

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

Amended Agenda (Date amended 07-20-11)

WEDNESDAY, JULY 20, 2011

EVENING MEETING:

4:00 p.m.

-Convene

-Consider approval of the minutes for June 1, 2011.

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider approval of a resolution amending a Zoning Classification from "I-2" (Light Industrial District) to "A" (Agricultural District) located at 670 N 1800 Road (Keith Dabney);
- (c) Consider approval of a resolution amending a Planning and Zoning Classification from "A" Agricultural District to "B-2" General Business District located at 751 Hwy 40 (Keith Dabney); and
- (d) Consider approval of application for an authorized emergency vehicle permit for H. Wayne Riley (Sheriff's Office)

REGULAR AGENDA

- (2) Consider approval of Agreement with Keyta D. Kelly of Kelly Law Offices, LLP, for the collection of delinquent personal property taxes. (Paula Gilchrist);
- (3) Review, approval, and public notice of grant opportunity from the Douglas County Natural and Cultural Heritage Grant Program (Heritage Conservation Council Member); Backup to follow on Monday, July 18
- (4) Consider authorizing purchase of Snap-Tite pipe culvert liners from ISCO Industries in the amount of \$90,287.92 and pay for the purchase from the CIP (Mike Perkins/Terese Gorman)
- (5) Executive Session to discuss land acquisition.
- (6) Other Business
 - (a) Consider approval of Accounts Payable (if necessary)
 - (b) Appointments:
Board of Zoning Appeals 10/2011 (2 positions-current not eligible for reappointment)
 - (c) Miscellaneous
 - (d) Public Comment

RECESS UNTIL 6:35 P.M.

Reconvene 6:35 p.m.

- (7) Receive Planning Commission recommendation regarding annexation, A-3-1-11, of approximately 67 acres, located on the south side of N 1800 Rd (Farmers Turnpike) and between the extended alignments of E 900 Road and E 950 Road, and receive and consider Resolution No. 6924 requesting that the Board of County Commissioners of Douglas County, Kansas, make the statutory finding that the proposed annexation would not hinder or prevent the proper growth or development of the area or of any other incorporated city. Submitted by Steven Rothwell, Timothy W. and Lani S. Rothwell, for Timothy Rothwell, Wilber C. Rothwell, and Donald Kenna Rothwell, property owners of record. (PC Item 14A; approved 8-1 on 5/25/11)(Sheila Stogsdill)
- (8) Adjourn

MONDAY, JULY 25, 2011

MORNING MEETING:

8:30 a.m. to 1.p.m – Commission Budget Work Session including directions to staff on changes to budget.

TUESDAY, JULY 26, 2011

8:30 a.m. -Additional Budget Work Sessions, if necessary

WEDNESDAY, JULY 27, 2011

WEDNESDAY, AUGUST 3, 2011

-Z-3-9-11: Consider a request to rezone approximately 209 acres from A (Agricultural) to R-T (Rural Tourism), located at 778 E 1300 Rd. Submitted by Grob Engineering Services, for Sadies Lake LC, property owner of record. (PC Item 5; approved 8-1 on 5/23/11) Mary Miller is the Planner.

-Consider approval to authorize the BOCC Chair to sign a Waterline Utility Easement document and Temporary Construction Easement document granting the City of Lawrence permanent and temporary construction easements to construct and maintain a waterline main situated within Douglas County property at 711 E 23rd Street. (Keith Browning)

WEDNESDAY, AUGUST 10, 2011

(1) Energy efficiency update and Sustainability Team initiatives – Eileen Horn (no backup)

6:35 p.m. -2012 Budget Public Hearing

Note: *The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.*

MEMORANDUM

TO : Douglas County Board of County Commissioners
Craig Weinaug, Douglas County Administrator

FROM: Keith R. Dabney, Director, Zoning & Codes Department

DATE: July 13, 2011

RE : Resolution amending a Planning and Zoning Classification from "I-2"
(Light Industrial) to "A" Agricultural

Please find attached a Resolution amending a Zoning Classification from "I-2" (Light Industrial District) to "A" (Agricultural District). The aforementioned rezoning was approved by the Douglas County Board of County Commissioners on June 8, 2011.

RESOLUTION NO. _____

A RESOLUTION REZONING APPROXIMATELY 31.876 ACRES FROM I-2 (LIGHT INDUSTRIAL) DISTRICT TO A (AGRICULTURAL) DISTRICT; AMENDING THE OFFICIAL ZONING DISTRICT MAP INCORPORATED BY REFERENCE IN CHAPTER XII, ARTICLE 3, SECTION 12-304 OF THE "DOUGLAS COUNTY CODE 2010 EDITION", AND AMENDMENTS THERETO

WHEREAS, the Lawrence-Douglas County Planning Commission, after holding a public hearing on May 23, 2011, as required by K.S.A. 12-757 and Section 12-324-3 of the "Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas," has recommended that the Board of County Commissioners change a certain zoning classification, the nature and description of such change being fully set forth below;

WHEREAS, on June 8, 2011, the Board of County Commissioners found that the "Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas" should be amended as recommended by the Lawrence-Douglas County Planning Commission, by changing the zoning classification set forth below; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, that pursuant to the "Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas," the zoning classification for the following legally described tract of land situated in the unincorporated area of Douglas County, Kansas, to wit:

Lot 1, A Minor Subdivision Rockwall Farms Addition 2nd Plat, A Replat of Lot 2, Rockwall Farms Addition, in Douglas County, Kansas

is hereby changed from I-2 (Light Industrial) District to A (Agricultural) District as such district is defined and prescribed in Chapter XII of the "Douglas County Code 2010 Edition", and amendments thereto.

That the Official Zoning District Map incorporated by reference in and by Chapter XII, Article 3, Section 12-304 of the "Douglas County Code 2010 Edition" is hereby amended by showing and reflecting thereon the new zoning district classification for the aforesaid tract, as set forth in the legally described tract of land in this resolution.

If any section, clause, sentence, or phrase of this resolution is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

This resolution shall take effect and be in full force from and after its adoption by the Board of County Commissioners and published once in the official County newspaper.

ADOPTED this _____ day of _____, 2011.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

Jim Flory, Chairman

Mike Gaughan, Member

ATTEST:

County Clerk

Nancy Thellman, Member

DOUGLAS COUNTY COMMISSION MINUTE ARCHIVE – JUNE 8, 2011

PLANNING/ ZONING & CODES 06-08-11

The Board considered Z-3-10-11, a request to rezone approximately 32 acres from I-2 (Light Industrial) to A (Agricultural), located at 670 N 1800 Road. The application was submitted by Paul Werner Architects, for Rockwall Farms L.C., property owner of record. The Planning Commission approved the item on a 9-0 vote on May 23, 2011. Mary Miller, Lawrence-Douglas County Metropolitan Planning Staff, presented the item.

Staff recommends approval of the rezoning request for approximately 32 acres from I-2 to A District based on the following findings of fact:

I. Zoning and land uses or surrounding properties. The surrounding area is zoned A (Agricultural) and is used primarily for agriculture, open space, rural residences and transportation network. The immediately adjacent properties included in the Rockwall Farms plat are zoned for light industrial and general commercial with conditions to accommodate a warehouse printing facility and a rural tourism use. Either the A or I-2 District would be compatible with the surrounding zoning and land uses.

II. Character of the area. The area is a rural area containing woodland, farmland and rural residences in close proximity to a major transportation corridor with development approvals for light industrial and rural tourism uses which have been designed for compatibility with the rural character of the surrounding area. Rezoning to the A District would maintain the rural character of the corridor, a value espoused by the applicant in the original rezoning based on the deep setback of the warehouse building. Rezoning to the I-2 or Commercial Districts could have more of a visual impact along the corridor due to the nature of the uses permitted in these districts.

III. Suitability of subject property for the uses to which it has been restricted. The land is suited for agricultural uses. Agricultural zoning would serve to maintain the lot in its present condition, reserving the north portion for future warehouse expansion, observing the use limitations on the buffer area for the rural tourism use, and maintaining the visual buffer between the warehouse and the road. Conversely, the lot is also suited to industrial uses given the transportation network being constructed to accommodate the Berry Plastics and Woods developments, as long as the buffer for the Woods remains.

IV. Length of time subject property has remained vacant as zoned. The property has never been developed but has been used for agricultural purposes.

V. Extent to which removal of restrictions will detrimentally affect nearby property. The requested rezoning to A (Agriculture) would have the least effect on nearby property and may benefit nearby properties by minimizing the impact of the warehouse on the surrounding area. Other zoning districts may detrimentally impact nearby property as additional development could increase the visual impact of the development on N 1800 Road and result in increased traffic in this 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. There would be little gain to the public health, safety or welfare from the denial of the rezoning request since the rezoning is to a less intense zoning district. The general public could be negatively impacted with the denial as additional uses would be possible in this area than were originally considered when the property was rezoned to the I-2 District. Approval of the rezoning request could benefit the general public by maintaining the character of the area.

VII. Conformance with the Comprehensive Plan. The proposed rezoning request to the A District is compliant with Horizon 2020 recommendations. Rezoning to Commercial Districts mentioned in the applicant's response would not be compliant with the locational criteria. The original rezoning to the industrial district was determined to be compliant due to the fact that it was accommodating the expansion of an existing facility and a site search determined that there were no similar competitive sites available in the municipalities. These criteria have not been met if the I-2 zoning were maintained, although other locational criteria have been met.

No public comment was received.

Thellman moved to approve Z-3-10-11 request to rezone approximately 32 acres from I-2 (Light Industrial) to A (Agricultural) District. Motion was seconded by Gaughan and carried 3-0.



City of Lawrence
Douglas County
PLANNING & DEVELOPMENT SERVICES

6 East 6th St.
P.O. Box 708
Lawrence, KS 66044

www.lawrenceks.org/pds

Phone 785-832-3150
Tdd 785-832-3205
Fax 785-832-3160

May 24, 2011

Paul Werner
Paul Werner Architects
123 W 8th Street, Suite B2
Lawrence, Kansas 66044

RE: Z-3-10-11; Rezoning request for approximately 32 acres located at 670 N
1800 Road from I-2 to A.

Dear Paul:

The Planning Commission considered the rezoning request referenced above at their May 23, 2011 meeting and voted unanimously to forward the request to the County Commission with a recommendation for approval.

This item is tentatively scheduled for consideration by the County Commission at their June 8th meeting; however, the County Administrator is responsible for setting the agendas. I will notify you when this item has been placed on an agenda.

Please feel free to contact me with any questions or concerns: mmiller@lawrenceks.org or 785-832-3147.

Sincerely,

Mary Miller, AICP
City County Planner

C: Rockwall Farms L.C.; Thomas Fritzel; PO Box 721; Lawrence, Kansas 66044



LEGAL DESCRIPTION

LOT 2, ROCKWALL FARMS ADDITION, A SUBDIVISION IN DOUGLAS COUNTY, KANSAS.
THE ABOVE DESCRIBED LOT CONTAINING 93.876 ACRES MORE OR LESS.

SIGNATURE

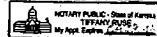

THOMAS FRITZEL
ROCKWALL FARMS L.C.

ACKNOWLEDGEMENT

STATE OF KANSAS
COUNTY OF DOUGLAS

BE IT REMEMBERED THAT ON THIS 15 DAY OF January, 2011, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, CAME THOMAS FRITZEL, MEMBER OF ROCKWALL FARMS L.C., WHO IS (ARE) PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S) WHO EXECUTED THE FOREGOING INSTRUMENT OF WRITING AND DULY ACKNOWLEDGE THE EXECUTION OF THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY SEAL ON THE DAY AND YEAR LAST WRITTEN ABOVE.



NOTARY PUBLIC

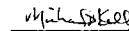
MY COMMISSION EXPIRES

ENDORSEMENTS

APPROVED AS A MINOR SUBDIVISION UNDER THE SUBDIVISION REGULATIONS OF THE CITY OF LAWRENCE AND THE UNINCORPORATED AREA OF DOUGLAS COUNTY.

 3/1/12 DATE
PLANNING DIRECTOR
SCOTT MCCULLOUGH

REVIEWED IN COMPLIANCE WITH K.S.A. 58-2005

 April 7, 2011 DATE
COUNTY SURVEYOR
MICHAEL KELLY, P.L.S. #869

FILING RECORD

STATE OF KANSAS
COUNTY OF DOUGLAS

THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE OFFICE OF THE DOUGLAS COUNTY REGISTER OF DEEDS ON THIS 8th DAY OF April, 2011 AND IS DULY RECORDED AT 11:25 AM PLAT BOOK 12 PAGE 463.




REGISTER OF DEEDS
KAY PESNELL

TRACT A

TRACT 'A' CONTAINS STANDS OF MATURE TREES WHICH ARE DEFINED AS ENVIRONMENTALLY SENSITIVE LANDS IN SECTION 20-8100) OF THE SUBDIVISION REGULATIONS. THERE SHALL BE NO BUILDING, LAND DISTURBANCE, OR CUTTING OR REMOVAL OF MATURE TREES IN TRACT 'A' EXCEPT AS NECESSARY TO INSTALL AND MAINTAIN FENCES, OR TO REMOVE DEAD OR DISEASED TREES.

CERTIFICATION

I HEREBY CERTIFY THAT THE PLATTED AREA AND THE LOCATION MAP SHOWN HEREON ARE THE TRUE AND ACCURATE RESULTS OF A FIELD SURVEY PERFORMED UNDER MY DIRECT SUPERVISION IN NOVEMBER 2010 AND THAT THE PLAT IS A CLOSED TRAVERSE. THE SURVEY DOES NOT CERTIFY OWNERSHIP OR EASEMENTS.



