

PLANNING COMMISSION REPORT
REGULAR AGENDA - NON-PUBLIC HEARING ITEM

PC Staff Report
10/24/07

ITEM NO. 16A: ANNEXATION OF 144.959 ACRES; AIRPORT BUSINESS PARK NO. 1
(PGP)

A-06-05-07: Annexation of approximately 144.959 acres located at E 1500 Road and US Hwy 24/40. Submitted by Landplan Engineering, for Roger Pine, Pine Family Investments, LC, and Kathleen and Brian Pine, property owners of record.

STAFF RECOMMENDATION: Staff recommends approval of the requested annexation of approximately 144 acres located at E 1500 and US Hwy. 24/40 and forwarding it to the City Commission with a recommendation for approval based on the findings found in the body of the staff report, and subject to the following condition:

1. The City of Lawrence, via fees collected by the developer, will need to compensate Rural Water District #13 of Jefferson County for Rural Water District facilities within the annexed area prior to publication of the annexation ordinance.

Applicant's Reason for Request: *"The subject property is currently undergoing rezoning review for proposed industrial/commercial development. The area of annexation must be incorporated for applicable zoning to be implemented."*

KEY POINTS

- The subject request is to annex approximately 145 acres to allow for industrial and commercial development.
- The subject property is located within Service Areas 2 and 4 of the Urban Growth Area.
- The annexation request is accompanied by three rezoning requests and one preliminary plat request.
- Portions of the subject property are encumbered by the 100-year floodplain and Airspace Overlay District.
- The Planning Commission is also acting as the Airport Commission in the review of this project.

COMPREHENSIVE PLAN FACTORS TO CONSIDER

- The rezoning request generally complies with Chapters 4 (Growth Management), 7 (Industrial and Employment-Related Land Use) and 8 (Transportation) of *Horizon 2020*. An update to Chapter 7 (Industrial and Employment-Related Land Use) was approved by the City Commission on December 6, 2005, and the Board of County Commissioners on January 8, 2007. The ordinance was adopted on second reading by the City Commission on October 2, 2007. On October 8, 2007, the County Commission voted not to approve the adopting ordinance/resolution and referred the chapter back to the Planning Commission for consideration of specific issues. The County Commission did not indicate any opposition to the identification of this area for industrial development.
- The rezoning request does not comply with Chapter 6, Commercial Land Use, of *Horizon 2020*. An update to Chapter 6 became effective on March 16, 2004. Staff recommends a Comprehensive Plan text amendment be initiated to remove the Neighborhood

Commercial Center designation of the N. 7th Street and US 24/40 intersection.

ASSOCIATED CASES/OTHER ACTION REQUIRED

Annexation

- Approval of annexation by City Commission and ordinance publication is required.

Platting

- PP-06-07-07: Preliminary Plat for Airport Business Park No. 1; located at E 1500 and US Hwy. 24/40 *[Also on October 24, 2007 Planning Commission agenda.]*
- Acceptance of dedication of rights-of-way and easements (as shown on Preliminary Plat) by City Commission is required.
- Submittal and administrative approval of final plat is required.
- Approval of Public Improvement Plans by the City Public Works Department and Utilities Department is required prior to recordation of the first final plat.
- Written certification from the City Engineer that all required public improvements have been completed or submittal of a means of ensuring completion of required public improvements listed in Section 20-811(h)(2) of Article 8 of the Land Development Code is required prior to recordation of the first final plat.

Rezoning

- Z-06-09-07: County A and B-2 to IL with use restrictions; 99.31 acres at E 1500 and US Hwy. 24/40. *[Also on October 24, 2007 Planning Commission agenda.]*
- Z-06-10-07: County A and B-2 to IL; 43.48 acres at E 1500 and US Hwy. 24/40. *[Also on October 24, 2007 Planning Commission agenda.]*
- Z-06-11-07: County A and B-2 to IL-FP; 26.22 acres at E 1500 and US Hwy. 24/40. *[Also on October 24, 2007 Planning Commission agenda.]*
- Approval of rezonings by City Commission and ordinance publication is required.

