

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
10/24/07

ITEM NO. 16D: A & B-2 TO IL-FP; 26.22 ACRES; E 1500 ROAD & US HWY 24/40 (PGP)

Z-06-11-07: A request to rezone a tract of land approximately 26.22 acres, from A (Agricultural) & B-2 (General Business) Districts to IL-FP (Limited Industrial-Floodplain Overlay) District. The property is located at the intersection of 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 rezoning approximately 26.22 acres from A and B-2 District to IL-FP District and forwarding a recommendation of approval to the City Commission, based on the findings of fact outlined in the staff report.

Applicant's Reason for Request: *"The request will bring the subject property into compliance with Section 20-1201(c) of the City of Lawrence Development Code."*

KEY POINTS

- Four tracts of land within the area proposed for annexation and platting are included in the IL-FP (Limited Industrial-Floodplain Overlay) District rezoning request.
- Rezoning of this property to the Floodplain Overlay District is required per Section 20-1201 of the Development Code.
- The Planning Commission is also acting as the Airport Commission in the review of this project.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The intersection of N. 7th Street (E 1500 Road) and US 24/40 is characterized by a mix of commercial and rural uses.

CONFORMANCE WITH *HORIZON 2020*

- The request is generally in conformance with the goals and policies of *Horizon 2020*, specifically those related to incorporating floodplain areas into development projects as open space.
- The associated Preliminary Plat notes that Tract A, Block Two, the largest tract proposed for rezoning to the IL-FP District, is to remain as open space.

ASSOCIATED CASES/OTHER ACTION REQUIRED

Annexation

- A-06-05-07: Annexation of 144.959 acres; Airport Business Park No. 1. [*Also on October 24, 2007 Planning Commission agenda.*]
- 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 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 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.]*
- 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 Zoning and Land Use:

County A (Agricultural) and B-2 (General Business) Districts; agricultural and rural residential uses. [City IL (Limited Industrial) IL with restrictions and IL (Limited Industrial) District rezonings are also under consideration.]

Surrounding Zoning and Land Use: 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.

I. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response - *"Policy 1.3.2(e) under Goal 1 "Establish Urban Growth Areas" seeks to protect, conserve, and incorporate environmentally sensitive areas within the design context of a proposed development." The property lies within the Urban Growth Boundary and is consistent with the goals and policies of H2020."*

Staff Finding - The subject rezoning request is specific to rezoning FEMA-designated floodplain areas and additional areas to the Floodplain Overlay District. Properties within the Floodplain Overlay District are subject to the Floodplain Management Regulations, including the submittal of a floodplain development permit application for proposed development within the overlay district and a limitation of a maximum of 60% impervious surface coverage per lot.

As the associated Preliminary Plat notes that the largest tract of IL-FP zoned property, Tract I, is to remain as open space, the project is in conformance with *Horizon 2020*. Several chapters of *Horizon 2020* include recommendations regarding integration of floodplains and environmentally sensitive lands as elements of development projects. Specific policies and guidelines pertaining to the preservation of floodplain areas are as follows:

CHAPTER FOUR, GROWTH MANAGEMENT

GOAL 1: Establish Urban Growth Areas

Policy 1.3.2: Non-residential Land Uses

"Environmentally sensitive areas within the Urban Growth Area (UGA) should be protected, conserved and incorporated within the design context of a proposed development." (Page 4-8)

CHAPTER SIX, COMMERCIAL LAND USE

GOAL 2: Compatible Transition from Commercial Development to Less Intensive Uses

Policy 2.1.C.3: *“Encourage the integration of... environmentally sensitive areas whenever feasible to buffer commercial developments from other more or less intensive land uses.”* (Page 6-27)

CHAPTER SEVEN, INDUSTRIAL AND EMPLOYMENT-RELATED LAND USE

GOAL 2: Compatible Transition from Industrial/Employment-Related Development to Less Intensive Uses

Policy 2.1.C.3: *“Retain...natural and environmentally sensitive areas to naturally separate industrial development from residential land uses.”* (Page 7-9)

GOAL 3: Criteria for Location of Industrial or Employment-Related Development

Policy 3.1.e: *“Retain...environmentally sensitive areas to act as natural buffers between developments and as site amenities within developments.”* (Page 7-11)

CHAPTER NINE, PARK, RECREATION, OPEN SPACE AREAS AND FACILITIES

GOAL 3: Expand the Existing Parks, Recreation, and Open Space System

Policy 3.e: *“Encourage open space uses in the community’s privately or publicly owned floodplains and drainageways...”* (Page 9-16)

GOAL 5: Park, Recreation, and Open Space Areas and Facilities as Transitions

Policy 5.2: *“Encourage and incorporate open space areas, especially natural areas, into development to serve as buffers and/or transitions between incompatible land uses.”*

The rezoning request generally conforms with the goals and policies *Horizon 2020*.