STEVEN D. WILLIAMS, P.L.S. PLAT PREPARED JANUARY, 2011
P.O. BOX 4444
LAWRENCE, KS 66046
(785)832-2121

NOTE

1. OFF-SITE PUBLIC ACCESS EASEMENT FROM N 1800 ROAD, BOOK: 1072, PAGE: 5280.
2. OFF-SITE DRAINAGE AGREEMENT, BOOK: 1072, PAGE: 5281.
3. OFF-SITE SANITARY SEWER FOR LOTS 1 AND 2 ALLOWED BY VARIANCE TO CITY OF LAWRENCE LAND DEVELOPMENT CODE SECTION 20-811(0)(3).
4. SANITARY SEWER FOR LOT 2 SHALL BE LOCATED ON-SITE, EXCEPT THAT AN EASEMENT SHALL BE PROVIDED AND RECORDED FOR ANY OFF-SITE SEWER PRIOR TO CONSTRUCTION.
5. BUILDING SETBACKS FOR THE ASSIGNED LOT LINES ON THIS PLAT SHALL BE AS DEFINED IN THE ZONING REGULATIONS FOR THE UNINCORPORATED TERRITORY OF DOUGLAS COUNTY, KANSAS DATED SEPTEMBER 2010.

BASIS OF BEARINGS

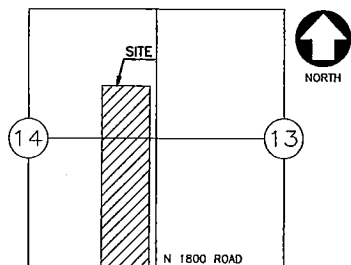
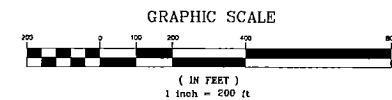
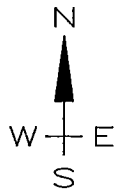
ASSUMED BEARING N 01°54'04" W FOR EAST LINE SE 1/4 14-12-18

MONUMENTATION

- SET: 1/2" x 24" REBAR W/CAP "APS1391"
- ▲ FOUND: STONE (ORIGIN UNKNOWN)
- FOUND: 1/2" x 24" REBAR W/CAP "APS1391"
- △ FOUND: 2" ALUMINUM CAP "CLS #2"

LEGEND

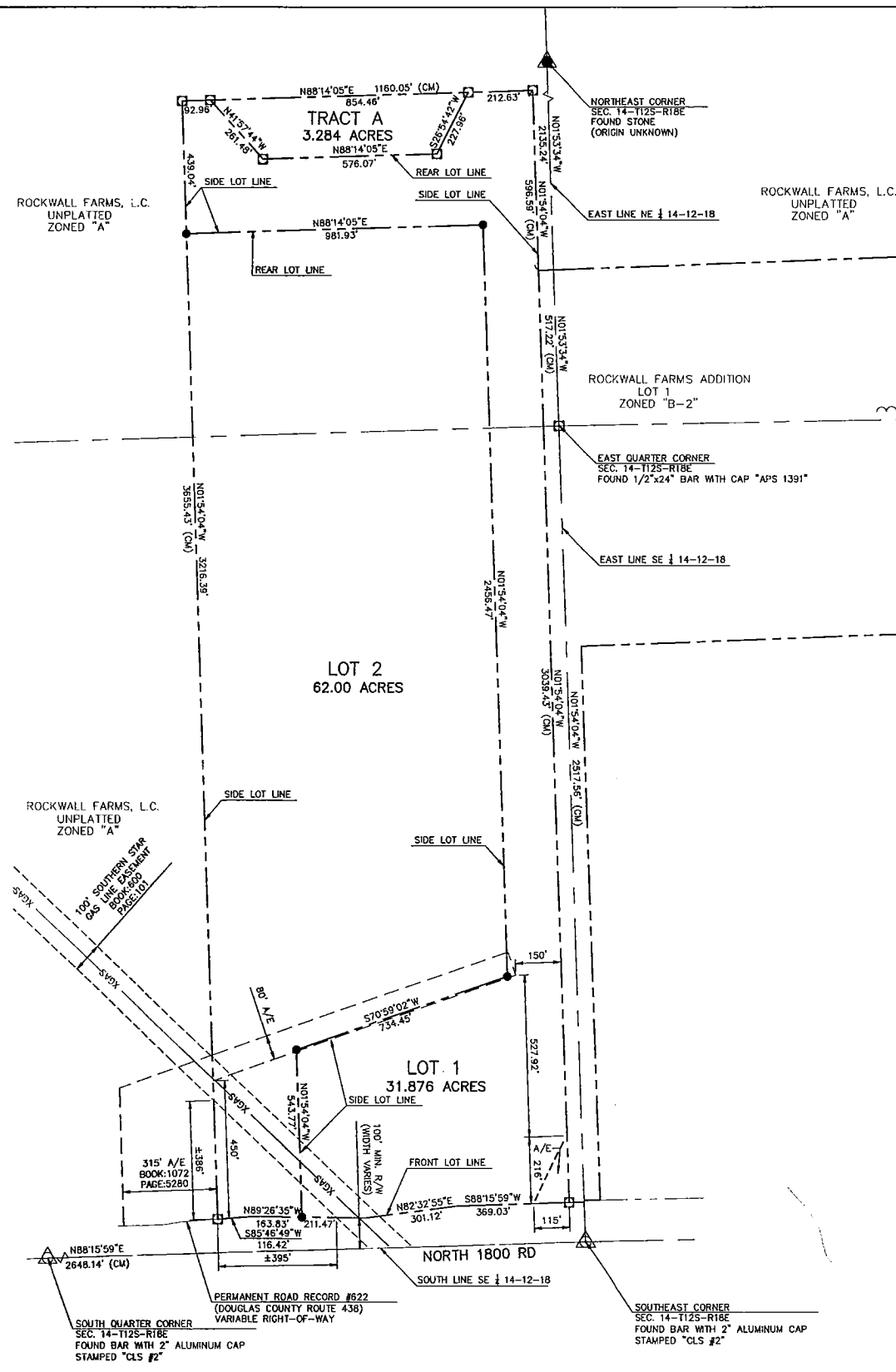
- R/W RIGHT-OF-WAY
- A/E ACCESS EASEMENT
- U/E UTILITY EASEMENT
- (CM) CALCULATED FROM MEASUREMENTS



LOCATION MAP
N.T.S.

A MINOR SUBDIVISION ROCKWALL FARMS ADDITION 2nd PLAT

A REPLAT OF LOT 2, ROCKWALL FARMS ADDITION, IN DOUGLAS COUNTY, KANSAS
E 1/2, SEC. 14-T12S-R18E



MEMORANDUM

TO : Douglas County Board of County Commissioners
Craig Weinaug, Douglas County Administrator

FROM: Keith R. Dabney, Director, Zoning & Codes Department

DATE: July 13, 2011

RE: Resolution Amending a Planning and Zoning Classification from "A"
Agricultural District to "B-2" General Business District

Please find attached a resolution amending a Planning and Zoning Classification from "A" Agricultural District to "B-2" General Business District. The aforementioned rezoning will be for Kathleen Baker Wolfe, property owner of record, which was approved by the Douglas County Board of County Commissioners on June 8, 2011.

RESOLUTION NO. _____

A RESOLUTION REZONING APPROXIMATELY 6 ACRES FROM A (AGRICULTURAL) DISTRICT AND B-2 (GENERAL BUSINESS) DISTRICT; TO B-2 (GENERAL BUSINESS); AMENDING THE OFFICIAL ZONING DISTRICT MAP INCORPORATED BY REFERENCE IN CHAPTER XII, ARTICLE 3, SECTION 12-304 OF THE "DOUGLAS COUNTY CODE 2010 EDITION", AND AMENDMENTS THERETO

WHEREAS, the Lawrence-Douglas County Planning Commission, after holding a public hearing on May 23, 2011, as required by K.S.A. 12-757 and Section 12-324-3 of the "Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas," has recommended that the Board of County Commissioners change a certain zoning classification, the nature and description of such change being fully set forth below;

WHEREAS, on June 8, 2011, the Board of County Commissioners found that the "Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas" should be amended as recommended by the Lawrence-Douglas County Planning Commission, by changing the zoning classification set forth below; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, that pursuant to the "Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas," the zoning classification for the following legally described tract of land situated in the unincorporated area of Douglas County, Kansas, to wit:

400196-01A; PIN # 057-36-0-00-02-006.00-0; 3.03 ACRES; S36-T12S-R18E; COM AT NW COR NW 1/4 TH S89DEG11'36"E ALONG N LINE SD QR 544.48 FT FOR PT BEG:TH S89DEG11'36"E ALONG N LINE SD QR 391.58 FT TH S 0DEG48'08"W 309.85 FT TH N89DEG12'03"W 464.65 FT TH N 0DEG48'25"E 127.91 FT TH S89DEG11'36"E 73.05 FT TH N 0DEG48'25"E 182 FT TO PT BEG WW35 (DIV 1984 400196-01)

400196-01B; PIN # 057-36-0-00-02-007.00-0; 3.64 ACRES; S36-T12S-R18E; BEG AT NW COR NW 1/4 TH S89DEG11'36"E ALONG N LINE SD QR 544.48 FT TH S 0DEG48'25"W 182 FT TH N89DEG11'36"W 73.05 FT TH S 0DEG48'25"W 127.91 FT TH N89DEG12'03"W 467.07 FT TO W LINE SD QR TH N 310 FT TO PT BEG WW35 (DIV 1984 400196-01)

is hereby changed from A (Agricultural) District and B-2 (General Business) District to B-2 (General Business, as such district is defined and prescribed in Chapter XII of the "Douglas County Code 2010 Edition", and amendments thereto.

That the Official Zoning District Map incorporated by reference in and by Chapter XII, Article 3, Section 12-304 of the "Douglas County Code 2010 Edition" is hereby amended by showing and reflecting thereon the new zoning district classification for the aforesaid tract, as set forth in the legally described tract of land in this resolution.

If any section, clause, sentence, or phrase of this resolution is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

This resolution shall take effect and be in full force from and after its adoption by the Board of County Commissioners and published once in the official County newspaper.

ADOPTED this _____ day of _____, 2011.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

Jim Flory, Chairman

ATTEST:

Mike Gaughan, Member

County Clerk

Nancy Thellman, Member



City of Lawrence
Douglas County
PLANNING & DEVELOPMENT SERVICES

6 East 6th St.
P.O. Box 708
Lawrence, KS 66044

www.lawrenceks.org/pds

Phone 785-832-3150
Tdd 785-832-3205
Fax 785-832-3160

June 10, 2011

Kathleen Baker Wolfe
751 Hwy 40
Lawrence, KS 66049

RE: Z-3-7-11; Rezoning request for approximately 6 acres from A and B-2 to B-2
located at 751 Hwy 40.

Dear Ms Wolfe:

The Board of County Commissioners voted unanimously to approve the rezoning request referenced above at their June 8, 2011 meeting. We will prepare a rezoning resolution for the rezoning which will be effective when the Commissioners adopt the resolution on first reading and the resolution is published in the newspaper.

Please feel free to contact me with any questions or concerns: mmiller@lawrenceks.org or 785-832-3147.

Sincerely,

Mary Miller, AICP
City County Planner



400196-01A

3.03A 36-12-18 COM AT NW COR NW 1/4 TH S89DEG11'36"E ALONG N LINE SD QR 544.48 FT FOR PT
BEG:TH S89DEG11'36"E ALONG N LINE SD QR 391.58 FT TH S 0DEG48'08"W 309.85 FT TH
N89DEG12'03"W 464.65 FT TH N 0DEG48'25"E 127.91 FT TH S89DEG11'36"E 73.05 FT TH N 0DEG48'25"E
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400196-01B

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0DEG48'25"W 182 FT TH N89DEG11'36"W 73.05 FT TH S 0DEG48'25"W 127.91 FT TH N89DEG12'03"W
467.07 FT TO W LINE SD QR TH N 310 FT TO PT BEG WW35 (DIV 1984 400196-01)

denied, the development of the property would be limited to uses permitted within the Agricultural District.

VII. Conformance with the Comprehensive Plan.

CHAPTER SIX. COMMERCIAL

Policy 3.12: Criteria for Commercial Development in Unincorporated Areas (page 6-38)

“Existing commercial areas that are located at the inter-section of a hard surfaced County Route and a state or federally designated highway should be allowed to expand if the necessary infrastructure (water, road, approved wastewater treatment facility, etc.) is available.”

Staff Comments:

The property is located at the intersection of County Route 442 and US Hwy 40. The rural water district indicated that water meters were available to serve a commercial development at this location. The property contains nearly 5.7 acres outside of the regulatory floodplain; therefore an on-site sewage management system should be possible. A permit for an on-site sewage management system must be obtained prior to obtaining building permits for any commercial development. Based on the information above, the subject property meets the criteria for commercial zoning.

Flory opened the item for public comment. No comment was received.

Flory moved to approve the rezoning Z-3-7-11 from A (Agricultural) and B2 (General Business) to B2 (General Business). Motion was seconded by Gaughan and carried 3-0.

Flory moved to adjourn the meeting; Thellman seconded and the motion carried 3-0.

DOUGLAS COUNTY COMMISSION ARCHIVE – JUNE 8, 2011

PLANNING/ ZONING & CODES 06-08-11

The Board considered approval of Z-3-7-11, a request to rezone approximately 6 acres from A (Agricultural) and B2 (General Business) to B2 (General Business), located at 751 Hwy 40. The application was submitted by Kathleen Baker Wolfe, property owner of record. The Planning Commission approved the item on a 9-0 vote on May 23, 2011. Mary Miller, Lawrence-Douglas County Metropolitan Planning Staff, presented the item. Staff received a letter from a neighboring property owner asking the property to remain agricultural.

Flory stated he feels we will cover concerns of neighbors on site plan. Gaughan agreed.

