

STAFF REPORT

December 31, 2019

To: Southeast Consolidated Zoning Board
Fr: Pamela Hayhow, AICP, Senior Planner
Re: Application Nos. SE 19-20-REZ and 19-21-PDP (AU)

APPLICATION INFORMATION

Applicant: Dennis Patterson, Prime Development Land Company

Landowners: Clay Blair, BFP Real Holdings, LLC

Requested Action: 1) Rezoning from RUR, Rural District, to PRUR, Planned Rural District; and
2) Preliminary Development Plan (preliminary plat) for 5 residential lots to be known as Adams Farm

Legal Description: Part of NE Quarter of Section 12, Township 15, Range 24

Site Address/Location: 20050 Antioch Road

Existing Land Use and Zoning: Agricultural and Rural District

Existing Improvements: Barn, shed, and fenced pastures

Site Size: 51 acres

PROJECT DESCRIPTION

The subject property is located on the southwest corner of 199th Street and Antioch Road and is contiguous with the city of Overland Park to the east. A main channel of Wolf Creek and a smaller creek converge near the southwest corner of the arterial intersection.

The applicant would like to create 5 residential lots on the east 51 acres of the overall 153 acre property. The size of the proposed lots would range from 6 to 16 acres with an overall density of 1 dwelling unit per 10 acres. The PRUR district is a planned zoning district which allows increased density to encourage the construction of

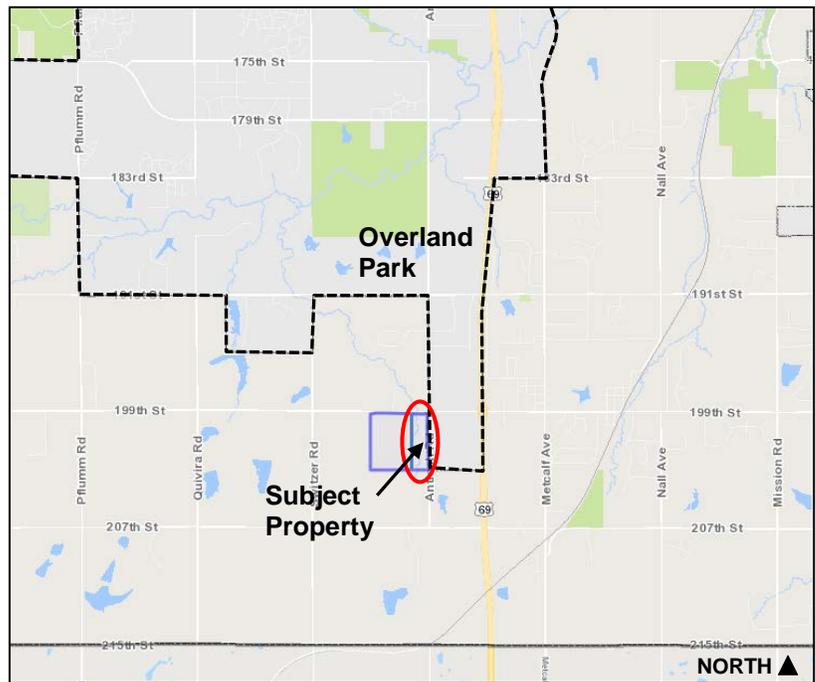


Figure 1: Vicinity map

subdivision streets and flexibility to allow lot layouts to be altered from the standard requirements when there are sensitive physical characteristics and natural resource areas to be protected. The regulatory floodplain and treed area along the banks of the main channel and smaller stream that converge on the subject property are areas with these types of natural features that are unique to property. The applicant is requesting rezoning to the planned rural district, PRUR, to use the hedgerows and natural boundary of the main channel to distinguish the subject 51 acres from the larger 153 acre property and produce the pattern of development shown on the associated preliminary development plan (preliminary plat) which maintains and preserves the sensitive natural features unique to the property.

