

PLANNING COMMISSION REPORT Regular Agenda – Public Hearing Item

PC Staff Report
10/21/13

ITEM NO. 2C: RS10 TO OS; 2.384 ACRES; 1146 HASKELL AVE (MKM)

Z-13-00408: consider a request to rezone approximately 2.384 acres from RS10 (Single-Dwelling Residential) District to OS (Open Space) District, located at 1146 Haskell Ave. Submitted by Struct/Restruct LLC on behalf of BK Rental LLC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 2.384 acres from RS10 (Single-Dwelling Residential) District to OS (Open Space) 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

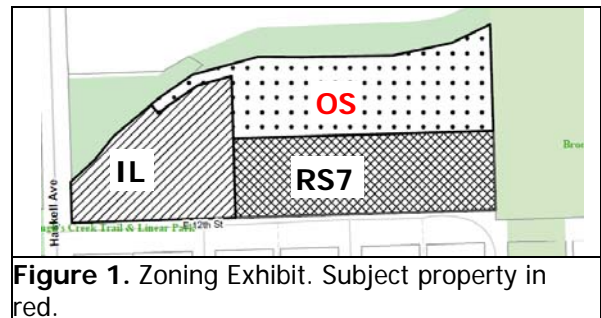
To provide protection measures for Environmentally Sensitive Lands present on the residentially zoned property.

KEY POINTS

- The property is unplatted. The property is being platted through the Major Subdivision process in conjunction with this rezoning.

ATTACHMENTS

A: Rezoning exhibit



ASSOCIATED CASES/OTHER ACTION REQUIRED

Z-13-00350: Rezoning request for approximately 2.186 acres from RS10 to RS7 (Single Dwelling) District. This item is being considered by the Planning Commission at their October meeting.

Z-13-00351: Rezoning request for approximately 1.785 acres from RS10 to IL (Limited Industrial) District. This item is being considered by the Planning Commission at their October meeting.

PP-13-00352: Preliminary Plat for Burrough's Creek Addition. This item is being considered by the Planning Commission at their October meeting.

Other Action Required:

- City Commission approval of rezoning requests and adoption/publication of ordinances.
- Submittal and administrative approval of Final Plat for Burrough's Creek Addition.
- Submittal and approval of Public Improvement Plans prior to recording of the Final Plat.
- Recording of Final Plat with the Register of Deeds Office.
- Floodplain Development Permit required prior to any development activity.
- Application and release of building permits prior to development.

PUBLIC COMMENT

- Michael Almon, nearby property owner, visited the Planning Office for information on the project and the Floodplain Management Regulations.
- Byron Wiley, nearby property owner, visited the Planning Office to discuss the project and the uses which would be permitted under the IL Zoning.

Project Summary

This project includes the rezoning of approximately 2.384 acres located along the north property line from the RS10 District to the OS (Open Space) District. The Development Code requires the protection of Environmentally Sensitive Lands when development is proposed on residentially zoned property. The subject property is currently zoned RS10 and is completely encumbered with the Regulatory Floodplain including both the Regulatory Floodway and the Regulatory Floodway Fringe.

The Development Code requires that Environmentally Sensitive Lands be protected when platting by being placed in a tract or easement with protection measures listed. The applicant has agreed to rezone the tract to OS to limit the development potential on the property as the protection measure.

The overall project includes an industrial and a residential component, with 1 industrial lot planned at the Haskell Avenue and E 12th Street intersection and 9 residential lots planned along E 12th Street. The layout of these sites will be determined with the preliminary plat, site plan, and the Building and Floodplain Development Permits.

The property will be developed in phases, with the industrial development occurring first and the residential later. The Open Space area will not be developed as part of this project.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

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

- The Lawrence Future Land Use Map (Map 3-2, page 3-4) shows the north side of E 12th in this area as 'community facility--public/semi-public'.
- Chapter 9, Parks, Recreation, Open Space provides the following recommendations for open space or park development:
"It is also recommended that areas of the city and the Urban Growth Area (UGA) of unincorporated County subject to extensive and/or frequent flooding be a part of this open space network." (Page 9-3)

Policy 3.1(e), Identify Future Parklands and Open Space Areas: *"Encourage open space uses in the community's privately or publicly owned floodplains and drainageways. Such uses could be for playfields, trails, passive recreation, greenbelts/greenways, wildlife habitat, agriculture, or similar uses compatible with intermittent flooding and the ecological functioning of these areas."* (Page 9-16)

Policy 6.1(a), Preserve and Enhance Natural Areas of the Community: *"Incorporate floodplains and drainageways into the park, recreation, and open space system whenever*

possible to preserve and enhance the hydrological functions, such as flood control and stormwater runoff filtration, and ecological functions, such as air purification and climate control.” (Page 9-23)

The subject property is being platted as a tract with the Burrough's Creek Addition preliminary plat. Rezoning to the OS District has been requested as additional protection of the floodplain. The rezoning is compliant with the recommendations in *Horizon 2020* for Open Space.