Staff recommended approval of the rezoning request for approximately 6 acres from (Agricultural) and B2 (General Business) to B2 (General Business) based on the following findings of fact:

I. Zoning and land uses or surrounding properties. The area contains a major transportation network with the intersection of US Hwy 40 and County Route 442. The predominate zoning in the area is Agricultural, and agriculture and rural residences are the principal land uses. A-1 Zoning and a rural residential subdivision is located on the northwest corner of the intersection and B-2 Zoning is located east of and on a portion of the subject property. The proposed rezoning to the B-2 District would be compatible with the surrounding land uses and zonings.

II. Character of the area. This is predominately a rural residential and agricultural area with limited commercial uses. The subject property is located on a major transportation corridor within the Lawrence Urban Growth Area. Commercial uses in this location could be compatible with the character of the area.

III. Suitability of subject property for the uses to which it has been restricted. The property is suited to the uses which are permitted in the A and the B-2 District.

IV. Length of time subject property has remained vacant as zoned. The property contains two parcels. The parcel on the west is developed with a residence. The parcel on the east has never been developed.

V. Extent to which removal of restrictions will detrimentally affect nearby property. With appropriate landscaping and site design, the requested zoning B-2 (General Business) should have minimal detrimental effect on nearby properties.

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. There would be little, if any, gain to the public health, safety or welfare from the denial of the rezoning request given the separation between the subject property and residential uses and the type of transportation network the property is adjacent to. If the rezoning were



**DOUGLAS COUNTY
APPLICATION FOR AN AUTHORIZED EMERGENCY VEHICLE PERMIT**

Please type or print the following information:

Check One: New
 Annual Renewal
 (If renewal, attach old permit. Must be renewed annually by January 31.)

Name: H. Wayne Riley

Street Address: P.O. Box 154 Phone # (85) 887-6221

City: Lecompton State: KS Zip Code: 66252 County: 26

Make of Vehicle: Ford Year of Vehicle: 2011

Style of Vehicle: Ranger License Tag #: 5118

VIN #: 1FTRR4FE9BPA63943 Driver's License #: KS01-51-5043

Vehicle Insurance Company Name: State Farm Policy #: 280-6447-F14416D
 **Attach copy of insurance card.

Agency: Lecompton FIRE/EMS

Agency Address: P.O. Box 154

Agency Head Signature: H. Wayne Riley

I HEREBY CERTIFY, I have read and agree to abide by the requirements set forth in Chapter 8 of the Kansas Statutes which relate to the operation of Emergency Vehicles.

I FURTHER CERTIFY, I will drive with due regard for the safety of others as required by K.S.A. 8-1506.

I FURTHER CERTIFY, I will return my permit when requested by the Sheriff. This permit is not transferable to any other person or vehicle.

I FURTHER CERTIFY, violating any of these laws and/or rules and the commission of other serious traffic violations may be grounds for the cancellation of my vehicle being designated as an "Authorized Emergency Vehicle".

H. Wayne Riley
 Signature of Applicant

6-27-11
 Date

Kenneth M. McGovern
 Kenneth M. McGovern, Sheriff

7/14/11
 Date Permit #

Authorization granted by County Commission on this _____ day of _____, 200_____.

July 14, 2011

TO: Douglas County Board of County Commissioners

FROM: Paula Gilchrist, Douglas County Treasurer

I am submitting for your consideration an Agreement with Kelly Law Offices of Tonganoxie, Kansas, for enhanced collection of delinquent personal property taxes. Said agreement has been reviewed and approved by County Counsel, Evan Ice.

Personal property taxes are charged on items such as boats, airplanes, ATVs, business equipment and mobile homes. Collection of personal property taxes is defined, primarily, by K.S.A. 79 – 2017 and K.S. A. 79 - 2101. The Douglas County Treasurer's office complies with publication, warranties and court filings, as well as stops vehicle registration until delinquent personal property taxes are paid in full. Our execution of warrants has been limited. Twice a year for approximately a week, the Sheriff will assign an officer who, working from a list prepared by Treasurer's staff, personally contacts delinquent taxpayers.

Douglas County currently has 2,071 outstanding personal property warrants totaling \$2,604,804.32 in principal, interest and fees dating 1997 to 2010. This includes bankruptcies and incorporated business closures, which are uncollectible but cannot be removed from the books. It has been difficult to devote the staff time needed for individual collection and tending to Court proceedings. We do not have inter-departmental standard procedures in place, nor an effective process approved by all departments and effective in Court.

Attorney Keyta Kelly of Kelly Law Office is former county counselor of Leavenworth County. Since leaving that position she has contracted personal property tax collection for, and comes highly recommended by, Leavenworth, Jefferson and Butler counties. Rather than a collection agency approach of numerous letters and harassing phone calls, she uses the statutory rights of the County to proceed through court action. As part of her agreement with Douglas County, she would work with Appraiser, Treasurer, Sheriff and District Court to standardize procedures and follow individual delinquent accounts from start to finish.

There is no direct cost to the County, though she would collect a 30% fee from all delinquent taxes, interest and fees collected.

Thank you for your consideration of this proposed Agreement. I will be at your July 20, 2011 meeting to answer questions. If you would like more information in advance, please e-mail me at pgilchrist@douglas-county.com or call 832-5275 (office) or 766-7475 (cell).

Respectfully,

Paula Gilchrist

Douglas County Treasurer

AGREEMENT

FOR

PERSONAL PROPERTY TAX COLLECTION

Pursuant to K.S.A. 79-2018

FOR

DOUGLAS COUNTY, KANSAS

AGREEMENT

This Agreement made and entered this ____ day of _____, 2011 by and between Douglas County, Board of County Commissioners, State of Kansas, hereinafter referred to as the "County" and Keyta D. Kelly of Kelly Law Offices, L.L.P., whose principal place of business is located at 512 East Fourth Street, Tonganoxie, Kansas 66086 hereinafter referred to as the "Contractor":

WITNESSETH

WHEREAS, the Contractor has prior experience in this and/or other related projects and therefore has a thorough understanding of the needs and purpose of Personal Property Tax Collection; and

WHEREAS, the County desires to utilize the services of the Contractor.

NOW HEREWITH, the Contractor agrees to execute this project and provide the services as outlined.

PURPOSE AND INTENT

It is the County's intention to take a more aggressive approach to the collection of delinquent personal property tax. It is the County's belief that the collection of delinquent personal property taxes from taxpayers who have failed to pay in a timely manner will ensure fair and equal taxation for all taxpayers within Douglas County. This Agreement covers the collection of all delinquent personal property taxes owed to the County.

SECTION ONE

GENERAL PROVISIONS

1.1 For purposes of this Agreement whenever the term "Treasurer" is used it shall mean the duly serving County Treasurer of Douglas County.

1.2 Whenever the term "County" is used, it shall mean a majority of the duly serving members of the Board of County Commissioners of Douglas County, Kansas.

1.3 This Agreement between Douglas County and Keyta D. Kelly shall be deemed a Kansas contract and shall be governed by the Laws of the State of Kansas.

1.4 Whenever the term "delinquent personal property tax" is used, it shall mean any tax,

fees and accrued interest thereon which is showing on the Treasurer's records as unpaid and which has been filed in Douglas County District Court as a judgment pursuant to K.S.A. 79-2017.

1.5 The Contractor agrees to collect the county's delinquent personal property taxes. The collection procedures used shall be in compliance with Kansas law.

1.6 The Contractor agrees to assist the Treasurer with any questions or legal issues that may arise in connection with personal property tax collection, including assistance with form development and resolving taxpayer issues.

1.7 The County agrees to ensure the Contractor remote computer access to its taxing software system.

1.8 The County agrees to compensate the Contractor for the work on the following terms. The Contractor shall be compensated a total of thirty Percent (30%) of all delinquent personal property tax which is collected either through payment directly to the Contractor or through payment to the County.

SECTION TWO

STARTING AND COMPLETION DATES

2.1 Work under this Agreement shall commence upon execution of this Agreement by all interested parties; provided, however, that Contractor will not actually commence collecting 2010 delinquent personal property taxes until December 1, 2011. Work under this Agreement shall be considered completed when all delinquent personal property taxes have been collected.

SECTION THREE

METHOD OF PAYMENT

3.1 The Contractor will contact the Treasurer via e-mail once per day to inform her of any and all payments that were received in Contractor's office that day. The Contractor shall pay all collected monies into a special trust account established at Community National Bank of Tonganoxie. This trust account shall contain only monies collected pursuant to this Agreement and no other funds of Contractor or other clients will be comingled. On a weekly basis Contractor shall write a check for seventy percent (70%) of the total collected to the Treasurer and thirty percent (30%) of the total collected to Contractor. No interest will accrue or be paid to either party on the funds during the time that they are held in the trust account.

3.2 The Contractor shall provide an accounting to the Treasurer each week of the

amounts collected, broken down by tax ID number, tax amount, fees, interest and date of collection.

3.3 The Treasurer will enter the full amount collected, including Contractor's fee, in the tax records for the appropriate tax ID number and credit it ratably to the funds for which such taxes were levied. The Contractor's fee shall then be charged ratably against the funds for which such taxes were collected. The records shall indicate that the account is paid in full.

SECTION FOUR

TERMINATION OF AGREEMENT

4.1 If, for any reason, either party shall fail to fulfill its obligation in a timely and proper manner under this Agreement, or, if either party shall violate any of the covenants, Agreements of stipulations of this Agreement, the other party shall thereupon have the right to terminate this Agreement on ten (10) days written notice. Said notice shall specify the effective date of termination.

4.2 It shall be a breach of this Agreement for the Contractor to fail to comply or fail to continue to comply with all relevant provisions set forth in Kansas statutes, regulations, standards, guidelines, directives and manuals, as the same are updated throughout the term of the Agreement.

4.3 Notwithstanding the above, neither party shall be relieved of liability to the other party for damages sustained by virtue of any breach of this Agreement.

4.4 Either party may terminate this Agreement without cause upon thirty (30) days advance written notice to the other party.

SECTION FIVE

ASSIGNMENT OR SUBCONTRACT

5.1 It is specifically understood and agreed that this Agreement or any part thereof shall not be assigned or sublet in any manner whatsoever without the express, prior and written consent of the County. The Contractor is the only party assigned to complete all aspects of this Agreement. Notwithstanding this clause, the Contractor may employ the assistance of a secretary or paralegal for the clerical portions of the work involved. Additionally, the Contractor's partner, Michael E. Kelly, may appear in Court on behalf of the Contractor when necessary due to scheduling conflicts.

SECTION SIX

OFFICE SPACE

6.1 The Contractor will provide adequate office space and staff for the accomplishment of this Agreement. The cost of all equipment, material and supplies shall be borne by the Contractor. Notwithstanding this clause, the County will provide the Contractor with the use of a copy machine and paper or other necessary equipment when the Contractor is present in Douglas County assisting the Treasurer or in Court on the Treasurer's behalf.

SECTION SEVEN

LIABILITY

7.1 Douglas County will be free from all liability incurred by Contractor in the performance of this Agreement. Contractor agrees to indemnify and hold harmless the County for any and all claims against the Contractor or County which arise out of any acts or omissions on the part of the Contractor in performing this Agreement.

7.2 Contractor agrees to maintain professional liability insurance in the amount of One Million Dollars (\$1,000,000.00).

7.3 Contractor agrees to furnish a good and sufficient bond in the amount of \$20,000.00 for the faithful discharge of her duties and for the payment to the county of all moneys collected pursuant to this Agreement.

SECTION EIGHT

COMMENCEMENT OF WORK

8.1 The Contractor shall commence the work to be performed under this Agreement after acceptance by the County and the Contractor; provided, however, that Contractor will not actually commence collecting 2010 delinquent personal property taxes until December 1, 2011. The County will give the Contractor written notification of such approval prior to the Contractor's proceeding.

SECTION NINE

NON-EXCLUSIVITY

9.1 It is understood and agreed between the parties that Contractor is not providing services exclusively for County during the term of this Agreement. Nothing in this Agreement shall prevent Contractor from entering into similar contracts with other

counties or municipal entities for similar work.

SECTION TEN

MISCELLANEOUS

10.1 Notices. Notices required pursuant to this Agreement shall be given by deposit in the United States Mail, postage prepaid, addressed as follows:

County: Board of County Commissioners
Douglas County, Kansas
Douglas County Courthouse
Second Floor
1100 Massachusetts Street
Lawrence, Kansas 66044

Douglas County Treasurer
Douglas County, Kansas
Douglas County Courthouse
First Floor
1100 Massachusetts Street
Lawrence, Kansas 66044

Contractor: Keyta D. Kelly
Kelly Law Office, L.L.P.
512 E. 4th Street
Tonganoxie, KS 66086

10.2 Alternatively, notices required pursuant to this Agreement may be personally served by hand delivery to the appropriate party. Notice shall be deemed given as of the date of personal service or as of the date of deposit in the United States Mail.

SECTION ELEVEN

GENERAL PROVISIONS

11.1 The text herein shall constitute the entire Agreement between the parties.

11.2 If any provision or any portion thereof contained in this Agreement is held to be unlawful, invalid, or unenforceable, the remainder of the Agreement or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect. County and Contractor agree to immediately renegotiate any part or provision in the

Agreement rendered or declared invalid.

11.3 No amendments or additions shall be made to this Agreement without a written and signed Agreement by both the County and the Contractor.

11.4 The parties agree that this Agreement shall be subject to the cash basis laws of Kansas and is unenforceable to the extent it may be deemed to violate said laws.

11.5 Contractor is an independent contractor with respect to the services provided pursuant to this Agreement and is not an employee of County. Contractor is not entitled to health insurance, retirement, and other benefits available to County employees.

