

EL DORADO

K A N S A S

PLANNING COMMISSION AGENDA

June 27, 2024

5:30 PM

1. CALL TO ORDER & ROLL CALL

James Barnaby
Steve Fellers
Lawrence Fischetti
Debbra LaForge
Scott Leason
Brad Long
Austin Letts
Norm Wilks

2. APPROVAL OF MINUTES

1 - APPROVE 5/23/24 MINUTES

3. NEW BUSINESS

ITEM NO. 1 - REZONE SW/C RIVER RD/STONE RD

- A. Presentation of Request
- B. Public Hearing
- C. Discussion by Planning Commission
- D. Motion

4. OLD BUSINESS

5. STAFF ITEMS

1 - NEXT MEETING 7/25/24

6. ADJOURNMENT

EL DORADO

K A N S A S

PLANNING COMMISSION MINUTES - **DRAFT**

May 23, 2024

5:30 p.m.

1. CALL TO ORDER & ROLL CALL

Chairman Hackler called the meeting to order at 5:30 pm.

Members Present

Steve Fellers
Scott Hackler
Debbra LaForge
Scott Leason
Austin Letts
Brad Long
Gerald Watson

Others Present

Roger Cutsinger with BHC	
Chuck & Michelle Counterman	104 W Sunflower Ave. Augusta
Ron & Cheryl Alvarez	2445 SE Bluestem Rd
Charles Pyles	2918 SE 30 th St.

2. APPROVAL OF MINUTES

Commissioner Fellers moved to approve the minutes from April 25, 2024, seconded by Commissioner Long. The motion passed (7-0).

3. NEW BUSINESS

ITEM NO. 1 – CASE NO. 24-05-REZ: PUBLIC HEARING FOR THE CONSIDERATION OF A REQUEST TO REZONE APPROXIMATELY 39 ACRES AT SE 20TH & SE BLUESTEM FROM A-R (AGRICULTURAL RESIDENTIAL DISTRICT TO R-S (RESIDENTIAL SUBURBAN DISTRICT)).

A. Presentation of Request

Mr. Rickard provided an overview of the application by William Counterman to rezone approximately 39 acres at the southwest corner of SE 20th Street and SE Bluestem Road from A-R Agricultural Residential District to R-S Residential Suburban District. R-S is a residential zoning that primarily allows single-family residential on large lots.

The property's current zoning, A-R, requires a minimum lot size of 40 acres. The applicant proposes two 5-acre lots, one 7-acre lot along SE Bluestem Rd, and one 19-acre lot along SE 20th St. The proposed lots will require R-S zoning. The minimum lot size in R-S zoning is three acres when a public water supply is available. The minimum lot size is 6.6 acres when a public water or wastewater system is not present.

This property is located outside city limits but within the El Dorado Extraterritorial Jurisdiction (ETJ). The County Planning Commission heard the request on 5/7 with a favorable approval. The Butler County Commission will review the request on 5/28.

Roger Cutsinger with BHC who's representing Mr. & Mrs. Counterman, stated the proposed plat has been presented to the County Planning Commissioners and they requested a few changes. Commissioner Fellers inquired what the County adjusted. Mr. Cutsinger stated changes to the control access moved north and drive entrances were moved.

Mr. Rickard verified that the changes mentioned were for the plat and not the rezone.

Commissioner Fellers inquired if the idea was for four homes to be built. Mr. Cutsinger stated that was correct.

Commissioner Letts inquired why the property needs to be rezoned. Mr. Rickard stated that A-R zoning requires a minimum of 40 acres to be lived on and to subdivide into smaller lots the property must be rezoned.

Commissioner Fellers inquired if the rural water lines were at the owner's expense.

Mr. Rickard stated that they are and the only thing the city is involved in is the use of the land and ancillary review of the plat.

B. Public Hearing

Commissioner Hackler opened the public hearing.

Cheryl Alvarez adjoins the property to the south and stated that her main concern is what will happen to their taxes and said they purchased their 40 acres so they would not be close to others. Commissioner Long inquired if Mrs. Alvarez's property is agricultural and if she has any animals if they would be adversely affected. Mrs. Alvarez stated they do have animals and believe they will be affected.

