

## PLANNING COMMISSION REPORT PUBLIC HEARING ITEM

PC Staff Report  
9/20/10

### **ITEM NO. 5: DE-ANNEXATION OF 2.4 ACRES LOCATED AT 1820 N. 3<sup>rd</sup> STREET. (DDW)**

**A-6-1-10:** De-annexation of approximately 2.4 acres, located at 1820 N 3<sup>rd</sup> Street. Submitted by Eugene Reding, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends forwarding to the City Commission a recommendation of denial of the requested de-annexation of approximately 2.4 acres, located at 1820 N 3<sup>rd</sup> Street, based on the findings in this report and in order for the city to develop and consider a service plan for extending water and sewer service to this property and the area surrounding this property.

Alternative motion if the PC finds in favor of the request: Move approval of the requested de-annexation with a condition that the owner execute a "Consent to Annex" agreement with the city of Lawrence that outlines when the property must be annexed into the city (when water and sewer are extended within a certain distance of the property for example).

**Applicant's Reason for Request:** *Multiple reasons per the attached application. In summary, the property was annexed in 1988 when the then current owner sought city water service and water service has not been extended to the property.*

### **KEY POINTS**

- Subject property is developed as a detached dwelling (located north of Hwy. 24/40) and was annexed by Lawrence in 1988. A failing water well on the property and the desire for a City water connection was the reason for the annexation request.
- City water has not been provided to the property. The property connected to Jefferson County Rural Water District #13 service in 1998. City water is approximately ¼ mile to the south.
- The City is in the process of updating the Wastewater Master Plan. Once completed, the plan will provide better information regarding the wastewater infrastructure necessary to serve the area north of Hwy. 24/40 and along Hwy. 24/59.
- The property lies within the Urban Growth Area of Lawrence.
- The property also lies within the planning area of the *Northeast Sector Plan*. The *Northeast Sector Plan* has not been adopted, but the future land use map of the 3<sup>rd</sup> draft of the plan shows the property in the Agriculture category.
- The property is adjacent to an industrial park and is across the street from industrial properties. The industrial park has provision for future annexation by Lawrence if sanitary sewer is within 200 feet on any building in the park.

### **COMPREHENSIVE PLAN FACTORS TO CONSIDER**

- Annexation policies in the Comprehensive Plan support keeping the property in the city.

## **ASSOCIATED CASES/OTHER ACTION REQUIRED**

Other action required:

- City Commission determination of the de-annexation request.

## **PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None

## **EXISTING CONDITIONS**

Current Zoning and Land Use: UR (Urban Reserve) District; developed land used for rural residential purposes.

Surrounding Zoning and Land Use: To the east:  
A (County-Agriculture) District; agriculture uses

To the north: A (County-Agriculture) District; rural residential and agriculture uses

To the west: I-2 (County-Light Industrial) District; light industrial uses

To the south: I-2 (County-Light Industrial) District; light industrial business park uses.

## **Site Summary**

Gross Area: 2.4 acres

Gross Area requested for de-annexation: 2.4 acres

Subject property is located within Service Area 4 of the Urban Growth Area as defined in *Horizon 2020*.

## **STAFF REVIEW**

### **Annexation Procedure**

Staff is relying on Kansas Statutes 12-504 and 12-505 to establish the procedure for this de-annexation request. 12-504 allows for the "Petition for vacation of site or addition, street or alley, or for exclusion of land." 12-504 sets forth public notice provisions and states that the city or planning commission can hold a hearing to consider these matters. 12-505 establishes the proceedings for the hearing and provides factors by which to consider the petition.

This request was duly noticed to the public. The procedure for this petition will be a public hearing by the Lawrence-Douglas County Planning Commission. The Planning Commission will make a recommendation to the Lawrence City Commission. The City Commission will make the final decision on the request.

### **Background**

The owner of the property in 1988 sought annexation in order to receive water from Lawrence because of a poorly functioning water well on the property. The City annexed the property in 1988.

