

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
5/19/2014

ITEM NO. 1B: IG TO A; 87 ACRES; 2200 NORIA ROAD & 4600 E 23RD STREET (DRG)

Z-14-00072: Consider a request to rezone approximately 87 acres from IG (General Industrial) District to County A (Agricultural) District, located at 2200 Noria Road & 4600 E 23rd Street. Submitted by Barber Emerson, for Economic Development Corporation of Lawrence and Douglas County, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 87 acres from IG (General Industrial) District to County A (Agricultural) District based on the findings presented in the staff report and forwarding it to the Board of County Commissioners with a recommendation for approval, subject to the City of Lawrence vacating the subject property from the Incorporated Boundaries of Lawrence and the vacation of the two final plats associated with this land.

Reason for Request:

"The subject property (the "Property") consists of approximately 87 acres located at 2200 Noria Road and 4600 E 23rd Street, and is presently zoned "IG." However, industrial development of the Property has proven cost-prohibitive and unrealistic because of the Property's geographic realities. For example, the Property is partially situated in the 100-year floodplain, and industrial development would likely require a significant amount of additional fill (estimated at 6 feet) to be added to the site, and compacted for three years. These obstacles have caused the Property to remain on the market unsold and undeveloped for approximately fifteen years under its current zoning designation.

Multiple considerations support the rezoning of the Property for agricultural use. First, the property is currently being used for agriculture. Horizon 2020 instituted a policy of preserving High Quality Agricultural Land, a category which includes the Property. The Contract Purchaser would both further the preservation goals of Horizon 2020 and further EDC's mission to create jobs for Lawrence, by allowing EDC to recoup its investment in the Property for use in other job-creation opportunities."

KEY POINTS

- The property was annexed and zoned for industrial use in 2000.
- Efforts to market and sell the land for industrial development have not been successful.
- Prior to annexation by the city, the land was used for agricultural production of food crops.
- Agricultural activities on the property have not ceased and continue today.
- Recent decisions to expand industrial and business employment type uses west of East Hills Business Park on the former Farmland Industries property (now known as Venture Park) is supported in Horizon 2020 and redirects attention from the area east of Noria Road.
- Horizon 2020 supports the protection and preservation of high quality agricultural lands.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- A-14-00073: De-Annex 87 acres; 2200 Noria Road & 4600 East 23rd Street
- Vacation of Final Plat of East Hills Business Park East & Final Plat of East Hills Business Park East No. 2

ATTACHMENTS

- Page map

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None

Project Summary:

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. Recent actions by the governing body to create expanded industrial site options in the new Venture Park west of East Hills Business Park led the property owner to a decision to sell the property to a local farmer who plans to continue farming the land. The contract purchaser does not want to be encumbered by potential city regulations.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: Rezoning the Property for agricultural use is appropriate under Policy 2.7 of Horizon 2020 Chapter 16, to "encourage the preservation of High Quality Agricultural Land for current and future agricultural use." The Property encompasses land that has been classified as Class II High Quality Agricultural Land (see Horizon 2020 Map 16-4). If approved, the rezoning will advance Horizon 2020's policy of encouraging the use of the Property for agricultural purposes in the future.

The rezoning of the Property is also consistent with Chapter 7 of Horizon 2020, which designates locational criteria for industrial developments. This criteria recommends that land for industrial developments "lie primarily outside of the regulatory floodplain." Because the Property lies partially within the regulatory floodplain, the Property's current designation for industrial development is not ideal under Horizon 2020's industrial development criteria.

Staff Finding – Rezoning the subject property as county A (Agricultural) District (provided the City of Lawrence determines to de-annex the property from the incorporated boundaries) is supported in *Horizon 2020* with the general responses stated above by the applicant. The comprehensive plan directs attention to the west of East Hills Business Park on the former Farmland Industries property (now known as Venture Park) for expansion of industrial and employment based business uses rather than the areas east of Noria Road.

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

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| Current Zoning and Land Use: | IG (General Industrial) District; agricultural crop land |
| Surrounding Zoning and Land Use: | North: A (county - Agricultural) District along east frontage of Noria Road and VC (county – Valley Channel) District to the east of the A District; agriculture uses West: IG (General Industrial) District; industrial uses in East Hills Business Park South: A (Agricultural) District along south frontage of E 23 rd Street and VC (county – Valley Channel) District to the east of the A District; agricultural uses East: VC (Valley Channel) District; agriculture uses |

Staff Finding – The predominant land use pattern in the area is agriculture; especially on the properties east of Noria Road. Directly west of the subject property is East Hills Business Park in the City of Lawrence, which is zoned IG District. The IG zoning and industrial uses extend from the intersection of East 23rd Street and Noria Road north to the railroad tracks.