Commissioner Letts inquired about the property across the street and how it impacts the area. Mrs. Alvarez stated she didn't know it was zoned like that and that there was nothing there except an old farmhouse.

Mr. Rickard pointed out to the Commissioners the other parcels in the area that are smaller lots and nonconforming that were split years ago.

Ron Alvarez inquired why the city is involved and not the county, he also mentioned the cave system and aquifer in the area. He is concerned about how those things are going to be affected once utilities are placed to serve the property if the water will be contaminated. Mr. Alvarez also stated that hunting in the area will be a problem for him and the new homes.

Commissioner Hackler asked Mr. Alvarez if he envisioned hunting to be a problem.

Mr. Alvarez confirmed he does see it to be a problem. They currently skeet and rifle shoot to the north towards the hedge row and it could damage homes and take away wildlife.

Commissioner Hackler verified with Mr. Alvarez that they purposely shoot toward the north since nothing is currently there.

Commissioner Long inquired how many years Mr. Alvarez has lived in the area and if he has talked with Mr. Counterman about these issues.

Mr. Alvarez stated he has lived there for 6 years, and he has not discussed the project with Mr. Counterman, he and his neighbors are against the development, also he believes their taxes will increase.

Commissioner Hackler explained the 3-mile ETJ and how the Planning Commission is only an advisory board. Mr. Alvarez inquired if the city limits are expanding. Commissioner Hackler stated that is not what this case is about and that they can't control annexation requests.

Commissioner Fellers inquired if Mr. Alvarez spoke to Butler County. Mr. Rickard stated that this meeting is a public hearing for public concerns and input.

Mr. Alvarez stated a meeting with the owners should have taken place before the public hearing. Mr. Rickard noted that owners within a 1,000-foot are notified, and the applicants are advised to speak with their neighbors, the purpose of public hearings is to address questions and concerns and to receive input from the community.

Commissioner Fellers asked Mr. Alvarez to explain his water concerns. Mr. Alvarez stated he is concerned the aquifer that runs east, and west could be affected by seepage with any new lagoons that are installed, and he does have a lined lagoon himself.

Commissioner Long asked Mr. Alvarez if his lined lagoon had caused any issues with the water system and why he thought any new lagoons would cause an issue.

Mr. Alvarez stated he has had his lagoon tested and said it depends on where the new lagoons are located as a water system could burst with all the rock & ground shifts.

Commissioner Hackler stated any issues would be the owners and lagoons must abide by the County code.

Commissioner Long inquired if Mr. Alvarez contacted Mr. Rickard when the letter was received. Mr. Alvarez stated he did not.

Michelle Counterman, owner of the property, stated that even though the property is going to be platted into four lots, doesn't mean it will be sold to four separate families and the new owners will be able to do whatever they want with their property. She also mentioned that the rural water district plans to run a 4- or 6-inch water line in the next year or two which will accommodate an unlimited number of homes. She also believes cattle do more damage to aquifers than four families would.

Commissioner Letts inquired if anyone could buy the property. Mrs. Counterman indicated they could.

William Counterman, the owner of the property, stated the same things said could go towards the neighbor, for example, the shooting could be a danger to new homes, their cattle poop in ponds, lagoons need linings and he also mentioned other lots he has had that were split where the taxes weren't affected.

Commissioner Hackler inquired if the intention was to build a home on the large parcel. Mr. Counterman stated that was a possibility, but they are not building now, just preparing.

Commissioner Letts acknowledged that one house could be built, and the other lots might never get developed.

Mr. Rickard reminded the commission that once zoning changes anything that's allowed under that zoning classification can occur at any time.

Commissioner Long inquired if there are any restrictions on the type of home that can be built.

Mr. Rickard stated that Butler County issues the permits and the city is involved in land use only.

