

Planning Commission Staff Report

Applicant

Loyd and Marlene Schroeder
994 N. Meridian
Newton, KS 67114

Application

Application number ZP04.006 and ZP04.007. Applicant is requesting to rezone approximately twenty-eight (28) acres from "A" Agriculture Zone District to "RR" Rural Residential Zone District. Applicant also is requesting a current CUP for a Christmas Tree Farm operated at retail on forty (40) acres.

Project Description

Mr. and Mrs. Schroeder own approximately one hundred and eight (108) acres in the northwest quarter of Section 19, Township 21 South, Range 1 East. The residence is located two miles south and one mile west of the City of Goessel.

This home-site contains one residence of approximately 1200 sq. ft., one pole shed 24' x 40', one utility shed 20' x 40' and one quonset hut 44' x 124'. This property is served by rural water. The private wastewater system that serves this property is compliant.

Planning Issues

The Public Hearing Notice and Adjacent Property Owner Notification has been completed in accordance with the Marion County Zoning Regulations and Kansas State Statutes. No public comments have been received as of February 13, 2004.

The purpose of the "RR" Rural Residential Zone District is to provide a transition zone between agricultural lands and low-density rural residential development. Article 3 of the Marion County Zoning Regulations states that "RR" is suitable in rural locations where adequate public roads and public services are available, but is not suitable in all rural locations. It is inappropriate in areas predominately agricultural in character where public services are adequate only to meet the needs of farm residences and farm operations.

Factors to be considered in a change of zoning classification:

- 1) Whether the change in classification would be consistent with the intent and purpose of the Marion County Zoning Regulations.
- 2) The character and condition of the surrounding neighborhood and its effect on the proposed change.

- 3) Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions.
- 4) The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification.
- 5) Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity.
- 6) The suitability of the applicant's property for the uses to which it has been restricted.
- 7) The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped.
- 8) Whether adequate sewer and water facilities, and all other needed public services including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified.
- 9) The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development.
- 10) The recommendations of permanent or professional staff.
- 11) Whether the proposed amendment would be in conformance to and further enhance the implementation of the Comprehensive Plan.
- 12) Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification.
- 13) Such other factors as may be relevant from the facts and evidence presented in the application.

In approving a conditional use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in the recommendation of the planning commission or the approval of the governing body. The requirements may be made more stringent if there is potentially injurious effect, which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

Factors to be considered in a conditional use permit recommendation:

- 1) Whether approval of the conditional use would be consistent with the intent and purpose of the Marion County Zoning Regulations.
- 2) Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood.
- 3) Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided.
- 4) Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected.
- 5) The length of time the subject property has remained vacant or undeveloped as

zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped.

- 6) Whether the applicant's property is suitable for the proposed use.
- 7) The recommendations of permanent or professional staff.
- 8) Whether the proposed conditional use would be in conformance to and further enhance the implementation of the comprehensive plan.
- 9) Whether the relative gain to the public health, safety and general welfare outweighs the hardship impose on the applicant by not upgrading the value of the property by approving the conditional use.
- 10) Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected.
- 11) Such other factors as may be relevant from the facts and evidence presented in the application.

Property is adjacent to solid gravel road.

Section 19 of West Branch Township contains three "RR" Rural Residential Districts at present time.

Tree farm was operated at retail previous to adoption of county zoning regulations. Retail operation is a grand-fathered non-conforming use.

Property is located in a quarter section with a correction line.

Acreage variance in an "A" Agricultural District was approved by the BZA in March of 2001.

Staff Recommendation

Approve a recommendation to rezone up to nineteen (19) acres from "A" Agricultural Zone District to a "RR" Rural Residential Zone District. (REASON: Application comparable to precedent set by approval of similar applications. Rezone acreage requested is greater than double the minimum "RR" requirement allowing the parcel to be subdivided for residential development.)

Approve a recommendation for a conditional use permit for retail tree sales on forty acres as presented in the development plan. Include recommendation all State of Kansas operational permits be obtained and maintained. Include recommendation that one four feet by eight feet non-illuminated sign be allowed on-site. Include recommendation that all parking be provided for off street. Include recommendation to allow operational transition to occur up to three growing seasons.