

**PLANNING COMMISSION REPORT  
PUBLIC HEARING ITEM**

PC Staff Report  
5/19/14

**ITEM NO. 1A: DE-ANNEXATION OF 87 ACRES LOCATED AT 2200 NORIA ROAD & 4600 EAST 23<sup>rd</sup> STREET. (DRG)**

**A-14-00073:** Consider a request to de-annex approximately 87 acres located at 2200 Noria Rd and 4600 E 23<sup>rd</sup> St. Submitted by Barber Emerson, for Economic Development Corporation of Lawrence and Douglas County, property owner of record. *Initiated by City Commission on 3/25/14.*

**STAFF RECOMMENDATION:** Staff recommends forwarding the request to the City Commission with a recommendation of approval of the de-annexation of approximately 87 acres, located at 2200 Noria Road and 4600 East 23<sup>rd</sup> Street (northeast corner of Noria Road and East 23<sup>rd</sup> Street), based on the findings in this report with the omission of all right-of-way for Noria Road and East 23<sup>rd</sup> Street adjacent to said property.

**Applicant's Reason for Request:** *The subject property was annexed in 2000 when the then current owner sought to expand the available inventory of industrially zoned land to market for development. Prior to annexation, the property was used for agricultural purposes and it has continuously been used in that way ever since it was annexed into the city. Site development costs have been found to be cost prohibitive which led the owner to sell the land to an area farmer who wants the property to be de-annexed and rezoned to county agricultural district as conditions of the sale.*

**KEY POINTS**

- Subject property is actively being farmed for agricultural crop production. It has continuously been farmed in this manner since it was annexed by the City of Lawrence in 2000. Prior to annexation, the property was used for agricultural crop production.
- Upon annexation, the property was rezoned for general industrial uses and platted into two development lots. The property has been continuously marketed for sale but it remains undeveloped.
- City water and sanitary sewer utility infrastructure is found along the west side of Noria Road and a sanitary sewer main and manhole were extended over to the east side of Noria Road in the right-of-way. No utility infrastructure has been extended into the property.
- The property lies within Service Area 4 of the Lawrence Urban Growth Area. No area plan or sector planning work has been done in this area of the UGA.
- East Hills Business Park is directly west of the subject property. Noria Road separates the subject property from East Hills Business Park. The development pattern is distinctively different east of Noria Road as it transitions to rural agricultural land uses.
- *Horizon 2020* encourages the protection and preservation of high quality agricultural lands.
- The acquisition of the former Farmland Industries site (now known as Venture Park) and the ensuing development process involved with preparing this area for industrial type land uses is a strong indication of the community's desire to see expanded industrial and business type uses grow in the area west of East Hills Business Park.

- The rights-of-way dedicated on the final plats for Noria Road and East 23<sup>rd</sup> Street should be retained in the city limits and not included in the property to be de-annexed.

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

- Request to vacate the Final Plat of East Hills Business Park East and Final Plat of East Hills Business Park East No. 2.
- Request to rezone the property from city IG District to county A District.

Other action required:

- City Commission determination regarding the de-annexation request and two plat vacations.
- Board of County Commissioners determination regarding the rezoning request.

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

- None

### **EXISTING CONDITIONS**

Current Zoning and Land Use: IG (General Industrial) District; used for agricultural crop production.

Surrounding Zoning and Land Use: To the east: VC (County – Valley Channel) District; agriculture uses

To the north: A (County - Agriculture) District along east frontage of Noria Road and VC District to the east of the A District; agriculture uses

To the west: IG (City - General Industrial) District; industrial uses in East Hills Business Park

To the south: A (County - Agriculture) District; agricultural uses.

### **Site Summary**

Gross Area in Platted Subdivisions (includes R/W): 88.392 acres

Gross Area requested for de-annexation: 86.992 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. K.S.A. 12-504 allows for the "Petition for vacation of site or addition, street or alley, or for exclusion of land." K.S.A. 12-504 sets forth public notice provisions and states that the city or planning commission can hold a hearing to consider these matters. K.S.A. 12-505 establishes the proceedings for the hearing and provides factors by which to consider the petition.