A small area of county I-3 and I-4 zoning exists at the intersection of the railroad tracks and Noria Road. A contractor storage building exists on a small parcel on the northeast corner of this intersection and the rest of the I-3 and I-4 zoned area is used for agricultural uses.

Most of the area east of Noria Road adjacent to the subject property and beyond is zoned VC (Valley Channel) District. Over a period of time, several properties nearby have been rezoned from the VC District to the A (Agricultural) District. The VC District is representative of areas in the county that were flooded during the 1951 Wakarusa River and Kansas River Flood event. Agricultural fields dominate the landscape with an occasional residence found along the nearby roadways.

A small portion of the property (generally parallel with Noria Road) is identified on the August 5, 2010 FEMA Flood Hazard Area Maps to be in the 500-Year flood hazard area (0.2 Percent Annual Chance). The rest of the property is shown as being in “Zone X”, which is an area determined to be outside the 500-year floodplain. An earlier FEMA Flood Hazard Area Map series, having an effective date of November 7, 2001, had shown the entire property in the 500-year flood hazard area.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *The Property is adjacent to Douglas County “A” and “V-C” zoning districts to the South, East, and North. The East Hills Industrial Park, which borders the Property to the West, is zoned “IG” by the City.*

Staff Finding – The neighborhood is primarily rural agricultural in character. Noria Road, which runs north-south on the west side of the subject property, forms a distinct edge between the existing urban development pattern found on the west side of Noria Road and the rural agricultural land use patterns that dominate the landscape to the east of Noria Road.

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

Staff Finding – The subject property is located in Service Area 4 in the Lawrence Urban Growth Area. The site was annexed by the city in 2000 and zoned for general industrial type uses. No development of the property has occurred in the 14+ years it has been in the city limits. The area east of Noria Road and north of K-10 Highway has not been identified for more detailed sector or area planning work in the near future. Extensive planning efforts have been focused in recent years on the former Farmland Industries property (now known as Venture Park) and the Southeast Area Plan (south of K-10 and east of O'Connell Road).

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

Applicant's Response: *There is no proposed change in use.*

Staff Finding – The property owner has petitioned the city for vacation of the subject property from the official boundaries of the City of Lawrence. If the governing body agrees to de-annex the subject property, the city zoning designation it now carries will no longer be valid. Once the property is no longer in the City Limits of Lawrence, it needs to be rezoned to an appropriate county zoning district. In staff's opinion, the county A (Agricultural) District is the best zoning category matching the existing land use. Some of the subject property was zoned VC District when it was annexed into the City of Lawrence; staff does not believe it is appropriate to rezone it back to that category. The VC District was essentially an early predecessor to the current floodplain management districts.

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

Applicant's Response: *The Property has been vacant at all times.*

Staff Finding – The property was rezoned from county A (Agricultural) and VC (Valley Channel) Districts to an M-2 (General Industrial) District in 2000 by Ordinance 7206 after the City of Lawrence annexed the property the same year. The M-2 zoning designation converted to the current IG District when the City adopted the Development Code in 2006. The zoning has remained unchanged since 2006. The property was used for agricultural purposes prior to its annexation by the City and it has continuously been used for agricultural crop production.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response: *The rezoning will have no detrimental impact on nearby properties, because the Property is adjacent to other properties used for agriculture, and because this rezoning request does not accompany a proposed change in use.*

Staff Finding – Rezoning this property to the county A (Agricultural) District following the City of Lawrence de-annexation of the property will not detrimentally affect nearby properties. No use change is planned; the property will continue to be farmed like it has been for many years.

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

Applicant's Response: *Horizon 2020 encourages the preservation of High Quality Agricultural Land, and the approval of the rezoning request advances that public purpose. Denial of the application may preclude the Applicant from completing the sale of the Property to the Contract Purchaser, which may frustrate the Applicant's general purpose of promoting economic development and job opportunities in the community.*

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.