Mr. Cutsinger expanded on the explanation of ETJ as a growth area for the community. He also stated that the county is involved since the road is in the county. He also remarked that the county is getting strict on water. They are denying wells and are requiring rural water. All permitting goes through the county and they require a 50-foot minimum off the property line for a lagoon.

Charles Pyles has 78 acres that joins Mr. Alvarez's property and stated his concern is with lagoons going in, he has a pond and two wells on his property and is concerned about what the wastewater is going to do to the water wells. He mentioned he leases his land for cattle and is afraid putting lagoons in will disturb the rock and change the direction of water runoff.

Commissioner Long inquired if he had a lagoon. Mr. Pyles stated he does not.

Commissioner Fellers inquired about who pays for the rural water lines. Mr. Rickard stated the board of trustees of the water district determines those policies.

Mr. Counterman confirmed there will be water for all lots and they will abide by county rules to put in lagoons or septic systems.

C. Discussion by Planning Commission

Commissioner Fellers confirmed that the county is responsible for lagoons to meet all standards, inquired if the county could answer those questions, and if individuals did not agree with what they heard if they could contact an attorney.

Mr. Rickard stated that the city is not involved in lagoons and assured the county is available to answer questions. Anyone can consult with an attorney. Mr. Rickard also mentioned that in every zoning case, there is an ability for a protest petition after a public hearing, a protest petition causes a super majority vote by the city commission to pass the recommendation.

Commissioner Leason commented that he has people hunt behind his property with no problems, if they are safe it shouldn't interfere with homes, and he does not want to take away anyone's ability to hunt.

Chairman Hackler stated the Planning Commission's purpose is to receive feedback from anyone who could be impacted by the recommendations from the city or county. He mentioned how the first item that always comes up in similar cases is private property rights and it's up to the government body to determine if the proposed use is allowed not the neighbors.

D. Motion

Commissioner Leason moved to recommend approval of Case No. 24-05-REZ, an application by William Counterman to rezone approximately 39 acres in the NE ¼ of the NE ¼ of Section 17, Township 26 Range 6 East, located at the southwest corner of SE 20th Street and Bluestem Road from A-R Agricultural Residential District to R-S Residential Suburban District, for reasons stated in the staff recommendation and heard at this public hearing seconded by Commissioner Letts.

Roll Call Vote:

Steve Fellers	Y
Scott Hackler	Y
Debbra LaForge	Y
Scott Leason	Y
Austin Letts	Y

Brad Long	Y
Gerald Watson	Y

The motion passed (7-0).

ITEM NO. 2 – CASE NO. 24-02-PLAT: CONSIDERATION OF ROCKY CREEK MEADOWS PLAT.

A. Presentation of Request

Scott Rickard provided an overview of the plat for Rocky Creek Meadows, owned by William Counterman. The property is in Butler County in the City's ETJ. The plat creates two 5-acre lots and one 7-acre lot along SE Bluestem Rd and one 19-acre lot along SE 20th St. The property was previously rezoned. The plat does conform to Butler County regulations.

B. Discussion by Planning Commission

No discussion ensued.

C. Motion

Commissioner Letts made a motion to approve the plat for Rocky Creek Meadows, seconded by Commissioner Leason.

Roll Call Vote:

Steve Fellers	Y
Scott Hackler	Y
Debbra LaForge	Y
Scott Leason	Y
Austin Letts	Y
Brad Long	Y
Gerald Watson	Y

The motion to approve the plat passed 7-0.

4. OLD BUSINESS

5. STAFF ITEMS

Commissioner Fellers nominated Commissioner Letts to serve as Chair. Commissioner LaForge seconded; Commissioner Letts accepted.

Commissioner Fellers nominated Commissioner Leason to serve as Vice Chair. Commissioner Long seconded; Commissioner Leason accepted.

Commissioner Hackler stated the next meeting will be on June 27th to consider a rezone of the north side of Towanda Ave from Boyer Rd. to Haverhill Rd. from A-R to multiple zoning classifications and the preliminary plat for the same location.

Commissioner Hackler stated that it has been his pleasure to serve on the commission and has been interesting to learn the inner workings and looks forward to Commissioner Letts taking over.