Site Planning

- Submittal and administrative approval of site plans prior to obtaining building permits.
- Filing of Notice of Proposed Construction or Alteration with the Federal Aviation Administration for each proposed structure in accordance with Federal Regulation Title 14 Part 77 is required prior to obtaining building permits.
- Submittal and administrative approval of floodplain development permits for any development on lots encumbered by the Floodplain Overlay District prior to obtaining building permits.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- A meeting was held with City staff, the Grant Township Board of Trustees, and the public at Grant Township Community Center on July 11, 2007. Approximately 100 people were in attendance. Concerns regarding stormwater, traffic, and loss of prime agricultural land, among others, were expressed.
- Several citizens called regarding the project, requesting information and expressing concern about the impact of the proposed development on the rural area.
- Letters and e-mails from Nancy Thellman, Chet Fitch, Anne Burgess, Jerry Jost, Gwen Klingenberg, Joy Lominska, Sally McGee, Jes Santaularia, and Grant Eichhorn have been included in the staff report packet.
- A meeting was held with City staff, the Grant Township Board of Trustees, the public, and the applicant's development team at Grant Township Community Center on September 17, 2007. Approximately 100 people were in attendance. Concerns regarding stormwater, traffic safety, off-site traffic impacts, loss of prime agricultural land, environmental concerns, cost versus benefits, and public cost of infrastructure, among others, were expressed. Concern was also expressed regarding road maintenance jurisdiction for N. 7th Street south of I-70.

GENERAL INFORMATION

- Current Zonings and Land Uses: County A (Agricultural) and B-2 (General Business) Districts; agricultural and rural residential uses. [City IL (Limited Industrial) with restrictions and IL (Limited Industrial) are also under consideration.]
- Surrounding Zoning and Land Uses: County A (Agricultural) and City GPI (General Public and Institutional Use) Districts to the north; agricultural and rural residential uses and Lawrence Municipal Airport.
- County B-1 (Neighborhood Business), B-2 (General Business) and A (Agricultural) Districts and Interstate 70 to the south; hotel, photography studio, and agricultural, rural residential and interstate uses.
- County B-1 (Neighborhood Business) County B-2 (General Business), A (Agricultural), and City GPI (General Public and Institutional Use) Districts to the east; hotel, photography studio, agricultural and rural residential uses, and Lawrence Municipal Airport.
- County I-2 (Light Industrial), City OS (Open Space), County B-2 (General Business), County A (Agricultural), City RS10 (Single-Dwelling Residential), and City IG (General Industrial) to the west; industrial, civic, commercial, open space, office, and interstate uses.

STAFF REVIEW

Annexation Procedure

Kansas Law [*K.S.A. 12-510 et. seq.*] provides for annexation by ordinance of the City Commission. Lawrence City policy requires the Lawrence-Douglas County Metropolitan Planning Commission to review all annexation requests in excess of ten acres. Upon annexation, the property is required to be rezoned to a compatible City zoning district. Three rezoning requests have been submitted for the area to be annexed – County A and B-2 to City IL with restrictions for 99.31 acres, County A and B-2 to City IL for 43.48 acres, and County A and B-2 to IL-FP for 26.22 acres.

The City of Lawrence Administrative Annexation Policy (AP-74) requires that the costs associated with compensation to a Rural Water District be paid to the City by the annexation applicant for Rural Water District facilities serving the property to be annexed. The subject property is served by Rural Water District #13 of Jefferson County. As a condition of annexation publication, the City of Lawrence, via fees collected by the developer, will need to compensate Rural Water District #13 of Jefferson County for Rural Water District facilities within the annexed area prior to publication of the annexation ordinance.

AP-74 also states that "...annexations should not create enclaves of partially or completely surrounded unincorporated property, nor create City boundaries with irregular shapes or

dimensions". As such, the City should work with the owners of three properties within the vicinity of the subject area for their consideration of annexation.

General Location and Site Characteristics

The site requested for annexation is located to the northwest, northeast, and southwest of the N. 7th Street (E 1500 Road) and US Hwy. 24/40 intersection. Three properties within the project vicinity are not being proposed for annexation – The motel at southwest corner of N. 7th Street (E 1500 Road) and US 24/40 intersection, the photography studio and northeast corner of N. 7th Street (E 1500 Road) and US 24/40 intersection, and the rural residence at the northern edge of the site. Portions of the western edge of the subject site are adjacent to the Lawrence City limits.

