



STAFF REPORT

October 26, 2009

To: South Central Consolidated Zoning Board
Fr: Paul Greeley, Deputy Director
Re: Application Nos. SC-PRUR-2927(SP) and SC-PDP/FDP-2928(SP)

APPLICATION INFORMATION

Applicant: Curtis Holland, attorney

Owner: Gerald Smith

Requested Action: Rezoning to Planned Rural District and Preliminary and Final Development Plan (Plat)

Purpose: Reconfigure two existing lots (10-acre and 25-acre) into a new 4-acre and new 31-acre lot – no new residences are proposed.

Legal Description: Part of the North Half of the Northeast Quarter of Section 32, Township 14, Range 24

Site Address/Location: 18550 & 18560 Lackman Road

Existing Land Use and Zoning: Single-family residential/RUR, Rural District

Existing Improvements: Two (2) single-family residences

Site Size: Approximately 35 acres

BACKGROUND INFORMATION

Zoning History: The subject property was zoned RUR, Rural District as a result of the countywide zoning of 1994.

Subdivision History: The 35-acre parcel was created in 1991 as a result of a tract split from the parent 80-acre parcel. In 2000, the 35 acres was platted in the current configuration of one 10-acre and one 25-acre lot (Application No. SC-PP-2068 and SC-FP-2069). There was an existing house on the 10-acre lot and subsequent to the platting, a new house was constructed on the 25-acre lot.

Proposal: The applicant owns both lots and both homes. Presently, the lots share one driveway to Lackman Road. This arrangement was approved as part of the platting in 2000 as the lots did not have enough frontage to have separate driveways. See Figure 3. The applicant proposes to reconfigure the two (2) platted lots, resulting in a 4-acre and a 31-acre lot, each lot with separate access to Lackman Road. Four-acre lots are permitted in the Planned Rural District. No new homes are proposed.



Figure 1 - Current Configuration



Figure 2 - Proposed Configuration

County Bridge Project

The County is in the process of replacing the Lackman Road bridge across Wolf Creek that is adjacent to the subject property. The County presently has 50 feet of platted right-of-way which needs to be expanded to 60 feet for the project. The county needs to acquire an additional 10 feet of road right-of-way along the entire frontage of the Smith property (about 570 ft.). The county will negotiate this separate from this platting process. In conjunction with the bridge project, the County will need to construct temporary driveways to the two houses. At the end of the project, the County will reconstruct the permanent shared driveway. The County also will relocate the existing decorative fence, electric gate, security cameras and utilities.



Figure 3

Existing Infrastructure vs. Minimum Infrastructure Requirements:

The *Johnson County Zoning and Subdivision Regulations*, Article 9, Section 2(G) and 3(H) states that all Minimum Infrastructure Requirements set forth in Article 31 shall be met prior to rezoning or development of any site. The Minimum Infrastructure Requirements set forth in Article 31 are a function of lot size and development intensity. The four (4) infrastructure categories for the proposed PRUR District zoning and development are discussed below.

A. Roads:

Lackman Road is 21 ft. wide asphalt and designated as a Type II CARNP arterial street.

Requirement: External Roads Serving Subdivisions or Development Tracts in the Planned Rural District, (PRUR):

Lots in new subdivisions shall not have access directly onto a Highway, onto a CARNP designated Parkway, or onto a CARNP designated Arterial road. Lackman Road is a CARNP designated arterial road.

The application does not comply because the new lots are proposed to access directly to Lackman Road which is a CARNP designated arterial road.

Requirement: Interior, On-Site Roads. All roads in the subdivision shall be designed and constructed to comply with the then applicable street construction and storm drainage standards adopted by the county. Per Article 30(2), lots shall front onto and have driveway access to a collector or local (subdivision) street.

The application does not comply because a new local (subdivision) street is not proposed to be constructed by the applicant.

Public Works comments:

This plat includes individual access for each of the two lots directly onto Lackman Road, a Type II arterial roadway. PRUR zoning allows direct access onto Type II arterial roadways only if the frontage of each lot is a minimum of 660 feet. The total Lackman frontage for this plat is less than 600 feet. Staff recommends limiting the plat to one access point onto Lackman Road. This will require a shared driveway similar to the existing access and modification of the access control identified on the plat. An access easement will need to be added and the portion of the entrance within the right-of-way will need to be constructed prior to recording the plat. If two drive entrances are allowed, a plat exception will be required.