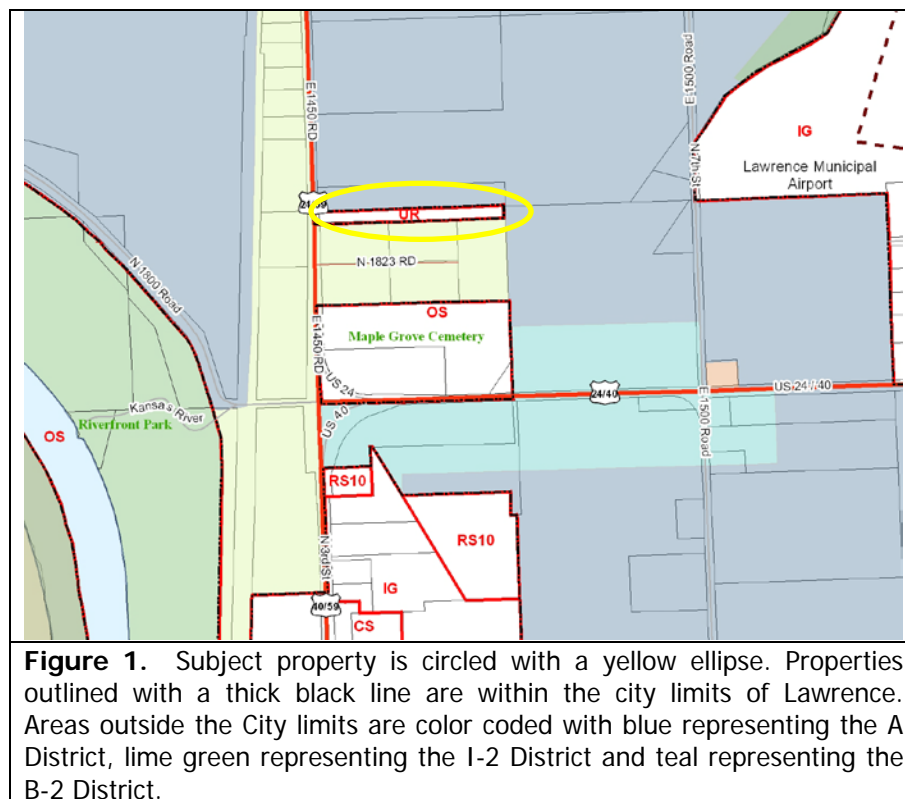
Water service has not been provided to the property by Lawrence. The property connected to Jefferson County Rural Water District #13 service in 1998.

The property is a city island that is surrounded on all sides by unincorporated Douglas County.

The applicant purchased the property in 2009. The applicant says the property has a Lawrence street address (1820 N 3<sup>rd</sup> Street) and a Douglas County mail address (1822 E 1450 Rd). This can make it difficult to do business or take care of police, fire, and medical matters. The applicant states that no city services are provided to the property. However, the applicant did receive two street trees from the City in the spring of 2010 and would receive any city service desired police, building permits, fire, etc.

### General Location and Site Characteristics

The site requested for de-annexation is located on the east side of Hwy. 24/59 approximately ¼ mile from the junction of Hwy. 24/59 and Hwy. 24/40. The property is also approximately ¼ mile west of the Lawrence Municipal Airport.



The subject property is currently zoned UR (Urban Reserve) District. Per Section 20-222(a) of the Land Development Code, the UR District "is a Special Purpose Base District primarily intended to provide a suitable classification for newly annexed land. The District is intended to avoid premature or inappropriate development that is not well served by Infrastructure or community services. It is also intended for implementation in areas where an adopted neighborhood plan or area development plan is not in place. It permits only very low-intensity development until such time that a land use plan and Infrastructure and community services are in place."



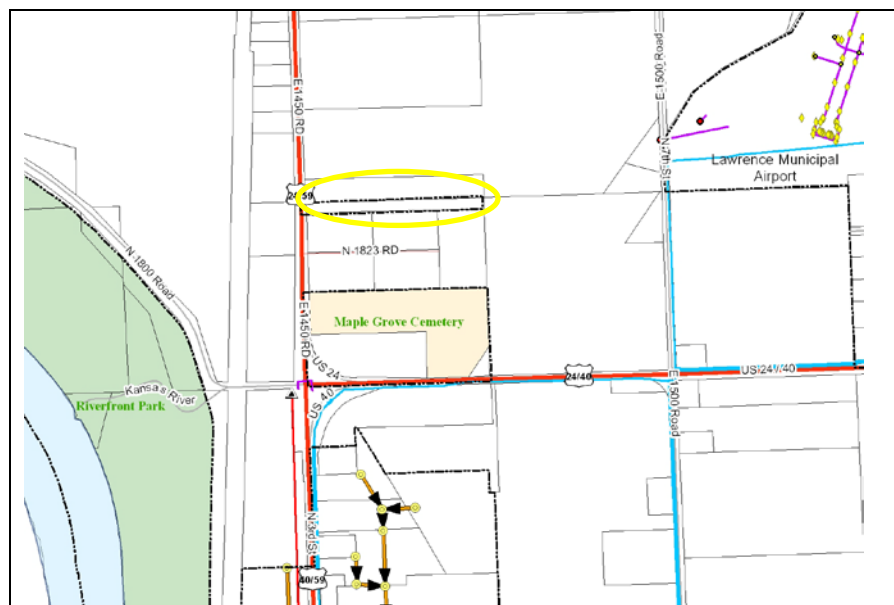
**Figure 2.** Aerial of the property.

