2. REZONING NO. 2005-20 - Vicinity of the northwest corner of 167th Street and Quivira Road

GENERAL COMMENT: This item is directly related to Rezoning No. 2005-19 and should be considered together.

The City Council considered this item at a public hearing on November 21, 2005. The council voted to continue the request to December 12, 2005, to allow the applicant to amend the rezoning request to RP-OE, Planned Open Space Estate Residential District, with a density of 1.07 units per gross acre and submit a preliminary plan for the property. Therefore, the staff report has been revised to discuss the new request and plan submitted by the applicant. The amended portions are in bold.

1. APPLICANT: Andrew Schlagel is the applicant for this request.

2. REQUESTED ACTION: The applicant is requesting a rezoning from A-J, Agricultural District, Johnson County, to **RP-OE, Planned Open Space Estate Residential District, to allow a single-family open space subdivision**.

3. LOCATION: The 145.966-acre tract is located in the vicinity of the northwest corner of 167th Street and Quivira Road.

4. CHARACTER OF THE NEIGHBORHOOD: The neighborhood is composed of large parcels of land that are primarily used as farm land. Some of these parcels are being rezoned to allow for residential development.

5. LAND USE AND ZONING PATTERNS: The property to the south is zoned A-J and is undeveloped land being used as farm land. A portion of the property to the south is associated with Rezoning No. 2005-19. To the west of the property is land zoned A, Agricultural District, and A-J, and is undeveloped. Summerwood Estates Second Phase is located to the north of the application area and is zoned RP-OS, Planned Open Space Single-Family Residential District. Across Quivira Road to the east is property recently rezoned R-1 and land zoned RUR-J, Rural District, Johnson County. The RUR-J land is proposed to be rezoned to RP-4, Planned Cluster Housing District.

6. ANALYSIS OF APPLICATION: **The applicant is requesting rezoning from A-J, to RP-OE, to allow a single-family open space subdivision. This is a planned zoning district and therefore, a plan was submitted by the applicant. The plan proposes a total of 156 lots on 146 gross acres for a density of 1.07 units per gross acre. There are a total of 10 additional lots than what is permitted in the RP-OE district;**

therefore, a deviation is required to be approved. Staff has provided the five criteria required to be met in order to grant a deviation.

1. **The deviation requested arises from a condition that is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or applicant.**

2. **The granting of the deviation will not adversely affect the rights of adjacent landowners or residents.**

3. **The strict application of the provision of this ordinance would constitute an unnecessary hardship upon the landowner represented in the application.**

4. **The deviation desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

5. **The granting of the deviation will not be opposed to the general spirit and intent of the ordinance.**

Staff did not review the request against the five criteria, because the City Council directed staff to work with the applicant on a plan that provides a density of 1.07 units to the acre.

Access to the site is from Quivira Road with two additional connections provided to the north, which is the proposed Summerwood Estates subdivision. A street stub is also provided to the west for a possible future residential development. This property is currently owned by another land owner and would have to be rezoned in the future. This access will be reviewed with the preliminary plat, but it might have to be moved to accommodate development to the west. This could potential cost a lot or require a lot to be moved.

There are large areas of open space provided throughout the development. A stream corridor exists along the western third of the property in between lots. The stream corridor buffer is required to be 100 feet on both sides of the stream. The larger stream corridor and flood plain is along the southern portion of this rezoning. A stream corridor of 120 feet is required along Coffee Creek as shown on the plan. The remainder of this open space is a flood plain. Other

open space areas are located throughout the property. These include: Tract A, the proposed amenity area; Tract B, the required 75-foot buffer along a thoroughfare; Tract C, a 25-foot landscape easement along the thoroughfare, and the required buffer along a thoroughfare. Additional open space areas are provided behind several of the residential lots. Fifty percent of the gross land area is provided in open space tracts, which is 10 percent more than required by the zoning district. Staff did find that the plan does meet the RP-OE guidelines.

ENVIRONMENTAL ISSUES: This development will require approval of a Preliminary Stormwater Management Study prior to approval of the preliminary plat. Although an approved study has not been included with this rezoning application, it appears that the project reasonably conforms with applicable engineering requirements related to the floodplain and required stream corridors. Additional comments and stipulations which could have a minor impact to the subdivision layout will be provided when a Preliminary Stormwater Management Study is reviewed concurrently with review of the preliminary plat.

7. CONFORMANCE WITH THE MASTER PLAN:

a. FUTURE DEVELOPMENT PLAN MAP: The Future Development Plan identifies this area as appropriate for very-low-density residential uses. The R-1 zoning district allows up to five units per gross acre, and therefore, this request does not meet the Future Development Plan.

b. GOALS AND POLICIES: There are no established goals and policies for Very-Low-Density Master Planned property. However, the property is located in the Very-Low-Density Residential Area A of the Johnson County Executive Interest Area Plan. The plan requires this property to be developed with "up to one dwelling unit per gross acre, with 10 percent Airport-Related Open Space Required." **This request does not conform to the city's Master Plan or the Johnson County Executive Interest Area Plan because the plan proposed a density of 1.07. However, the City Council did direct the staff and the applicant to work on a plan that provided a density of 1.07 units to gross acre.**

As required by Kansas State Statutes, if approved, this request will have to be reviewed by the Board of County Commissioners of Johnson County

due to it being located in the Johnson County Executive Airport Interest Area. The city's planning staff will work with the Johnson County Planning Department to schedule this request for the Board of County Commissioner's review at the earliest possible date.

8. STAFF RECOMMENDATION: Based upon the rezoning request not meeting Future Development Plan or the Johnson County Executive Interest Area Plan requirements, staff recommended denial of Rezoning No. 2005-20.

9. PLANNING COMMISSION RECOMMENDATION: The Planning Commission considered this item at a public hearing on October 24, 2005. No one spoke in opposition to this request. The Planning Commission considered Rezoning No. 2005-19 and 2005-20 together and felt that this property should be developed with a planned open space subdivision. Therefore, the Planning Commission voted 11 to 0 to deny Rezoning No. 2005-20.

If the City Council finds this rezoning and associated plan acceptable, staff would recommend the following stipulations:

a. The development shall be in accordance with Exhibit "A" (Site Plan), which is filed in the office of the Planning Commission Secretary at City Hall and which are incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Overland Park, unless specifically exempted by the Governing Body.

b. Development of the tract shall be limited to 156 lots.

c. Prior to the issuance of a building permit, the property shall be preliminary and final platted.

d. Prior to the issuance of any building or site development permits, approval of the rezoning application shall be obtained from the County Commission.

e. Concurrent with the recording of the final plat, a conservation easement, shall be recorded for all open space lands. The conservation easement document shall be subject to approval of the staff.

f. Prior to the issuance of any building permit for any lots within the subdivision, the application shall provide verification of the filing of the "Affidavit of Interest," as recommended by the Johnson County Airport Commission.

g. The street connection at the far southwest corner of the plan will be reviewed further at the time of preliminary plat. This street may need to be moved to allow for a better connection to the property to the west.