

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

ITEM NO. 2 A TO IG; ~~69~~ 67 ACRES; 933, 939, & 943 N 1800 RD (SLD)

Z-3-8-11: Consider a request to rezone approximately ~~69~~ 67 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. (This is a reconsideration of this request due to an error in notice of the original consideration.)

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request 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.

Applicant's reason for request: *"This site is designated for industrial land use in Horizon 2020 and the K-10 & Farmer's Turnpike Plan that have been adopted by the Lawrence City Commission and the Douglas County Commission."*

NOTE: This staff report has been updated to reflect recent actions. The purpose of the rehearing is to correct an error in the mailed notice to property owners of the original consideration. Updated language in this report is shown in red.

KEY POINTS

- Sector plan identifies property as suitable for future industrial development.
- The property has immediate access to an improved arterial street and close proximity to the I-70/K-10 Leocompton Interchange.
- Annexation of property requires designation of a suitable City zoning district.

ATTACHMENTS

- Area map.
- Table of uses.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The area is primarily rural/agriculture in nature, but within close proximity to 155 acres of IG zoned property and adjacent to 51 acres of IG zoned property to the east.

CONFORMANCE WITH *HORIZON 2020*

- The proposed request is consistent with land use recommendations found in *Horizon 2020* and the *K-10 and Farmer's Turnpike Plan*.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- Approval and publication of annexation ordinance (A-3-1-11). The City Commission referred the annexation to the County Commission on July 5, 2011. The County Commission is

scheduled to consider the annexation on July 20, 2011. An update of the County Commission's action will be provided to the Planning Commission at their regular meeting.

- Subdivision approval required as a pre-development step.
- Site plan approval required as a pre-development step.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Phone call from area resident requesting information about proposed development.

Project Summary:

This property includes 69 acres comprised of three separate parcels. The proposed request is for rezoning the property to IG (General Industrial). An updated legal description for the annexation describes 67 acres.

GENERAL INFORMATION

Current Zoning and Land Use: County A (Agricultural) District; existing agricultural fields and rural residences.

Surrounding Zoning and Land Use: To the north; A (Agricultural) District; existing agricultural fields and residences.

To the northwest; IG (General Industrial) District with use restrictions; undeveloped land.

To the south; A (Agricultural) District; I-70 highway and existing agricultural fields and residences south of highway.

To the southeast; A-1 (Suburban Home Residential) District; Oak Ridge Estates Subdivision. Includes developed and undeveloped residential lots and Morningstar Christian Church.

To the east; IG (Industrial General) District; existing agricultural field.

To the west; A (Agricultural) District; existing agricultural fields and residences.

I. ZONING AND LAND USES OF SURROUNDING PROPERTIES

The surrounding properties are dominated by the existing rural residential and agricultural activities that flank the N 1800 Road and the I-70 corridor. The zoning of the area is transitioning to reflect the planned future industrial land use for the area as described in the *K-10 and Farmer's Turnpike Plan*.

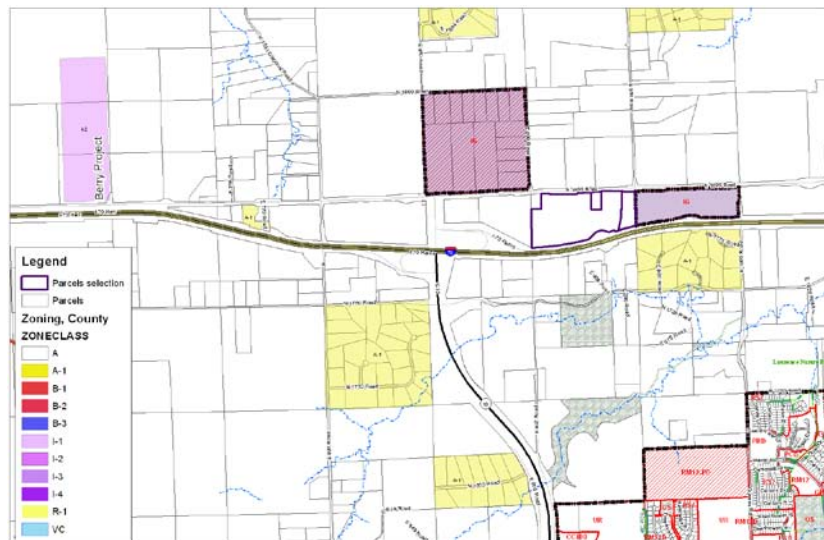
Staff Finding -- As summarized above, there is a mix of residential, agricultural and industrial zoning in the surrounding area. Residential uses are generally scattered along the County roads or located within a developing rural residential subdivision located to the southeast, south of I-70. The industrial zoning is more recent, following the adopted *K-10 and Farmer's Turnpike Plan*. Agriculture is the primary land use in the area. N 1800 Road (Farmer's Turnpike) and the I-70 Kansas Turnpike are located along the north and south property lines.

