provide a more detailed legal description of each area.</i>	

Project Summary

This property is located on the north side of 31st Street. This application is an extension of the recent consideration of the adjacent property to the west Z-13-00071 (Ordinance No. 8870). The application for rezoning includes floodplain and therefore requires the FP overlay designation per section 20-1201 of the Land Development Code. This request extends the commercial development along 31st Street to an eastern boundary terminating at Naismith Creek. This application was submitted concurrently with annexation and preliminary plat applications.

The applicant has submitted a concept plan for the Menards store that identifies several commercial pad sites, including this property as a future commercial pad site. The preliminary plat identifies this property as Lot 2. A copy of the concept plan is attached to this report as a reference. An application for site plan approval for the Menards Lot was received on October 1, 2013 and is being processed. There is no specific site plan application for this property at this time.

This property was discussed in detail with the previous rezoning application [Z-13-00071] as it pertained to the designation of commercial land use within the *Revised Southern Development Plan* and in the Planning Commission minutes from the May 2013 Meeting.

The addition of the Floodplain Overlay District designation (-FP) applies to only that portion that is encumbered by the regulatory floodplain plus the area that includes 2' above the base flood elevation of the site. This property slopes from the northwest to the southeast.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Property Owner's Response:

"The property does conform with H2020 and is currently designated commercial in the comprehensive [plan]. We went through lengthy discussions with staff, elected officials, and appointed officials earlier this year regarding the property. The property also conforms with the Southern Development Plan's future designation of commercial."

The City Commission approved an amendment to *Horizon 2020*, as part of the recent approval for CR zoning to the west, expanding commercial development along W. 31st Street to include this area [CPA-13-00067]. This request is consistent with the previous land use decisions anticipating the incorporation of this property as part of the commercial development at Iowa and 31st Street.

The design standards ensure that a new regional commercial center is capable of development with a critical mass of uses including multiple big box buildings, parking, and other physical development considerations. S. Iowa (23rd Street to K-10) is an existing commercial center. Map 6-1 of *Horizon 2020* shows the existing and future commercial land use locations. *Horizon 2020* notes commercial uses exist both east and west of S. Iowa along W. 31st Street.

Horizon 2020 identifies commercial development goals in Chapter 6. Goals for established commercial areas include the retention, redevelopment and expansion of established commercial areas in the community. (Page 6-24)

Other comprehensive plan goals include appropriate land use transition between commercial and residential neighborhood areas. These goals are applicable to the north and east sides of the proposed request.

Staff Finding – The request for CR zoning in this location is consistent with recently approved changes to *Horizon 2020* goals and policies and specific land use recommendations included in the *Revised Southern Development Plan* per CPA-13-00067.

2. ZONING AND LAND USES OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Current Zoning and Land Use: A (County-Agricultural) and F-F (Floodway Fringe Overlay) Districts; existing residential use and pond.

Surrounding Zoning and Land Use: To the north/northeast:
OS (Open Space) City Zoning District and A (Agricultural) County Zoning District; Existing open space.

To the west:
CR (Regional Commercial) District; Planned Menards store; existing vacant land, former mobile home park.

To the south:
A (County-Agricultural) and F-F (Floodway Fringe Overlay) Districts; agriculture.

Note: See A-13-00340 for additional detail.

The predominate use of nearby property to the north of this property and the recently approved CR District to the west is open space and residential. The property immediately adjacent to the north and east of this property is currently owned by the Snodgrass family and is vacant. The area to the south, along the south side of 31st Street, is existing agricultural land. This property is surrounded by a variety of both urban and rural zoning and land uses. The property to the north and east is included in several development plans including a future utility pump station, extension of the Naismith Park, and future residential development.

The development pattern along the north side of the entire Snodgrass property, including this 8.4 acre parcel, is medium-density residential zoned RM12 (along W. 29th Terrace). The property to the southwest is zoned RM15 and is developed with an apartment complex (The Connection).

This property including the remaining parcels owned by the Snodgrass family represents an interface of urban and rural uses. The regulatory floodplain encumbers a portion of the property along the northeast side. This area is subject to the Floodplain Overlay District standards of the City of Lawrence upon annexation.