ADJOURNMENT

The meeting was adjourned at 6:19 pm.

PLANNING COMMISSION MEMORANDUM

TO: Planning Commission
CC:
FROM: Scott Rickard
RE:

Subject: Dan Gonzales' rezoning application for approximately 6.6 acres at the southwest corner of East River Road and North Stone Road from C-1 General Business District to R-1 Residential Low-Density District.

Findings of Fact

Character of the Neighborhood:

The neighborhood consists of R-3 zoning to the west, which includes multiple-family dwellings and higher-density residential uses. To the south and north, the area is zoned C-1 General Business District, allowing for a variety of commercial activities, however, the current use of the properties to the north is single-family. Adjacent land in the ETJ to the east is zoned A-R, which is designated for agricultural-residential purposes. This mix of residential and agricultural zoning indicates a predominantly low to medium-density residential character, supporting the transition to R-1 zoning.

Consistency with the Comprehensive Plan and Ordinances of the City of El Dorado:

The Future Land Use Map (FLUM) designates the subject property as Neighborhood Mixed Use. This designation is intended to support a mix of residential types and small-scale commercial uses that serve the surrounding neighborhood, acting as a transition zone between residential and more intense land uses. The proposed R-1 zoning aligns with this vision by facilitating low-density residential development, which is consistent with the comprehensive plan's goals of creating balanced and sustainable neighborhoods.

Adequacy of Public Utilities and Other Needed Public Services:

The property has access to public utilities, including water, sewer, and electricity, which are essential for residential development. The existing infrastructure is adequate to support the proposed single-family homes, ensuring that residents will have reliable access to necessary services.

Suitability of the Uses to Which the Property has been Restricted under its Existing Zoning:

The current C-1 General Business District zoning allows for a range of commercial uses such as retail stores, offices, and service businesses. However, given the surrounding residential and agricultural uses, this zoning is less suitable. Rezoning to R-1 Residential Low-Density District will allow for single-family homes, which are more compatible with the existing neighborhood character and will enhance the area's residential appeal.

Length of Time the Property has Remained Vacant as Zoned:

The property has remained vacant under the current C-1 zoning, indicating that the commercial uses permitted in this district have not been viable or attractive for development. Rezoning to R-1 is expected to stimulate development by aligning with the demand for residential housing.

Compatibility of the Proposed District Classification with Nearby Properties:

The proposed R-1 zoning is highly compatible with the adjacent residential and agricultural properties. It aligns with the low-density residential character of the surrounding R-3 and A-R zones, providing a harmonious transition and reinforcing the neighborhood's residential nature. This zoning change will create a cohesive and stable residential environment, reducing potential land use conflicts.

The Extent to which the Zoning Amendment may Detrimentally Affect Nearby Properties:

The addition of single-family homes under the R-1 zoning is not expected to detrimentally affect neighboring properties. Instead, it will contribute positively by increasing the housing supply, enhancing property values, and improving neighborhood stability. The development of single-family homes typically has a low impact on traffic, noise, and overall environmental quality compared to