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY:

By _____
Chairman Jim Flory

Attested: _____
Jameson D. Shew, Douglas County Clerk

Dated: _____

Accepted by:

CONTRACTOR:

Keyta D. Kelly, Attorney at Law

MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : July 13, 2011

Re : Consider approval to purchase pipe culvert liners

We have identified ten (10) existing corrugated metal pipe culverts as the most serious of a longer list of culverts with corrosion problems that require replacement or lining. Replacing these pipe culverts requires open cutting the road and the resulting serious traffic disruption. We propose to line these ten culverts with plastic liners that will be grouted inside the existing pipe culvert. This method is much less expensive than total replacement, and results in no traffic disruption.

We currently have six pipe culvert locations slated for liners listed in the CIP with a total of approximately \$138,000 allocated. One of these culverts has already been lined at a cost of approximately \$11,000, so approximately \$127,000 remains available. The following ten culvert locations are in addition to the remaining five locations currently listed in the CIP:

1. 10.00N-14.17E
2. 10.00N-19.90E
3. 07.88N-01.00E
4. 08.11N-01.00E
5. 08.47N-01.03E
6. 08.50N-01.50E
7. 09.96N-03.62E
8. 09.50N-05.88E
9. 10.31N-04.02E
10. 09.50N-07.60E

We propose to use Snap-Tite liners for this work. These liners are easy to work with and are very effective. We used a Snap-Tite liner for the one pipe culvert we've already lined. ISCO Industries supplies KDOT with Snap-Tite liners. Utilizing KDOT pricing, they've quoted us a price of \$90,287.92 to supply the necessary Snap-Tite liners.

This purchase would be funded from the CIP. Purchase of liners for the five additional culverts currently listed in the CIP would be delayed. We have developed a longer list of pipe culverts that require lining, and we plan to propose an additional generic pipe culvert lining project in the CIP when it is updated this fall.

Action Required: Authorization to purchase Snap-Tite pipe culvert liners from ISCO Industries in the amount of \$90,287.92, and pay for the purchase from the CIP.

PLANNING COMMISSION REPORT
Regular Agenda – Non Public Hearing Item

PC Staff Report
5/25/11

ITEM NO. 14A ANNEXATION OF 69 ACRES; SOUTHWEST CORNER OF N 1800 ROAD AND E 1000 ROAD (SLD)

A-3-1-11: Consider an annexation request for approximately 69 acres, located on the south side of N 1800 Rd (Farmers Turnpike) and between the extended alignments of E 900 Rd and E 950 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.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission forward a recommendation to the County Commission that they find 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 the Douglas County and that the annexation is compatible with *Horizon 2020* and the *K-10 and Farmer's Turnpike Plan* and;

Staff recommends that the Planning Commission recommend approval and forward the recommendation to the City Commission for the approval of the requested annexation of approximately 69 acres located on the south side of N 1800 Road (Farmer's Turnpike) and between the extended alignments of E 900 Road and E 950 Road subject to the following conditions:

1. Building permits may be issued for the property if the City of Lawrence reasonably determines that either City water or City sanitary sewer service is not required to serve the use or uses on the property, the uses being those that can be served by rural water or on-site sanitary sewer management systems (including, but not limited to sewage storage tanks).
2. The applicant shall execute an agreement not to protest the future annexation of any adjacent rights of way or roadway easements.

Reason for Request: *"This property is in the urban growth area of Lawrence. It is designated for industrial uses in Horizon 2020 and the K-10/Farmer's Turnpike Plan. It is adjacent to a large tract of land with industrial zoning and is bounded by Kansas Turnpike, the Farmer's Turnpike, and a recently annexed property with industrial zoning, making it an excellent location for an industrial site."*

KEY POINTS

- April 5, 2011, City Commission received annexation request.
 - Requests more than 10 acres are referred to the Planning Commission for a recommendation.
- This request includes approximately 69 acres to allow for industrial development.
- The property is located within the Lawrence Urban Growth Area.
- This request is accompanied by a rezoning request for IG (Z-3-8-11).

COMPREHENSIVE PLAN FACTORS TO CONSIDER

- Horizon 2020 – Chapter 4, Growth Management
- Horizon 2020 – Chapter 7, Industrial Development
- Horizon 2020 – Chapter 8 Transportation
- Horizon 2020 – Chapter 14 Specific Plans
- Sector Plan – K-10 and Farmer's Turnpike Plan

ASSOCIATED CASES OR OTHER ACTION REQUIRED

- After City Commission receives the Planning Commission’s recommendation concerning the annexation request, City Commission may consider passing a resolution requesting the Douglas County Board of County Commissioners make a finding pursuant to state statute 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 the county.”*
- The Board of County Commission will consider the City’s request to make the necessary findings, if appropriate and notify the City of its decision.
- Adoption by City Commission of an ordinance annexing the property.
- Notice to Rural Water District No. 6 of the City’s intent to annex.
 - City Commission authorized the City Manager to provide notice of the City’s intent to annex the land to Rural Water District No. 6 on April 12, 2011.
 - Notice mailed to RWD No. 6 on April 21, 2011.
- Approval by City Commission and publication of Z-3-8-11 (A-1 to IG).
- Subdivision approval required as a pre-development step.
- Site plan approval required as a pre-development step.

PLANS AND STUDIES REQUIRED

- *Traffic Study* – Not required at this time.
- *Downstream Sanitary Sewer Analysis* – Not required at this time. End user required for analysis
- *Drainage Study* – Not required at this time.
- *Retail Market Study* – Not required at this time.

ATTACHMENTS

- Area map
- Memo to City Commission – annexation referral
- Staff memo regarding notice to Rural Water District No. 6
- Land use map – K-10 and Farmer’s Turnpike Sector Plan

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Phone call from area property owners requesting additional information regarding the proposed request and development plans for the area.

EXISTING CONDITIONS

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

Land Use:

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

and Land Use:

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.

Site Summary

Gross Area:	69 acres
Area Requested for Annexation:	69 acres
Urban Growth Area:	Service Area 4 as identified in <i>Horizon 2020</i> .

Project Summary:

This request is for industrial development. Annexation is a pre-development step.

Annexation Procedure

Kansas Law [12-519 *et seq.*] provides for annexation by ordinance of the City Commission. Lawrence City policy requires the Lawrence-Douglas County Metropolitan Planning Commission to review and make recommendations on all annexation requests in excess of ten acres. Upon annexation, the property is required to be rezoned to a compatible City zoning district. This request is accompanied by a rezoning application for IG. Annexation is a separate and distinct action from that of the rezoning consideration.

Because this property is not adjacent to the city "proper" it is considered an "island" annexation. Additional requirements for this type of annexation include County Commission consideration and determination that the proposed annexation, "*will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within the county.*" This action is required prior to the passage and publication of an ordinance by the City annexing the property. Additionally, notice of the City's intent to annex the land, along with its plan for the provision of water service to the land being annexed is required to be sent to the Rural Water District serving the property not less than 60 days prior to the effective date of an annexation ordinance.

The subject properties are currently served by Rural Water District No. 6. Kansas Statutes require the city to purchase the property, facilities, and improvements, if any, of the district if the City designates a different water supplier to the land proposed to be annexed. The possibility exists that the site will continue to be served by Rural Water District No. 6 or another water supplier prior to the City of Lawrence extending city water service to the site.

The City of Lawrence Administrative Annexation Policy (AP-74) requires that the costs associated with compensation to a Rural Water District be paid to the City by the annexation applicant for Rural Water District facilities serving the property to be annexed.

General Location and Site Characteristics:

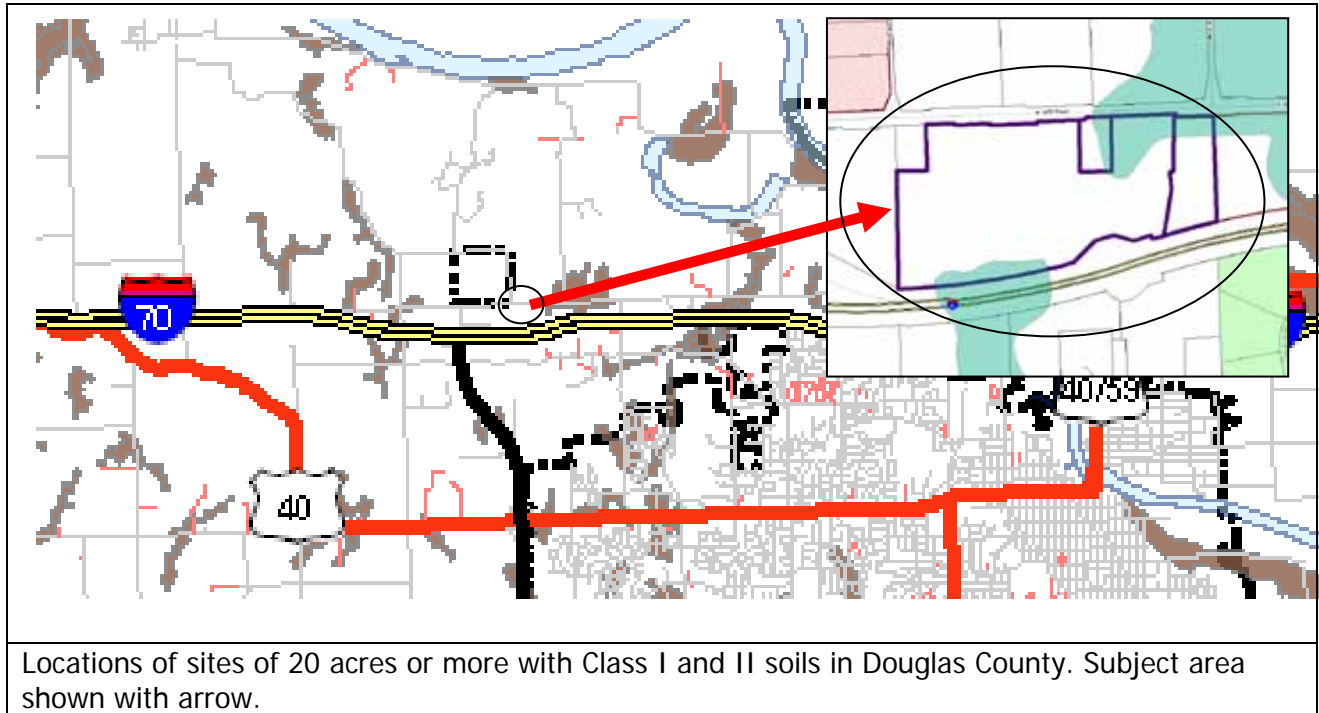
The property is located on the south side of N 1800 Road (Farmer's Turnpike). The property is bounded along the south side by the I-70 Kansas Turnpike. The property is adjacent to another island annexation parcel along the east property line.

- The property includes a rural residence on each of the three parcels that makes up the combined 69 acres.
- The area is currently farmed and includes an area with vegetation along the low lying drainage areas of the site.
- The property is located within the existing Lawrence Urban Growth Area and approximately 1/2 mile east of the LeCompton-K-10/I-70 interchange.

The property is currently zoned county A (Agricultural). This same zoning is located on the south side of the Kansas Turnpike. A platted residential subdivision and an existing church are located south of the Turnpike, southeast of the proposed annexation. Scattered rural residences can also be found along the County roads in the vicinity of the property.

The property slopes from the east and the west toward a low lying area through the central wooded portion of the 69 acres. The average slope across the proposed annexation is less than 6 %. There no regulatory floodplain that encumbers the proposed annexation.

Horizon 2020 recognizes the importance of high-quality agricultural land and that it is a finite resource. Within Douglas County the soils classified as Class I and II are referred to as the capability class (Chapter 7 *Horizon 2020*.) This site includes a portion of Class II soils along the south side of N 1800 Road along the eastern portion of the property and an area along the south property line on the western portion of the property. This annexation request includes approximately 7.8 acres of Class II soils on the subject property.



While the subject property contains Class II soils, the soils are isolated 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.

Infrastructure and Utility Extensions

This section of the report addresses the existing and future utility infrastructure serving this site. This property is located in the unincorporated area of Douglas County. Development of the property requires extension of municipal City services or development of an interim service plan.

Sanitary Sewer

Sanitary sewer is not currently extended to this property. Such extension is necessary to support urban development. Details regarding the end user or users are required to assess downstream impacts on the utility. A specific development proposal has not been submitted.

The city is engaged in updating the Wastewater Master Plan. This study is not yet complete. Basic land use was provided to the Utility Department for the study based on the recently adopted K-10 and Farmer's Turnpike Plan. Anticipated uses include industrial development. This broad land use designation does not necessarily convey a specific amount of generated wastewater because data is use specific.

Proximity to Sanitary Sewer



Items for consideration of public sanitary sewer service include the following:

- *City initiated master plan update anticipated completion of study by end of 2011*
- *Option for single user vs. multiple users*
 - *Waive code standards to accommodate rural type development for temporary time period. This would allow some type of on-site treatment. The method of disposal would depend on the amount to be managed.*
 - *Coordination with the County Health Department and or KDHE regarding on-site management options.*

While an interim plan may be feasible for a single user, such a plan may not be appropriate for multiple users. A specific study of the watershed will be required to assess impacts on the current municipal system and evaluate designated capital improvement projects that may be affected by development. Extensions of sanitary sewer mains are required for urban development. Approval of sanitary sewer public improvement plans are typically a requirement of the subdivision process.

Water

Extensions of water mains and adequate fire flow are required for urban development. Existing urban service is over one mile from the subject property. Rural Water District No. 6 has a facility located along N 1800 Road. Rural Water District No. 1 has a line located along N 1750 Road to the south of the property. (See page 2-7 *K-10 and Farmer's Turnpike Plan*)

The City's plan for providing water service to the properties is to permit Rural Water District No. 6 to provide water service to the annexed area. The City could amend its current contract with Rural Water District No. 6 to supply the rural water district with additional water, if the rural water district deems it necessary for it to provide the 69 acres of land with adequate water. If Rural Water District No. 6 is unwilling to supply the property with water at the service level required by the property owner, or if the City and District cannot agree to a contract for the provision of additional water from the City, the City will designate a different water supplier. Rural Water District No. 1 may be amenable to supplying water to the area proposed to be annexed.