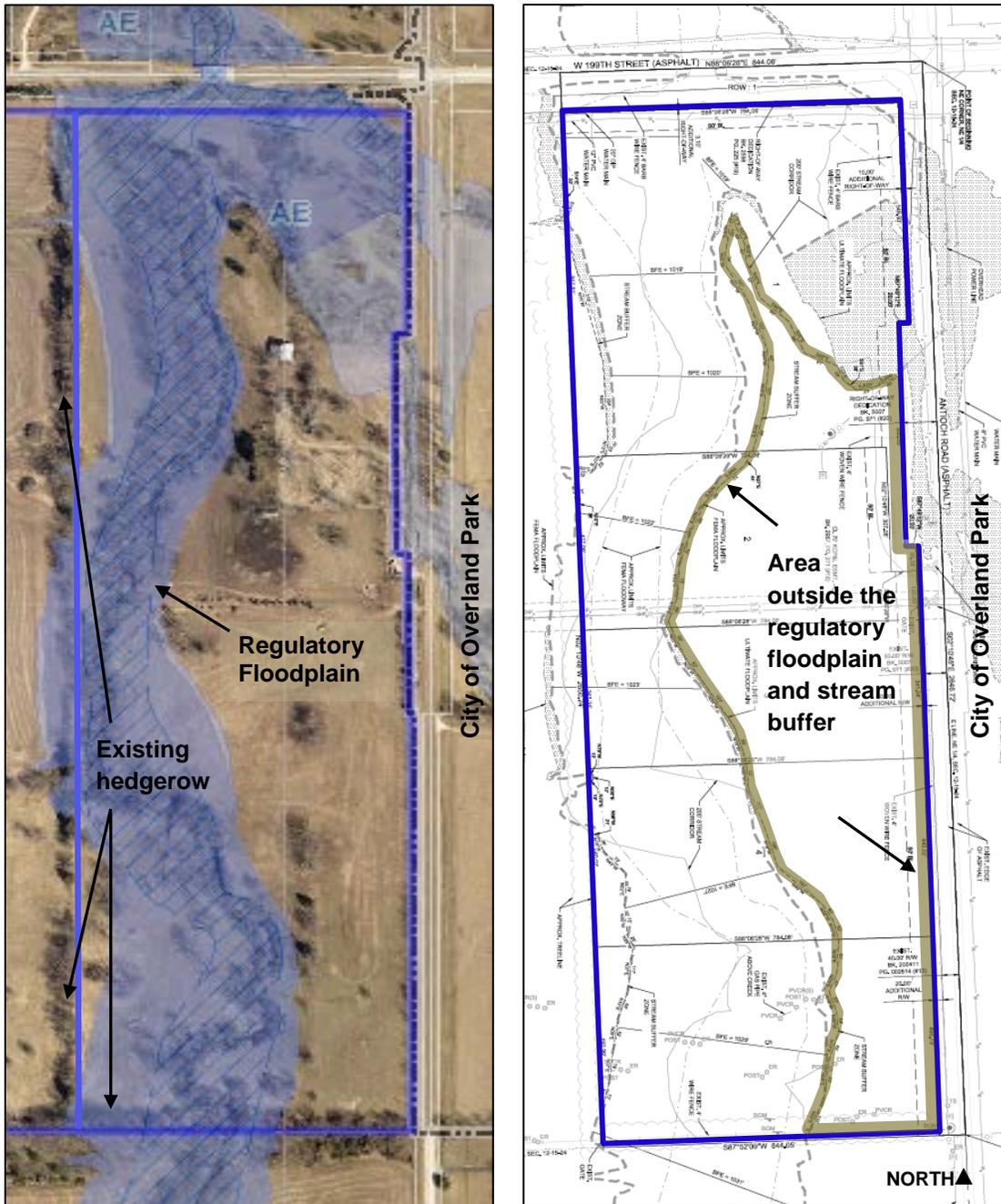


Figure 2: Aerial view with regulatory floodplain (left) and preliminary development plan (right)

Summary Recommendation: Based on the findings and conclusions of this entire report, staff is recommending approval of the requested rezoning, preliminary development plan (preliminary plat), a waiver to allow the lots to have access directly onto Antioch Road, a CARNP designated Arterial Street instead of requiring the construction of an internal street, and a waiver to not install dry sewers. Among the reasons given are: 1) there are sensitive physical characteristics and natural resources which are unique to the subject property; 2) the flexibility of the requested planned district zoning allows the design of the lots to be concentrated in the area outside of the regulatory floodplain and stream buffer zone, producing a pattern of development which preserves sensitive natural features and prevents soil erosion along the main channel and smaller creek; and 3) when compared to an allowed subdivision design in the standard RUR district, the proposed subdivision does not increase the overall density or propose more driveways than would be allowed with 2,644 ft. of frontage on a CARNP designated Type 1 Arterial Street.

BACKGROUND INFORMATION

Zoning and Subdivision History: The overall 153 acre property was zoned RUR, Rural District, as a result of a county-wide zoning in 1994 and has not been split or subdivided since March 1, 1982.

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 infrastructure categories for PRUR district are reviewed below.

A. Fire Station Service Area (Required Category/Recommended Factor): There is not a “Fire Station Service Area” requirement for lots or development in the PRUR district. The nearest station is on the southwest corner of 191st Street and Metcalf Avenue, 2 miles to the northeast, by roads.

Police protection is provided by the Johnson County Sheriff's Office.

B. Roads (Required Category):

Category 1 External Roads Serving Subdivisions or Development Tracts in the Planned Rural District (PRUR).

- a. *A minimum of one road, with at least a 20-foot wide gravel driving surface, shall provide continuous access from the subdivision or development tract to a road constructed with at least an asphaltic concrete surface. Continuous access to the subdivision is from Antioch Road which has a 22 ft. wide paved driving surface. **This application meets this requirement.***
- b. *All abutting gravel roads shall have at least a 20 foot wide driving surface. There are no abutting gravel roads. **This standard is not applicable to this application.***
- c. *Lots in new subdivisions with PRUR, Planned Rural District Zoning shall not have access directly onto a Highway, onto a CARNP designated Parkway, or onto a CARNP designated Arterial Street. Lots with RUR, Rural and PRUR, Planned Rural District Zoning shall comply with the frontage and other requirements of Article 30, Section 2(B)(2) of these regulations. The lots in the proposed new subdivision are shown with access directly onto Antioch Road, a CARNP designated Type 1, Minor Arterial. NOTE: Article 30, Section 2(B)(2) does not provide a minimum frontage*

requirement for PRUR zoned lots onto a CARNP designated Arterial Street. ***This application does not meet this requirement.***

The applicant is requesting a waiver to allow the lots in the proposed subdivision with PRUR zoning to access directly onto Antioch Road, a CARNP designated Arterial Street. NOTE: All lots, except Lot 2, are shown with more than 330 ft. of frontage on Antioch Road, the minimum frontage required for access directly by lots in new subdivisions with standard RUR zoning.

