

## PLANNING COMMISSION REPORT Regular Agenda – Public Hearing Item

PC Staff Report  
6/23/14

**ITEM NO. 3C: A TO RS5; 25.2 ACRES; SW OF N 1750 RD & E 902 RD (MKM)**

**Z-14-00162:** Consider a request to rezone approximately 25.2 acres from County A (Agricultural) District to RS5 (Single-Dwelling Residential) District, located SW of N 1750 Rd and E 902 Rd. Submitted by BG Consultants Inc on behalf of Garber Enterprises Inc, property owner of record.

**STAFF RECOMMENDATION:** Staff provides the following options for action on the rezoning request for approximately 25.2 acres southwest of N 1750 and E 902 Roads from A (County-Agricultural) District to RS5 (Single-Dwelling Residential) District based on possible outcomes to the requested amendments to the *K-10 & Farmer's Turnpike Sector Plan* (CPA-14-00005).

Option 1)

Staff recommends denial of the rezoning request to the RS5 District and forwarding it to the City Commission with a recommendation for denial based on the findings of fact found in the body of the staff report.

Option 2)

If the *K-10 & Farmer's Turnpike Sector Plan* is amended to permit RS5 residential uses in this area, Staff recommends approval of the rezoning request to the RS5 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.

### REASON FOR REQUEST

Applicant's Response:

*"Annexation has been requested and rezoning is part of the process."*

### KEY POINTS

- The property is located within the boundaries of the *K-10 & Farmer's Turnpike Plan*.
- A Comprehensive Plan Amendment to expand the boundaries of the *K-10 & Farmer's Turnpike Plan* and to revise the future land use recommendations has been submitted and is also on the June Planning Commission agenda as part of this item.
- The proposed rezoning is not compliant with the recommendations in the current sector plan, or as staff recommends it be revised. Staff is providing options for action based on possible outcomes of the Comprehensive Plan Amendment.

### ASSOCIATED CASES

- CPA-14-00005: Revision and expansion of *K-10 & Farmer's Turnpike Plan*.
- A-14-00161: Annexation of approximately 100 acres.
- A-14-00163: Annexation approximately 15 acres.
- Z-14-00165: Rezoning of approximately 13.3 acres from A (County-Agricultural) to IL (Limited Industrial) District.

- Z-14-00164: Rezoning of approximately 75 acres from A (County-Agricultural) to RS7 (Single-Dwelling Residential) District.
- Z-14-00204: Rezoning of approximately .8 acres from A (County-Agricultural) to RS7-FP (Single-Dwelling Residential and Floodplain Management Regulations Overlay) District.

These associated cases were submitted as part of the overall development project and are being considered at the June Planning Commission meeting.

#### **OTHER ACTION REQUIRED**

- City and County Commission approval of Comprehensive Plan Amendment and adoption/publication of ordinance/resolution.
- City Commission approval of annexation request and adoption/publication of annexation ordinance.
- City Commission approval of rezoning request and adoption/publication of ordinance.
- Platting of property through the Major Subdivision process.
- Application and release of building permits prior to development.

#### **ATTACHMENTS**

Attachment A: Zoning map

Attachment B: Concept plan

#### **PUBLIC COMMENT**

No public comment was received for this item prior to the printing of this staff report.

#### **Project Summary**

The subject property is located in an area that is currently undergoing development. Rock Chalk Park, a KU/regional sport facility, and a City recreation center are under construction to the southeast. Other developments such as Mercato and the Links at Lawrence have preliminary development approvals. Growth in this area was previously limited by the lack of City infrastructure; however, the extension of the Baldwin Creek Sanitary Sewer Interceptor Line in 2009 and the adoption of a Wastewater Masterplan with plans for future main extensions in the area have made development possible. An annexation request was submitted for this property and other adjacent properties based on the ability of the City to provide services.

The subject rezoning request to the RS5 (Single-Dwelling) District is not compliant with the recommendations in the *K-10 & Farmer's Turnpike Plan*. A Comprehensive Plan Amendment (CPA) was requested by the property owner to revise the recommendations to allow a detached dwelling development in this area. The staff recommended CPA corrects an error in the original plan and permits 'Detached Dwelling' as a primary use in the Residential/Office land use description but maintains the mixed use designation. Staff reviewed the rezoning request with the current sector plan, *K-10 & Farmer's Turnpike*, and with the revised plan as recommended for the CPA request and is providing a set of options for the Planning Commission. This review is discussed in Section 4 of this report.