Staff Finding – The proposed rezoning request conforms with *Horizon 2020* policies related to open space in that natural areas, floodway and floodway fringe, are being protected by being zoned to the OS (Open Space) District.

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

Current Zoning and Land Use: RS10 (Single-Dwelling Residential) District; undeveloped.

Surrounding Zoning and Land Use: To the north:
GPI (General Public and Institutional Use) District and FP (Floodplain Management) Overlay District; Strip of open space/City parkland, *Nature Preserve/Undeveloped* and beyond that the City's Fuel Station and Solid Waste and Street Division's yards and offices, *Gas and Fuel Sales and Heavy Wholesale Storage and Distribution*.

To the west:
RS10 (Single-Dwelling Residential) District and FP (Floodplain Management) Overlay District, part of the development project; currently developed with a vacant nonresidential building. Proposed rezoning to the IL (Limited Industrial) District for a *Construction/Sales Service* facility.

Property to the west, outside of the development project, is zoned GPI (General Public and Institutional Use) and contains City parkland with the Burroughs Creek Trail, *Nature Preserve/Undeveloped* and the City's Maintenance Garage, *Light/Heavy Equipment Repair*.

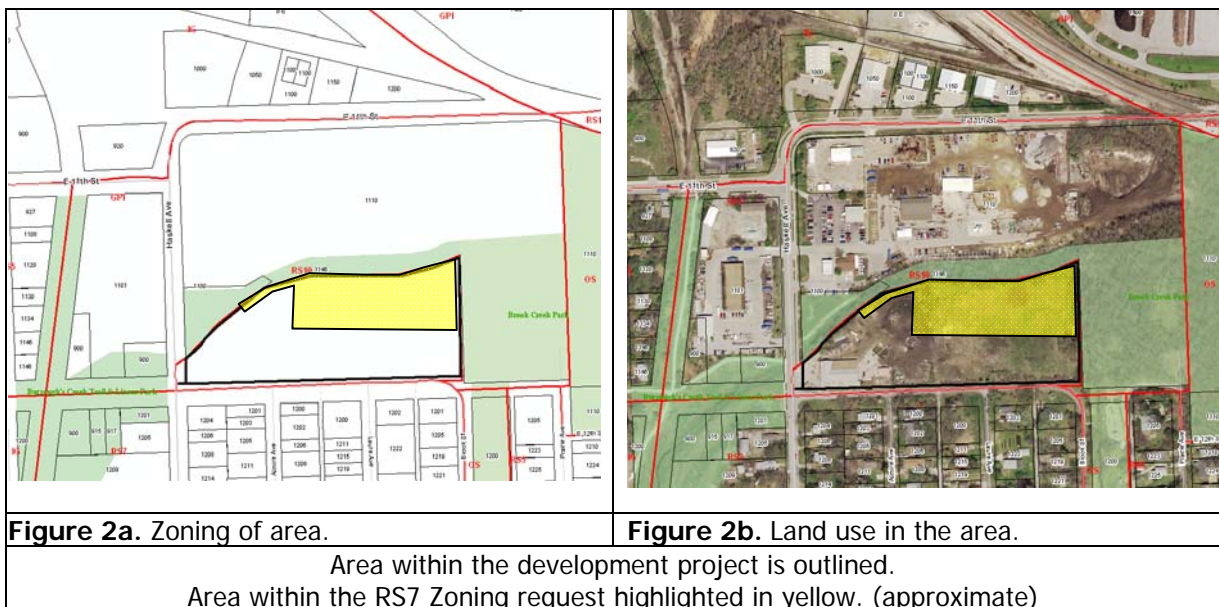
To the east:
GPI (General Public and Institutional Use) District; wooded City parkland, *Nature Preserve/Undeveloped*.

To the south:
RS10 (Single-Dwelling Residential) District and FP (Floodplain Management) Overlay District, part of the

development project. Proposed rezoning to RS7 for residential development; undeveloped.