Category 6 All Interior, On-Site Roads: *All roads in any subdivision or development tract shall be designed and constructed to comply with the then applicable Street Construction and Storm Drainage Standards for New Subdivisions, as adopted by the County.* The applicant is requesting a waiver to allow the lots to access directly onto Antioch Road instead of constructing an interior, on-site road. ***If the requested waiver above is approved, this standard is not applicable to this application.***

C. Storm Drainage (Required Category): *According to the Regulations, storm drainage systems and facilities shall be available or designed and constructed to comply with the then applicable County design criteria, construction standards, policies and regulations for storm drainage systems and facilities. The development shall also comply with the then applicable County floodplain regulations.*

1. *Storm drainage.* The subject property is located within the Headwaters of Blue River watershed and generally slopes from south to north. The main channel and a smaller creek from the east converge near the north property line along 199th Street. The Preliminary Stormwater Management and Stormwater Quality Management Plans have been accepted by Public Works.
2. *Storm water quality management.* Per the Preliminary Stormwater Quality Management Plan, a stream buffer zone conforming to the requirements of APWA 5600 is shown along both the main channel and smaller creek. If the proposed development will disturb more than one acre, a Land Disturbance Permit will be required prior to any land disturbing activities. *A LD Permit is required for any LD activities that are part of a larger, phased, staged, common plan of development and shall be considered a single site for the purposes of calculating the disturbed area.*
3. *Floodplain.* More than half of the subject property is within the regulatory floodplain. Development within the floodplain is restricted, but under some circumstances, allowed subject to approval of a floodplain development permit. There is enough buildable area outside the regulatory floodplain and stream buffer zones on each of the proposed lots for the development of a single-family residence.
4. *Storm water systems in conjunction with new streets.* No new streets are proposed. The applicant has requested a waiver to allow the lots to have access directly to Antioch Road instead of constructing a new street.

Subject to compliance with approved stormwater management and stormwater quality management plans, land disturbance, and all applicable County floodplain regulations prior to any construction or land disturbance activities, *this application will meet this requirement.*

D. Wastewater Disposal (Required Category/Highly Recommended Factor):

Category 1. *Wastewater collection and treatment shall be available or provided in accordance with the then applicable County policies, regulations and standards for onsite 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.

Provided further, however, per Article 30, if a subdivision, including resubdivision (hereinafter in this subsection "Subdivision") contains any lots smaller than seven (7) acres in size and is located in any one (1) of the following areas:

- (i). The Blue Valley Area Plan, Urban Fringe Area, as designated in the Rural Comprehensive Plan;
- (ii). The Lone Elm Area Plan, with the exclusion, however, of the Rural Cluster area and the Rural Fringe area of said plan, as designated in the Rural Comprehensive Plan;
- (iii). The Urban Fringe Policy Area, as designated in the Rural Comprehensive Plan;
- (iv). Any area where, in the opinion of the Chief Engineer of the Johnson County Unified Wastewater District, it is considered likely or reasonable to expect that sanitary sewer service would be available for a Subdivision within a fifteen (15) year period of time.

Then the developer of the Subdivision shall provide:

- a. Sanitary sewers if the Subdivision is upstream of and one thousand three hundred twenty (1,320) feet or less from the boundary of a sanitary sewer district or a sanitary sewer line capable of being connected to and capable of serving the new lots; or
- b. Dry Low-Pressure Sewers or dry gravity sewers if the Subdivision is not in an area where sanitary sewers are required by subparagraph a.

Lot 3 is less than 7 acres in size and the property is located within an Area Plan, recognized as Urban Fringe. This property is not upstream of and 1,320 ft. or less from a sanitary sewer district or a sanitary sewer line and is therefore subject to the provision of dry sewers. Note: All of the proposed lots are larger than 2 acres and on-site septic systems are allowed per the Environmental Sanitary Code. **This application does not meet this requirement.**

E. Water Supply (Required Category/Highly Recommended Factor):

Category 1. Potable water supply shall be available or provided from a public water source.

This part of the County is served by Water One (a public water source). There are 8 and 12 inch watermains along the east side of Antioch Road and south side of 199th Street, respectively, which are capable of potable water supply to the proposed lots. ***This application meets this requirement.***

NOTE: For purposes of fire protection, all development shall comply with applicable codes. The Building Code will require the installation of fire hydrants within 400 feet of property lines. The applicant will coordinate with Water One regarding fire hydrant location(s) and will submit a plan with the application for the final development plan (final plat) for review by the Chief Building Official.

Summary: This rezoning and preliminary development plan (preliminary plat) **does not meet** two of the Minimum Infrastructure Requirements and the applicant has requested waivers from: 1) Roads, Category 1.c., and 2) Wastewater Disposal, Category 1.

Minimum Infrastructure Waiver Criteria: Under the *Regulations*, Article 31, Section 2 (E), in the event that an application does not establish the availability of minimum required infrastructure and the applicant does not propose to provide the minimum facilities and services, approval of the application may occur only upon the express findings by the Zoning Board and the Board of County Commissioners that, due to the nature of the proposed development, the occupants of a particular facility or service will not be

endangered and the insufficiency of a particular facility or service will not pose a threat to the health, safety or general welfare of nearby properties or the community at large.