The RS5 zoning is requested to accommodate development of the subject property with single-dwelling residences. The development as shown in the concept plan, Attachment B, shows a single row of residences backing up to the buffer area between the proposed mini-warehouse and the existing utility use. Proposed local streets provide connection to the

development to the west and to E 902 to the east. Cul-de-sacs are proposed on the north side of the project, due to the floodplain and stream corridor in this area.

## REVIEW & DECISION-MAKING CRITERIA

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

*"The staff report for CPA-14-00005 indicates that the proposed rezoning is in general conformance with Horizon 2020. The zoning request has been slightly modified to reflect the findings of the staff report."*

The subject property is within the planning boundaries of the *K-10 & Farmer's Turnpike Plan*, which is discussed in Section 4 of this report. The rezoning request will be reviewed in this section for compliance with general recommendations of the Comprehensive Plan for Residential Development. Policies from the Comprehensive Plan are below, with staff comments in red.

The Comprehensive Plan recommends low density and very low density as an alternative land use for the Northwest area. *"This type of very low-density residential development is intended for use in areas to be annexed to the city and served by urban services, but which, due to the presence of forest, slopes and natural drainageways, may not be capable of sustaining residential densities planned in other locations of the community."* (Page 5-9, *Horizon 2020*)

An area north of the subject property contains a steeply sloped, wooded, stream corridor and associated floodplain. This area was removed from the parcel containing the subject property and divided into Residential Development Parcels through the Cluster Development Certificate of Survey process for rural residential development at very low density and is not included in the associated annexation request. The remainder of the parcel, the subject of this rezoning request, does not contain forests, slopes or natural drainageways which would require the very low density designation.

Goal 4 of Chapter 5 provides the following policies for the location of low-density residential development:

- *"Identify suitable land areas of adequate size to accommodate residential subdivisions in order to facilitate well-planned orderly development with improved coordination of public services and facilities."* (Page 5-17)
- *"Encourage subdivision design in which residential lots are oriented towards, and take access from the neighborhood of which they are a part."* (Page 5-19);

The subdivision, as shown on the concept plan provided with the rezoning request, is compliant with these recommendations.

**Staff Finding** – The rezoning request is compliant with the general recommendations of the Residential Chapter of the Comprehensive Plan. The request will be evaluated with the recommendations of the sector plan in Section 4 of this report.

## 2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING ANY OVERLAY ZONING

Current Zoning and Land Use: A (County-Agricultural); Agriculture.

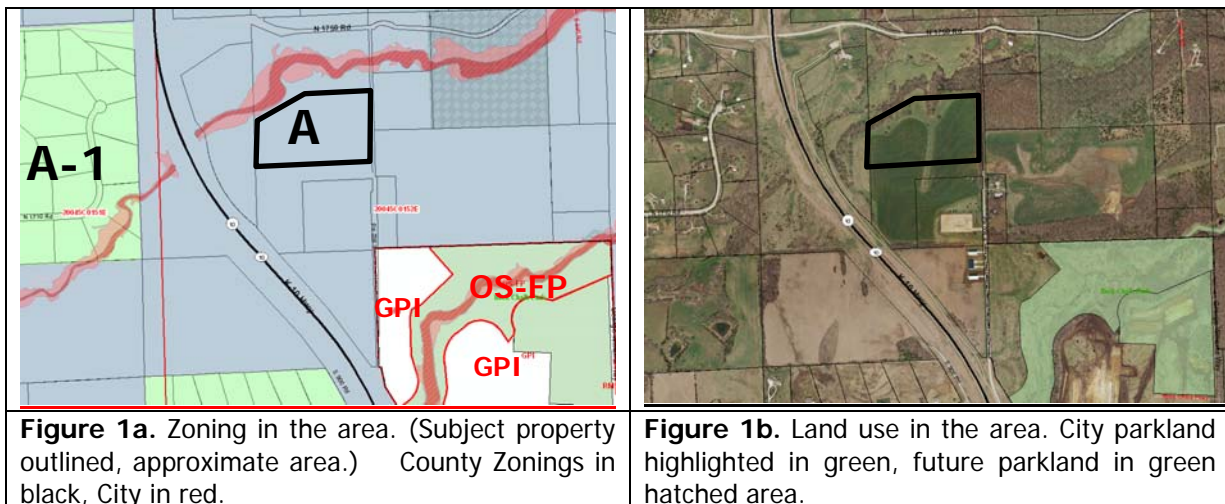
Surrounding Zoning and Land Use: To the north:  
A (County-Agricultural), F-W (Floodway Overlay), and F-F (Floodway Fringe Overlay) Districts; Baldwin Creek, wooded stream corridor, and Agriculture. This area was recently subdivided through the Certificate of Survey process into very low density Residential Development Parcels.