The site currently includes agricultural uses and rural residences. The project area is currently zoned County A (Agricultural) District and B-2 (General Business) District. Surrounding zonings and uses vary. All existing buildings will be removed prior to development of the property. Portions of the property are encumbered by Special Flood Hazard Areas Inundated by 100-year Flood (Zone AE) and Floodway Areas in Zone AE. The Preliminary Plat notes that the areas encumbered by the 100-year floodplain will be utilized as open space. Areas inundated by the 100-year floodplain, in addition to areas identified per the guidelines set out in the Development Code, have been requested for rezoning to the IL-FP (Limited Industrial-Floodplain Overlay) District. This Overlay District designation is required per the City's Floodplain Management Regulations. Development on lots encumbered by the Floodplain Overlay District would be required to seek approval of a floodplain development permit application.

Portions of the subject property are located within the Airspace Overlay District. The Airspace Overlay District comprises five airspace zones. Each zone includes height limitations. The Preliminary Plat will need to include reference to the zones as defined in the Development Code Section 20-302. Additionally, the plat includes the appropriate notation for the aviation easement and runway protection zone at the northeast corner of the site. A note is included on the plat, stating that this area is proposed for open space. If this property is developed in the future, it is to include only appropriate low-impact uses per Federal Aviation Administration guidelines. Prior to building permit issuance, a Notice of Proposed Construction or Alteration will need to be filed with the Federal Aviation Administration for each proposed structure in accordance with Federal Regulation Title 14 Part 77.

Infrastructure and Utility Extension

The subject property is currently located in the unincorporated area of Douglas County and includes farmland and rural residences. Development of the property will require the extension of municipal City services. One standard condition of annexation approval is that the applicant is responsible for providing the City with compensation for Rural Water District facilities located on the property. The property is currently served by Rural Water District #13 of Jefferson County.

Sanitary Sewer

The City's Utilities Department has reviewed the Downstream Sanitary Sewer Analysis and Airport Business Park No. 1 Preliminary Plat. The developer is proposing to construct a temporary pump station to serve the first 40 acres, with construction of the permanent pump station triggered by the subsequent phase of the project. The temporary station will need to be constructed to City standards and decommissioned when the ultimate pump station is constructed.

The temporary pump station is proposed to be located near the southeast corner of Block Five, Lot 1, and the permanent pump station is proposed to be located near the southwest corner of Block One, Lot 7. Locations of access drives to serve the pump stations are shown on the Preliminary Plat. The temporary pump station's access drive is located off N. 7th Street, and the permanent pump station's access drive is located off US 24/40. A temporary waiver from the City Engineer was approved for the access point off N. 7th Street, a minor arterial in this location (with future access to be relocated from a future street), and a waiver from the City Engineer was denied for the access point off US 24/40. If the waiver for the access point off US 24/40 had been granted by the City Engineer, the applicant would have been required to also pursue an access permit from KDOT.

Extensions of sanitary sewer mains are required. Per General Note #16c on the Preliminary Plat, the developer is requesting public funding for portions of the sanitary sewer improvements. The City Commission will consider the funding request when the project is considered by the Commission. Approval of sanitary sewer public improvement plans is required prior to filing of the final plat.

As a condition of approval, a note shall be included on the plat, stating that a Transfer of Ownership to transfer the pump station properties to the City of Lawrence will need to be executed prior to recordation of the final plat. Ownership of the temporary pump station will revert to the original owner upon decommissioning of the temporary pump station. Additionally, a note shall be included, stating that the applicant must escrow funds for the decommissioning and modification of the temporary pump station.

Water

Extensions of water mains and adequate fire flow are required. Per Note #16b on the Preliminary Plat, the developer is requesting that portions of the watermain improvements be publicly funded. Approval of waterline public improvement plans is required prior to filing of the Final Plat.

Stormwater

A drainage letter has been approved by the City's Stormwater Engineer. The letter states that the Airport Business Park No. 1 Preliminary Plat follows the recommendations outlined in the North Lawrence Drainage Study. The developer has requested that any off-site stormwater improvements be publicly funded. Approval of stormwater public improvement plans for off-site improvements is required prior to filing of the Final Plat.