The applicant has requested the following waivers:

1. *Lots in new subdivisions with PRUR, Planned Rural District Zoning shall not have access directly onto a Highway, onto a CARNP designated Parkway, or onto a CARNP designated Arterial Street.*
The requested rezoning to the planned district is to allow flexibility in the design of the lots, not to increase the overall density from that which is allowed in the standard RUR district. The standard RUR district allows a density of 1 dwelling per 10 acres and for lots to have access directly onto on a Type 1 CARNP Arterial Street with a minimum of 330 ft. of frontage. In the standard RUR district, the 51 acre property, with 844 ft. of depth and 2,646 ft. of frontage, could be subdivided into five 10-acre size lots with direct access to Antioch Road. However due to the location and amount of regulatory floodplain and stream buffer, conditions unique to the subject property, the strict application of the requirements of the standard RUR district would leave the corner lot without enough area outside of the regulatory floodplain and stream buffer to be developed with a single-family residence. The proposed PRUR subdivision for 5 residential lots with an overall density and direct access no greater than what would be allowed in the standard zoning district, would not endanger the occupants or pose a threat to the health, safety or general welfare of nearby properties or the community at large.
2. *Dry Low-Pressure Sewers or dry gravity sewers if the Subdivision is not in an area where sanitary sewers are required.* The property is in an area where sanitary sewers are not required so the developer is required to provide dry sewers. However, the Chief Engineer of the Johnson County Unified Wastewater District considers it unlikely or unreasonable to expect that sanitary sewer service will be available within a fifteen (15) year period of time and recommends that a waiver be granted from installing dry sewers on the proposed lots.

STAFF ANALYSIS

REZONING REQUEST

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

The zoning and land uses of nearby properties in the unincorporated area, to the north, west, and south of the subject property is primarily RUR with rural, very low density residential and agricultural uses. A conditional use permit was approved to operate a landscape contractor operation on the property at the northwest corner of the arterial intersection. There are low density residential subdivisions developed with PRN-2, Planned Residential Neighborhood 2 District, and RN-1, Residential Neighborhood 1 District, zoning located to the north of 199th Street, west of Antioch Road. There are 3 single-family residences developed on nonconforming RUR zoned parcels (less than 10 acres in size) on the east side of Antioch Road, between 199th and 207th Streets. Property further to the south and east along 207th Street is zoned RUR and RN2, Residential Neighborhood 2 District, and is developed with rural, very low density residential and agricultural uses.

The subject property abuts the city of Overland Park. Property within Overland Park, east of Antioch Rd. and south of 199th St. is zoned PRB2J, Planned Residential Neighborhood Retail Business District J (J represents that the property is within the jurisdiction of Overland Park but has not been rezoned from the county zoning district after annexation), and RN2J. The property is currently undeveloped and used for row crops. Property within Overland Park to the north of 199th Street is zoned RURJ and PRB1J, Planned Rural Retail Business District J, and is developed with a church and 3 commercial businesses. Antioch Road acts as an edge between residential uses to the west and commercial zoning and uses to the east.

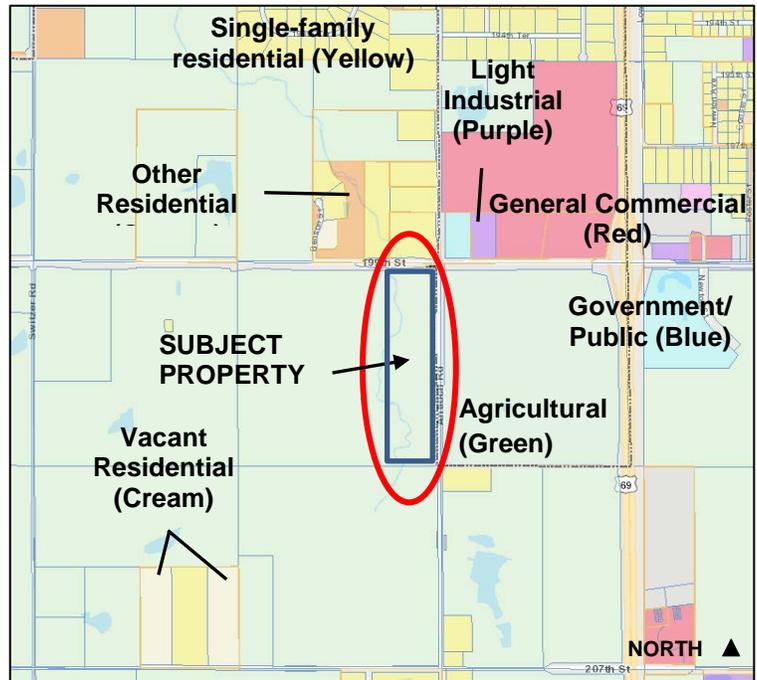


Figure 3: Current land use of nearby properties

The proposed PRUR zoning and preliminary development plan (plat) for 5 residential lots at an overall density of 1 dwelling unit per 10 acres is consistent with the zoning and use of nearby properties.