Proximity to City Water



Items for consideration of public supply of water include the following:

- *Option for single user vs. multiple users.*
- *Quality of service for long run with single user.*
- *Synergy of development required to generate sufficient demand for service and to maintain quality.*
 - *Waive code standards to accommodate rural type development for temporary time period. This would allow a rural water district to provide service to the annexed area.*

Amend current contract to assure available quantity of water available for development. This could include modifications to the existing agreements between the rural water district and the city regarding water supply

While an interim plan may be feasible for a single user, such a plan may not be appropriate for multiple users. A specific study of the water demand will be required to assess impacts on the current municipal system and evaluate designated capital improvement projects that may be affected by future development. Extensions of water mains are required for urban development. Approval of water line public improvement plans are typically a requirement of the subdivision process.

Stormwater

The property includes natural drainage ways across the property that flows generally from the north to the south. Regional detention is recommended for each watershed as areas develop. No such plan has been developed for this area at this time. Approval of stormwater public improvement plans are typically a requirement of the subdivision process.

Items for consideration of stormwater management include the following:

- *Regional Detention with development application.*
- *Easements for stormwater conveyance.*
- *Submission of a drainage study to assess the downstream impact.*
- *Assessment of the drainage structure at I-70 on the south side of the property.*

Public Rights-of-way

This segment of N 1800 Road is also a designated principal arterial street. This designation will impact dedication of rights-of-way, access, and spacing with future development applications. The property is located within the vicinity of the I-70/K-10 interchange. *Transportation 2030* identifies N 1800 Road as a Lawrence minor gateway. As such, special attention will be merited during the development phases of the property to assure compliance with applicable design standards. Width of right-of-way along with necessary access control and geometric improvement considerations are typically assessed as part of the subdivision and site plan development processes.

Items for consideration of public streets and roads include the following:

- *Future improvements to I-70 within existing right-of-way.*
- *Road Maintenance N 1800 Road, including snow removal.*
- *Geometric improvements with development.*
- *Access control with development.*
- *Dedication of ROW with subdivision platting process.*
- *Submission and review of a traffic impact study.*

Development of the area would include an assessment of roadway improvements abutting the property. Dual naming of such boundary line roads, maintaining both county and city names, for addressing purposes may be necessary for those properties outside of the annexation boundary.

No additional right-of-way needs are anticipated by the Kansas Turnpike Authority for future widening projects in this area. Additional review will be provided with subdivision plats and site plans for the property in the future.

Internal circulation and access to the abutting road and properties will need to be addressed with a specific development proposal. A traffic impact study will be required to evaluate proposed access options, separation requirements, geometric improvements, and similar items both internally and as development relates to the surrounding road network. No direct access is permitted to arterial roads, per the Land Development Code, unless the City Engineer grants a waiver from this requirement which would be necessary given that the property is bounded by a designated arterial road. A specific development plan

has not been submitted to assess the full scope of transportation issues for this property. Street intersection spacing will be critical as the area develops and should be designed initially for best efficiency.

Emergency Responses Services

Key services include 911, fire protection, and police protection. The site is currently served by the County-wide 911 emergency medical response. Building addressing and street naming, as well as coordination of services between the City, County, and township providers, will be required and continuously reviewed throughout the development process.

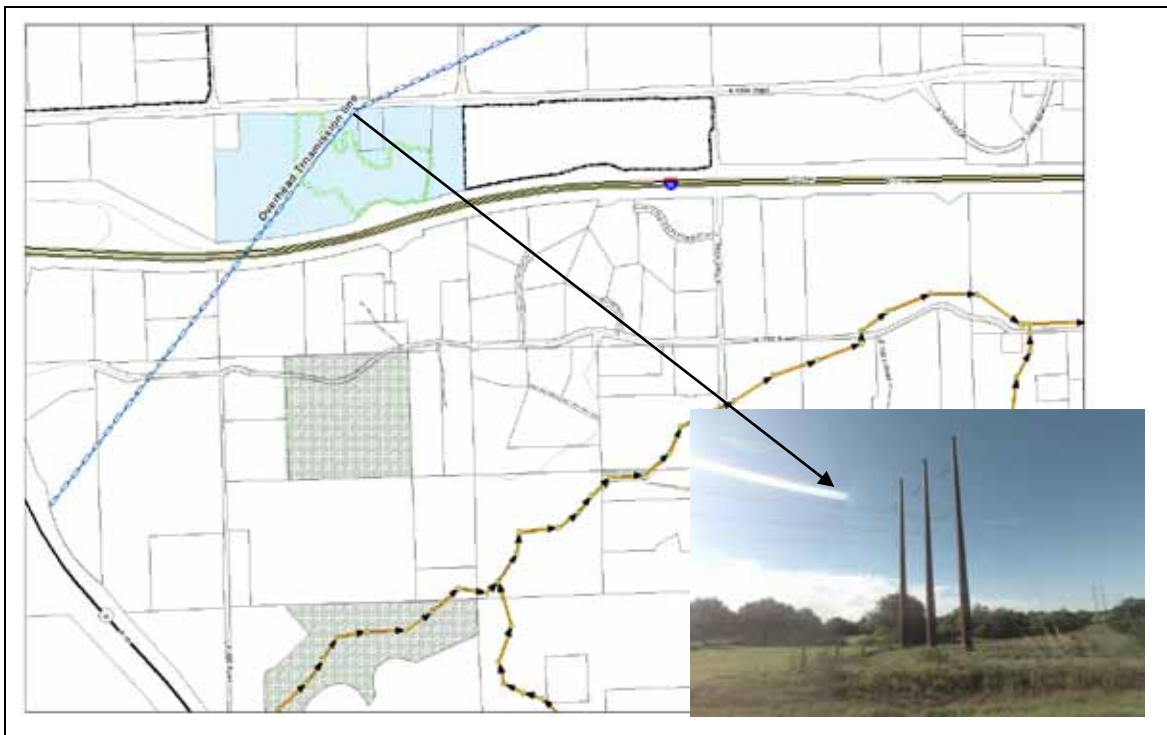
Fire protection will depend on the proposed use, construction type, and available fire suppression systems for the site. Fire protection is also related to the availability of a municipal supply of water or some type of on-site storage device, to meet a minimum threshold. Similar requests to the east and northwest of this site proposed an on-site water tower to aid in fire protection. This same method could be considered depending on the end user of this site. Assessment of services and fire protection will be required as part of a specific development proposal. Limited services to the site may limit future development in terms of size or intensity dependent upon the end user or users of the site.

Items for consideration of emergency responses include the following:

- *Adequate fire protection.*
- *Single user vs. multiple users.*

Private utilities (Electric, gas, phone, etc)

Electric, phone and gas extensions will be made to this property as it develops. Specific development proposals are needed to determine service requirements for a specific user. Utility providers have been made aware of the proposed request. Westar provided the following comments during the review: *Only 1-phase service exists in this area. The closest 3-phase line is 1.5 miles east of E 950 Road. If this is a large industrial user, depending on load, upgrade to the 3-phase line (bigger wires) may be needed which would then be 2.5 miles east of E 950 Road.* Generally the property can be served by private utility providers. A large transmission line extends from the southwest to the northeast through this area.



School facilities

The property is located in the Perry Lecompton school district (USD 343). The school district has been advised of this request.

COMPREHENSIVE PLAN:

Several chapters of *Horizon 2020* are applicable to this review. These include Growth Management, Industrial and Employment-Related Land Use, and Transportation. Additionally, the property is within the boundary of the *K-10 and Farmer's Turnpike Plan*.

Horizon 2020 – Chapter 4 Growth Management

Per map 3-1 in Chapter 3 of *Horizon 2020*, the General Plan Overview, and outlined in Chapter 4, Growth Management, the property is located within the Lawrence Urban Growth Area. Specific land uses for the area are identified in the *K-10 and Farmer's Turnpike Plan*. Growth management policies address the need to evaluate the development with respect to the provision of services, protection of topographic and drainage features, and applicable land use criteria. *Horizon 2020* gives priority to properties that abut existing city limits and to voluntary annexation.

Horizon 2020 allows for the initiation of development within Service Areas, 2, 3, and 4 prior to the full build-out of Service Area 1 when wastewater capacity is clearly available; a plan for interim development for the provision of rights-of-way and easements is complete; and when comparable build-out of Service Area 1 has been addressed.

- The property does not abut existing city limits except that it is adjacent to another island annexation along the east property line.
- This request is within the Urban Growth Area and represents a voluntary request.
- Urban services are not currently available to this site.

Horizon 2020 also gives priority to developments that are consistent with adopted utility plans. General policies related to growth management address the need to evaluate the proposed development with respect to the provision of services, protection of topographic and drainage features and with respect to land use criteria. Additional detail is needed to assess these elements including a sanitary sewer impact study, service delivery plan for water and other utility extensions and public services such as fire protection. Additional information is needed regarding the extension of any interior street network to service this property. Reasonable options exist to address all of these elements as development progresses.

Horizon 2020 – Chapter 7 Industrial and Employment-Related Land Use

Existing: 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 includes a discussion of industrial development for the I-70/K-10 area. The adopted *K-10 and Farmer's Turnpike Plan* has been amended into *Horizon 2020* and includes the area as a future industrial site. A key strategy in *Horizon 2020* supports the development and increase in the number and diversity of jobs for the entire community (Douglas County as a whole).

Chapter 7 brings together the importance of the natural environment and a diversified economy as a tool for development consideration. A feature of the plan states:

Encourage site availability, 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.

Specific location criteria are included in Chapter 7. The plan has been updated to reflect the changes affected by the adoption of the *K-10 and Farmer's Turnpike Plan*. The proposed annexation request is located within the revised I-70/ K-10 description for new industrial areas.

The proposed request complies with the locational requirements outlined in Chapter 7 including location within the UGA, feasible access to highway networks, and adequate size of land, outside of the regulatory floodplain and has an average slope of less than 6%.

Horizon 2020 – Chapter 8 Transportation

The transportation chapter provides goals and policies related to development. This chapter recognizes the relationship of transportation to land use planning. The plan acknowledges the importance of pedestrian and bicycle access as modes of transportation. Multi-modal transportation (rail and air), as well as ground transportation, are design elements considered with development applications. More detail about transit recommendations is contained in *Transportation 2030*. A key feature of both plans is the balancing of land use, transportation, and environmental needs. N 1800 Road is a designated gateway. This will necessitate additional review as part of the plat and site plan process to assure quality development consistent with plan recommendations.

Goals addressing multi-use trails, sidewalks, and alternative modes of transportation will be implemented with specific development proposals. The requirements for traffic impact studies at the site specific level and the larger planning area are needed to identify necessary capital improvements to serve the surrounding area as it develops. Assessment of land use will both predict and prescribe appropriate types of access needs.

Detailed plans are needed to implement transportation goals and policies listed in *Horizon 2020*. The proximity of the property to highways and arterial streets provide opportunities to develop the property with higher intensity uses that both need and can be served by excellent access.

- The Transportation Plan notes long-term plans for widening I-70 from 4 lanes to 6 within the existing right-of-way.

K-10 and Farmer's Turnpike Plan

This sector plan was adopted and published in 2009. The plan includes the subject property and designates the area as suitable for industrial development. Goals and policies of the plan support development that promotes additional employment opportunities and tax base expansion. The plan recommends development to urban densities while taking care to respect and protect the natural features currently in place in the area as a whole.

Industrial development is intended 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.*"

Policies for development specifically address property along N 1800 Road. The plan states: *Structures along N 1800 Road (Farmer's Turnpike) should present a front face to N 1800 Road to add to the high quality aesthetics encouraged in the gateway.*

The plan further addresses gateway treatments, access, and circulation depending on the traffic generated and the size of land involved in a development proposal. These criteria will be further evaluated with future development applications for a specific user.

Summary Finding of Comprehensive Plan Review: This request is consistent with recommendations regarding future industrial development in the area. This request is consistent with recommendations that development occur within designated urban growth areas. The lack of available sewer and water service limits development opportunities for the property in the immediate future unless specific agreements for alternate service can be made.

DISCUSSION OF LAND USE AND REQUEST:

Annexation is an initial step of the development process. It is clear that development will be limited by the services available to support an end user. Additional agreements and approval must be executed regarding water supply and wastewater disposal.

Horizon 2020 supports a definitive approach that utility services and major street improvements should be in place prior to development. Significant municipal utilities must be extended to serve this area to support urban development.

Growth management is defined in *Horizon 2020* as the primary tool for ensuring timely and orderly growth. This tool includes establishment of an Urban Growth Area, service delivery areas and specific annexation policies. It is expected that the service delivery areas defined in *Horizon 2020* will be revised following consideration of the water and wastewater master plans update that have been engaged for the community.

Annexation Policy No. 1 states that the, *“City of Lawrence will actively seek voluntary annexation of land within the Urban Growth Area as development is proposed.”* The subject property is not immediately contiguous to existing main portions of the city limits. Contiguity, as recommended per Annexation Policy No. 2, is provided in that this property is adjacent to property annexed to the east. The Comprehensive Plan supports a proactive annexation plan that ensures adequate facilities and services. The Plan specifically recommends annexation of *“areas which are needed to complete sewer or water line extensions for a closed (looped) system”* per Growth Management Goal 3, Policy 3.2.a. The proposed request is inconsistent with this recommendation for annexation. Progressive annexation from existing boundaries northward is needed to fully comply with this recommendation. It should be recognized that some industrial uses can exist without City infrastructure and that adequate urban facilities and services could be provided if deemed necessary and if made a priority by the governing body.

