

**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 on May 25, 2011.)

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

Commissioner Finkeldei recused himself from the item.

**APPLICANT PRESENTATION**

Mr. Matt Todd, attorney representing the applicant, thanked staff for the presentation. He said the annexation determination had not been made yet by the County Commission and that the rezoning was contingent upon annexation into the city.

Mr. McCullough said this was an applicant driven request and that the annexation was pending before County Commission. He said in terms of time it appeared everyone was placed on notice for the hearing tonight. He stated Planning Commission would make a recommendation. He said staff's recommendation was to hear the item so as not to waste this time, unless the applicant wanted to defer it.

Commissioner Hird said it was his inclination to proceed with the item since there were people present this evening to speak about it.

Mr. Todd said the primary concern raised by one of the neighboring land owners was the notice requirement. He said there was another individual who was concerned about the IG zoning district. He said in May the Rothwell's sent an informal notice to the neighbors (he displayed it on the overhead). He said the Rothwell's did not hear any direct complaints or objections from the neighbors. He said the basis and justification for the industrial use of the property was to support the amenities the community wants with a strong tax base. He said industrial zoning was consistent with Horizon 2020 and the Sector Plan for the area.

**PUBLIC HEARING**

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods, discussed the incompatibility with residential. She said the IL zoning allowed 21 or more uses, which would invite more businesses. She stated IG zoning only had three more uses. She noted that zoning could be conditioned. She said Lawrence had more vacant industrial sites available than when discussing the 155 acres. She said that IL or IBP zoning would be a compromise for the neighbors.

Mr. Ronald Schneider, attorney representing Scenic Riverway Community Association, opposed the IG rezoning. He discussed the issue of jurisdiction and felt they should not accept a rezoning application until the property was annexed. He asked them to delay action on the rezoning until there was a formal annexation. He urged them to look at the Golden Issues and did not believe this met them. He stated the proposed IG use was unreasonable and would cause harm to the neighborhood would be excessive. He said there were alternatives, such as IBP or IL zoning. He said he did not disagree that the master plan calls for industrial use. He expressed concern about property values. He said regarding the letter that Mr. Todd mentioned the Rothwell's mailed to neighbors, it said there would be no change in use and advises that the property owner was proceeding with annexation. He said the rezoning request was contrary to the letter. He said the probability for such uses that were only permitted in IG, such as heavy industrial and explosive use, was really not a foreseeable use or consequential activity on the land in question. He said it made no sense to proceed with IG zoning. He said it was unreasonable to believe that a high tech industry or science activity would want the type of activity that IG permits. He felt they should consider alternative zonings such as IBP and IL.

Ms. Beth Johnson, Lawrence Chamber of Commerce, said the Chamber receives requests every year for various needs in the industrial categories. She said when they first receive inquiries there is usually not enough information to say what the use will be classified as in the Development Code. She discussed competition and said IG zoning made the most sense because it was the most flexible. She said IL zoning allowed retail and commercial uses and Business Parks typically don't want retail or commercial due to the high volume of traffic it brings into the park. She said she was in favor of IG zoning.

Ms. Marguerite Ermeling said everybody would love to expand the tax base in Lawrence. She said when she hears the greatest flexibility happens in IG, she does not see that when she looks at the chart. She said the greatest flexibility comes with all the potential possibilities working in IL. She said she did not understand the discussion on that if indeed those kinds of industries weren't particularly within the framework of what people thought needed to be there. She said if any of the potential jobs they were looking for could fit into any other level of industrial then she did not understand the claim that the best possible use was IG for the land. She asked that they consider a different industrial zoning other than IG.

Mr. Don Rothwell said the community needed to create jobs and provide more tax base. He stated the I-70 corridor was the only spot left for IG. He said there was a lot of vacant retail space in town. He said a good industrial base would stay forever and that this would help the community more than it would hurt it.

### **COMMISSION DISCUSSION**

Commissioner Liese inquired about jurisdiction.

Mr. Randy Larkin said the Planning Commission did not have the authority to make a final decision but they could make a recommendation to City Commission. He said City Commission could not make a final decision on the rezoning until the land was annexed.

Commissioner Liese asked if Mr. Schneider was the attorney for the neighbors or the Scenic Riverway Association.

Mr. Schneider said he was the attorney for the association and also individuals.

Commissioner Liese inquired about the uses allowed in the IL and IG districts.