Staff Finding – The existing zoning and land use in this immediate area includes both city and county zoning and a significant area both north and south that is vacant or used for agricultural purposes.

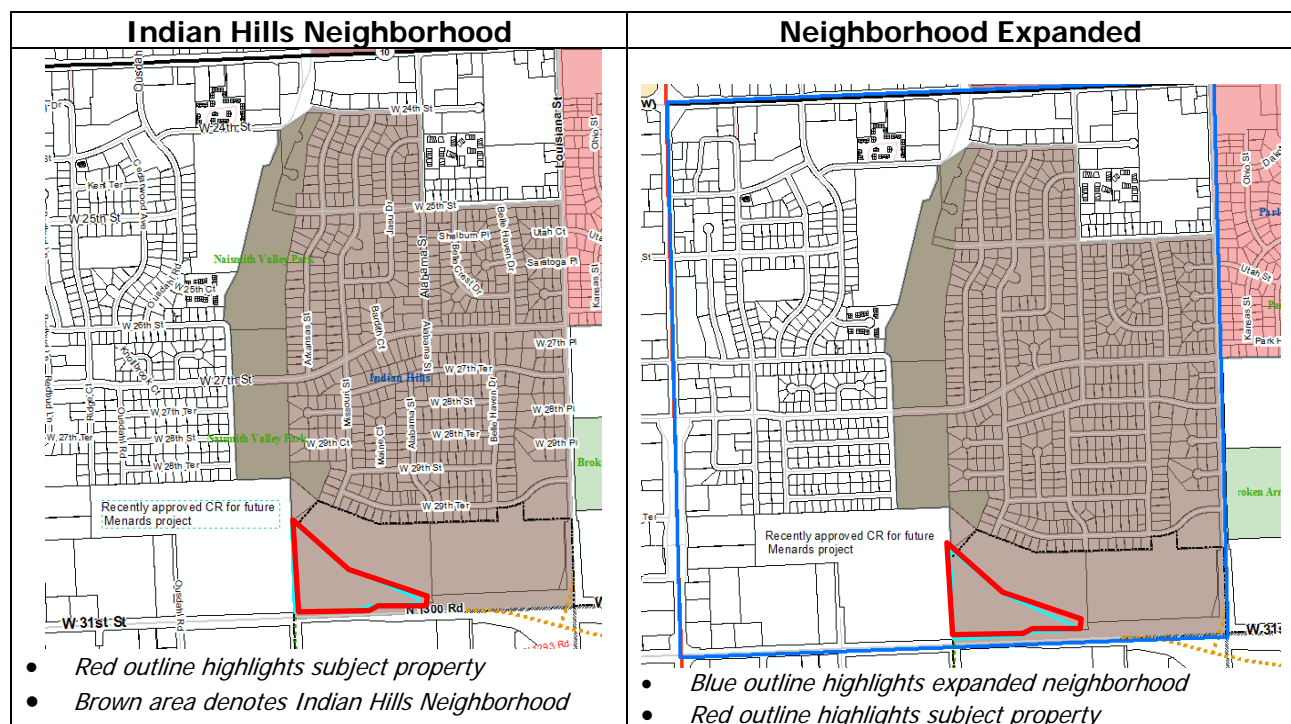
3. CHARACTER OF THE AREA

Property Owner's Response:

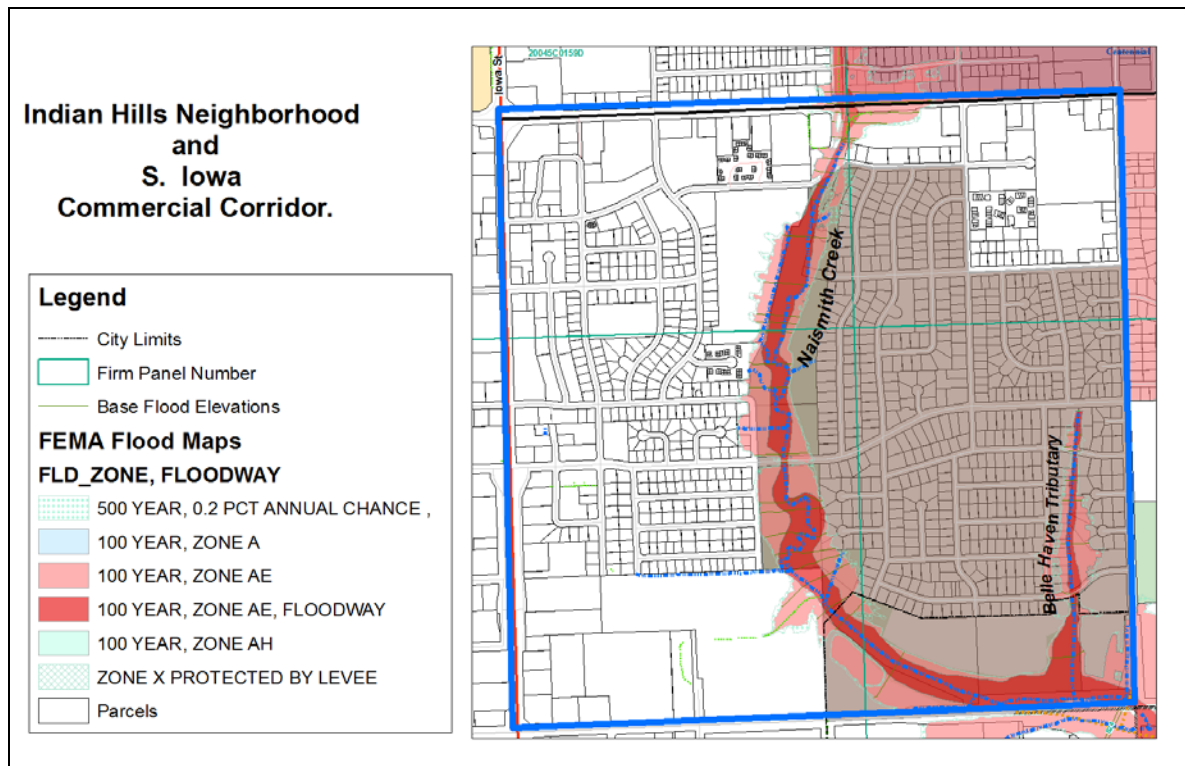
"Today the neighborhood is very vacant. The 40 acres to the west is a vacant trailer park and the 40 acres to the east is vacant floodway. This floodway also exists north of the property. To the south is 31st Street and there is vacant agricultural land south of that. This property and house is very isolated in its current location. The future character of the neighborhood is a little different. In spring of 2014, construction will begin on the new Menards store and development to the west. It is our goal that this lot is part of that commercial development."

This property is located within the Indian Hills Neighborhood. The area to the west is part of the South Iowa Street Commercial Corridor. This property is isolated from the adjacent residential uses to the north because of the lack of pedestrian and vehicular connectivity. A drainage course along the north property line contributes to the disconnected street patterns in this part of the neighborhood. W. 31st Street, a major arterial street, bounds the south part of the neighborhood.

Expanding the definition of neighborhood to encompass the area bounded by Iowa Street to the west, Louisiana Street to the east, W. 31st Street to the south and 23rd Street on the north, the property is located on the edge of a mixed-use neighborhood. Intensive uses are generally located along the arterial streets and low intensity uses are located interior to the larger neighborhood boundary. Recent land use approvals for the Menards project to the west expanded the commercial limits to include this specific parcel of land as the terminating commercial boundary along this segment of W. 31st Street.



The Naismith Creek and the Bell Haven Tributary floodplain encumber the Indian Hills Neighborhood. This neighborhood is entirely within the city limits other than the existing 46.23 acres known as the Snodgrass property. Property annexed after 2003 requires the FP Overlay zoning and therefore is applicable to this request.