Public Rights-of-Way

The subject property is located within the vicinity of the U.S. Hwy. 24/40 and N. 7th Street (E 1500 Road) intersection. Zoysia Lane, Pine Family Drive, and Bluegrass Drive are proposed as new roadways. Bluegrass Drive is shown on Map 8-1 (Major Thoroughfares Map – City of Lawrence) from *Horizon 2020* as a minor arterial. Also shown on the Major Thoroughfares Map are U.S. Hwy. 24/40, a principal arterial, and N. 7th Street, a minor collector north of U.S. 24/40 and a minor arterial/major collector south of U.S. 24/40. Appropriate rights-of-way are shown for proposed dedication.

No direct access is permitted to arterials, per the Land Development Code, unless the City Engineer grants a waiver from this requirement. A temporary waiver for the temporary sanitary sewer pump station access was approved for Block Five, Lot 1 to N. 7th Street, and a temporary waiver for proposed building A1 to N. 7th Street until Bluegrass Drive develops. Waivers were denied for direct access from Block Two, Lot 1 and from the ultimate pump station between

Block One, Lots 6 and 7 to US 24/40. Therefore, the plat will need to be revised to show with hatch marks and note restricted access along the entirety of the subject property abutting US 24/40 and for the restricted accesses along N. 7th Street.

A revised Traffic Impact Study (TIS) has been reviewed by the City of Lawrence and Kansas Department of Transportation. According to the TIS, a left-turn lane on U.S. 24/40 is currently warranted for westbound traffic at the intersection of N. 7th Street. For the future full build-out scenario, single left-turn lanes may be warranted on the other three legs of this intersection. The developer is requesting that these intersection improvements be publicly funded. Agreements Not to Protest the Formation of Benefit Districts for Improvements to U.S. 24/40, N. 7th Street, and the intersections identified in the Traffic Impact Study will be required as conditions of final plat approval. Additional right-of-way would be required for these intersection improvements at U.S. Highway 24/40 and N. 7th Street. These intersection improvements would impact the property owners at this intersection.

Sidewalks, per the Development Code, will be required on both sides of each new street – 5-foot wide on each side of all local streets (Zoyasia Lane and Pine Family Drive) and 6-foot wide on one side, with a 10-foot wide bike/recreation path on the other side, of each arterial (Bluegrass Drive, a portion of N. 7th Street, and US 24/40). Approval of roadway and sidewalk Public Improvement Plans is required prior to recordation of the Final Plat.

Regarding the phasing of the project in relation to Public Improvement Plans, the Development Code states that all improvement plans to serve the subdivision are to be provided concurrently with the phase which will first be served by those improvements.

Conformance

Horizon 2020

Per Map 3-1 in Chapter 3 of *Horizon 2020*, General Plan Overview, and the policies outlined in Chapter 4, Growth Management, the subject property is located within Service Areas 2 and 4 of the Urban Growth Area. The property is not identified on the Future Land Use Map in *Horizon 2020*. Regarding Service Area 2, the Comprehensive Plan states the following: *“Development of these areas to urban densities should be allowed only after coordination with the phasing of municipal services and public infrastructure improvements to serve these new urban densities of development”* (page 4-3). *Horizon 2020* states the following regarding Service Area 4: *“The land uses north of US 24/40 shall be primarily non-residential uses such as industrial, warehouse, and office. Urban development in Service Area 4 north of the Kansas River shall not occur until after an extensive drainage study for the area north of the Kansas River has been completed.”* (page 4-4).

Growth management policies address the need to evaluate the proposed development with respect to the provision of services, protection of topographic and drainage concerns, and applicable land use criteria. *Horizon 2020* gives priority to properties that abut existing city limits. It also supports the approach that adequate facilities and services are provided or assured in connection with development (page 4-1). The annexation request is consistent with the growth management policies found in *Horizon 2020*.

Chapter 6, Commercial Land Use, includes a designation of Neighborhood Commercial Center for the E 1500/ US 24/40 intersection. This designation limits commercial uses to one corner, commercial space for a single store to 40,000 gross square feet, and total commercial space to 100,000 gross square feet. *Horizon 2020* also states that the need to create a nodal plan for a

specific intersection is to be triggered by the first development request for any portion of the node. The rezoning request is not consistent with the Neighborhood Commercial Center designation. As the area immediately surrounding the subject site does not include predominantly residential uses and areas abutting airports are appropriate for industrial uses, staff recommends that, as a condition of rezoning approval, the Lawrence-Douglas County Planning Commission recommend initiation of a Comprehensive Plan text amendment to remove this designation for the subject intersection. Industrial designations for the area are discussed below.