B. Stormwater:

Requirement: Storm drainage systems and facilities shall be available or designed and constructed to comply with the applicable County design criteria, construction standards, policies and regulations for such facilities.

The applicant shall provide the appropriate natural drainage area information and FEMA floodplain information prior to recording the final development plan (plat).

Public Works comments:

Buffer zones need to be added to both the preliminary and final plats adjacent to the FEMA floodplains per APWA 5600. A note will also need to be added stating "No construction or disturbance of any type, including clearing, grubbing, stripping, fill, excavation, linear grading, paving, or building is allowed in the buffer zone except by permission of the County Engineer".

C. Wastewater - Category 1.

The two existing houses are served by on-site septic systems. The property is not located within an established sewer district.

Requirement: Wastewater collection and treatment shall be available or provided in accordance with the then applicable County policies, regulations and standards for on-site wastewater disposal and the Environmental Sanitary Code of the County. Alternatively, public sanitary sewers shall be available

or provided with adequate capacity to serve the estimated wastewater collection and treatment needs of the proposed development. Sanitary sewers, when provided, shall be designed and constructed to comply with the then applicable County design criteria, construction standards, policies and regulations for sanitary sewers.

The Wastewater District Chief Engineer has reviewed the application because it contains a lot less than 7 acres and fits the Minimum Infrastructure Category 1 Wastewater requirement. The property is adjacent to Wolf Creek. There are two existing homes. The Chief Engineer recommends granting a waiver because the lots are large enough that they will someday redevelop as sewers come up Wolf Creek. Also, the current lot configuration (lots fronting on Lackman) would make it difficult to anticipate where and how sewers are installed at this time.

D. Water Supply:

The property is located in Water District #1. There are 8 inch and 24 inch water mains along Lackman Rd. Domestic water service is currently provided to the homes from the 8-inch water main. The 24-inch main is not available for home water service connections. There are no fire hydrants in the vicinity of the property.

It is highly recommended that potable water supply be made available or provided from a public water source.

The applications comply with this requirement.

CONCLUSION: The applications ***do not*** comply with each of the relevant requirements. Approval of waivers from the minimum infrastructure requirements will be necessary before the rezoning request is approved.

STAFF ANALYSIS

Planning Department Staff

The purpose of the PRUR District is to provide for single-family residential areas that maintain or enhance the rural character of the area; are sensitive to the physical characteristics of the site; that protect natural resources; that allow grouping of residential lots to realize economies of infrastructure; and, to minimize negative impacts on existing infrastructure systems.

Golden Criteria Analysis

Planning staff has reviewed this rezoning application with respect to the *Johnson County Zoning and Subdivision Regulations*; the *Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County*; and, the laws in Kansas and the “Golden Criteria” established by the Supreme Court of Kansas in 1978 in Golden v. City of Overland Park. The following is a summary of that review.

1. Whether the proposed zoning and uses would be consistent with the zoning and uses of nearby properties.

Nearby and adjacent property is zoned RUR, Rural District. There is a residential (RN1) single-family zoned subdivision to the south and east of the subject property. Surrounding uses are very low density residential, agricultural and vacant. There is a private golf course to the east.

The density associated with proposed PRUR District zoning is consistent with the nearby zoning and uses. However, the proposed preliminary/final development plan depicts two lots fronting onto Lackman Road. This is not in keeping with the intentions of the planned rural district which is to configure lots accessing local streets and to prevent the proliferation of piano-key lots.

2. Whether the proposed zoning and uses are compatible with the character of the neighborhood.

There are mostly very low-density residential uses (lots 10 acres and greater) in the surrounding area. Along the 1-mile section of Lackman from 183rd to 191st, there are three residential driveways (including the subject property's shared drive). One of these driveways is located on the ½-section line and is the likely alignment of a future collector street. Allowing more driveways is disruptive and not in keeping with the character of the area and will reduce the efficiency of Lackman Road.



