

ITEM NO. 14A ANNEXATION; 69 ACRES; SOUTH SIDE OF N 1800 RD & BETWEEN E 900 RD & E 950 RD (SLD)

A-3-1-11: Consider an annexation request for approximately 69 acres, located on the south side of N 1800 Rd (Farmers Turnpike) and between the extended alignments of E 900 Rd and E 950 Rd. Submitted by Steven Rothwell, Timothy W. and Lani S. Rothwell, for Timothy Rothwell, Wilber C. Rothwell, and Donald Kenna Rothwell, property owners of record.

ITEM NO. 14B A TO IG; 69 ACRES; 933, 939, & 943 N 1800 RD (SLD)

Z-3-8-11: Consider a request to rezone approximately 69 acres from A (Agricultural) to IG (General Industrial), located at 933, 939, & 943 N 1800 Rd. Submitted by Steven Rothwell, Timothy W. and Lani S. Rothwell, for Timothy Rothwell, Wilber C. Rothwell, and Donald Kenna Rothwell, property owners of record.

STAFF PRESENTATION

Ms. Sandra Day presented items 14A and 14B together.

Commissioner Dominguez asked what percentage of the property was type I and II soils.

Ms. Day said there were no type I, only type II soils, and that she did not do that analysis.

Commissioner Liese asked if an Urban Growth Area was legally defined.

Ms. Day said it was very specifically defined in Horizon 2020.

Commissioner Liese asked if this was within 3 miles of Lecompton.

Ms. Day said no.

Commissioner Liese asked if the Urban Growth Area expanded with annexation.

Ms. Day said no, it would require a change in the future to the Urban Growth Area.

Mr. McCullough said it was already initiated in a Text Amendment that was deferred until the water and wastewater master plans were completed.

Commissioner Harris inquired about the criteria to evaluate *'...hinder or prevent the proper growth..'*

Ms. Day said the legislation did not give any more guidance than that. She said annexations were evaluated based on policies in Horizon 2020.

Mr. McCullough said the County looks at whether it hinders or prevents the proper growth. He said staff interprets the statute to require the County to act as an arbitrator of whether a request to annex in one city would impact another city. He said in this circumstance there were well defined growth boundaries and planning documents that helped give guidance about whether something in that area of the county would be appropriate in Lawrence.

Commissioner Harris asked if the findings of fact would be the planning documents and the fact that no one from other cities came tonight to say that this would impact their city negatively.

Mr. McCullough said those would be appropriate findings. He said also the finding that Lawrence was planning for infrastructure in that area and no other city was.

Commissioner Harris inquired about the language of one of the conditions regarding building permits.

Ms. Day said the conditions with this request were identical to what they have seen previously. She said in some ways it would be easier to get sanitary sewer to the property than water so the interim ability to use an agreement with the Rural Water District to provide water service could be an option. She said depending on what the end user was they may have to have sanitary sewer, but may be able to do on-site as well.

Commissioner Harris read part of the condition '*...the uses being those that can be served by rural water or on-site sanitary sewer...*' She thought there were no plans in the near future to extend services until the area in between was developed.

Ms. Day said there were no near plans. She said they did a general assessment of what could or would be needed.

Commissioner Harris asked if the City would pay for the sewer line.

Mr. McCullough said that was undetermined. He said there were different financing mechanisms that would help finance the infrastructure and that it would have to be completely analyzed and determined for opening up an area or specific property.

Commissioner Rasmussen inquired about the long term effect of this provision. He asked if it would always run with the land. He also inquired about being able to get building permits.

Mr. McCullough said the intent was not to allow the user to perpetually go without City services. He said the intent was to have an interim plan established until City services were extended to the area.

Commissioner Rasmussen asked if the provision meant only prior to the extension of City water and sanitary sewer service.

Mr. McCullough said that was the intent of that provision.

Commissioner Culver said regarding an earlier question from Commissioner Dominguez, that type II soils made up 11.3% of the property, according to the staff report.