An update of Chapter 7, Industrial and Employment-Related Land Use, was approved by the City Commission on December 6, 2005 and the Board of County Commissioners on January 8, 2007. The ordinance/resolution was adopted on second reading by the City Commission on October 2, 2007 and denied by the Board of County Commissioners on October 8, 2007. This chapter is the most recent planning effort and includes a map labeled "General Locations for Future Industrial and Business Park Development". This map recommends a potential industrial and business park development for the general location of US 24/40 and N. 3rd Street. It also includes the following three recommendations: "Work-Live Campus-Type Center" near the airport, between 24/40 and North Street; "Office Research" uses at the intersection of 24/40 and N. 3rd Street; and "Industrial/Business/Research Park" for the 24/40/59 corridor and in proximity to the airport. The rezoning request is in conformance with the recommendations of the updated Industrial and Employment-Related Land Use chapter.

Chapter 8, Transportation, includes reference to the Lawrence Municipal Airport. It states the following: *"Continue to develop the Lawrence Municipal Airport for private and commercial aviation and aviation-related business development in accordance with the adopted Airport Master Plan"* (page 8-7). Map 8-1, Major Thoroughfares Map – City of Lawrence, includes designations of roadways. The Airport Business Park No. 1 Preliminary Plat includes appropriate rights-of-way, per the Code, for all existing and proposed roadways. Bluegrass Drive, a proposed east-west roadway south of US 24/40, is shown on the Major Thoroughfares Map as a minor arterial. Pine Family Drive and Zoysia Lane are proposed as local streets and are not shown on the Major Thoroughfares Map.

While the annexation and associated rezoning requests do not conform with the Neighborhood Commercial Center recommendation of Chapter 6, it does conform with the recommendations of Chapters 4, 7, and 8. An update of Chapter 6, Commercial Land Use, became effective in 2004. Chapter 7, Industrial and Employment-Related Land Use, was more recently updated, with City Commission approval on December 6, 2005, and Board of County Commissioners approval on January 8, 2007.

Development Code

The City's Development Code lists the CN2 (Neighborhood Commercial Center) District as the District for implementing the Neighborhood Commercial Center policies in the Comprehensive Plan. This project does not conform to this designation. Therefore, staff recommends that a Comprehensive Plan Text amendment be initiated and drafted to remove the Neighborhood Commercial Center designation of the US 24/40 and N. 7th Street intersection. The area will continue to include the Industrial/Business/Research Park designation listed in the proposed revised Industrial Comprehensive Plan Chapter.

North of North Street Area Plan

The subject property is located in an area which is not served by an area or neighborhood plan. A *North of North Street Area Plan* was drafted several years ago and was put on hold in 2000 in

anticipation of completion of the North Lawrence Watershed Drainage Study. As the drainage study has been completed, an update of the previous draft of the *North of North Street Area Plan* is scheduled to proceed in the near future. The *North of North Street Area Plan* recommends industrial uses between I-70 and US 24/40. As part of the plan update, the area north of US 24/40 will be included in the plan. It is important to note that, in conformance with the recommendations of *Horizon 2020*, the *North of North Street Area Plan* includes a Neighborhood Commercial Center designation for US 24/40 and N. 7th Street. As staff is recommending that this designation be removed from the Comprehensive Plan, this change will also be reflected in the *North of North Street Area Plan* as it proceeds.

Summary of Request

The land is currently zoned for agricultural and general business uses. Portions of the property are contiguous to the City limits. A mix of uses abuts the property to the west, with the Lawrence Municipal airport abutting the property to the north and I-70 abutting the property to the south. Agricultural land uses also abut the property. The applicant proposes a project with predominantly industrial land uses, but also some commercial uses. Proposed land uses are discussed in more detail with the evaluation of the rezoning requests.

The subject property is located within the City of Lawrence Urban Growth Area and, therefore, is located in an area anticipated for future urban growth. *Horizon 2020* supports the provision of adequate facilities and services or assurances of adequate facilities in connection with development. Municipal utilities must be extended to serve this area. Sanitary sewer, water, off-site stormwater, and roadway improvements are proposed. Public improvement plans will need to be submitted and approved prior to filing of the final plats at the Register of Deeds' Office.