To the west:  
A (County-Agricultural); Agriculture.

To the east:  
A (County-Agricultural); Woodland, Agriculture, and Rural Residential. A rezoning request for the portion containing the Agricultural land use to the RS7 District is on the June Planning Commission agenda.

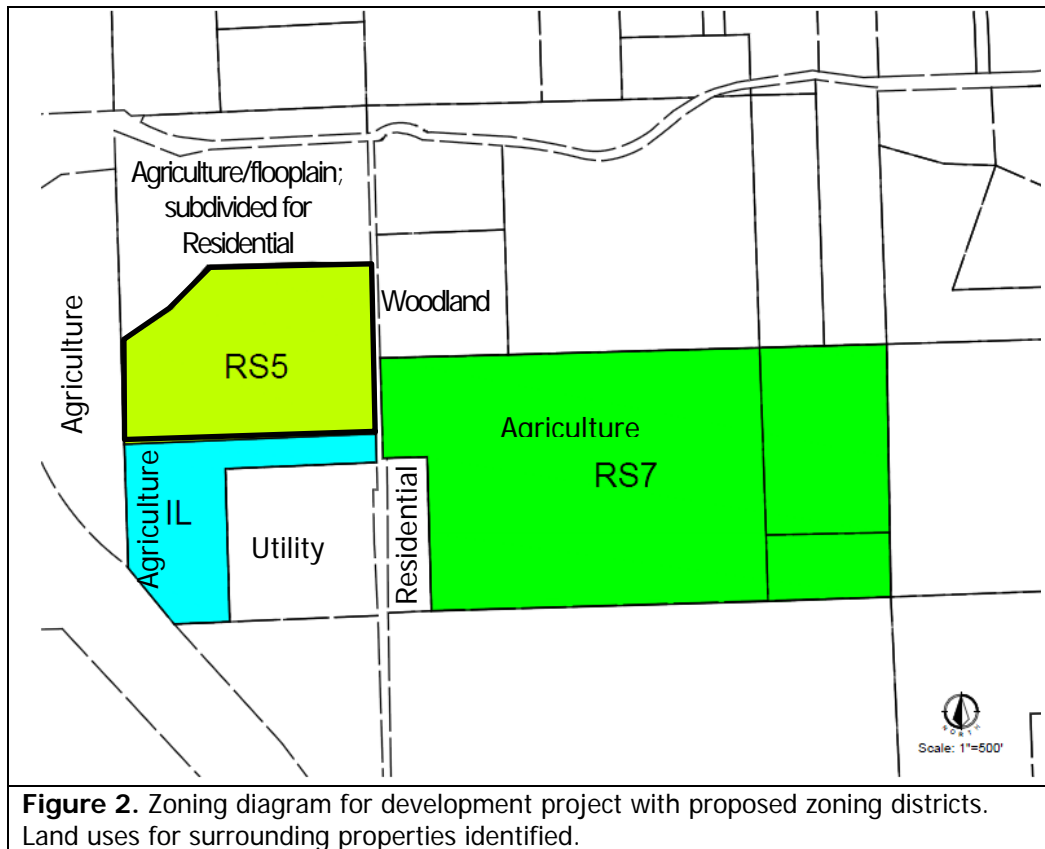
To the south:  
A (County-Agricultural); Agriculture and Utility/Westar Substation. Applications for both properties are on the June Planning Commission agenda: rezoning to IL for the agricultural parcel and a CUP for expansion of the substation.

(Figure 1)



**Staff Finding** – The surrounding area includes land that is part of the overall development project. Property to the south and east are currently zoned County-A and are used for Agricultural and utility uses. The land to the south and east of the subject property that are under the same ownership (excludes the parcel with the substation and the wooded parcel) have rezoning requests to the IL and RS7 Districts submitted as part of this development project. (Figure 2) The surrounding lands contain primarily agricultural land uses, with a

utility substation and a rural residence to the southeast. The proposed rezoning to the RS5 District for residential development would be compatible with the surrounding land uses.