APPLICANT PRESENTATION

Mr. Matthew Todd, Barber Emerson, thanked staff for their work. He said the location of the property made for an excellent industrial site. He said there was no specific development plan in place but the applicant was asking to be annexed into the City and to be rezoned. He said the Rothwell's made multiple efforts to contact their neighbors and get them involved. He said regarding water usage the Rothwell's have been in contact with Rural Water District #6 and received confirmation that the district would be pleased to continue to provide water service if and when the annexation was approved. He said the property was in the Urban Growth Area and that it was a voluntary annexation request which was prioritized by Horizon 2020. He said regarding the earlier concern from Commissioner Harris about the specific findings to whether the annexation would be detrimental to the proper growth and development of the area or any other cities; it would be appropriate for Planning Commission to make certain findings but ultimately the statute directs for the County Commission to make that determination. He said based on the Sector Plan the Planning Commission may be able to make findings that by approving the rezoning they would be facilitating the growth and development in accordance with the Sector Plan, which would be an appropriate growth and development of the area.

PUBLIC HEARING on Annexation

Mr. Dan Brogran, Trust Company of Kansas, said he was the agent investment advisor for the property owner immediately to the west, and that they had no reservations about the rezoning and annexation.

Mr. Don Rothwell, applicant, said he was not looking to move for 3-4 years. He said he would appreciate their recommendation of approval.

COMMISSION DISCUSSION

Commissioner Harris asked if there had been progress on infrastructure planning since the last annexation request.

Ms. Day said it was still being analyzed between City Utilities staff and the consultant who were going through the modeling process. She said there were some discrepancies in some flow data so they had to go back and revisit that which set them back about 90 days.

Mr. McCullough said regarding the Wastewater Master Plan there had not been much advancement in specifically getting sewer and water to the property since they last had a potential user in the area.

Commissioner Dominguez inquired about the issue of island annexation discussed in the letter sent by Mr. Darrel Ward.

Mr. McCullough said the staff report articulated the annexation policies that supported this annexation. He said the goal was to identify areas for industrial, primary job growth, and employment areas, which was seen as high value to the community.

Commissioner Rasmussen suggested additional language to the beginning of condition 1, *'Prior to the extension of City water or City sanitary sewer service,...'*

ACTION TAKEN on Item 14A

Motioned by Commissioner Rasmussen, seconded by Commissioner Singleton, to recommend approval and forward the recommendation to the City Commission for the approval of the requested annexation of approximately 69 acres located on the south side of N 1800 Road (Farmer's Turnpike) and between the extended alignments of E 900 Road and E 950 Road subject to the following conditions:

1. *Prior to the extension of City water or City sanitary sewer service*, building permits may be issued for the property if the City of Lawrence reasonably determines that either City water or City sanitary sewer service is not required to serve the use or uses on the property, the uses being those that can be served by rural water or on-site sanitary sewer management systems (including, but not limited to sewage storage tanks).
2. The applicant shall execute an agreement not to protest the future annexation of any adjacent rights of way or roadway easements.

Motion carried 8-1, with Commissioner Harris voting in opposition.

Motioned by Commissioner Singleton, seconded by Commissioner Liese, to make a recommendation to the County Commission that they find that the annexation will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within the Douglas County and that the annexation is compatible with Horizon 2020 and the K-10 and Farmer's Turnpike Plan.

Motion carried 9-0.

PUBLIC HEARING on Rezoning

Ms. Beth Johnson, Lawrence Chamber of Commerce, stated Lawrence needed more industrial sites. She said Topeka added 1,000 acres of industrial space in the past year with a new business park that they purchased with money through their economic development funds that were put aside each year. She said Topeka gives land away for free to companies and also gives them a check to move their company. She said Lawrence could not begin to compete with that because Lawrence did not have property zoned correctly or infrastructure in place. She said in 2010 the Chamber saw five different opportunities come to them for land along I-70. She showed on the overhead two letters that came to the Chamber in the past two weeks that were specific requests for industrial sites.

Mr. Darrel Ward requested the rezoning be tabled. He stated he did not receive proper notification for commonly owned property. He said his brother received notification, he and his wife received notification, but the commonly owned property did not receive notification. He referenced the Kansas State Statute regarding notice requirements.