II. ZONING AND USE OF NEARBY PROPERTY, INCLUDING ANY OVERLAY ZONING

Staff Finding - The property is surrounded by a variety of zoning districts, including the following: A (Agricultural), B-1 (Neighborhood Business), B-2 (General Business), I-2 (Light Industrial), OS (Open Space), GPI (General Public and Institutional), and IG (General Industrial). Surrounding land uses also vary, including the following: Lawrence Municipal Airport, Interstate 70, Maple Grove Cemetery, as well as industrial, commercial, office, agricultural, and rural residential uses. Areas in and surrounding the Lawrence Municipal Airport also include the Airspace Overlay District designation, per the regulations outlined in the Development Code.

III. CHARACTER OF THE NEIGHBORHOOD

Applicant’s Response - *“At the threshold of the northern gateway to the City between Lawrence Municipal Airport and the Kansas turnpike, the area consists predominantly of vacant or transitional farmland and includes sparse single-family residential and commercial development.”*

Staff Finding - The property to be rezoned to the Floodplain Overlay District is located in the northwest, southwest and southeast corners of the property included in the annexation and preliminary plat requests. The character of the neighborhood is varied, with the Lawrence Municipal Airport to the north and east, a mix of commercial uses to the west, rural residential and agricultural uses to the east, and Interstate 70 to the south. Properties within the Lawrence City limits abut portions of the subject property to the north, east, and west.

Unincorporated properties that include agricultural and residential uses are located south of Interstate 70. These properties are zoned I-1 (Limited Industrial) District, I-2 (Light Industrial) District, A-1 (Suburban Home Residential) District.

IV. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS, INCLUDING THE PROPERTY OR ADJOINING PROPERTY

A portion of the subject property is located within the proposed *North of North Street Area Plan*. At this time, the plan is not adopted and does not contemplate properties to the north of US 24/40.

Staff Finding – Section 20-1303(l) of the Development Code states that a plan shall be prepared and adopted prior to review of a petition for map amendment when one of three criteria have been met. Depending on the size or type of request, a watershed/sub-basin plan, sector plan, neighborhood plan, special area plan, or specific issue/district plan may need to be drafted. The three criteria, with an analysis of the rezoning request relative to each criterion are as follows:

1. “No water or sanitary sewer mains exist or are planned to serve the proposed site.”

While provision of municipal water and sanitary sewer service are proposed with the subject project, municipal water and sanitary sewer mains do not currently exist for the site.

The applicant’s plans for the provision of municipal water is a request for the City to extend approximately 5,000 feet of 12-inch ductile iron pipe along 7th Street to connect to the existing water line along Highway 24/40.

The applicant’s plan for the provision of sanitary sewer is a request for the City to extend a double 6” forcemain approximately 4,900 feet from the proposed temporary pump station shown on the preliminary plat to the existing discharge manhole located at North Street.

The proposed preliminary plat general notes 16. Provision of Financing of Roads, Sewer, Water and Other Public Services, submitted by the applicant is as follows:

- a.) The subdivision will have public streets and roads as indicated by proposed and existing right-of-way. Some private driveways and/or aprons will be shared throughout the proposed development (at the discretion of the owner[s]).
- b).A water main extension along E. 1500 Road (N. 7th Street) from Highway 24/40 to 7th and North Street will be provided via public funding.
- c).Sanitary sewer service, via a force main system, from the proposed Phase A sanitary pump station to an existing manhole at 7th and North Street will be provided via public funding.
- d).Purchasers of lots in the subdivision may or may not be subject to special assessments or other costs or fees to pay for streets, roads, waterlines and/or wastewater lines. Public financing and/or public/private financing mechanisms or methods will be subject to City of Lawrence approval.

e).Provision of proposed or improved streets, water and/or wastewater service will be per the discretion of the property owner(s) [in the instance of private financing] and per the cit [in the instance of public financing].

f).The general nature of public improvements proposed for the subdivision consists of existing roadway upgrades, proposed streets, sanitary sewers and waterlines to be provided by a combination of funding methods possibly including, but not limited to, benefit district financing, actual construction and/or performance bonding. Timing of the installation of such improvements will be per the discretion of the property owners(s) [in the instance of private financing] and per the City [in the instance of public financing].

The proposed infrastructure improvements and methods of financing will be further discussed with the staff report for the preliminary plat.

2. "The request is not consistent with adopted plans."