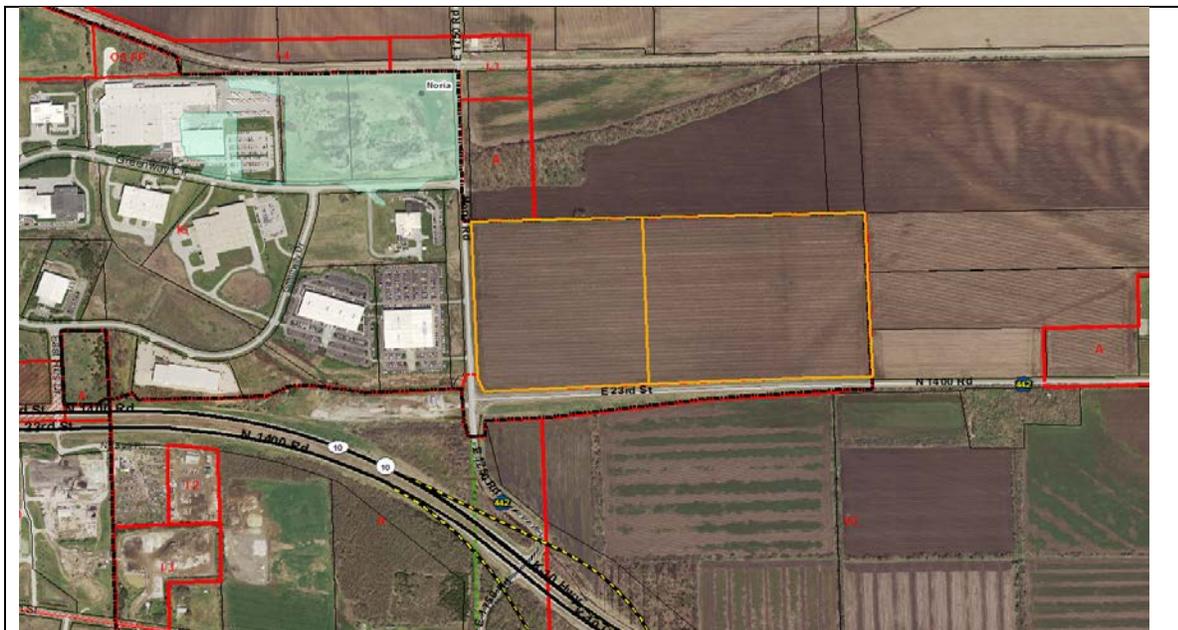
This request was duly noticed to the public. The procedure for this petition will be a public hearing by the Lawrence-Douglas County Planning Commission. The Planning Commission will make a recommendation to the Lawrence City Commission. The City Commission will make the final decision on the request.

### Background

The property was purchased in 1999 by Douglas County Development, Inc. (now known as The Economic Development Corporation of Lawrence and Douglas County). It was then annexed by the City the following year in early 2000. Concurrent with the property annexation was a rezoning request for general industrial and a one-lot subdivision plat for roughly the western half of the property. The rezoning and plat were necessary steps needed to prepare the property for industrial development with city water and sanitary sewer services. Since then, the 87-acre site has been on the market for sale, but it remains undeveloped.

Prior to acquisition of the property by Douglas County Development, Inc., the site was used for agriculture. It has continuously been used for agricultural crop production since being annexed by the city.