II. CHARACTER OF THE AREA

Applicant's Response: *"The area is transitional. Present uses are primarily rural, but it is surrounded by arterial streets and planned for more intense uses. The property is located on Farmer's Turnpike, a principal arterial road, just west of a major industrial area and it touches two other properties that are already zoned for industrial use."*

This area includes agriculture land uses and activities and rural residences. The area also contains the corridor of I-70, an interstate highway, and N 1800 Road, Farmer's Turnpike, which is classified a principal arterial on the Major Thoroughfares Map. These two thoroughfares provided a major east/west transportation connection through northern Douglas County.

This site, comprised of three separate parcels, is combined into a single request. It is located southeast of a 155 acre site that has recently been rezoned to IG and adjacent to a 51 acre site also recently rezoned IG. The area along N 1800 Road is transitioning into the planned industrial area though annexation and rezoning as a pre-development condition.



Staff Finding -- The surrounding area is currently a fringe area containing agricultural land and rural residences. Approximately 206 acres have been rezoned to IG in the immediate area since 2009. This area includes a major transportation corridor with proximity to highway access. While property in the area has been zoned industrially, the area has not yet developed with that type of land use.

III. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Applicant's Response: *"The property is currently suitable for agricultural use, but the development of nearby industrial uses, the major roads that surround the property and the need for industrially zoned property make it poorly suited for continued agricultural use."*

Suitability of the property for its current zoning must take into consideration a specific set of factors unique to this project. Upon annexation the County zoning designation would no longer be appropriate.

- The proposed request includes three separate parcels, each developed with a residential structure.
- These properties are currently zoned A (Agricultural), a County zoning designation.
- This request assumes approval of the annexation of the **67 acres**.
- The properties are within the boundary of the *K-10 and Farmer's Turnpike Plan* and within an area designated for future industrial development.

Summary of existing improvements			
	Address	Acres	Improvements/feature
1	939 N 1800 Road	58.08	1157 SF House built 1959 32 x 24 garage built 1974 21 x 40 barn 1910 with lean to 30 x 40 19 acres of treed area (estimated) 3.9 acres of transmission line easement (estimated)
2	933 N 1800 Road	2.73	1623 SF House built 1977 No outbuildings
3	943 N 1800 Road	7.8	2118 SF House built 1977 24 x 24 detached garage built 1980

A large overhead transmission line traverses through the proposed zoning area from the southwest to the northeast. There is also a large stand of trees in the central portion of the property flanking the low lying area across the property.

The current County zoning accommodates the existing rural residential and agricultural use. If approved the existing residential uses would become non-conforming uses in the IG district. This request is to rezone the property to the IG zoning district thus permitting industrial uses such as manufacturing and warehousing uses. Annexation into the City requires the property to be rezoned to an appropriate City zoning classification. Should the annexation request be denied, the present Agricultural Zoning would remain.

Staff Finding – Assuming annexation is approved, the current County zoning designation is not appropriate or suitable for these properties. Approval of the request will convey the intent of future land use development as industrial and prevent unintended development conflicts. Anticipation of a long term build-out scenario will result in the existing residential uses being a non-conforming use in the IG district if approved.

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

Applicant's Response: *"It is not vacant."*

These properties are currently developed with rural residences and related accessory structures. A barn structure is dated as being constructed in 1910, while the residences and outbuildings were constructed between 1959 and 1980.

Staff Finding – These properties are developed with rural residential homes and associated accessory structures.

V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Applicant's Response: *"It will have no detrimental effect on nearby properties. The property is adjacent to a large tract of industrially zoned land and is bounded by another industrially zoned property, the Kansas Turnpike and the Farmer's Turnpike."*

Upon annexation the County A (Agricultural) District would not be appropriate. The property must be rezoned to a City of Lawrence zoning district. Zoning provides notice to prospective property owners of intended development.

The rezoning would allow the development of industrial uses **consistent with land use recommendations stated in the area plan and** permitted in the IG District. The property is bounded by a significant thoroughfare. It is isolated from **other** development to the south by the I-70 Highway. The Highway is a large barrier that separates the developing residential uses from the proposed industrial use.