Commissioner Singleton asked who the four joint property owners were.

Mr. Ward said himself, his brother, his sister, and his nephew. He expressed concern about inconsistency with notification.

Commissioner Liese asked what Mr. Ward was requesting.

Mr. Ward requested that they table the rezoning request. He said at this meeting he was not trying to argue for or against the rezoning.

Commissioner Rasmussen asked if he received notice concerning the annexation.

Mr. Ward said two of the three properties received notice.

Commissioner Rasmussen asked if he personally received notice.

Mr. Ward said he did.

Commissioner Harris asked Mr. Ward when he receives his tax bill from the County who it is sent to.

Mr. Ward said it is addressed to all the property owners and is sent to his mailing address.

Commissioner Dominguez asked if he wanted to defer the rezoning and then come back and argue against it.

Mr. Ward said he would like it tabled until notification was given. He said the biggest issue was that notification was not provided as per statute.

Commissioner Singleton asked if he discussed it with his sister or nephew.

Mr. Ward said no.

Mr. McCullough said the state statute required newspaper legal notification, sign posting, and mailed notice. He said the intent was to get broad notice out to the stakeholders affected by a zoning application. He said the County Clerk provided a certified property ownership list and it would seem to indicate all the property owners were notified that were required to be notified by statute.

Mr. Ward said there was inconsistency with the mailed notice because not all of the property owners received notice.

Mr. McCullough said the further intent of wide distribution notice was that people would talk amongst themselves or neighbors.

Mr. Ward said he was not an agent for the Planning office and under no obligation to speak to anyone.

Mr. McCullough said preliminary analysis of the record indicated staff did what was required under state statute.

Mr. Ward said he respectfully disagreed.

Ms. Gwen Klingenberg said she was having trouble with the concept that IG was a better product because it had more available. She said she went through the Code and found that IL had 21 more uses than IG. She said IG had uses that they probably would not want, such as explosive storage, industrial intensive, and mining. She said the idea of possibly putting a hotel at this location would do a lot more for the City than just something an IG could. She thought they needed to consider whether they wanted IG or IL. She was in favor of IL because she liked the hotel idea. She said when it came to policy making there needed to be balance. She said the neighborhood was not against IL, they were against IG.

Commissioner Harris asked what her understanding was of what was considered industrial intensive.

Ms. Klingenberg said anything that was obnoxious, major light pollution, major smell pollution, anything dangerous, chemical storage, mining, etc. She did not feel this corner would be appropriate because it was a major center into the community and into Lecompton.

COMMISSION DISCUSSION

Commissioner Rasmussen inquired about why IG was requested.

Mr. Todd said if the property was annexed into the City it needed some sort of City zoning designation. He said IG came from the Sector Plan which already evaluated what the appropriate uses for the area would be. He said at this point in time a specific use for the site was unknown so it would enable the property owners to promote the property adequately and for the Chamber to bring in companies interested in stimulating the economic development of the community. He said there was certainly opportunity for uses in the IL category that also fall in the IG category but at this point in time until a specific use was known or a specific user was interested in the property it needed to have some sort of general industrial zoning classification in order to open it up for potential uses. He said regarding the issue of notification, the certified list from the County Clerk's office did have three separate tracts owned by the Ward family but they all had the same mailing address.

ACTION TAKEN on Item 14B

Motioned by Commissioner Liese, seconded by Commissioner Singleton, to approve the rezoning request (Z-3-8-11) for 69 acres from County A (Agricultural) District to City IG (General Industrial) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Commissioner Dominguez said there needed to be a tax base to support nice amenities for the community. He stated he hated for that scenery to go away but that he would support the motion.

Commissioner Harris said she agreed this was a good place for industrial but was uncomfortable with how quickly they were moving toward putting infrastructure there. She said the Comprehensive Plan cautioned against doing that because it was not good for the community to pay for that. She said if there was another mechanism or language in the Comprehensive Plan that said industrial parks would use different rules she would feel more comfortable approving this. She said she would vote against the motion.

Motion carried 8-1, with Commissioner Harris voting in opposition.