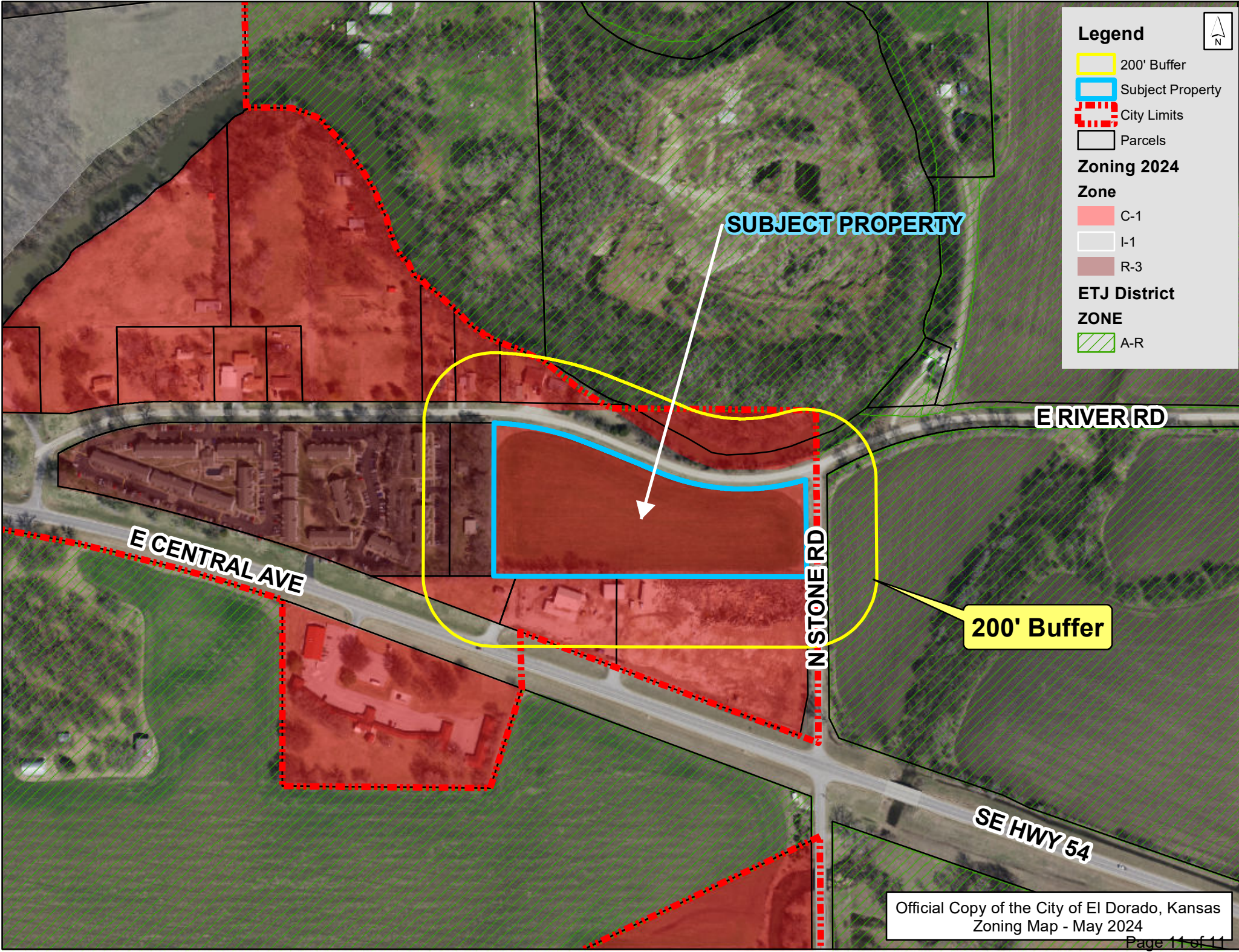
commercial uses.

Whether the Proposed Amendment Provides a Disproportionately Great Loss to the Individual Land Owners Nearby Relative to the Public Gain:

The proposed rezoning is unlikely to cause a disproportionately great loss to nearby landowners. The public gain, in terms of increased housing availability, improved neighborhood cohesion, and enhanced property values, significantly outweighs any minimal negative impacts. The shift from commercial to residential use aligns with community needs and planning goals, promoting the general welfare of the area.

Suggested Motion:

I move to recommend approval of Case No. 24-06-REZ, an application by Dan Gonzales to rezone approximately 6.6 acres in a portion of the south half of Section 4 Township 26 South Range 5 East in Butler County, Kansas, from C-1 General Business District to R-1 Residential Low-Density District.



Legend

- 200' Buffer
- Subject Property
- City Limits
- Parcels
- Zoning 2024**
- Zone**
- C-1
- I-1
- R-3
- ETJ District**
- ZONE**
- A-R



SUBJECT PROPERTY

200' Buffer

E RIVER RD

E CENTRAL AVE

N STONE RD

SE HWY 54