Aerial View of Surrounding Area

3. Suitability of the property for uses to which it has been restricted.

The property is presently zoned RUR, Rural District. This is primarily an agricultural use district but also allows very low-density residential uses (10 acre or greater residential lots). The property is currently occupied by two single-family dwellings and is considered low density. No new home sites are proposed.

4. Extent of detrimental effects to nearby parcels should the zoning be approved.

The primary effect is 2 driveways and reduced efficiency on Lackman Road in the form of turning movements, service vehicle stops (postal, trash, school bus, trash, etc.), and lower travel speeds.

5. Length of time the property has remained vacant as zoned.

The property has been zoned RUR, Rural, since 1994. There are two homes located on the subject property. The property is probably not viable for agricultural use. The property is viable for very low-density residential uses for which it is zoned.

6. Relative gain to the public health, safety and welfare as opposed to the hardship imposed upon the landowner by denying the request.

Presently, there is one driveway serving both homes. This application proposes to add another driveway so that each house has its own. The applicant agreed to the shared driveway arrangement in 2000 when seeking approval for construction of the second home. If the request is approved, the density (1 dwelling unit/10 acres) would not change. There would be a gain to the public by denying this request by limiting the number of driveways to one. The hardship to the owner would be that they would have to continue to use the one shared driveway or build a new local street.

7. Whether the zoning and uses are in keeping with the Comprehensive Plan

The *Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County* (Plan) indicates that this development is within the Rural Policy Area, which identifies the standard density as 10 acres per dwelling. The Plan states that new residential lot sizes smaller than 10 acres may be possible in the PRUR zoning districts if they are developed in a manner that protects the established rural character of the area and open spaces and that adequate infrastructure is available. Staff believes that adding a driveway is disruptive to the rural character and diminishes the functionality of Lackman.

Preliminary Development Plan (Plat) Review

Planned Rural Development subdivisions shall provide a minimum nominal lot area of four acres per dwelling. The preliminary development plan (plat) depicts two lots, one 4 acre and one 31 acre.

The preliminary development plan (plat) has been reviewed with respect to the Zoning and Subdivision Regulations and the *Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County*. The following is a list of the review criteria and staff comments, if any, with respect to each:

A. Protection from Undue Water Pollution:

The primary water pollution concerns associated with this application involve soil erosion and wastewater disposal. These topics are addressed under the respective headings below.

B. Availability of Water:

Please see infrastructure comments above.

"This Plat has 1 lot considered to be Development Projects, and therefore is subject to a fee in lieu of park dedication in the amount of \$ xx (2% based on the fair market value), in accordance with the requirements of Johnson County Resolution No. 046-94."

L. The Comprehensive Plan:

Please see comments noted under the Golden Analysis section of this report (*pg. 6 of this report*).

M. Uses and Character Of Nearby Properties:

Please see comments noted under the Golden Analysis section of this report.

Environmental Department: See attached comments.

Public Works Department: See attached comments.

Water District No. 1: See attached comments.

RECOMMENDATION

Planning staff recommends **denial** of the request for a change of zoning from RUR, Rural District to PRUR, Planned Rural District and **denial** of the preliminary and final development plan (plat) for the following reasons:

Reasons for Recommendation

1. The proposed preliminary/final development (2 lots fronting onto Lackman Road) is not in keeping with the intentions of the planned rural district which is to configure lots accessing local streets, and prevent the proliferation of piano-key lots.
2. There will be detrimental effects due to 2 driveways and reduced efficiency on Lackman Road in the form of turning movements, service vehicle stops (postal, trash, school bus, trash, etc.), and lower travel speeds.
3. There would gain to the public by denying this request by limiting the number of driveways to one (1). The hardship to the owner would that they would have to continue to use the one shared driveway or build a new local street.
4. The Plan states that new residential lot sizes smaller than 10 acres may be possible in the PRUR zoning districts if developed in a manner that protects the established rural character of the area and that adequate infrastructure is available. Staff believes that adding a driveway is disruptive to the rural character and diminishes the functionality of Lackman Road.

Reasons for Development Plan (Plat) Recommendation

The proposed development does not meet the requirements set forth in the *Johnson County Zoning and Subdivision Regulations*.

- Enclosures:
- Preliminary and Final Development Plan (Plat)
 - Vicinity Map
 - Public Works comments
 - Environmental Dept. comments
 - Water One comments