The subject property is located within City of Lawrence Urban Growth Area. *Horizon 2020* supports the provision of adequate facilities and services or assurances of adequate facilities in connection with development. Public and private utilities must be extended and/or upgraded to serve this area. Sanitary sewer, water, off-site stormwater, and roadway improvements need to be identified and planned for extension and improvement for both the short term and long term delivery.

It is important to note that other policies, mostly contained in Chapter 7 (*Industrial and Employment-Related Land Use*) support the subject site as a key industrial site in the City's future. Staff recognizes that while it will take time and effort to provide utility and other infrastructure to the general area, there is opportunity to plan for and permit some amount of development in the area so that any new construction meets the City's code requirements. This ensures that when the area does develop to urban densities, it more seamlessly fits into the urban pattern. The I-70 interchange and surrounding area will be an important economic generator for the region and planning today for its eventual build-out is appropriate and valuable.

CONCLUSION

Horizon 2020 and the *K-10 and Farmer's Turnpike Plan* address land uses, infrastructure, transportation and other development opportunities for the area. Weighing all the policies, *Horizon 2020* and the *K-10 and Farmer's Turnpike Plan* support this request.

The development of the subject property requires consideration of adequate timing of providing the necessary infrastructure for basic utilities such as water and wastewater. Development of an interim plan for services, such as continued use of rural water and on-site wastewater disposal, would be required to serve development in the short term and is feasible and prudent for certain industrial uses. Such a plan should be tied directly to specific uses for development to mitigate potential harm to the surrounding area and to assure that adequate provisions are provided for integrating the development into the ultimate system when appropriate. This interim proposal may be sufficient to support a single user. Such a system will need to be assessed for multiple users.

Staff recommends that the Planning Commission forward a recommendation to the County Commission that they find 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 the Douglas County and that the annexation is compatible with *Horizon 2020* and the *K-10 and Farmer's Turnpike Plan* and;

Staff recommends that the Planning Commission recommend approval and forward the recommendation to the City Commission for the approval of the requested annexation of approximately 69 acres located on the south side of N 1800 Road (Farmer's Turnpike) and between the extended alignments of E 900 Road and E 950 Road subject to the following conditions:

1. Building permits may be issued for the property if the City of Lawrence reasonably determines that either City water or City sanitary sewer service is not required to serve the use or uses on the property, the uses being those that can be served by rural water or on-site sanitary sewer management systems (including, but not limited to sewage storage tanks).
2. The applicant shall execute an agreement not to protest the future annexation of any adjacent rights of way or roadway easements.



City of Lawrence
Douglas County

PLANNING & DEVELOPMENT SERVICES

Item 14 a and 14 b

A-3-1-11 Annexation - approximately 69 ac.