### 3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

*"The character of the neighborhood has been recently changed with the recent construction of Rock Chalk Park. The properties are influenced by the character of the area, which includes K-10 Highway, Rock Chalk Park and the Westar Substation."*

The area is bounded on the west by K-10 Highway, which is classified in the Major Thoroughfares Map as a Freeway, on the north by N 1750 Road, which is classified as a Principal Arterial. Future Collector Streets connect N 1750 Road to W 6<sup>th</sup> Street/Highway 40 to the south and provide east/west connections to E 1000 Rd and Wakarusa Drive, Principal Arterials. The area has access to the major transportation network.

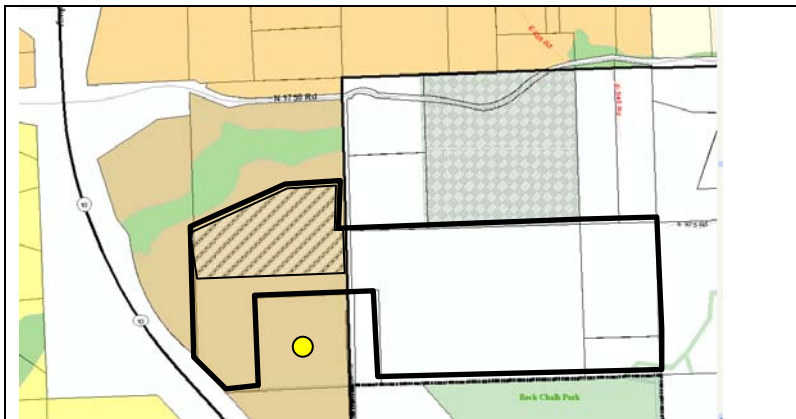
Development occurring in the area includes Rock Chalk Park, a KU/Regional Sports Center, and a City Recreation Center. Other areas have preliminary development approvals: Mercato, a commercial/Residential/Office development; and Links at Lawrence, a multi-dwelling residential development. The utility use south of the subject property, an electric substation, is also developing and a CUP for the expansion of the facility is also on the June Planning Commission agenda.

The Baldwin Creek floodplain and riparian corridor are significant environmental features of the area. Open space is available in the area in the form of City parklands, with the Rock Chalk Park to the southeast of the subject property and future City parkland to the northeast.

**Staff Finding** – The area has a network of collector streets that provide connections to arterials bordering the area on the north (N 1750 Road), east (E 1000 Road and Wakarusa Drive) and to the south (W 6<sup>th</sup> Street/Highway 40). The electric utility and the portion of the area that is within the City limits are experiencing development. Open space (Baldwin Creek Floodplain and riparian corridor, and City parklands) is present in the area. The proposed use would have adequate access to the transportation network although road improvements will be needed prior to development. The proposed residential use should be compatible with the existing and proposed uses in the area.

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

The subject property is located within the planning boundary of the *K-10 and Farmer's Turnpike Plan*. The plan recommends this area as Residential/Office on the Future Land Use Map (Page 3-11 of the plan; Figure 2) The plan lists the following uses as being appropriate in the Residential/Office area: mixed use development of administrative and professional offices with varying degrees of residential that may be achieved through the use of work/live units. Primary uses



**Figure 2.** Land use recommendations in current *K-10 & Farmer's Turnpike Plan*. Westar substation marked with yellow dot. Brown area is designated as Residential/Office Development in the plan. Property within the overall development proposal is outlined. Property that is the subject of this rezoning is hatched.

recommended are: work/live units, non-ground floor dwellings, attached dwellings, multi-dwelling structures, civic and public uses, and offices. The applicant submitted an application for a Comprehensive Plan Amendment (CPA) to revise the recommendations of the sector plan to permit a single-dwelling residential use in this location.