Ms. Day said some of the tables were included in the packet. She said flexibility was a matter of perspective. She said staff felt it was very easy to subvert the IL for retail uses and lose the opportunity for industrial land. She stated IG was specific to industrial uses. It had fewer uses allowed but was more direct in its intent for industrial, manufacturing, or warehousing activity.

Commissioner Liese asked what a gateway treatment would be.

Mr. McCullough said it would include some sort of treatment, probably a private/public partnership, as development occurred where some amount of area would be reserved for signs or participation from the private sector in whatever land uses could accommodate tourism in that area.

Commissioner Belt asked if he was referring to a first impression of Lawrence.

Mr. McCullough said the Comprehensive Plan designates certain corridors as primary corridors into the city of Lawrence. He said Farmers Turnpike was an arterial road that was one of those corridors and the interchange off I-70 serves Lawrence and Lecompton. He said the idea was to get recognition that you're entering a place, whether that's historic Lecompton or Lawrence.

Commissioner von Achen inquired about the conditions on the recent rezoning of 155 acres.

Ms. Day said the three conditions were initiated and self restricted by the applicant. She said explosive storage and slaughtering were two of them but she could not remember the third.

Commissioner von Achen asked if there was any appropriateness for the same restrictions on this property.

Ms. Day said staff had not proposed that as a recommendation but that Planning Commission could carry that forward. She said staff would recommend looking at the uses by category instead of individual use.

Commissioner von Achen inquired about the 100+ year old barn on the property and if there was any architectural or historical significance to it.

Ms. Day said that was not known. She said she had a brief conversation with the applicant about taking photographs and documenting it. She said she also spoke with Lynne Braddock Zollner, Historic Resources Administrator, and that it was not a listed structure at this point in time so there were very little details about it. She said they found out how old it was through appraisal records.

Commissioner Liese asked Mr. Schneider why the neighbors were not present tonight.

Mr. Schneider said he did not learn about this until last week and that a number of people did not know about it. He said there was a certain sense of apathy in testifying and that their statements have fallen on deaf ears. He also said he confirmed with some that he would be present on their behalf.

Commissioner Liese asked if IL zoning would be preferred by the Scenic Riverway Association.

Mr. Schneider said the majority of neighbors indicated that IL was acceptable. He said IG was clearly designated as incompatible with residential but that IL and IBP were not incompatible with residential.

Commissioner Singleton said with the Sector Plan it was thoroughly explored where IG would be. She said with the approval of the Sector Plan it was determined to be an appropriate location of IG. She said she would support the rezoning.

#### **ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Blaser, to approve the rezoning request for 67 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 Belt felt there was still room for compromise. He said he would not feel comfortable asking the applicant to adhere to conditions but rather have the applicant reconsider IL or IBP.

Commissioner Blaser said he would vote in favor of the motion. He said they needed IG and it gave the city the best chance of landing a larger firm. He thought it was the best place in Lawrence for IG because of its location. He said heavy industry concerns, such as vibrations and toxic fumes, were regulated by federal standards. He also said that heavy industry would not want to be close to neighbors so they would probably choose the 155 acres.

Commissioner Burger said she would vote in favor of the rezoning. She thanked the Scenic Riverway Association for being represented tonight. She said this was within the K-10 & Farmers Turnpike plan. She felt they needed a certain amount of IG with the same kind of credentials to give competition to the marketplace and keep projects moving along.

Commissioner Hird said this was a difficult decision in May and it was still a difficult decision because nobody wants to offend neighbors. He said he did not hear anything different this evening than what was heard in May and he voted for it in May. He said the jurisdiction issue gave him pause but based on what Mr. Larkin

indicated it did not trouble him as much. He said IG was called for in Farmers Turnpike Plan so he would support the motion.

Commissioner Liese said it was a more difficult decision now than in May because he was a more experienced Commissioner and it bothers him when neighbors stand up and say it would hurt them. He said the requested rezoning was consistent with Horizon 2020 and the K-10 & Farmers Turnpike Plan. He said the unknowns were difficult because they didn't know if a good business would move there. He said he believed Lecompton would benefit most from jobs that would come with general industrial. He said he would vote in favor of the rezoning.

Commissioner Burger said there were residential properties around Hallmark and Del Monte and they had greenspace, setbacks, and back-to-back treatments. She said transitions were possible with the planning process.

Motion carried 7-1-1, with Commissioner Belt voting in opposition and Commissioner Finkeldei abstaining.