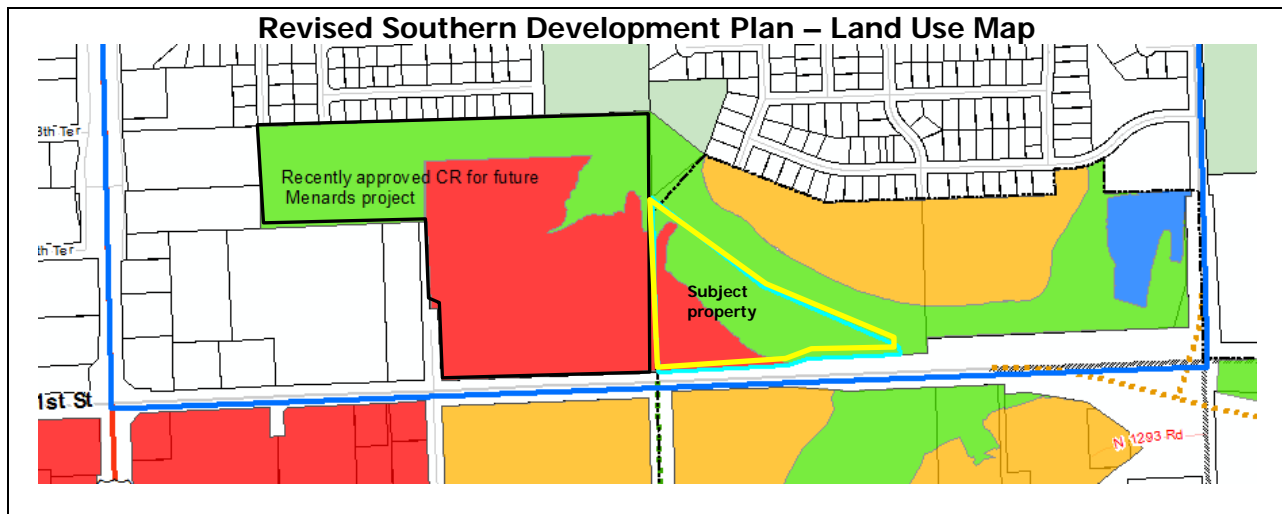


The graphic above shows the boundary of the neighborhood area and the existing regulatory floodplain. The FP Overlay District will apply only to that area of the request that includes the boundary of the floodplain plus the 2' of freeboard above the base flood elevation as required in section 20-1201 (c) of the Development Code.

Staff Finding – The vicinity surrounding the subject property includes an established low-density traditional neighborhood within the central portion of the area. The area along Iowa Street between W. 23rd Street and W. 31st Street, west of the subject property is an existing commercial area known as the S. Iowa Commercial Corridor. The area on the south side of W. 31st Street is developing commercially west of Ousdahl Road and residentially east of Ousdahl Road.

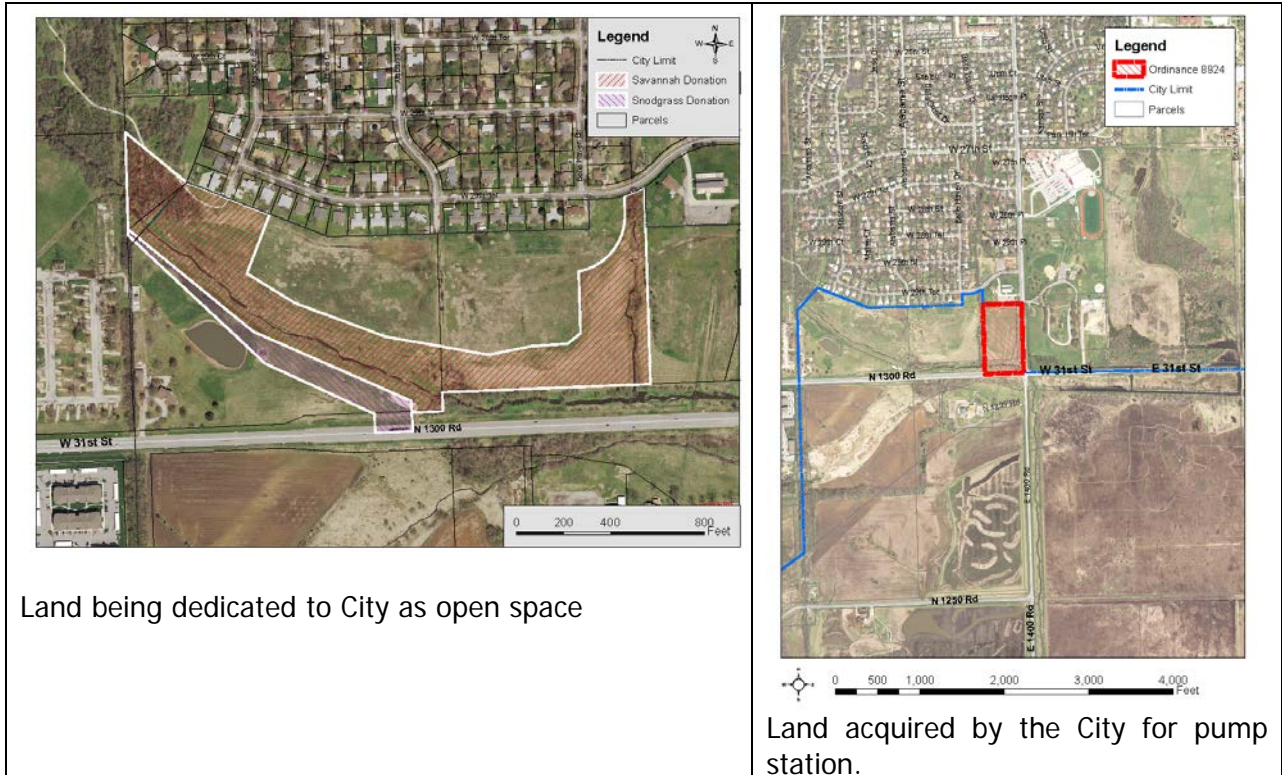
4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