The CPA, also on the Planning Commission's June agenda for consideration, recommends retaining the Residential/Office designation for the subject property but would revise the list of permitted uses to include 'Detached Dwellings'. In staff's opinion, the exclusion of this use from the original list was an oversight. The Plan notes that the Residential/ Office designation is intended to "*accommodate mixed use development of administrative and professional offices with varying degrees of residential.*" (Page 3-8, *K-10 & Farmer's Turnpike Plan*) This change will affect all areas recommended for Office/Residential land uses in the plan. (Figure 3)

The development of a single-dwelling subdivision in this area would not provide the mixed use development recommended by the sector plan. Based on this fact, staff would

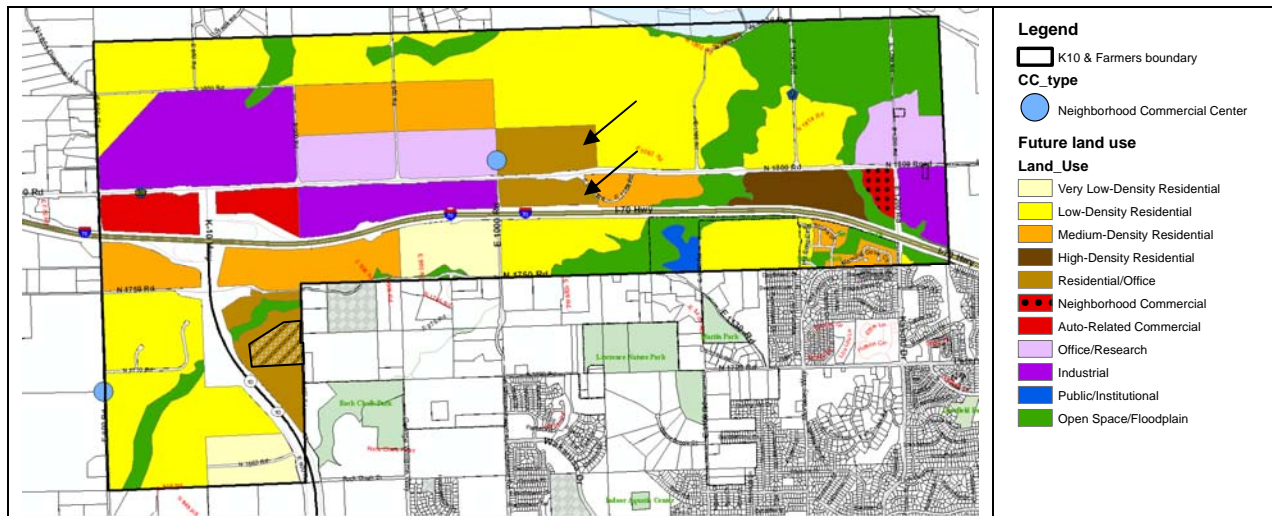


recommend denial of the rezoning request; however, staff is providing an alternative recommendation in the event the sector plan is revised to permit exclusively or primarily single-dwelling residential development and the RS5 District is listed as an appropriate zoning district.

**Staff Finding** – The property is located within the limits of the *K-10 & Farmer's Turnpike Plan* which recommends Residential/Office as the future land use. The plan notes the intent of the Residential/Office designation is to provide a mix of office uses with some degree of residential and recommends rezoning to the RSO, RMO, MU, or PD Districts. The proposed rezoning and use is not compliant with the future land use recommendations in the plan.

However, as an application for a Comprehensive Plan Amendment has been submitted to modify the plan so that the RS5 zoning and development would be acceptable, staff will provide two recommendations:

- a recommendation for denial based on the current plan language; and
- a recommendation for approval if the sector plan is amended so the RS5 zoning and residential development are compliant with the plan recommendations.



**Figure 3.** Future land uses recommended in the *K-10 & Farmer's Turnpike Plan*. Approximate area of subject property hatched. Other area recommended for Residential/Office mixed use marked with arrows.

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

Applicant's Response:

*"The property currently has a County zoning designation which is unsuitable once it is annexed into the City."*

The property is currently zoned A which permits agricultural uses as well as other low intensity uses in the County such as very low density residential. The property is suitable for uses which are permitted within the A District; however, annexation is appropriate prior to development given the proximity to the City limits. Upon annexation, the property must be rezoned to an urban zoning designation.

The property is suitable for the *Detached Dwelling* use which has been proposed. The property will be separated from the utility and proposed mini-warehouse uses to the south

by an easement for electric transmission lines. This easement will contain a drive for access to the proposed warehouse, if approved, and will be landscaped to screen the industrial use from the residential.