South of the development project: RS7 (Single Dwelling Residential) District and FP (Floodplain Management) Overlay District; *Detached Dwellings*. (Figure 2)

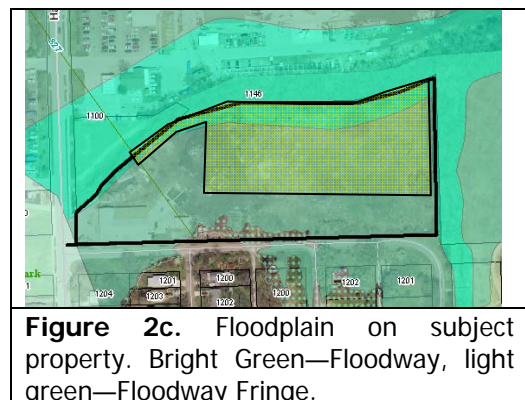
Staff Finding – The subject property is within a larger development project. Surrounding properties are zoned GPI, RS10, and RS7, with Floodplain Management Overlay District. Property to the west and south are within the development project and have rezonings pending to the IL (Limited Industrial) and RS7 (Single-Dwelling Residential) Districts, respectively. Predominate land uses in the area are *Nature Preserve/Undeveloped*, *Heavy Wholesale Storage and Distribution*, *Light- and Heavy-Equipment Repair* and *Single-Dwelling Residences*.



3. CHARACTER OF THE NEIGHBORHOOD

The neighborhood is developed with a mix of industrial and residential uses. Industrial uses are located primarily to the north and northwest of the subject property. Large areas of open space in the vicinity follow Burrough's Creek and the associated floodplain. Single-dwelling residences make up the remainder of the land use.

Staff Finding – The neighborhood contains a mix of residential and industrial uses with large areas of wooded open space along Burroughs Creek and the associated floodplain.



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 subject property is located within the Brook Creek Neighborhood. This area was included in the planning area for the East Lawrence Neighborhood Plan, adopted in 1979. There have been no recent plans adopted for this area.

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

The property has limited suitability for development with uses permitted in the RS10 District as it is completely encumbered with the Regulatory Floodplain. The property would require the extension of streets from E 12th Street in order to create lots with street frontage as required in the RS10 District. The OS District has a limited range of permitted uses and is intended to preserve and enhance major open space and recreational areas by protecting the natural amenities they possess and by accommodating development that is compatible with those natural amenities. The table below lists the uses which are permitted in the OS District:

Cemetery		Nature Preserve/Undeveloped	
Cultural Center/Library	SUP	Private Recreation	
Funeral and Interment (accessory)		Campground	SUP
Utilities Minor		Adaptive Reuse –Historical Structure	SUP
Utilities and Service, Major	SUP	Amateur & Receive Only Antennas (accessory)	
Active Recreation	SUP	Telecommunications Antenna (accessory)	
Entertainment and Spectator Sports	SUP	Telecommunication Tower	SUP
Passive Recreation		Satellite Dish (accessory)	

Staff Finding – The property has limited suitability for the uses to which it is restricted with the RS10 Zoning due to the need for the extension of streets through the area to allow lots to be created with street frontage and the fact that the property is completely encumbered with the Regulatory Floodplain. The property is well suited for the uses to which it would be restricted with the OS Zoning.

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

Staff Finding – There is no record of this property having been developed.

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

Staff Finding – The rezoning will not remove restrictions but will apply additional restrictions to the property. The additional open space will serve to protect the floodplain and will provide a connection between the existing open space to the west and east. The rezoning 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

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 the rezoning would leave the area open for residential development. This could be accomplished through the extension of streets through the area. Approval of the rezoning limits the future development of this area.

The approval of the rezoning would serve to protect the floodplain in the area and provide an open space connection between other open space in the area.

Staff Finding – Denial of the rezoning request may leave this property open for residential development. The development opportunities would be limited with the approval of this rezoning request. Approval of the rezoning request would benefit the public health, safety, and welfare by providing protection to 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 for open space in *Horizon 2020*. Staff recommends approval of the rezoning request for approximately 2 acres from RS10 (Single-Dwelling Residential) District 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.



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Z-13-00351: Rezone 1.785 acres from RS10 District to IL District
Z-13-00408: Rezone 2.384 acres from RS10 District to OS District
Located at 1146 Haskell Avenue

Lawrence-Douglas County Planning Office
October 2013