### General Location and Site

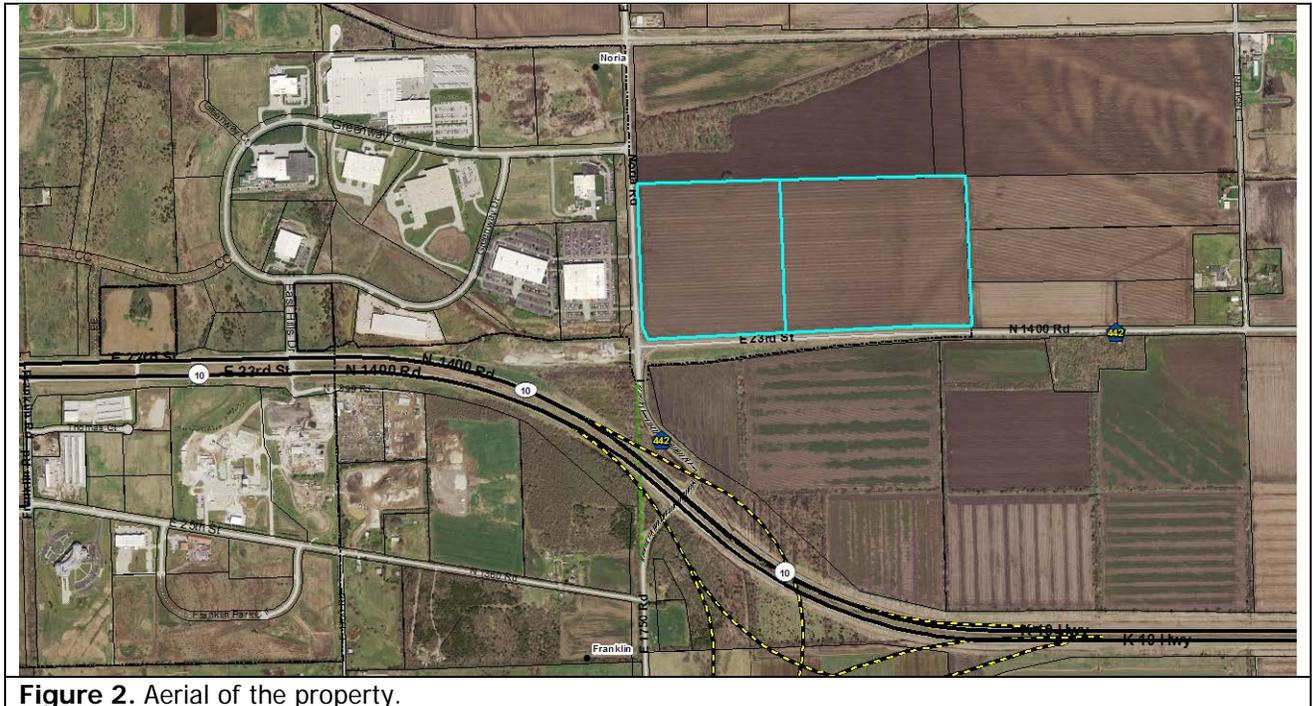


**Figure 1.** Subject property is shown in mustard yellow. Current city limits of Lawrence are represented with a thick black dashed line. Existing city and county zoning areas are shown as red lines and red text.

### Characteristics

The site requested for de-annexation is located on the northeast corner of Noria Road and East 23<sup>rd</sup> Street approximately ¼ mile from the existing intersection of Noria Road and K-10 Hwy.

Even though the subject property is currently in the city limits, it is not obvious by the existing land use pattern found in the area. On the west side of Noria Road the development pattern consists of industrial buildings and uses located in East Hills Business Park. East of Noria Road along East 23<sup>rd</sup> Street (N 1400 Road) the land use pattern dramatically changes to rural agricultural uses, primarily consisting of cropland fields. The subject property is actively farmed for crop production.



### Infrastructure and Utility Extension

City of Lawrence water service is available to be extended to the property from the existing 12" transmission main located on the west side of Noria Road. The Utility Department would require a water main extension to serve this property.

The City also has an 8" sanitary sewer crossing under Noria Road and a sanitary sewer manhole located in the right-of-way on the east side of Noria Road. No utility infrastructure has been extended beyond the street rights-of-way to provide utility services to the two platted lots in this request.



**Figure 3.** Infrastructure in the area. Subject property is outlined in magenta.

### 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.*

Chapter Seven, Industrial and Employment-Related Land Use, in *Horizon 2020* talks about the existing inventory of industrial areas in the community and identifies potential areas for expanded industrial related land uses. East Hills Business Park is described as being on the eastern edge of Lawrence on the north side of Kansas Highway 10. It "serves as the eastern gateway to the community and the City should continue to examine future development plans for this area to ensure they reflect the image and quality the community seeks in gateway development." Consideration of expanding this industrial park area is discussed with particular attention given to the former "Farmland Industries site" immediately to the west. No mention is made of expanding the industrial area to the north or east of East Hills Business Park.

Recent development of Venture Park (former Farmland Industries site) expands the available vacant land inventory for prospective industrial related land uses in this area. The community's efforts to acquire and build the infrastructure needed for industrial development in the new Venture

Park area is consistent with the recommendations found in *Horizon 2020*. As a result, industrial related development east of Noria Road appears to no longer be a high priority of the community at this time.

Chapter Sixteen, Environment, in *Horizon 2020* recognizes it is important to protect and preserve “high quality agricultural land” because it “requires less intervention to produce high yields of crops with high nutrition”. The eastern portion of the subject property has Class II soils meeting this criterion. The remainder of the property has Class III soils which require more intervention to produce high crop yields according to the National Resources Conservation Service.