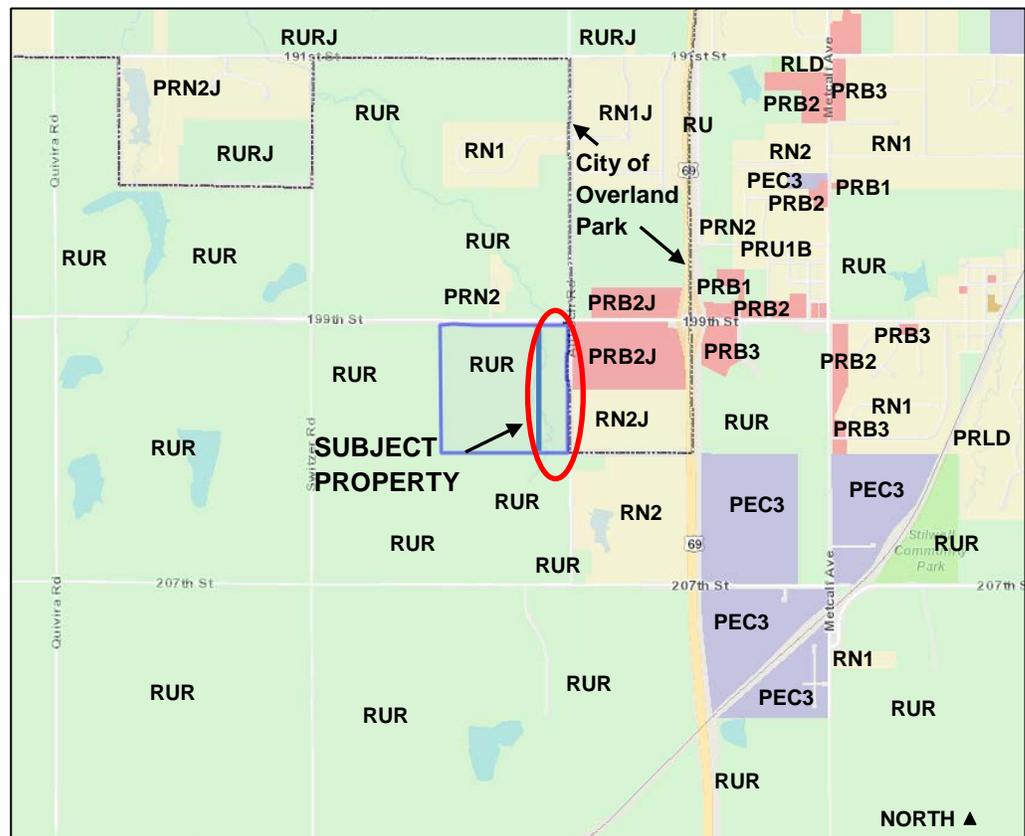


Figure 4: Zoning of nearby properties

2. Whether the zoning and use is compatible with the character of the neighborhood.

The character of the neighborhood is rural, with a mixture of very low density single-family residential, agricultural, institutional (church and not-for-profit riding stables), and rural business uses. See Figure 4 on the following page. The requested PRUR zoning and preliminary development plan (preliminary plat) to create five 6 acre and larger lots would allow very low density single-family residential development with an overall density of 1 dwelling unit per 10 acres.

The requested PRUR zoning and uses allowed in the planned district would be compatible with the character of the rural neighborhood.

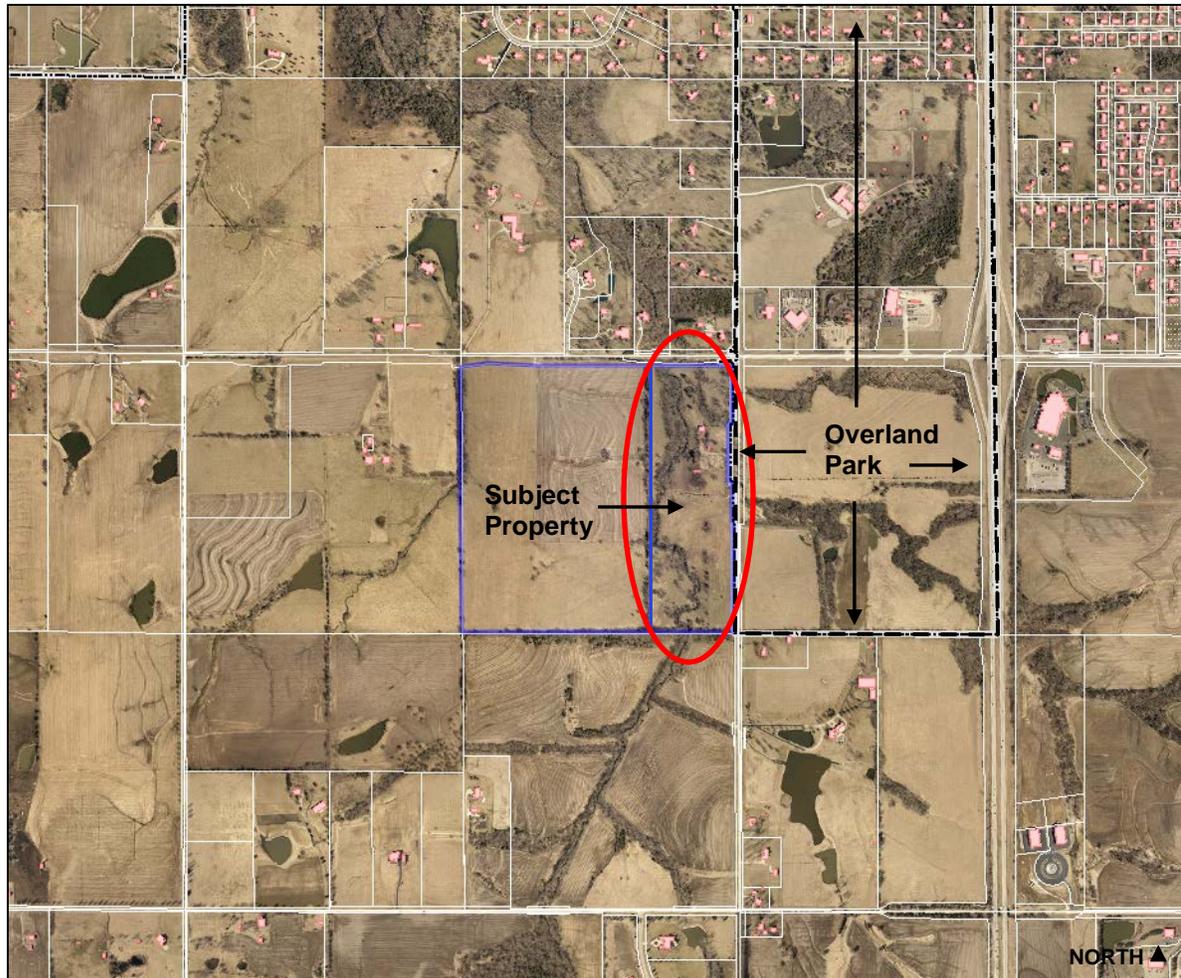


Figure 5: Subject property and surrounding neighborhood (building footprints in pink).