This property is included within the plan boundary of the *Revised Southern Development Plan* adopted in June 2013 anticipating commercial development of this property. This plan identifies the area located to the east of Ousdahl Road as suitable for commercial uses. The plan identifies existing floodplain areas as appropriate for open space and as a boundary to the commercial land use.



Future commercial development identified in the *Revised Southern Development Plan* is located along the S. Iowa Street Corridor. An Auto-Related commercial area is identified south of K-10 Highway along the S. Iowa Street Corridor. Rezoning the subject property CR terminates the commercial node along W. 31st Street in this area.

The proposed FP Overlay reflects the existing floodplain encumbrance of this property as a recognized land use within the plan. The property owner donated land to the City of Lawrence that encompasses the floodplain. Additionally, the City has acquired property at the corner of Louisiana Street and W. 31st Street for a future pump station.



These uses along with the proposed commercial use will implement the land use recommendations of the *Revised Southern Development Plan*.

Staff Finding – The proposed commercial rezoning conforms with land use recommendations in the *Revised Southern Development Plan*. The recent land acquisitions by the City provide a boundary to the commercial development along the north side of W. 31st Street.

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

Property Owner's Response:

"The property is suited just fine for a residential house as it has been for the past 30+ years. However, that is for the current property owners. In the future after the existing property owners move out the house will be situated next to a large commercial development. I have seen this situation occur many times and the end result is almost always the same. When the original owners move out, someone purchases the property and develops it into commercial space. Menards is bypassing that waiting period and including the property in our development plans for next year."

Upon annexation, the existing A (Agricultural) County District designation will no longer be suitable for this property. This property is planned to be incorporated into the Menards commercial development to the west. Approval of the CR District is consistent with planned land use for this property.

Since this property is encumbered by regulatory floodplain **and** it is being annexed after March 1, 2003, it is appropriate to zone the property as part of the Floodplain Overlay District. The boundary of the FP (Floodplain) Overlay District is established as the base flood elevation plus an area of 2' of "freeboard". For reference, floodplain terms used in this report are defined in Article 12 of the Land Development Code. Attached to this report is a list of specific terms and definitions.

Staff Finding – Upon annexation, the existing County designation is no longer suitable. The property is suitable for the commercial zoning consistent with recent land use approvals relating to the Menards development request to the west and the recent changes to *Horizon 2020* and the *Revised Southern Development Plan* discussed earlier in this report. The CR District is the base-zoning district. The portion of the property encumbered by the regulatory floodplain will be zoned with the CR base district and the FP Overlay District.