### Infrastructure and Utility Extension

City of Lawrence water service is approximately ¼ mile from the property. The Utility Department would require a water main extension to serve this property.

The City is currently in the process of completing a Wastewater Master Plan update. That plan, when finished, will provide greater information about the infrastructure needed to provide wastewater service for property north of Hwy. 24/40 and along Hwy. 24/59.

The Utility Department has not studied this area in any great detail. Because of the subject property's proximity to the city, infrastructure, and industrial uses adjacent to the property and along Hwy. 24/59, the city should develop a service plan to determine whether extending infrastructure to these developed areas, including the subject property, is feasible or practical. The Wastewater Master Plan update will provide a good baseline of information, so it may be best to wait to start a service plan study until after the Master Plan is finished.



**Figure 3.** Infrastructure in the area. Subject property marked with the yellow ellipse.

## **COMPREHENSIVE PLAN**

The subject property is located within Service Area 4 of the Urban Growth Area as shown in Map 3-1 of *Horizon 2020*. Policies that are supportive of the property remaining in the city are as follows:

### *Policy 1.3.1(d)*

*Within Service Areas 2, 3 and 4 of the UGA, require agreements to hook into the public sewer system when property is within 1000' of existing sewer facilities.*

### *Policy 1.3.1(e)*

*Within Service Areas 2, 3 and 4 of the UGA, require agreements to annex at time of municipal utility service provision.*

### *Policy 3.1(c)*

*Properties within the UGAs should be encouraged to annex consistent with a service delivery plan.*

The property lies within the planning area for the *Northeast Sector Plan*. While the *Northeast Sector Plan* has not been approved, Policy 3.1.1.1.a.4 of the 3<sup>rd</sup> draft of the plan state: "Annex property in an orderly manner as urbanization of new development occurs. Further, consider annexing existing county industrial developments as utility issues in the area are better understood and as properties redevelop."

Annexation policies found in *Horizon 2020* are supportive of the property remaining in the city. The draft *Northeast Sector Plan* is supportive of annexing the existing county industrial development as utility issues are better understood.

## **FUTURE DEVELOPMENT**

The subject property lies within an area that is currently developed with county light industrial uses (south and west of the subject property). There is a possibility that the industrial park to the south of the subject property could be annexed into Lawrence sometime in the future. In fact, notes on the plat of Maple Grove North No. 3 state two issues related to annexation and utility service: 1.) *The owner(s), executor(s), their successors and assigns hereby agree not to protest annexation of Maple Grove North No. 3 at such time as the City of Lawrence sanitary sewer lines are constructed within 200 feet of any structure upon said property, and 2.) The owner(s), executor(s), their successors and assigns hereby agree not to protest the formation of a benefit district for sanitary sewer improvements.*

Because of this possibility, it is wise for the property to remain in the city as once the county industrial area to the south receives municipal services and is annexed, the subject property will be in better position to receive city water and wastewater. The city should undertake a service delivery plan to study extending municipal sewer and water infrastructure to the area. A service delivery plan should consider the utility issues along with a cost/benefit analysis. The study area would be determined when the service plan is initiated.

## **KANSAS STATE STATUTE FACTORS**

State Statute Section 12-505 provides factors to consider:

1. No private rights will be injured or endangered by such vacation or exclusion, and;
2. The public will suffer no loss or inconvenience, and that;
3. In justice to the petitioner or petitioners the prayer of the petitioner ought to be granted,
4. The governing body shall order that such vacation or exclusion, or both, be made.

The subject property is in a developed area that should be analyzed for infrastructure extensions. While the property does not receive municipal sewer and water, it has benefited from the city's street tree program, city streets, police, fire and medical, etc.

The Planning Commission should weigh the statutory factors in determining whether the prayer to de-annex the property should be granted. On one hand, the property is likely to eventually be served with city utilities and maintaining the property in the city will make the process for extending services more efficient by not first having to re-annex the subject property. On the other hand, the property is arguably not receiving the level of city services desired to account for it being in the city at this time. If this is determined to be a heavily weighted factor, then there are methods to ensure annexation in the future if and when services are extended to benefit this property.

#### **SUMMARY OF LAND USE AND REQUEST**

The applicant wishes to de-annex the subject property. The subject property was annexed by Lawrence in 1988. A failing water well on the property necessitated the request for annexation. Lawrence ultimately did not provide water to the property. The property receives water from Jefferson County Rural Water District No. 13. Municipal water service is located ¼ mile to the south of the subject property.

The subject property is currently a detached dwelling use on approximately 2.4 acres. The property adjacent to the north and east are zoned for county agriculture uses. The property adjacent to the west and south is zoned and developed for county light industrial uses. Possible future municipal infrastructure extensions of sewer and water to the developed industrial property would result in annexation of the developed industrial property in the area. That would bring infrastructure adjacent to the subject property.