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

The subject property is zoned RUR and restricted to agricultural and single-family residential uses on minimum 10 acre sized parcels. The property is suitable for RUR zoning and uses, as well as the companion PRUR zoning and uses. In this case, the requested PRUR zoning is appropriate because it would allow flexibility in the layout and size of the lots to achieve a design which is reflective of the unique natural features of the subject property.

The property is suitable for uses to which it has been restricted.

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

The requested rezoning to the planned district is for the flexibility in the design of the lots, not to increase the overall density from that allowed in the standard district. There will be noise, dust, and construction vehicle traffic during construction of 5 new single-family residences.

There should be no lasting detrimental effects to nearby parcels should the rezoning from RUR to PRUR be approved.

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

At the time the property was zoned RUR as part of a countywide rezoning in 1994, it was not vacant. From review of aerial photography, the property was developed with a single-family residence and several agricultural buildings in 1941. Note: The single-family residence was removed sometime around 2015 but several of the agricultural buildings remain. Until recently, the property was used for the keeping of animals (cows).

The property continues to have viable agricultural uses and to not be vacant.

6. Relative gain to the public health, safety, morals, order, convenience, prosperity or general welfare as opposed to the hardship imposed upon the landowners by denying the request.

Should rezoning from RUR to PRUR district be denied, there would be little relative gain to the public as the property could be subdivided to create new residential lots with direct access to Antioch Road in the standard RUR district. If the application were denied the landowner would be limited to four lots, which appears to be a viable use of the property.

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

The Stilwell Community Plan was adopted as an amendment to the Johnson County Rural Comprehensive Plan in 2013, without change to the land uses recommended in the Blue Valley Plan "Future Land Use Map. The subject property is designated as Growth Policy Area: Planned Residential. Planned Residential Areas are for the infill development of low-density residential uses that complement existing residential development and promote compatibility of existing and future uses. In general, 1 dwelling unit per 10 acres is the standard density in the Growth Policy Area but 2-acre, 3-acre, and larger residential lots may be appropriate as an option if there is adequate infrastructure to support it. The requested PRUR zoning and associated preliminary development plan (plat) for five 6-acre and larger size residential lots is a development pattern that complements the existing very, low density single-family residential development and is compatible with the existing and future uses.

In addition, properties within an Area Plan are recognized as Urban Fringe. The purpose of the fringe policy area is to allow for balanced and orderly growth – preserving existing residences, active agricultural uses, and valuable open space, while enabling the gradual transition to development through close cooperation with adjacent cities and planning with utility and other service providers.

Because the property abuts the city of Overland Park, staff sent notice of the requested rezoning and preliminary development plan (preliminary plat) applications to Overland Park planning staff. Overland Park planning staff provided comments in regard to the preliminary development plan but expressed no opposition to the requested rezoning. Please see additional comments under Staff Analysis of the Preliminary Development Plan (Preliminary Plat), Item L, on page 11 of this report.

The Future Development Plan for Overland Park shows the subject property as Growth Policy Area: Agricultural/Residential. The proposed overall density of 1 dwelling per 10 acres would provide a gradual transition from the existing rural agricultural use to a rural residential development.

The requested PRUR zoning and residential uses are in keeping with the Comprehensive Plan.

PRELIMINARY DEVELOPMENT PLAN (PLAT) REQUEST

ZONING AND SUBDIVISION REGULATIONS

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 listing 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:

WaterOne provides water service to the area. There are existing water mains along both Antioch Road and 199th Street to provide domestic service to the proposed lots. The 8 inch main along Antioch is of a size capable of supporting fire hydrants for fire protection purposes. The applicant will coordinate with Water One regarding fire hydrant location(s) and will submit a plan with the application for the final development plan (final plat) for review by the Chief Building Official.

C. Soil Erosion:

The points at which soil erosion will occur are (i) during grading in preparation for the construction of streets and residences or (ii) if vegetation cover is not well maintained on the site, especially near a waterway or stream. Therefore, erosion shall be avoided by minimizing the destruction of vegetative land cover prior to and during all construction related to the subdivision or individual lot development (grading, buildings, streets, etc). The use of structural erosion control devices such as silt fences and basins, etc, shall occur as each type of construction is being made.

D. Highway or Public Road Congestion:

Access to the proposed lots will be from Antioch Road. However, the *Regulations* require that new lots in the PRUR shall not take direct access to a CARNP designated Arterial Street unless a waiver is approved. The applicant has requested a waiver and submitted a sight distance study to show that there is at least one location that meets sight distance requirements along the frontage of each lot where a driveway could be located. An entrance permit is required for all new driveways and for the existing driveway if the future owner wants to make improvements.