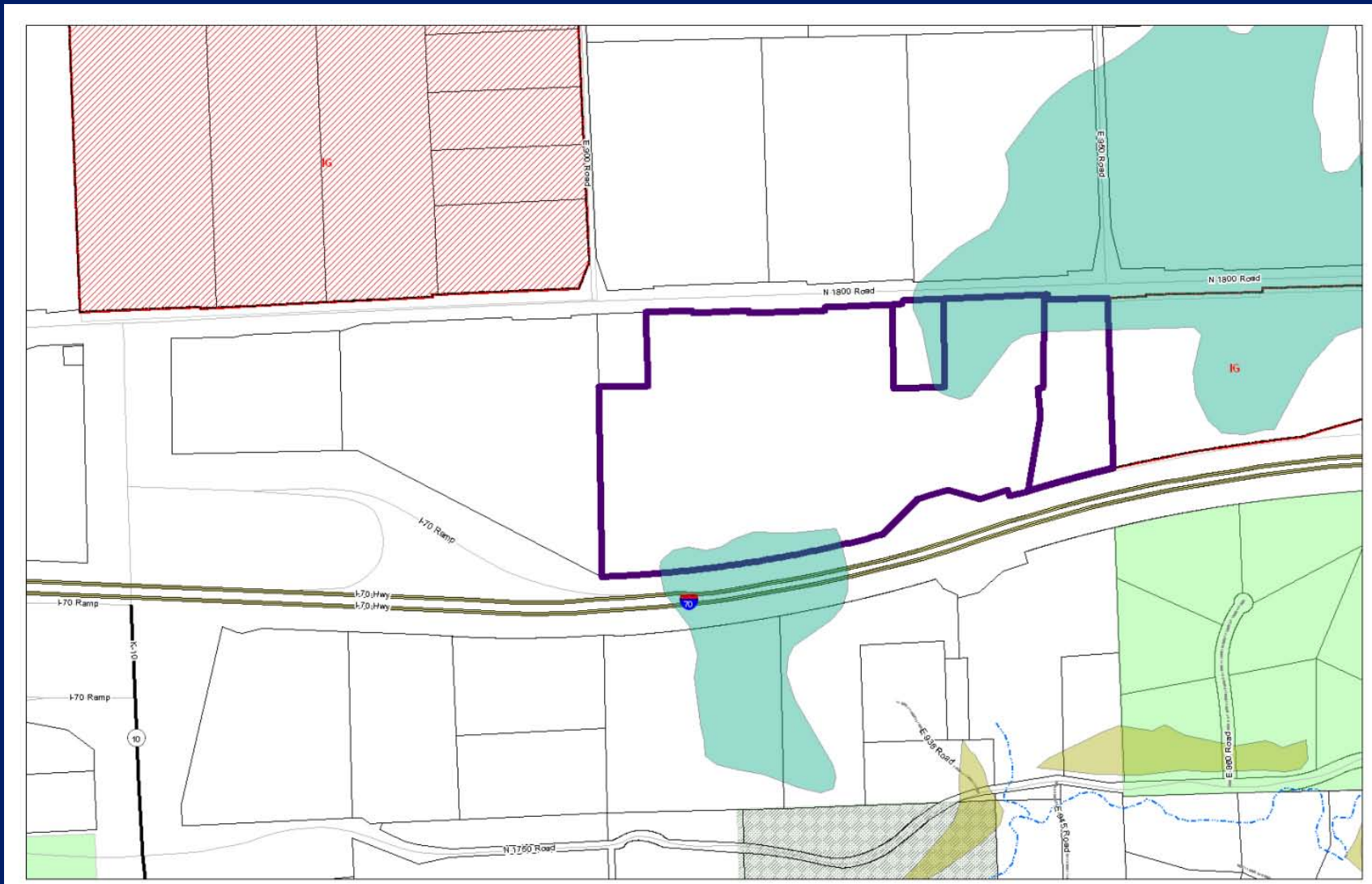
Z-3-8-11; A to IG

May 25, 2011



A-3-1-11 / Z-3-8-11

Subject Property



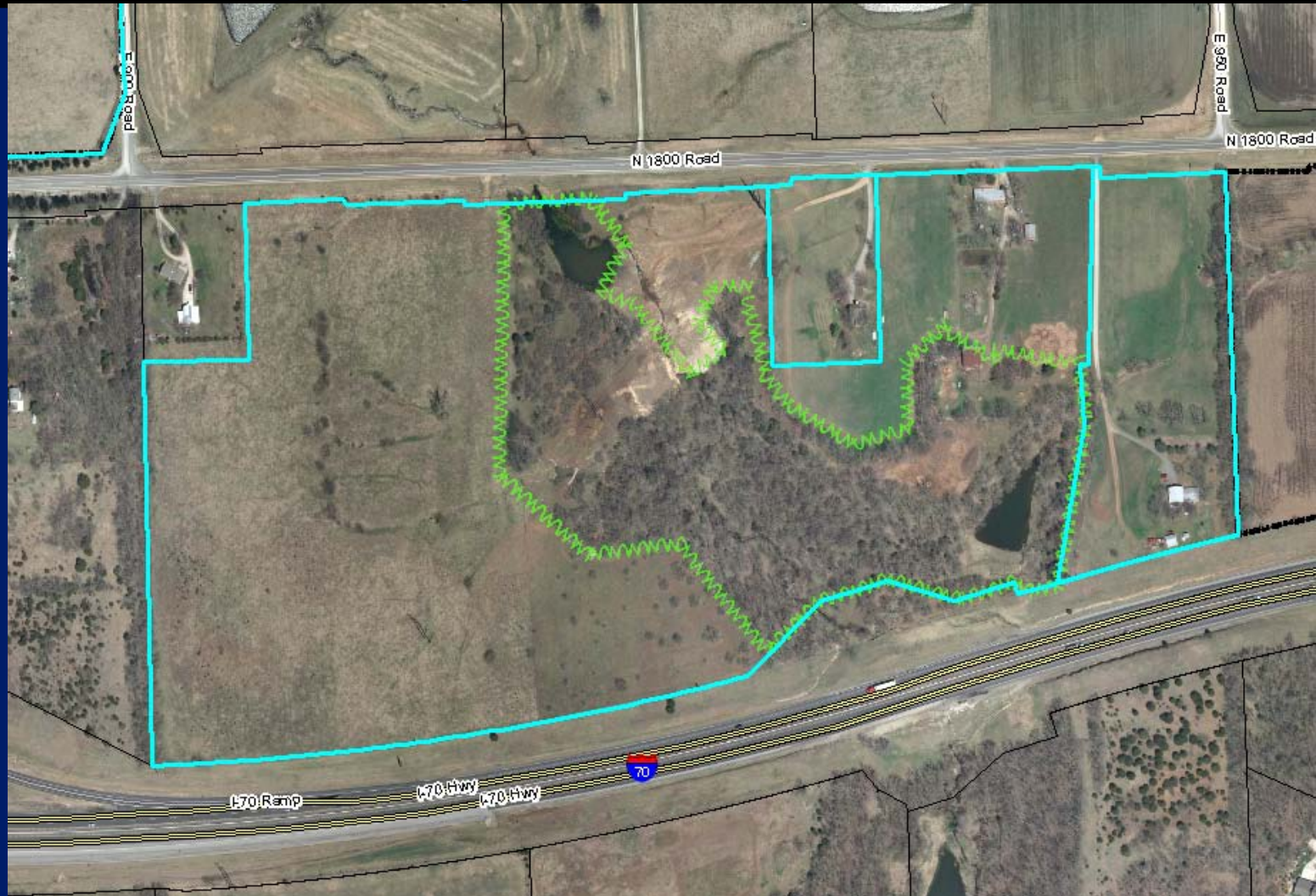


A-3-1-11 / Z-3-8-11 Property Features



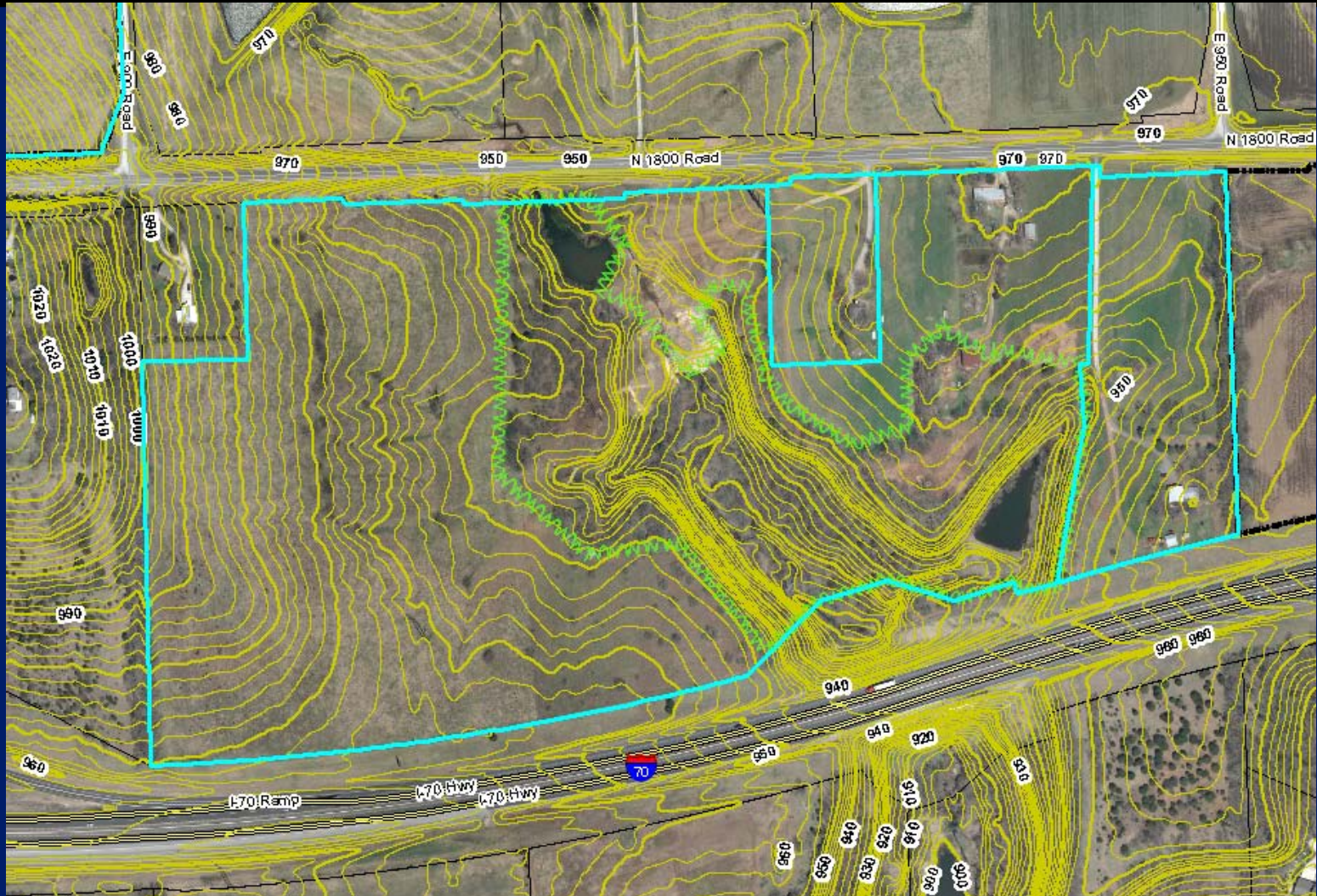


A-3-1-11 / Z-3-8-11 Property Features





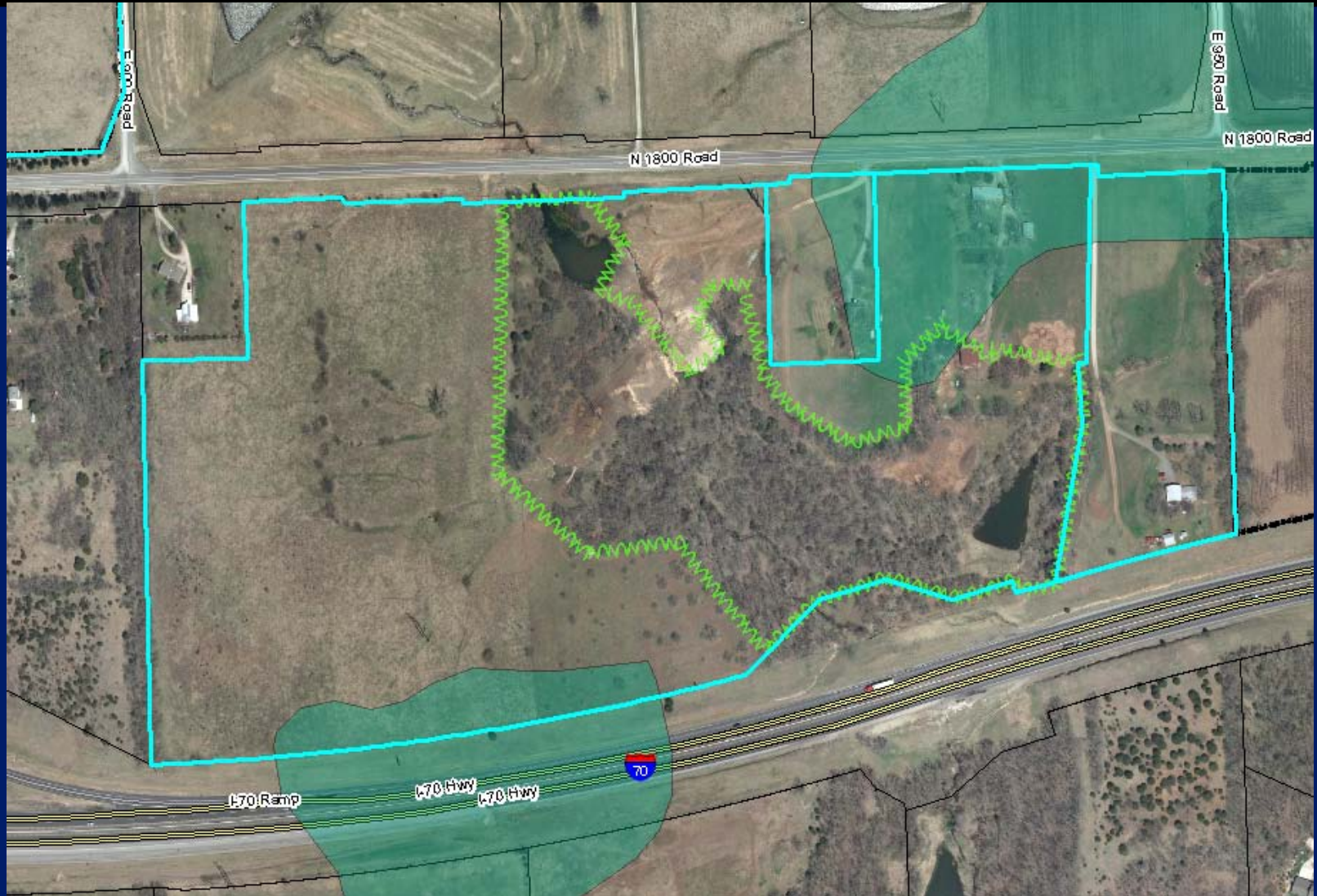
A-3-1-11 / Z-3-8-11 Property Features





A-3-1-11 / Z-3-8-11

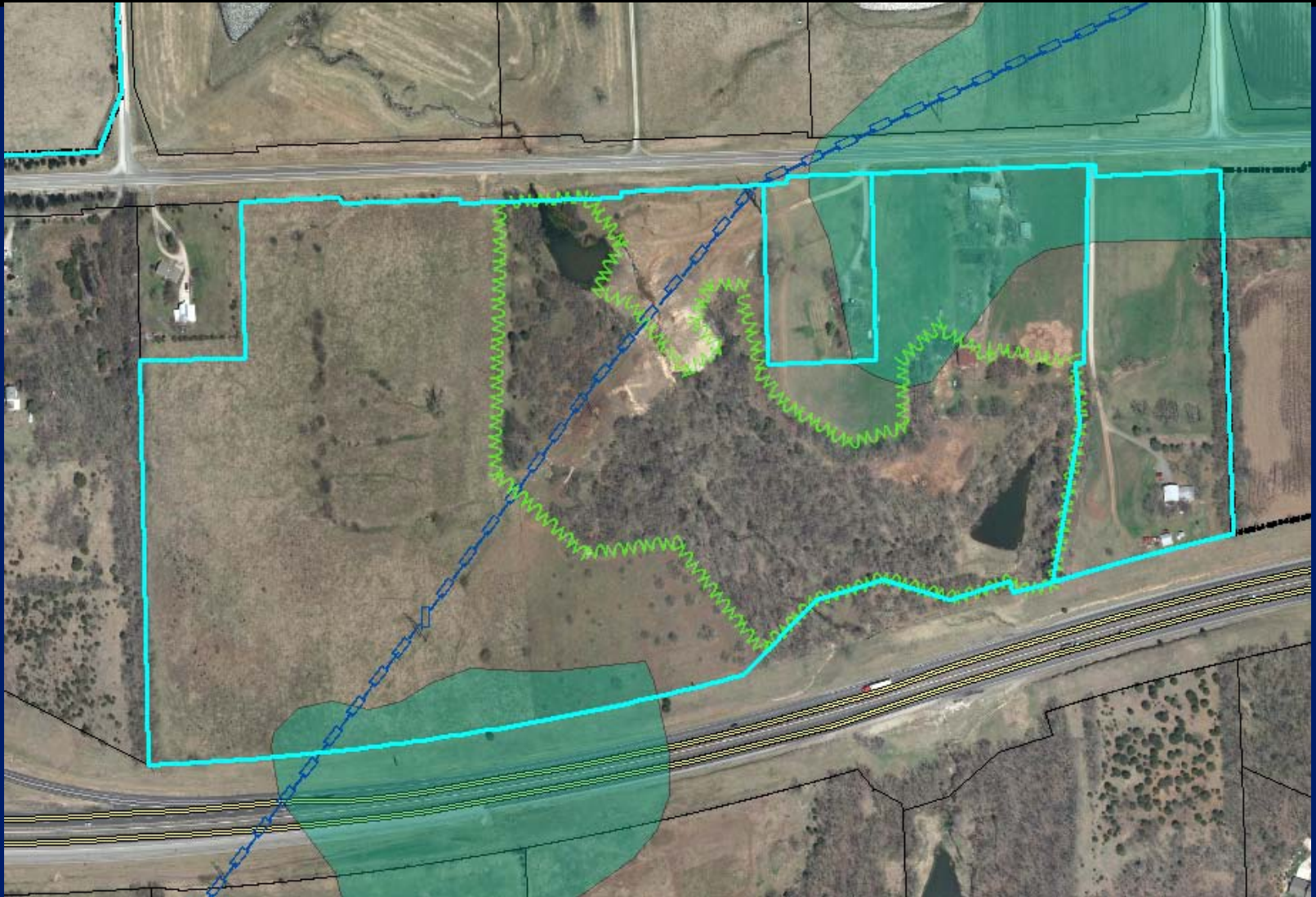
Property Features





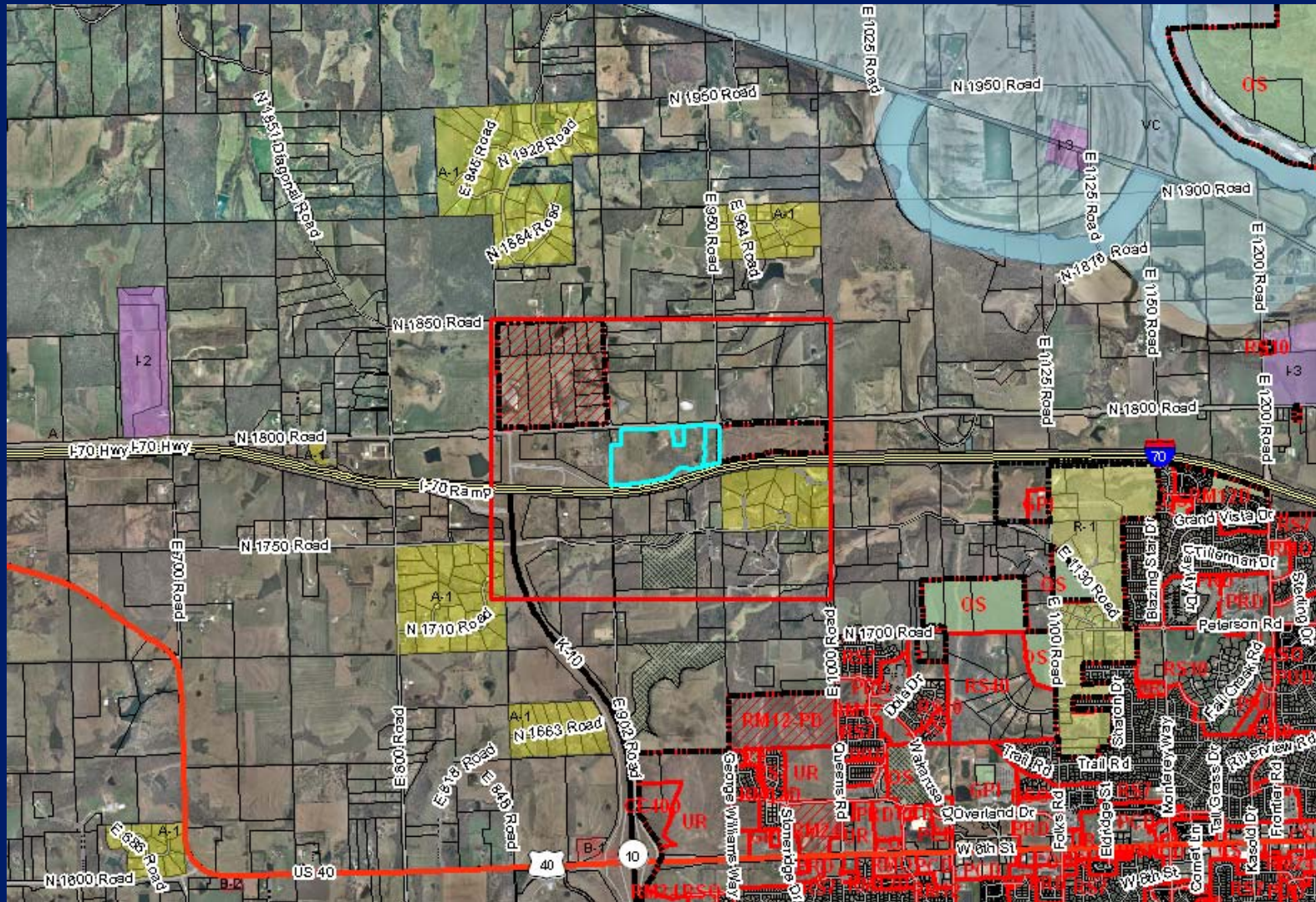
A-3-1-11 / Z-3-8-11

Property Features





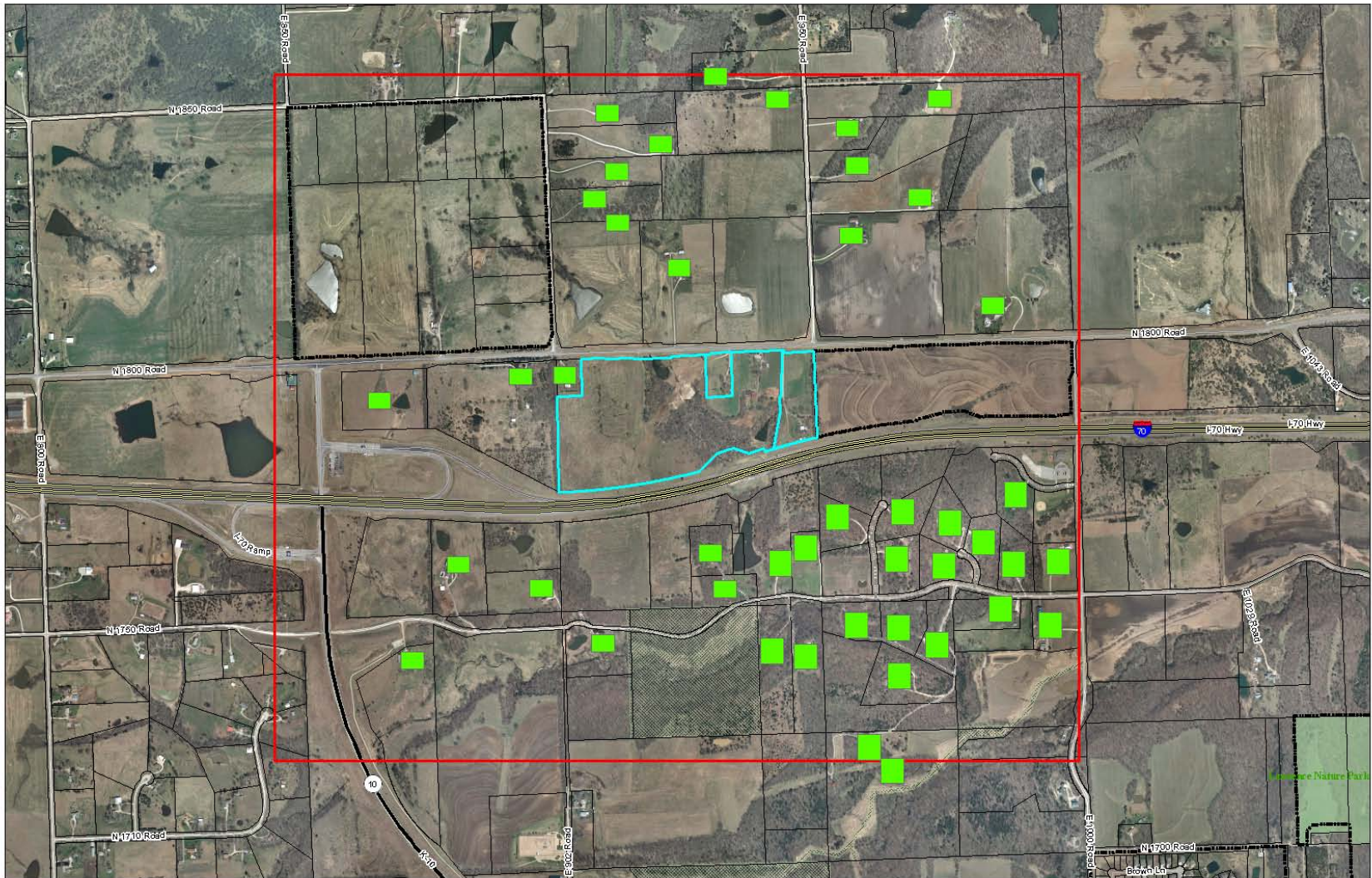
A-3-1-11 / Z-3-8-11 Surrounding Land Use