Approval of the request will require compliance with the Land Development Code with regard to building setback, screening and stormwater standards as well as lighting. These standards are more rigorous than the corresponding county regulations. Development impact will be more fully mitigated than if developed as a county industrial zone. There is no specific development plan for the property at this time.

Approval of the request is consistent with recommended land use plans for the area. Approval will facilitate future development consistent with recommendations for industrial development.

Staff Finding – Annexation and zoning provide more regulatory control than currently exists in the County. Approval of the request will provide notice, by mapping, of the intended land use for the area.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicant's Response: *"The public will see its long range plan for the area implemented and much needed industrially zoned property added to the City's inventory and identified as such before the planned residential uses in this area are implemented."*

Evaluation of these criteria includes weighing the benefits the denial of the rezoning request would provide for the public versus the hardship the denial would impose on 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. Approval of this request assumes approval of annexation.

Assuming the property is annexed and the rezoning request were denied, the area would remain in a non-City zoned category. Denial of the rezoning request would defer the implementation of planned development to the future. Such a situation creates an unclear intent for land owners regarding development regulations and controls.

The public benefits are established by a growth in the potentially available industrial land inventory. Design standards of the Development Code assure public protection through buffering, site development, lighting and other regulatory design controls.

Staff Finding – Approval of this request assumes approval of annexation. As currently zoned, the site does not conform to the recommended land use for industrial development identified in the *K-10 and Farmer's Turnpike Plan*. Approval of the request will provide additional opportunities for industrial development adding to the city's economic tax base.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *"It is consistent with the goals of Horizon 2020 and with the future land use recommendation in the K-10 & farmer's Turnpike Plan."*

Both *Horizon 2020* and the *K-10 and Farmer's Turnpike Plan* address development in this area. A key feature of Chapter 7 of *Horizon 2020* intends to: *"encourage site improvements, and community amenities which best respond to the market demands for industrial and business development while maintaining the community objectives for the type and quality of such development."* The chapter also defines various types of industrial uses. A specific development application has not been submitted for the 67 acres.

Principal strategies of Chapter 7 include identification, development and maintenance of industrial and employment related areas. The property included in this request was identified in the *K-10 and Farmer's Turnpike Plan* as suitable for industrial development. Annexation and zoning are necessary steps required to develop the property with urban uses and services. Recent amendments to the *Horizon 2020* include identification of 540 acres of industrial and office/research uses as identified in the *K-10 and Farmer's Turnpike Plan*¹.

A key strategy related to industrial development states: *Increase community involvement in economic development activities, by partnering with the local business community and area educational institutions to bring new technology and investment to the region for the purpose of meeting the economic development job growth goal of securing twenty thousand new jobs in Douglas County by 2020.* Approval of this request facilitates opportunities for industrial development consistent with adopted plans.

Chapter 7 of *Horizon 2020* provides specific location criteria for industrial development as identified in the following table.

Location Criteria	Finding
Have feasible access to Federal and State transportation networks.	This site is approximately 1/2 mile from the nearest interchange on I-70.
Be of adequate parcel size, generally over 40 acres.	This site is approximately 69 acres.
Lie primarily outside of the regulatory floodplain.	This site is not encumbered by regulatory floodplain.
Have minimal average slopes.	Slopes across this site are less than 6%.

Horizon 2020 speaks to preservation of high-quality agricultural land. A small portion of this property along N 1800 Road and an area along the south property line includes Class II soils, but no Class I soils. While the subject property contains Class II soils, the soils are isolated and exist in a strip pattern and in small amounts relative to areas where significant contiguous amounts exist in Douglas County, such as are found in Grant Township. When weighing the goal of protection of class II soils for this specific location against the transportation system and the criteria that supports industrial land use, the property is well suited for industrial development.

¹ Chapter 7, Lawrence – New Industrial Areas.

The related annexation report (A-3-1-11) provides a complete discussion of available services to the site. Depending on the specific use for the site interim plans may be needed to serve the property. As discussed in the annexation report, this property is located in the Lawrence Urban Growth Area.

The adopted *K-10 and Farmer's Turnpike Plan* designates the area along N 1800 Road between E 1000 and E 900 as suitable for Office/Research (north of N 1800 Road) and Industrial (south of N 1800 Road). The intent of the industrial use is described in section 3.2.1.8 of the area plan as follows: "...to allow for moderate to high-impact uses including large scale or specialized industrial uses geared toward utilizing K-10 Highway and I-70 for materials transportation."