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

Property Owner's Response:

"The subject property is currently occupied by the Snodgrass family; however they have agreed to our deal terms and will be moving to a new location."

This parcel is not vacant. This property developed with an existing residence, detached garage, and pond. The current driveway is located within the alignment of Michigan Street to be extended to accommodate access to this property and the commercial development to the west.

This property is currently zoned A (Agricultural) District. It has been zoned A since 1966.

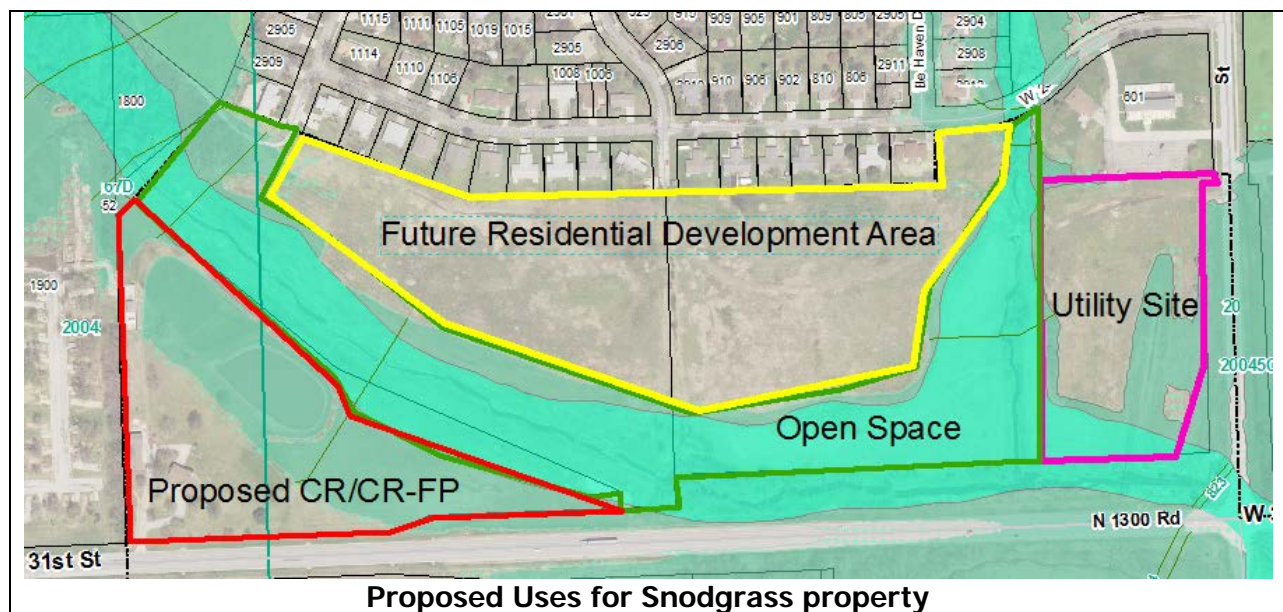
Staff Finding – This property is developed with an existing residence. The current zoning has been in place since 1966.

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

Property Owner's response:

"The rezoning would have no detrimental effects on the neighborhood or surrounding properties. The property to the west is designated CR for the Menards project. We are requesting that the CR designation be extended to this property. The property is currently zoned residential but it is alone in that designation as the surrounding properties are either commercial or floodway. The nearest residential property is over 200 feet away."

The property owner, the Snodgrass family, is working with the City to convey the floodplain portion to the City as an extension of Naismith Park. The City has recently acquired a parcel along Louisiana Street for a City Utility project. The remaining portion of the land owned by the Snodgrass family is anticipated for future residential development adjacent to the lots along W. 29th Terrace.



This commercial property is intended to be incorporated with the planned development to the west and is included as Lot 2 of the Menards Addition preliminary plat. Water line improvements are anticipated along the north side of W. 31st Street. Other significant area improvements are related to the South Lawrence Trafficway and re-alignment of W. 31st Street within this corridor. Significant changes are anticipated in the next several years for this area. Significant planning regarding land use expectations for this area were completed by KDOT for the traffic and highway circulation and the community in the *Revised Southern Development Plan*. Impacts on adjacent properties are mitigated through these planning efforts.