E. Wastewater Disposal:

The developer proposes the use of on-site septic systems. Per the Sanitary Sewer Code, on-site septic systems are not allowed to be located in the regulatory floodplain. All of the lots have more than 2 acres of area outside of the regulatory floodplain to utilize an on-site septic system.

F. Scenic, aesthetic, historic, rare or irreplaceable features:

A review of aerial photographs and of the Historic Sites and Historic Trails Maps of the Johnson County Comprehensive Plan reveals that the site is not an historic site. The area along the floodplain

is wooded and contains natural features that are protected by regulatory floodplain and stream buffer as shown on the preliminary development plan (plat).

G. Water Quality:

A Preliminary Stormwater Quality Management Plan has been reviewed and accepted by Public Works. The submitted preliminary development plan (plat) shows a stream buffer along both the main channel and smaller creek in accordance with the Preliminary Stormwater Quality Management Plan.

H. Ground Water:

The primary ground water concern is wastewater disposal, as discussed above (in Subsection E).

I. Stormwater Controls:

Please see the Stormwater discussion, Item B, within the Minimum Infrastructure analysis, above.

J. Mineral Resources

Mineral rights will be transferred to the new owners of the lots.

K. Preservation of Public Open Space:

Board of County Commissioners Resolution No. 046-94 enacted policies and procedures to guide the implementation of park land dedication requirements. In the case of this application, the requirements will apply since all of the lots are considered development projects. The following note shall be added to the final development plan (final plat):

"This Plat has lots considered to be Development Projects, and therefore is subject to a fee in lieu of park dedication in the amount of \$ _____ (1% based on the *fair market value), in accordance with the requirements of Johnson County Resolution No. 046-94." *Per the Resolution, the landowner may submit an independent fair market analysis/evaluation for the Plat and the amount of this fee may be adjusted prior to the final plat.

L. The Comprehensive Plan:

The subject property is located within an Area Plan which is recognized as Urban Fringe. Overland Park provided comments in response to notice regarding the proposed rezoning and preliminary development plan (preliminary plat) applications. See attached Overland Park comments. County staff provided the city's comments to the applicant for consideration.

The city's subdivision standards are more stringent than what is required in the unincorporated area, particularly in regard to separation of the regulatory floodplain and stream buffer. The amount of half-street r-o-w for 199th Street and Antioch Road shown on the preliminary plat meets both city and County requirements. Overland Park's Official Street Map has identified a round about as the future intersection improvement at 199th and Antioch. Additional right-of-way will be required in the future to accommodate the round about when it is installed.

M. Uses and Character of Nearby Properties:

Please see comments noted under Staff Analysis of the Rezoning Request, Item Nos. 1 and 2, on pages 6-8 of this report.

N. Minimum Subdivision Standards:

Planned Zoning Flexibility: Article 27, Section 5 of the Plat Exception portion of the Regulations provides the following:

Where a preliminary plat is submitted as a preliminary development plan in association with a planned zoning district application, and deviation from the zoning district standards is approved as part of the inherent flexibility of planned zoning (e.g., height, bulk, parking, and sign requirements, minimum lot depth, minimum lot width, length of cul-de-sac streets, length of blocks) as may be permitted through the development plan process, then a Plat Exception shall not be required to approved such deviation.

Streets and Driveways: The proposed preliminary development plan (plat) will comply with Article 30, Sec. 2 of the County's Subdivision Regulations, subject to approval of a waiver to allow direct access to Antioch Road (see waiver request on pages 5 and 6) and the flexibility allowed in planned zoning districts. All of the lots, except Lot 2 have more than 330 ft. of frontage on Antioch, A CARNP designated Type 1 arterial.

Layout of Lots: The convergence of the main channel and smaller stream near the arterial intersection creates a large area protected from development and land disturbing activities. The proposed plat is designed to concentrate the lots to the south and east closer to Antioch and that portion of the subject property outside these sensitive and protected areas.

At 16 acres, lot 1 is the largest lot but it contains the most floodplain and stream buffer. Proposed access to lot 1 is from the existing driveway which served the former farmhouse. The existing driveway is south of the regulatory floodplain, and along what would be the street frontage for lot 2 if the side lot lines were extended straight toward Antioch Road. Because access to lot 1 angles across the corner of lot 2, lot 2 has a lot width (measured at the front building line) and street frontage of 120 ft. which does not meet the minimum 150 ft. lot width for the PRUR district or the minimum 330 ft. of frontage required for a driveway to a CARNP designated Type 1 Arterial Street. In addition, lot 2 is less than 10 acres in size so the maximum lot-depth to lot-width ratio is 3 to 1; lot 2 with a lot width of 120 ft. and a lot depth 784 ft has a lot-depth to lot width ratio of 6.5 to 1.

With the exception of Lot 2, all of the lots meet the minimum subdivision standards. Use of the flexibility allowed in the PRUR district is appropriate because: 1) there are natural features which are unique to the subject property; 2) compared to an allowed subdivision design in the standard RUR district, the proposed subdivision does not increase the overall density or propose more driveways than would be allowed with 2,644 ft. of frontage on a CARNP designated Type 1 Arterial Street; and 3) the purpose of the lot-depth to lot-width ratio is to avoid "piano key" shaped lots and the lot width of lot 2 increases to over 400 ft. within a short distance of the existing driveway – not a "piano key" shape.

Environmental Resources: There are mature hedgerows which separate the subject 51 acre property from the larger 153 acre property to the west and adjoining property to the south. The natural vegetation and mature trees along the main channel also provide a natural and visual separation or boundary for the subject property. The proposed subdivision designates the floodplain and stream buffer as areas where development and land disturbance are prohibited. The subdivision layout preserves the natural qualities of the property.

