

MEETING DATE: September 13, 2022

STAFF: Brian Harker, Planner

PROJECT NAME: BCWC Estates

CASE NUMBER/REQUEST: **Case 22-100-16 – Rezoning – 2631 S. Lobb Cemetery Road** – A request by Kevin Perrin to rezone the property from R-A (Residential-Agricultural) and R-4/PUD (Single Family Residential Low Density/Planned Unit Development) to R-A (Residential-Agricultural).

APPLICANT: Kevin Perrin

OWNER: The Sheri Bedsworth Trust

PROPERTY ADDRESS: 2631 S. Lobb Cemetery Road (2550 and 2650 S. M-7 Highway as well)

SURROUNDING ZONING/LAND USE:

North: Districts R-4/PUD and R-A...undeveloped field
West: Districts R-4/PUD...undeveloped woods
East: District R-A...field and pasture
South: District R-A...cropland/field

PUBLIC NOTICE:

- Letters to adjoining property owners – August 26, 2022
- Public Notice published in the Independence Examiner – August 27, 2022
- Sign posted on property – August 25, 2022

FURTHER ACTION:

Following action by the Planning Commission, this rezoning request is scheduled for a first reading by the City Council on October 3, 2022 and the public hearing/second reading on October 17, 2022.

RECOMMENDATION

Staff recommends **APPROVAL** of the rezoning.

PROJECT DESCRIPTION & BACKGROUND INFORMATION

PROJECT DESCRIPTION: A request by Kevin Perrin to rezone this property from District R-A (Residential-Agricultural) and District R-4 (Single-Residential Low Density/Planned Unit Developed) to District R-A (Residential-Agricultural).

Current Zoning: District R-A (Residential-Agricultural) and District R-4/PUD (Single-Family

Proposed Zoning: District R-A (Residential-Agricultural)

Residential Low Density/Planned Unit Developed).

Current Use: house and undeveloped property
Square Footage: 1,298,063-square feet

Proposed Use: three rural residences

Former Zoning: All three parcels were annexed in 1975
In 2007; one parcel stayed A-1 and two parcels went from A-1 to R-1a/PUD
Prior to 2009; R-A was A-1 and R-4/PUD was R-1a/PUD

PROPERTY HISTORY

The three-parcel, 27-acre property was annexed into the City in 1975. In 2007, the middle and southern parcels were rezoned to R-1a/PUD as part of the earlier planned Acadia development. With the adoption of the Unified Development Ordinance (UDO) in 2009, the existing zoning nomenclature was changed so that District A-1 (Agricultural) became R-A (Residential-Agricultural) and R-1a/PUD (Single-Family Residential Low Density/Planned Unit Development) become R-4/PUD (Single-Family Residential Low Density/Planned Unit Development).

PHYSICAL CHARACTERISTICS OF PROPERTY

The properties have an open field near M-7 Highway and along the southern property line, and has large lawn areas north and south of the house currently under construction. However, the properties are mostly wooded concealing the new home and existing accessory building.

CHARACTERISTICS OF THE AREA

To the west and northwest the properties are just as wooded as the applicant's land. Undeveloped fields lie to either side of the M-7 Highway right-of-way. South of the property, along the highway is a wooded area, but the parcel is generally an open field. There are more nearby residential neighbors along Lobb Cemetery Road and fewer along the M-7 Highway right-of-way. KC dumpster Company lies across M-7 Highway to the east.

PROPOSAL:

The property's three parcels will be replatted, via the Minor Subdivision process, into three new residential lots. The two, smaller lots will be accessed from M-7 Highway and the 20-acre remaining lot will continue to be accessed from M-7 Highway and indirectly from Lobb Cemetery Road. The southwestern corner of the southern parcel, near Lobb Cemetery Road, was recently split away and recorded without the benefit of replatting. The replatting will consolidate the existing improvements on the larger lot and leave two undeveloped lots for friends and family adjacent to M-7 Highway.