Staff Finding -- The proposed rezoning request conforms with *Horizon 2020* policies related to industrial development. Further, the proposed request conforms with the land use recommendations of the *K-10 and Farmer's Turnpike Plan*.

STAFF REVIEW

The Planning Commission is required to hold a new public hearing to address errors in the mailed notice for the May 25, 2011 consideration of this item. Based on an additional review by legal staff of the notice provisions and an examination of the process and procedures used by the County and the City in generating notices to property owners it was determined that a new public hearing with new written notice to property owners be conducted for this application.

Approximately 67 acres are being requested to be rezoned from the A (Agricultural) to the IG (General Industrial) District. This request for rezoning assumes approval of the annexation request. The City Commission at their meeting on July 5, 2011 forwarded a resolution to the County Commission requesting they make a finding 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 Douglas County, Kansas (Resolution No. 6924). The County Commission is scheduled to consider the resolution on July 20, 2011. Staff will provide an update to the Planning Commission regarding the County Commission actions as part of the oral presentation for this item.

A specific development proposal has not been submitted with this request. The subject property is located on the south side of N 1800 Road and north of I-70. The site is also located in proximity to the Lecompton/I-70 Interchange.

The 155 acres located to the northwest of this property began the implementation of the *K-10 and Farmer's Turnpike Plan*. An adjacent 51 acres located to the east of this request was also annexed and rezoned in conformance with the area plan. Staff recognizes that industrial development typically includes a lengthy timeframe. It is not expected that this property owner will be seeking immediate development applications. The annexation and the zoning will reserve the property for a future industrial development project.

The 155 acres (Z-4-9-08; Ordinance No. 8293) was rezoned to IG with use restrictions. These restrictions were offered by the applicant and accepted by the Planning Commission in 2008 and forwarded to the City Commission for their eventual consideration and adoption. The 51 acres (Z-9-13-11, Ordinance 8595) located to the east of this 67 acres was approved for IG zoning without use restrictions.

Horizon 2020 acknowledges the need for industrial development for job growth. The plan encourages adequate site availability. Approval of the rezoning provides additional opportunities to market and development industrial projects. If this request is approved, additional development standards including platting, site planning, and compliance with applicable design guidelines will be considered with future development applications.

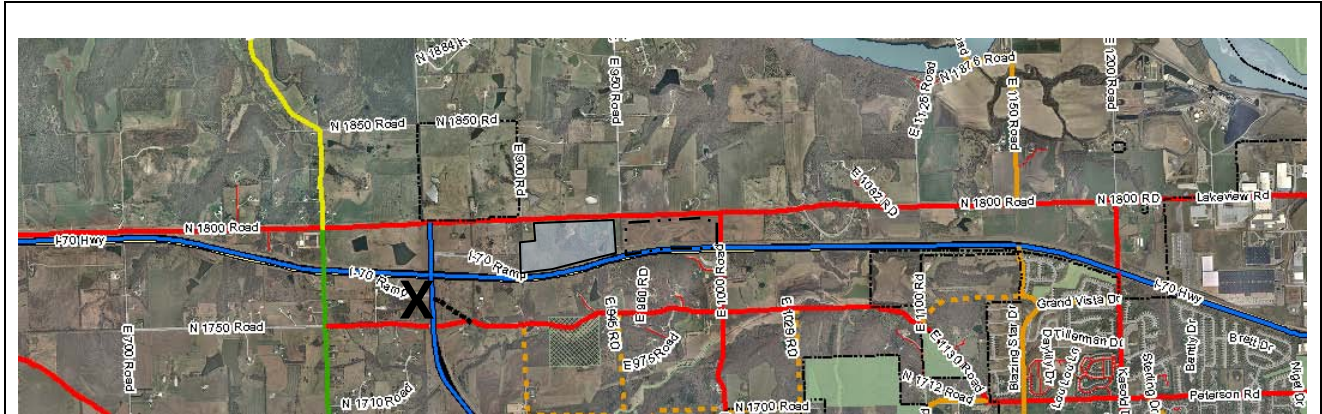


Figure x. Subject property ; I-70 Interchange **X**
Subject property to K-10/I-70 Interchange: approximately 1 mile

CONCLUSION

This staff report reviews the proposed location for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The development proposal meets the locational criteria required for approval. The rezoning request is compliant with land use recommendations in *Horizon 2020* and *K-10 and Farmer's Turnpike Plan*. The resulting action will include creating the residential uses as non-conforming uses until such time as the properties are developed.