**Staff Finding** – The property is suitable for the uses to which it is restricted in the County-A District; however, annexation is appropriate given the proximity of the City limits and the ability of the City to provide services. Once annexed, the property must be rezoned to an urban zoning designation. The A Zoning District is not suitable following annexation. The property is suitable for residential uses; however, the RS5 District is not compliant with the recommendations of the *K-10 & Farmer's Turnpike Plan*. If the Planning Commission wishes to accommodate the applicant's plans for residential development, revisions would be necessary to the sector plan, as noted in Section 4 of this report.

#### 6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

*"The property has never been developed."*

**Staff Finding** – The property has not been developed since the adoption of zoning regulations in the unincorporated area of the County, 1966. Rezoning is being requested to accommodate development following annexation.

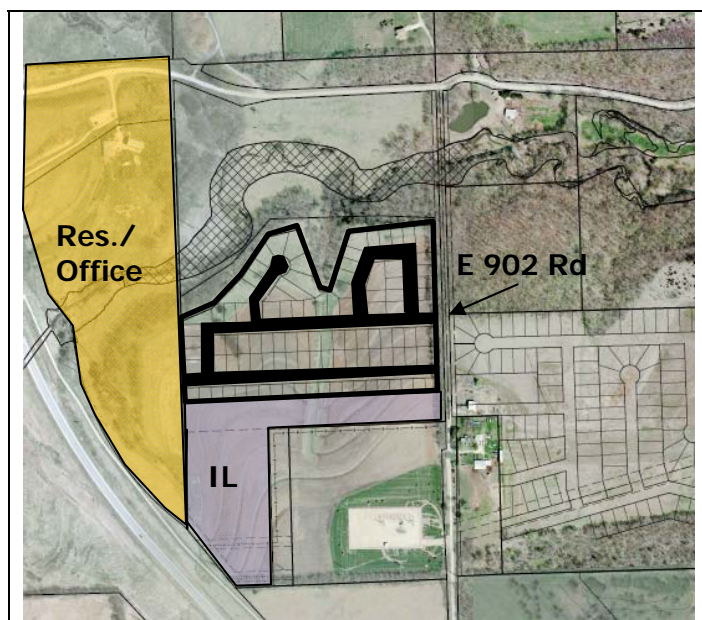
#### 7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicants Response:

*"The zoning request will not detrimentally affect nearby properties."*

A detached dwelling development in this area would be compatible with nearby properties; however, it may create a challenge if the property to the west proposes a mixed use development as recommended in the sector plan. If the subject property were rezoned to RS5, new property owners may not be aware that a mixed use office development would travel through the residential neighborhood to reach E 902 Road. (Figure 4) While this may or may not be acceptable from a traffic engineering perspective, the 'Office' designation may create the perception of higher intensities, thus the potential for a perceived land use incompatibility for future residents of the subject property.

**Staff Finding** – The rezoning to the RS5 District would not negatively impact nearby properties, as the development would be a low intensity



**Figure 4.** Access to E 902 Rd: Residential/Office area to west would take access through the single-dwelling development



residential use. Negative impacts could occur on the subject property; however, if the property to the west were developed with higher intensity uses recommended in the plan as Residential/Office uses.

**8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION**

Applicants Response:

*"The expansion of available industrial and residential land will provide new opportunities for the community as a whole. It will also be a valuable contribution to the future growth and development of the part of the Urban Growth Area once services are available."*

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

Denial of the rezoning would maintain the area for a mix of residential/office uses in compliance with the recommendations of the sector plan. This would benefit the public by maintaining consistency with the adopted plans.

If the sector plan is revised so the RS5 zoning and development is appropriate, there would be no gain to the public from denial of the rezoning.

If the rezoning request is denied, it would be necessary to develop the property with a mix of office and residential land uses. As office development in the City has been slow in recent years, this could create a hardship for the applicant.

**Staff Finding** –The benefit to the public by denial of the rezoning request would be maintaining consistency with the adopted sector plan. If the plan were revised to permit RS5 zoning and development, there would be no benefit to the public from the denial of the request. The hardship to the property owner from the denial of the rezoning request is that the slow market for office development may delay development of the property.

**PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning request is compliant with general recommendations for residential development in *Horizon 2020* but is not compliant with the current plan for the area. The proposed rezoning does not comply with the recommended revised language for the sector plan.

Staff recommends denial of the rezoning request based on the language in the current *K-10 & Farmer's Turnpike Plan*; however, if the plan is amended to permit RS5 zoning and development, staff would recommend approval.

