

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
10/24/07

ITEM NO. 16B: A & B-2 TO IL; 99.31 ACRES; E 1500 ROAD & US HWY 24/40 (PGP)

Z-06-09-07: A request to rezone a tract of land approximately 99.31 acres, from A (Agricultural) and B-2 (General Business) Districts to IL (Limited Industrial) District with use restrictions. 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 99.31 acres from A and B-2 District to IL (with use restrictions) District and forwarding a recommendation of approval to the City Commission, based on the findings of fact outlined in the staff report and subject to the following conditions:

1. Initiation by the Lawrence-Douglas County Planning Commission of a Comprehensive Plan text amendment to remove the Neighborhood Commercial Center designation for the N. 7th Street and US 24/40 intersection.
2. Filing of a Final Plat at the Register of Deeds' Office.
3. Inclusion in the zoning ordinance of the applicant's proposed restrictions of uses: Fast Order Food; Fast Order Food, with Drive-In; Restaurant, Quality; Food & Beverage; Mixed Media Store; Personal Convenience; Repair Service, Consumer; and Retail Sales, General.

Applicant's Reason for Request:

"Within immediate proximity of the Lawrence Municipal Airport and the East Lawrence Interchange of the Kansas Turnpike, the subject property demands development appropriate for an industrial/commercial and distribution hub. This request will provide opportunities for industrial/commercial and employment-related development, as well as associated public improvements in this region."

KEY POINTS

- The subject property is located at the northeast and southwest corners of the N. 7th Street (E 1500 Road) and US 24/40 intersection.
- Properties within the City limits of Lawrence abut portions of the subject property to the north, east, and west.
- A photography studio at the northeast corner of the intersection, a motel at the southwest corner of the intersection, and property directly south and west of the motel are not included in this rezoning request. The photography studio and motel are also not included in the annexation request.
- The rezoning request includes the removal of the following uses: fast order food, fast order food with drive-in, quality restaurant, food and beverage, mixed media store, personal convenience, consumer repair service, and general retail sales.
- 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 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

- 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

16. 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.*]
17. Acceptance of dedication of rights-of-way and easements (as shown on Preliminary Plat) by City Commission is required.
18. Submittal and administrative approval of final plat is required.
19. Approval of Public Improvement Plans by the City Public Works Department and Utilities Department is required prior to recordation of the final plat.
20. 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

16. 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.*]
17. 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.*]
18. 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.

Text Amendment

- TA-06-11-07: A text amendment request from Landplan Engineering to amend the Nonresidential District Use Tables to permit "Quality Restaurants" in the IL District was approved by the City Commission on August 14, 2007.

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.

Surrounding Zoning and Land Use: County B-2 (General Business) and A (Agricultural) and City GPI (General Public and Institutional Use) Districts to the north; motel, Maple Grove stream, 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; photography studio, and agricultural and rural residential uses. Interstate 70 is also located along the southern edge.

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), B-2 (General Business), and A (Agricultural), and City RS10 (Single-Dwelling Residential), OS (Open Space), and IG (General Industrial) to the west; industrial, commercial, and office uses. The Maple Grove Cemetery abuts the project boundaries further to the west, and the Interstate 70 interchange abuts the property south of US 24/40.

I. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Map 3-1, Lawrence Urban Growth Area Service Areas and Future Land Use, of *Horizon 2020* includes the designations of Service Areas 2 and 4 for the subject area. Map 6-1, Existing and Potential Commercial Land Use Locations, designates the intersection of N. 7th Street and US 24/40 as a Neighborhood Commercial Center; however, the more recent Industrial and Employment-Related Land Use Chapter includes Map 7-2, which recommends an industrial and business park development for the area. Page 7-7 of the Industrial Chapter also notes that the area surrounding the Lawrence Municipal Airport is appropriate for industrial and business park development.

Applicant's Response - *"Policy 1.2(a) under Goal 1 "Transportation Considerations" seeks to "continue to develop the Lawrence Municipal Airport for aviation-related business development." The property lies within the Urban Growth Boundary and is consistent with the goals and policies of H2020."*

Staff Finding - 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 was adopted on second reading by the City Commission on October 2, 2007, but was deferred by the County Commission on October 8, 2007 for additional consideration of issues not related to this development proposal. 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 rezoning request does 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.

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; and 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. With approval of the associated IL-FP (Limited Industrial - Floodplain Overlay) District request, portions of the subject property will be located within the Floodplain Overlay District.

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 subject property is located on the northeast, northwest, and southwest corners of the N. 7th Street (E 1500 Road) and US 24/40 intersection. 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.

4. "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 (Limited Industrial) District with use restrictions. The IL District is intended *"...to accommodate low-impact industrial, wholesale and warehouse operations that are employment-intensive and compatible with commercial land uses"* (Section 20-215 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, the proposed zoning will be necessary for the type of uses anticipated in the near future."*

Staff Finding - The applicant proposes to rezone the subject property to the IL (Limited Industrial) District for industrial uses. The IL District permits a mix of community facilities, recreational facilities, office uses, retail sales and service, and industrial facilities, among other uses. The applicant requests to remove the following uses from the subject IL District: fast order food, fast order food with drive-in, quality restaurant, food and beverage, mixed media store, personal convenience, consumer repair service, and general retail sales.

While the subject site is appropriate for agricultural and limited business uses due to its A District and B-2 District zoning, the site is also appropriate for limited industrial zoning due to its location along arterials and collectors and its proximity to the Lawrence Municipal Airport and Interstate 70. The Industrial Chapter of *Horizon 2020* recognizes the subject area as appropriate for industrial uses.

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 - Residential properties are located to the north and east of the subject area. The Lawrence Municipal Airport is also located to the north and Interstate 70 is located to the south. A mix of commercial, industrial, office, civic, and open space uses exist to the west.

Rezoning the property to the IL (Limited Industrial) District with use restrictions permits a range of industrial and office uses, but excludes several commercial and other uses (see attached letter regarding requested use restrictions). While the area will experience an increase in vehicular traffic as a result of the new industrial development, the intersection of N. 7th Street and US 24/40 will be improved with turn lanes. This improvement will enhance the safety of this intersection. Additional roadway and infrastructure improvements are planned as part of this development, and are discussed in the Preliminary Plat staff report. It is also important to note that IL District setbacks from residentially zoned properties are larger than those from non-residentially zoned properties, which serves to decrease negative impacts on neighboring residential properties. Site details such as lighting, fencing, and landscaping will be evaluated with individual site plan applications.

Depending on one's viewpoint, industrial uses can be offensive in nature. The Development Code addresses many objectionable issues with performance standards aimed at reducing offensive issues such as aesthetics, noise, and lighting.

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 OF DENIAL OF THE APPLICATION; AND

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 - *"Higher levels of improvement and maintenance, as well as increased property valuations and tax base, 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. Granting the rezoning request would 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 application generally conforms with the goals and policies of the Comprehensive Plan's Growth Management Chapter, Industrial and Employment-Related Land Use Chapters, and Transportation Chapter. Once a Comprehensive Plan text amendment has been initiated to remove the Neighborhood Commercial Center designation of the N. 7th Street (E 1500 Road) and US 24/40 intersection from Map 6-1 of *Horizon 2020*, the request will conform with the Commercial Chapter. Additionally, while the *North of North Street Area Plan* has not yet been adopted, planning staff is in the process of preparing the document for consideration. Therefore, staff recommends approval of the subject rezoning request, subject to initiation of a text amendment to *Horizon 2020* to remove the associated Neighborhood Commercial Center designation and filing of a final plat at the Register of Deeds' Office.