Commercial zoning, with use restrictions, was recently approved to the west. These use restrictions should be applied to this request. This provides a uniform application of the zoning district for this property, intended to be incorporated in the Menards development project to the west.

Staff Finding – Approval of the request facilitates redevelopment of the site consistent with recently approved land use plans for this immediate area. Impacts to adjacent

residential uses to the north along 29th Street are mitigated by dedication of land for open space. The new public open space will separate the residential and commercial uses.

If approved, uses should be restricted in the zoning ordinance to mitigate incompatible land uses previously identified for the CR zoning to the west.

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

Property Owner's Response:

"The largest gain to the public would be through the redevelopment of an aging residential property into a new first class retail location and the sales tax generation that is part of the future use. The public is also getting a connection to the Menards development off of Michigan Ave. Without this property, the access to the development would be much more restricted and potentially unsafe. There would be a hardship on the owner as they have agreed to the financial compensation for the property and will be building a new house at a different location that will suit their needs."

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.

Based on past land use actions including plan approval expanding commercial development to Naismith Creek, staff concurs with the applicant that the existing property is underutilized and should be appropriately rezoned to accommodate redevelopment.

If the rezoning request were denied, the property could remain as a residence; however, upon annexation an applicable city-zoning district is needed.

If the rezoning were approved, the uses allowed change from residential to commercial with a wide variety of commercial uses allowed. Limiting uses would serve to create a more compatible development with the adjacent low-density residential development to the north and provide consistency with the approved commercial uses to the west.

Approval of the request will facilitate redevelopment and reinvestment in existing property. Denial of the request would prohibit the ability to redevelop the property as a commercial extension of the existing node at Iowa and W. 31st Street.

Staff Finding – Benefits to the community include the investment in property within existing utility, transportation and service corridors. Denial of the request prohibits the applicant from redeveloping the property as a commercial use. If approved, staff believes the zoning should be restricted with conditional zoning.

PROFESSIONAL STAFF RECOMMENDATION

The focus of this report is the specific land use request for CR zoning. This application was made with a concept plan for a specific end user for the property to the west. Negotiations regarding this property began during the review of the original CR request to the west. Other development pressures on the "Snodgrass" property included the planned utility pump station on the far eastern portion of the property and the planned improvements for the SLT and 31st Street Corridor. These actions together with the revision to the *Revised Southern Development*

Plan resulted in a land use recommendation for the property west of Naismith Creek to be included in the commercial area along W. 31st Street east of Iowa Street. This request is consistent with these recent land use actions.

As discussed above a portion of this property is encumbered by the regulatory floodplain. The area being rezoned is slightly smaller than the parcel boundary that includes the residence. This difference in area between the parcel boundary and the proposed CR boundary is equal to the area that is within the **floodway** and is not part of this rezoning application. The floodway portion of the parcel is included in a dedication of land to the City for open space use. The FP designation will be applied to that part of the overall CR zoning request that includes regulatory floodplain (fringe area). Attached to this report is a map showing the general area to be zoned CR and CR-FP.

The impact of this zoning designation is that:

1. A local floodplain development permit is required for development of the site. Such permit is typically submitted concurrently with a site plan or applicable development plan.
2. New development requires an approved Hydrologic and Hydraulic Study at the time of platting demonstrating there will be no rise in the Base Flood Elevation and no increase in the flood velocities at any point resulting from the proposed development.
3. Fill may not be placed in a setback.
4. Structural design of buildings and improvements must meet minimum flood proofing standards, including elevating 1' above the base flood elevation.
5. Exterior storage of material is required to be adequately flood proofed including being raised 1' above Base Flood Elevation.
6. Maximum impervious surface cover within the FP District is 60%.

The applicant's engineer has provided a Hydrologic and Hydraulic Study. The City's Stormwater Engineer approved this study. This study anticipates development of both this property and the Menards site to the west.

Staff recommends approval of the proposed CR with conditions limiting uses to those approved for the CR District to the west.

CONCLUSION

Upon annexation the existing County A (Agricultural), zoning designation is no longer appropriate or applicable. The request completes the expected delineation of the commercial node along 31st Street east of Iowa Street.