RS5

IL

RS7

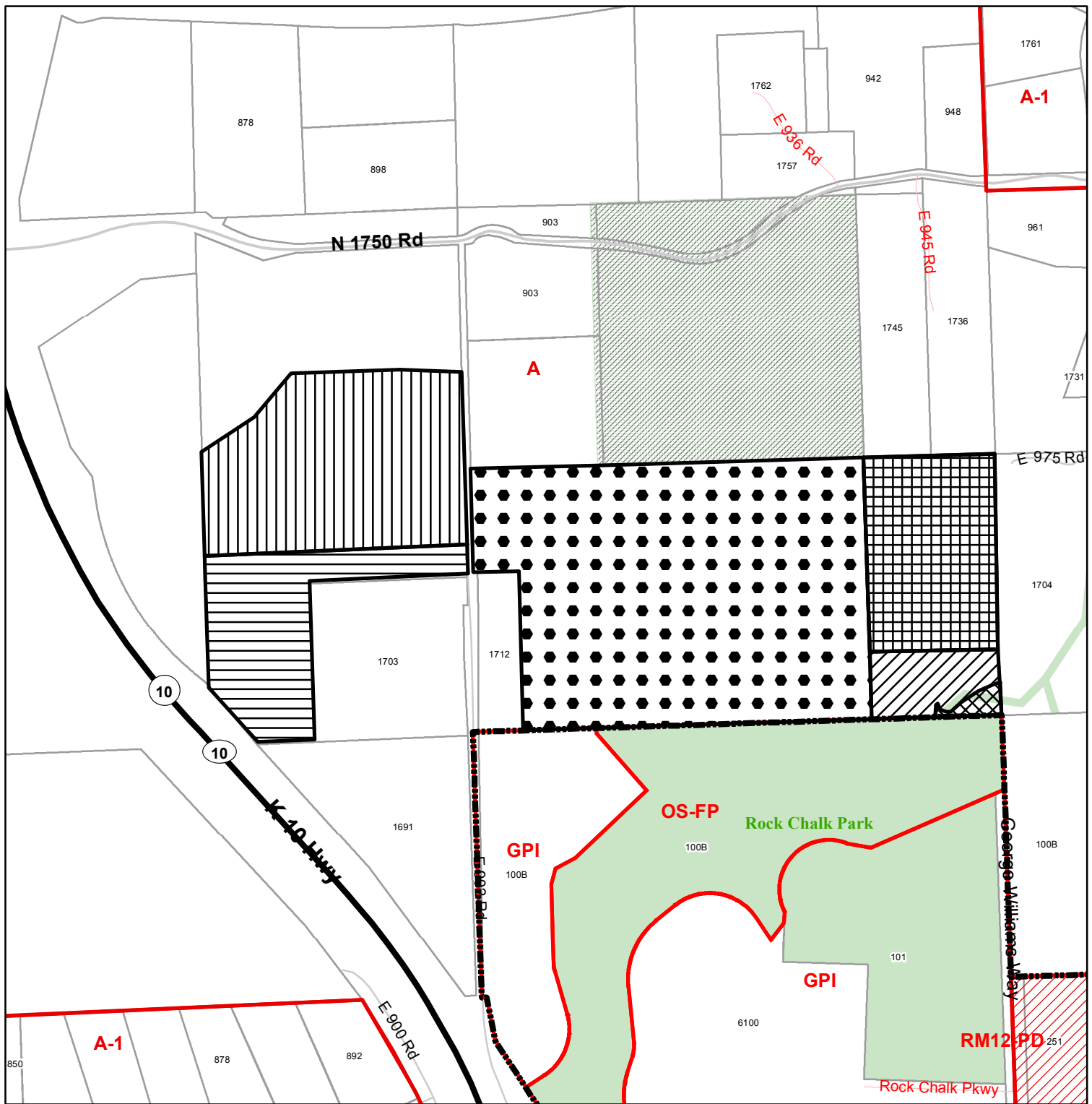


Scale: 1"=500'