Natural gas resources were identified and gas wells were located on the subject property. The locations of the now inactive gas wells are marked by polyvinyl chloride (PVC) posts, above ground pipe, electric risers, and gas markers on the preliminary plat, primarily located on lots 4 and 5. The current owner has filed notice of intent/request to cap/close these inactive wells with the Kansas Corporation Commission (KCC) and has provided a statement that mineral rights will be transferred with the sale of each residential lot.

Public Works: Attached memorandum

Wastewater: Attached comments

Overland Park: City of Overland Park staff have provided the following comments:

- 1) Overland Park would not allow floodplain or stream corridor to be part of individual lots. Common ownership and maintenance requirements for the corridor would be required.
- 2) Proposed Lot 1 - this is a tricky area for lot - we would require that a driveway serving the lot be elevated so that there would not be more than 7 inches of water depth during a flood event. Culverts would be required and possibly guardrails. The home site should be carefully placed; the minimum low opening should be elevated and stream meander should be accounted for. Identification of the allowed buildable area is recommended.
- 3) It is unclear what zoning district is being requested. Does lot 2 meet minimum lot width/street frontage requirements?
- 4) 60 feet of half street right-of-way should be acquired for 199th and Antioch.
- 5) The City's [Official Street Map](#) has identified a round about as the future intersection improvement at 199th and Antioch. Additional right-of-way is required to accommodate a future round about. See attached example from Century Farms.

RECOMMENDATION

Staff recommends **approval** of the rezoning the subject property from RUR, Rural District, to PRUR, Planned Rural District and **approval** of the associated preliminary development plan (preliminary plat), subject to stipulations.

Staff recommends **approval** of a waiver from the Minimum Infrastructure Requirements for Roads to allow direct access onto Antioch Road.

Staff recommends **approval** of a waiver from the Minimum Infrastructure Requirements for Wastewater Disposal to allow the developer to not provide dry sewers.

Recommended Stipulations:

1. The following notes shall be added to the preliminary and final development plan plat:
 - a. "This Plat has lots considered to be Development Projects, and therefore is subject to a fee in lieu of park dedication in the amount of \$ _____ (1% based on the fair market value), in accordance with the requirements of Johnson County Resolution No. 046-94."

Per the Resolution, the landowner may submit an independent fair marker analysis/evaluation for the Plat and the amount of this fee will be determined prior to the final development plan (final plat).

- b. "The Owner did not pay into an escrow account. These lots may be included in a benefit district if Antioch Road is improved."
 - c. "Wastewater collection and treatment shall be available or provided in accordance with then applicable County policies, regulations and standards for on-site wastewater disposal and the Environmental Sanitary Code of the County prior to the issuance of a building permit to allow the construction of a dwelling. Alternatively, public sanitary sewers shall be available or provided."
 - d. "A driveway entrance permit is required for any new residential entrance, or improvements to the existing residential entrance. The entrances shall conform to County standards for Residential Entrances."
 - e. "All applicable permits, including but not limited to: County building permit, wastewater, stormwater, land disturbance and post construction water quality requirements, shall be obtained and/or met prior to any construction or land disturbance activities."
2. Final Stormwater Management and Stormwater Quality Management Plans shall be submitted with the application for the final development plan (final plat).
 3. The applicant will coordinate with Water One regarding fire hydrant location(s) and will submit a plan with the application for the final development plan (final plat) for review by the Chief Building Official.
 4. Provide certification that all existing blanket easements have been absolved or are shown in a defined boundary prior to approval of the final development plan (final plat).
 5. All existing and new utility easements shall be shown on the final development plan (final plat).
 6. Revised preliminary and final development plans (plats) shall be submitted prior to recording the revised final plat.

Reasons for Recommendation of Approval of Rezoning and Associated Preliminary Development Plan (Preliminary Plat):

1. There are sensitive physical characteristics and natural resources which are unique to the subject property.
2. The flexibility of the requested planned district zoning allows the design of the lots to be concentrated in the area outside of the regulatory floodplain and stream buffer zone, producing a pattern of development which preserves sensitive natural features and prevents soil erosion along the main channel and smaller creek.
3. When compared to an allowed subdivision design in the standard RUR district, the proposed subdivision does not increase the overall density or propose more driveways than would be allowed with 2,644 ft. of frontage on a CARNP designated Type 1 Arterial Street.
4. The proposed PRUR zoning and preliminary development plan (preliminary plat) for 5 residential lots at an overall density of 1 dwelling unit per 10 acres is consistent with the zoning and use of nearby properties.
5. The requested PRUR zoning and uses allowed in the planned district would be compatible with the character of the rural neighborhood.

Reasons for Recommendation of Approval of a Waiver from the Minimum Infrastructure Requirements for Roads to allow direct access onto Antioch Road.

The proposed PRUR subdivision for 5 residential lots with an overall density and direct access no greater than what would be allowed in the standard zoning district, would not endanger the occupants or pose a threat to the health, safety or general welfare of nearby properties or the community at large.

Reasons for Recommendation of Approval of a Waiver from the Minimum Infrastructure Requirements for Wastewater Disposal to allow the developer to not provide dry sewers

The Chief Engineer of the Johnson County Unified Wastewater District considers it unlikely or unreasonable to expect that sanitary sewer service will be available within a fifteen (15) year period of time and recommends that a waiver be granted from installing dry sewers on the proposed lots

Attachments: Vicinity Map, Preliminary Development Plan (Preliminary Plat)