An analysis of the request's conformance with the Comprehensive Plan is included in an earlier section ("Conformance with the Comprehensive Plan") of the staff report. The rezoning request does not conform with the Neighborhood Commercial Center designation outlined in the Commercial Chapter of *Horizon 2020*; however, staff is recommending that a text amendment to remove this designation be initiated by the Planning Commission. The request generally conforms with the Growth Management, Industrial, and Transportation Chapters of the Comprehensive 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 as resources allow. The *North of North Street Area Plan* recommends industrial uses between I-70 and US 24/40. 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.

1. "In-fill development is proposed and, at the discretion of the Planning Commission, additional information is needed specific to unanswered questions or concerns related to transportation, compatibility or land use(s), or adequacy of transitions between established and proposed land uses."

The development project associated with the rezoning request is not considered to be infill development, as the property is being annexed into the City of Lawrence.

Conclusion: The plan is consistent with the most recently adopted plans, the North Lawrence Drainage Study, and recently approved Industrial Chapter. While staff does not believe the code requires additional levels of planning (sector plan), staff does support pursuing the North of North Street Area Plan as resources allow.

V. SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

The subject property is currently zoned A (Agricultural) and B-2 (General Business) District. The applicant proposes to rezone the property to the IL-FP (Limited Industrial-Floodplain Overlay) District. The Floodplain Management Regulations are intended to "... promote the public health, safety, and general welfare; to minimize those losses described in Sec. 20-1201(a)(2); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP)...and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by..." (Section 20-1201 of the Development Code).

Applicant's Response – *"Although current land uses correspond to the existing zoning, when viewed in the context of the Comprehensive Plan and Development Code, the proposed overlay zoning will be mandatory for this area."*

Staff Finding - The applicant proposes to rezone the subject property to the IL-FP District to comply with the requirements of the Development Code. Article 12, Floodplain Management Regulations, of the Development Code, states that property annexed into the City limits after March 1, 2003, which includes Zone AE as identified on the Federal Insurance Rate Maps, and all adjacent areas inundated by a flood having an elevation of the base flood elevation plus an additional two feet of freeboard, shall be identified as the Floodplain Overlay District. If an approved hydrologic and hydraulic study has been completed, the boundary information provided in that study is utilized to amend the Floodplain Overlay District boundaries. The North Lawrence Drainage Study serves the hydrologic and hydraulic study for the subject property.

As the subject property is currently zoned A (Agricultural) and B-2 (General Business) District, the floodplain overlay district designation is more appropriate for this floodplain area.

VI. LENGTH OF TIME THE SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response - *"The property has generally existed in its current state since the mid-1900s."*

Staff Finding - The subject property includes agricultural, commercial, and open space uses, and has been zoned A (Agricultural) District and B-2 (General Business) District since 1966.

VII. THE EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response - *"No detrimental effect will occur with the approval of this rezoning."*

Staff Finding - Rural residential properties are located in each direction of the subject area. The Lawrence Municipal Airport is located to the northeast, and civic, commercial and industrial uses are located to the west. Agricultural uses and a photography studio are located to the east. Agricultural uses are also located to the north and south.

Rezoning the property to the IL-FP (Limited Industrial-Floodplain Overlay) District subjects the property to the Floodplain Management Regulations of the Development Code. The Floodplain Management Regulations include the following purposes "...restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities...allow development in the floodplain only when the development will not increase the base flood elevation or flood velocities" (page 12-3).. Rezoning the property to the IL-FP District should not detrimentally affect nearby properties, as this district includes additional standards and regulations for development with the district boundaries. It is

important to note that Tract A, Block Two, the area which includes nearly all the IL-FP property, is shown as open space on the associated Preliminary Plat.

VIII. 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

Evaluation of this criterion includes weighing the benefits to the public versus the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

Applicant's Response - *"Compliance with mandatory flood hazard reduction policies will occur were this application approved. No known public gain will occur by the denial of this application."*

Staff Finding – Denial of the request to rezone the subject property to the IL District with use restrictions would maintain high quality agricultural land and open space, but would not otherwise maintain a tangible benefit to the public health, safety, or welfare. Denial would also result in Code violation for the developer, as the Code states that the subject property shall include the IL-FP zoning designation and be subject to the Floodplain Management Regulations.

Granting the rezoning request would establish the parameters of the Floodplain Overlay District for the subject portion of the development project. Approval would also permit development of a limited industrial site in a location designated for such and under the conclusion that additional industrial sites are needed in order for Lawrence to remain competitive and increase employment opportunities. Per the existing and proposed Industrial Chapter of *Horizon 2020*, the site is suitable for industrial development, including those uses permitted in the IL District.

IX. THE RECOMMENDATION OF THE CITY'S PROFESSIONAL STAFF

Staff Finding – The request to rezone approximately 26.22 acres of property to the IL-FP (Limited Industrial-Floodplain Overlay) District is in general conformance with *Horizon 2020* and the Development Code. Therefore, staff recommends approval of the rezoning request.