**A-14-00161, A-14-00163 & Z-14-00164: Annex and Rezone 75.4 acres from A District to RS7 District**

**A-14-00161 & Z-14-00162: Annex and Rezone 25.2 acres from A District to RS5 District**

**A-14-00161 & Z-14-00165: Annex and Rezone 13.3 acres from A District to IL District**

**Z-14-00204: Rezone 0.8 acres from A District to RS7-FP District**

**Located North of Rock Chalk Park & East of K-10 Highway**



A-14-00161 & Z-14-00164: A to RS7 District



A-14-00163 & Z-14-00164: A to RS7 District



A-14-00161 & Z-14-00164: A to RS7 District



A-14-00161 & Z-14-00204: A to RS7-FP District

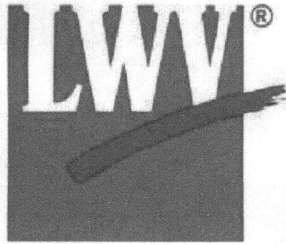


A-14-00161 & Z-14-00165: A to IL District



A-14-00161 & Z-14-00162: A to RS5 District





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RECEIVED

JUN 23 2014

City County Planning Office  
Lawrence, Kansas

To Mr. Bryan Culver, Chairman, and Planning Commissioners  
Lawrence-Douglas County Metropolitan Planning Commission

RE. AGENDA ITEMS 2 AND 3A THROUGH 3E, K-10 & FARMERS' TURNPIKE PLAN  
CHANGES, AND ANNEXATIONS, AND REZONINGS

Dear Chairman Culver and Planning Commissioners

We ask that you deny all of the proposed changes in the Agenda Item No. 2, the revision of the K-10 & Farmers' Turnpike Plan, and all of Agenda Items 3A through 3E, the annexation and rezonings. This includes not only the proposed changes to the Future Land Use Map, but also the proposed policy changes to the designated Residential/Office area that would change its boundaries, and most importantly that would add detached dwellings to the "Primary Uses" policies, pages 3-8, and all other changes currently proposed for this Area Plan. In conjunction, we ask that you not annex this land or rezone any of it at this time.

We believe that this is an extremely important issue. By allowing these changes to this Plan, and consequently this area, it would remove an important location that could provide needed employment-related uses to this most important new location, the connection of the South Lawrence Trafficway to the Turnpike. We ask that *none* of these changes be approved and that the Plan remain unrevised. We believe our reasons for this involve the future well-being of the City.

1. The policy change on pages 3-8, (3.2.1.5) under "Applicable Areas" that would allow the Residential/Office to change its boundaries, thereby allowing the intrusion of the IL District zoning, regardless of whether the mini-storage area is built, would decrease the needed area for the Residential/Office, reducing its likelihood of being used for that purpose, and at the same time not provide a sufficiently large Office/Research area to be a benefit.

2. A mini-storage use being built in that area would be highly visible from the K-10 connection and for that reason undesirable, as well.

3. a) The policy change on pages 3-8 (3.2.1.5) under "Primary Uses" would add "Detached dwellings" to the permitted uses. This would allow the change of the primary use of the Residential/Office designation from the intended employment-related uses to nothing but single-family residences. This change would become a major loss of future opportunity for the City.

b) Also, the change here would seem to dictate that this policy would become general and extend to the Residential/Office category everywhere, permitting single-family detached residences and thus removing the mixed-use, employment-related purpose of this category and eliminating predictability of this designation.

*President*  
**Cille King**

*Vice President*  
**Carrie Lindsey**

*Secretary*  
**Caleb Morse**

*Treasurer*  
**Marjorie Cole**

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**Austin Turney**



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4. Annexing and rezoning the residential area north of the Rock Chalk Park, which is now part of the Northwest Plan, is not treating the area as was originally intended. The Northwest Plan recommended, because of the extreme terrain, that this area be low and very low density. The rezoning of this area to RS7 is too dense for the terrain. We suggest, first of all, that it not be annexed or included in the Farmers' Turnpike Plan, and when it is rezoned to residential that it be rezoned to RS10 or RS20 and developed as a cluster development in order to avoid intrusion into the flood plain, vegetation, and rough terrain.
5. As a future consideration, we ask that you attempt to plan residential areas as neighborhoods incorporating smaller portions of them into larger planned areas that have in them, or planned for them, the essential amenities. These include schools, parks, neighborhood centers and transportation systems with complete streets that interconnect within the neighborhoods, allowing convenient pedestrian access.

We hope that you consider our suggestions useful. Thank you.

Sincerely yours,

*Cille King*

Cille King, President

*Alan Black*

Alan Black, Chairman  
Land Use Committee