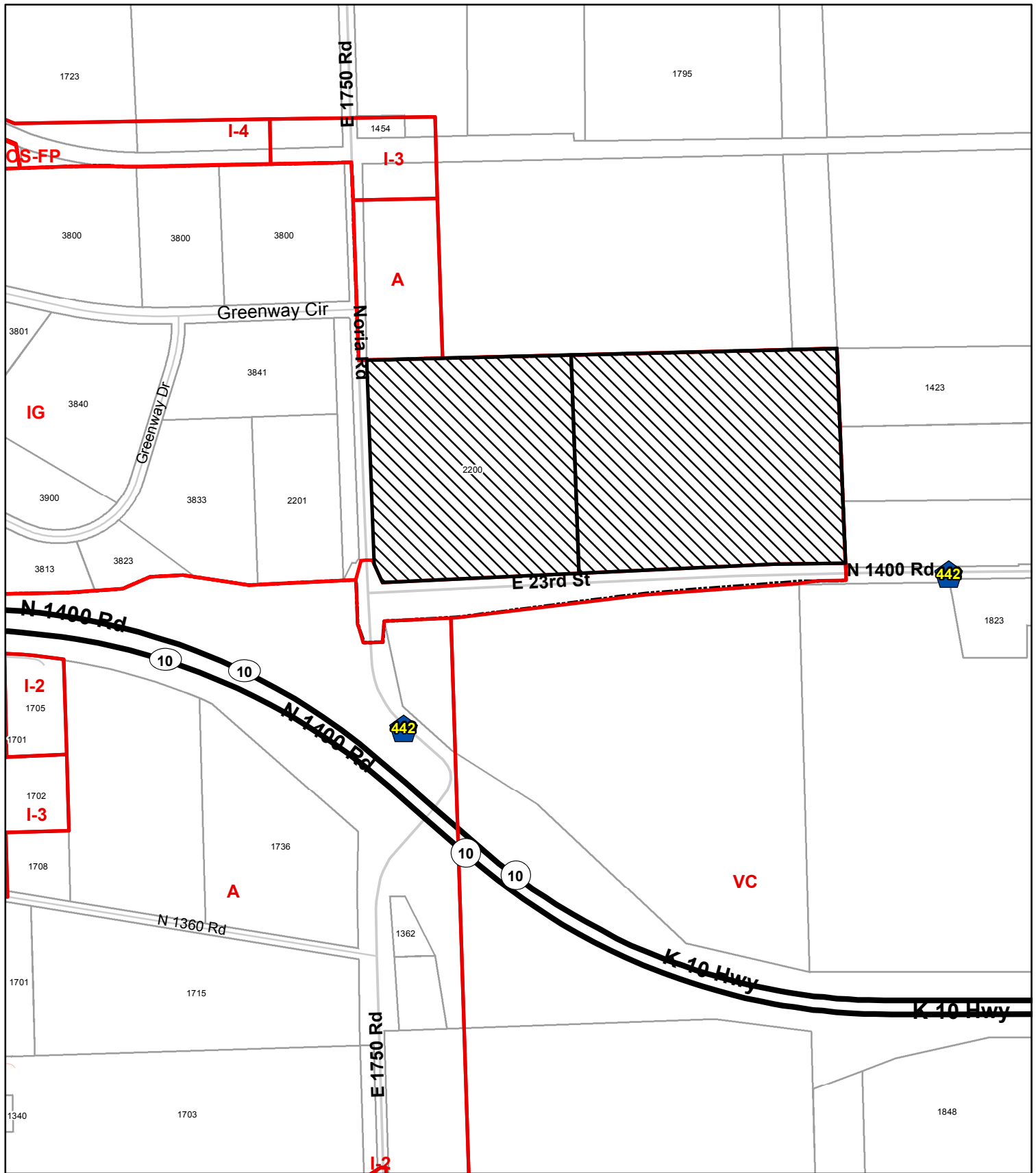
Staff Finding – The subject property has been actively used for agricultural crop production for many years without impact on the public health, safety and welfare regardless of which political jurisdiction (county or city) it was in at the time. If the property is de-annexed by the City of Lawrence, then the existing IG zoning will no longer be valid because the county does not have authority to enforce the City's Development Codes. Similarly, the City has no authority to enforce the county's Zoning Regulations. Therefore, if the property is de-annexed from the City of Lawrence, it should be rezoned to an appropriate county zoning district so the regulatory authority exists to protect the public health, safety and welfare should it become necessary to do so for some reason in the future.

9. PROFESSIONAL STAFF RECOMMENDATION

Multiple requests are being considered on the subject property at the same time. The property owner is petitioning the City for the vacation of their property from the Incorporated Boundaries of the City of Lawrence as well as the vacation of the two final plats associated with this legally described land. The City Commission referred both of these requests to the Planning Commission for review. Staff supports the petition of the property owner to vacate their property from the city boundaries as well as to vacate the two plats, less any public rights-of-way dedicated on those plats.

If the City Commission decides to vacate the petitioner's property from the Incorporated Boundaries of the City of Lawrence, then this rezoning request is needed to return the zoning authority back to the Board of County Commissioner's since the property would no longer be in the city limits of Lawrence. Rezoning the property to A (Agricultural) District is consistent with the land use and compatible with other land uses around the property.

Staff recommends approval of the rezoning from the city IG (General Industrial) District to the county A (Agricultural) District.



**A-14-00073 & Z-14-00072: De-Annex and Rezone Approx. 87 acres from IG District to A District
Vacate Final Plats of East Hills Business Park East and East Hills Business Park East No. 2
Located 2200 Noria Road and 4600 E 23rd Street**