### **FUTURE DEVELOPMENT**

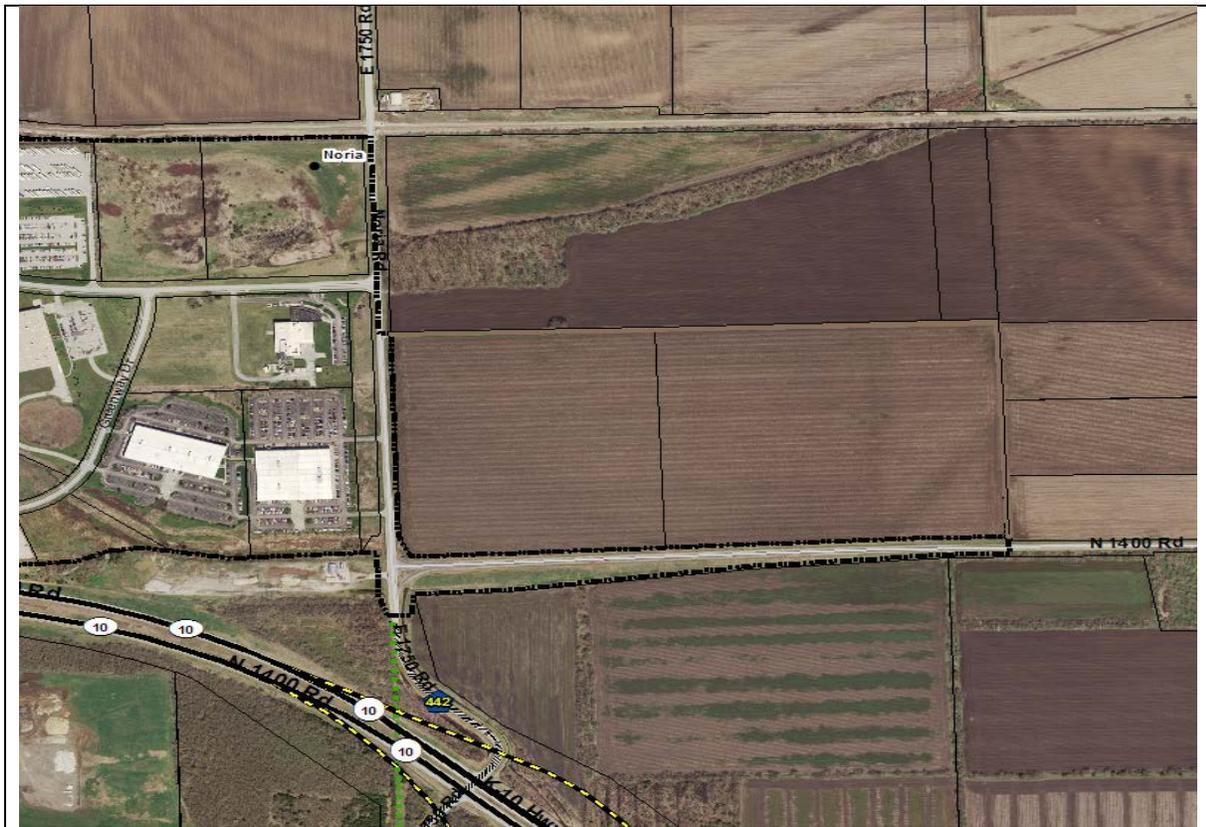
The subject property is on the eastern edge of the developed industrial area known as East Hills Business Park. Noria Road is a clear demarcation boundary between the existing built urban area to the west and rural agricultural land uses found east of the road. Based upon recent city actions to construct the infrastructure in the Venture Park development area (former Farmland Industries site), it appears that the city’s emphasis for new industrial development has shifted away from the subject property. While city utilities are adjacent to the property, they have not been extended beyond Noria Road into the two platted lots making up the property request. Therefore, there should be no public loss or damages sustained by a decision to de-annex the property from the boundaries of the city.

### **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 Planning Commission should weigh the statutory factors in determining whether the prayer to de-annex the property should be granted. In staff’s opinion, no private rights will be injured or endangered by the governing body de-annexing only the property represented by the platted lots in the Final Plat of East Hills Business Park East Addition and Final Plat of East Hills Business Park East No. 2 Addition. Similarly, the public will suffer no loss or inconvenience by the de-annexation of just these platted lots contained in said two final plats.



**Figure 4.** Depiction of city boundary after de-annexation of property in the petition.