The reason for the rezoning request is that the boundary between the existing middle and southern parcels is also the zoning boundary. The new platted subdivision requires changing the zoning boundaries, or better yet, harmonizing all the lots with just one zoning. The R-A zoning classification will serve the needs of both the proposed larger and smaller estate lots. Further, R-A zoning classification is consistent with other area properties.

ANALYSIS

Consistency with *Independence for All*, Strategic Plan:

The proposal is consistent with the Goal, “achieve livability,” and, “choice”.

Comprehensive Plan Guiding Land Use Principles:

The proposal is consistent with the Guiding Principle, “Provide a diversity of housing options”. The Comprehensive Plan envisions Residential Established Neighborhoods for the vicinity. This rezoning would be consistent with that land use category.

Zoning:

District R-A allows; detached houses, daycare, government buildings, churches, schools, utilities, cemeteries, animal and crop agriculture, and home gardens. The existing R-4/PUD district allows: detached homes, home based daycare, government facilities, churches, schools, utilities, cemeteries, crop agriculture and gardening.

Building Permit:

The applicant applied for a building permit, in April, for a new residence currently being constructed. Replatting and rezoning the three parcels will not create any new legal nonconformities. In fact, the thirty-four-foot-wide legal nonconforming side yard setback for the existing accessory building will be eliminated.

Historic and Archeological Sites:

There are no apparent historic/archeological issues with this property.

Public Utilities:

Water and electrical services are available to these lots from the rights-of-way and nearby easements. All three new lots will be on septic.

Storm Water and Stream Buffer:

The properties do not set in a flood plain. Additionally, it is not located within an identified stream buffer area. There are no streams on the properties. Development of the lots for rural residences will result in very little land disturbance and thus very little runoff.

CIP Investments:

There are no CIP projects impacting this development.

Driveways:

The two new three-acre lots, to abut the M-7 Highway right-of-way, will have direct access from that roadway. Their driveways will need to be paved given those lots will be under five acres in area. The larger remaining lot has an existing gravel driveway access between Lots 1 and 3 as well as a primary gravel driveway from Lobb Cemetery Road across the Little Blue Valley Property Holders tract.

Landscaping:

Administratively reviewed plot plans, with plantings per the UDO, must be provided with the building permits for the residences.

REVIEW CRITERIA

Recommendations and decisions on rezoning applications must be based on consideration of all the following criteria:

1. Conformance of the requested zoning with the Comprehensive Plan.

The Comprehensive Plan envisions Residential Established Neighborhoods uses for this vicinity. The proposed large-lot residential uses and the rezoning to R-A, are in keeping with the surrounding rural residential and agricultural uses;

2. Conformance of the requested zoning with any adopted neighborhood or sub-area plans in which the property is located or abuts.

There are not any subarea plans that cover the vicinity around this proposed development;

3. The compatibility of the proposed zoning with the zoning and use of nearby property, including any overlay zoning.

There is not any overlay zoning. The proposed zoning is similar to that already present along the M-7 Highway corridor. The proposed use is compatible with other rural residential uses along the highway;

4. The compatibility of the proposed zoning and allowed uses with the character of the neighborhood.

Rural single-Family uses, zoned R-A and R-4/PUD, lie largely along Lobb Cemetery Road and to a lesser extent along M-7 Highway;

5. The suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations.

The R-4/PUD rezoning is more suitable for larger scale and more dense developments, not for large estate sized lots for rural residences;

6. The length of time the subject property has remained vacant as zoned.

The new residence at the rear of the property has just been constructed. In the last year and a half, the house along M-7 Highway, on the eastern side of the property, was torn down;

7. The extent to which approving the rezoning will detrimentally affect nearby properties.

Again, the proposed zoning is similar to that already present in the area;

8. The gain, if any, to the public health, safety and welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

If the rezoning is denied, the applicant will not be able to replat. If approved, any proposed construction on the southern two parcels would require Development Plans.

EXHIBITS

1. Applicant's letter
2. Application
3. Notification letter
4. Affidavit/ Addresses
5. Aerial Photo
6. Proposed Minor Subdivision
7. Plot Plan for house under construction
8. Comp Plan Map
9. Zoning Map