A-3-1-11 / Z-3-8-11

Surrounding Land Use



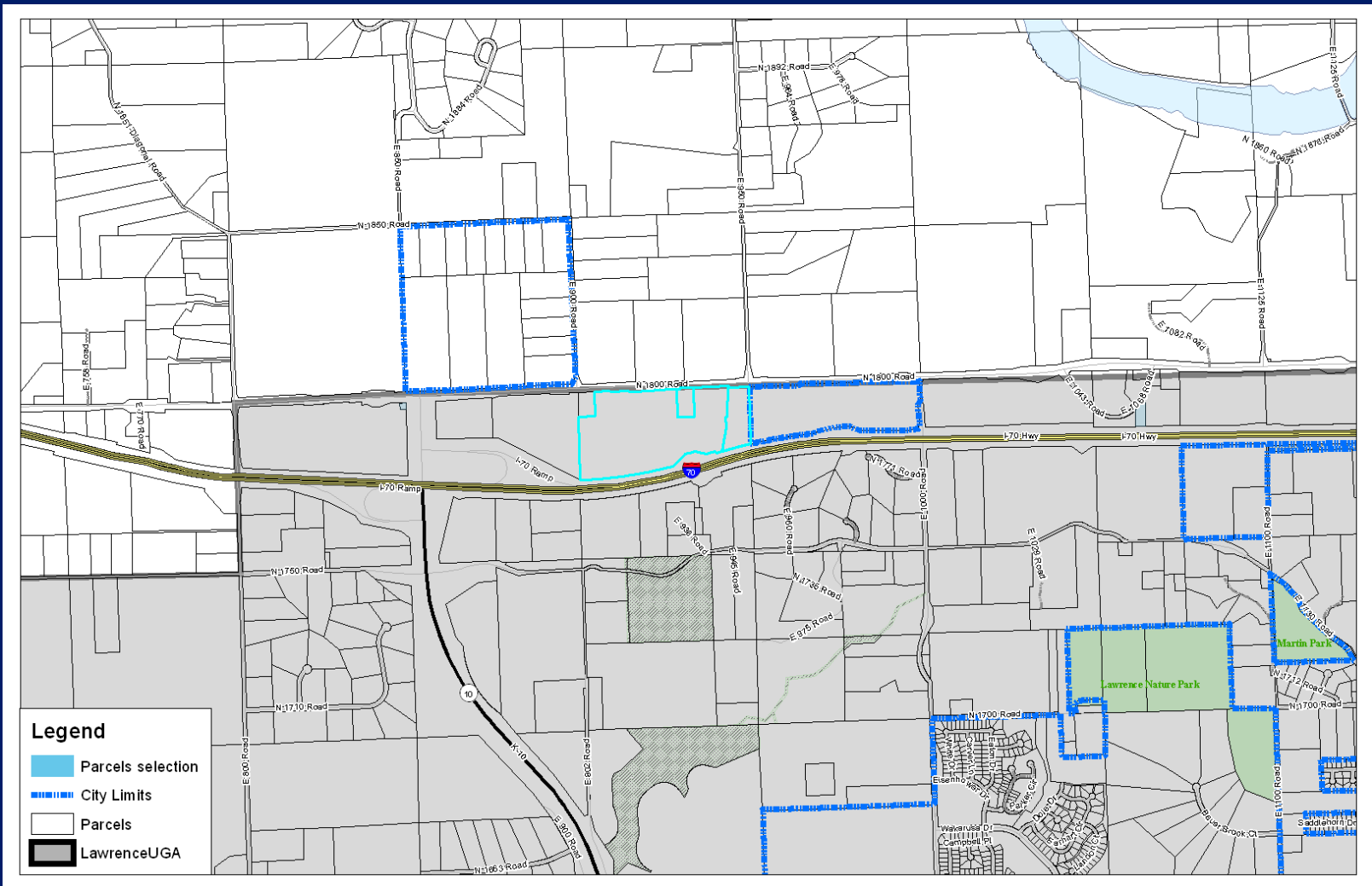


A-3-1-11 / Z-3-8-11

Annexation – A-3-1-11; 69 acres

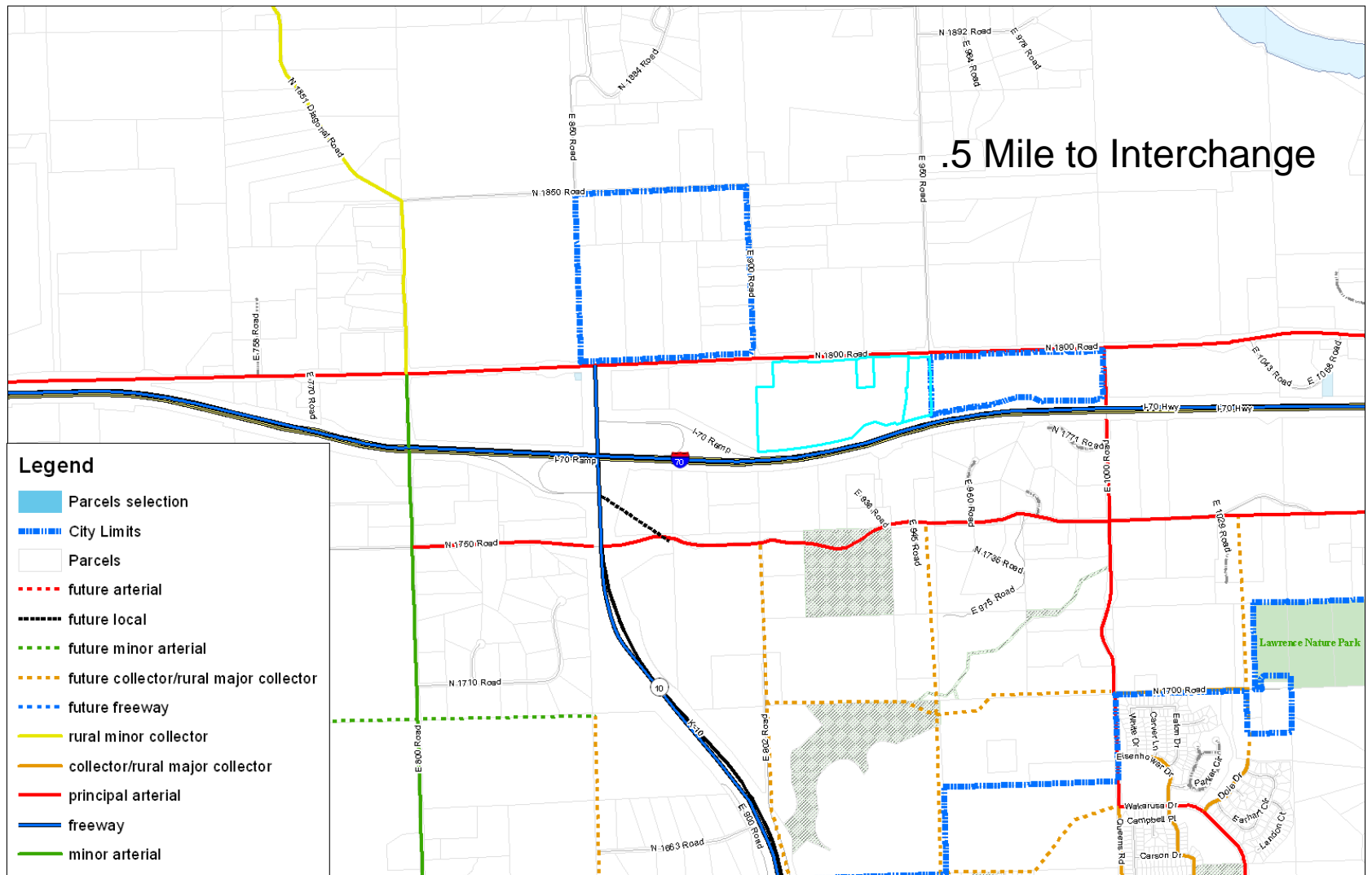


A-3-1-11: Urban Growth Boundary



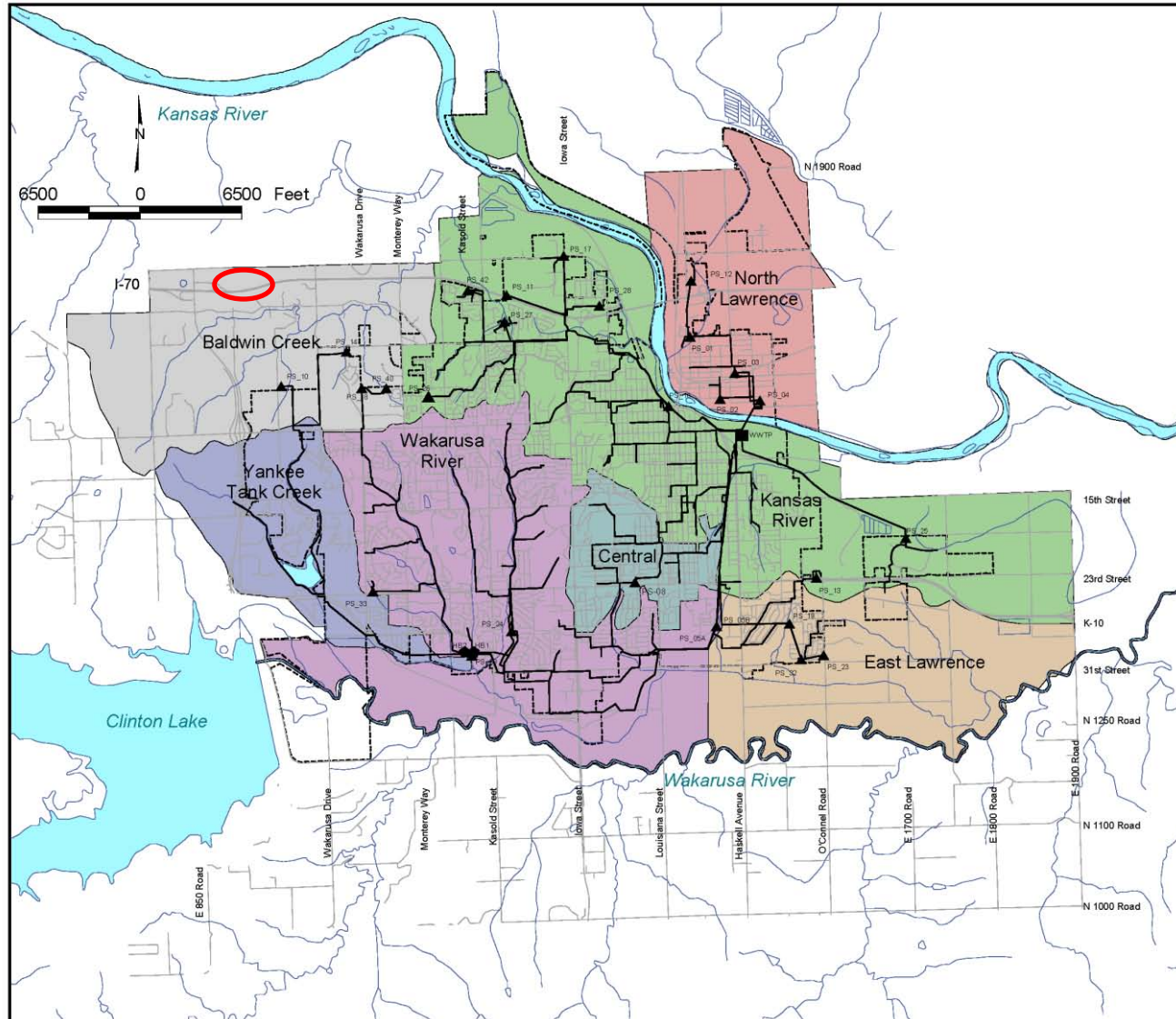


A-3-1-11: Future Thoroughfares





A-3-1-11: Sanitary Sewer



City of Lawrence, Kansas
Wastewater Master Plan
2003



Legend

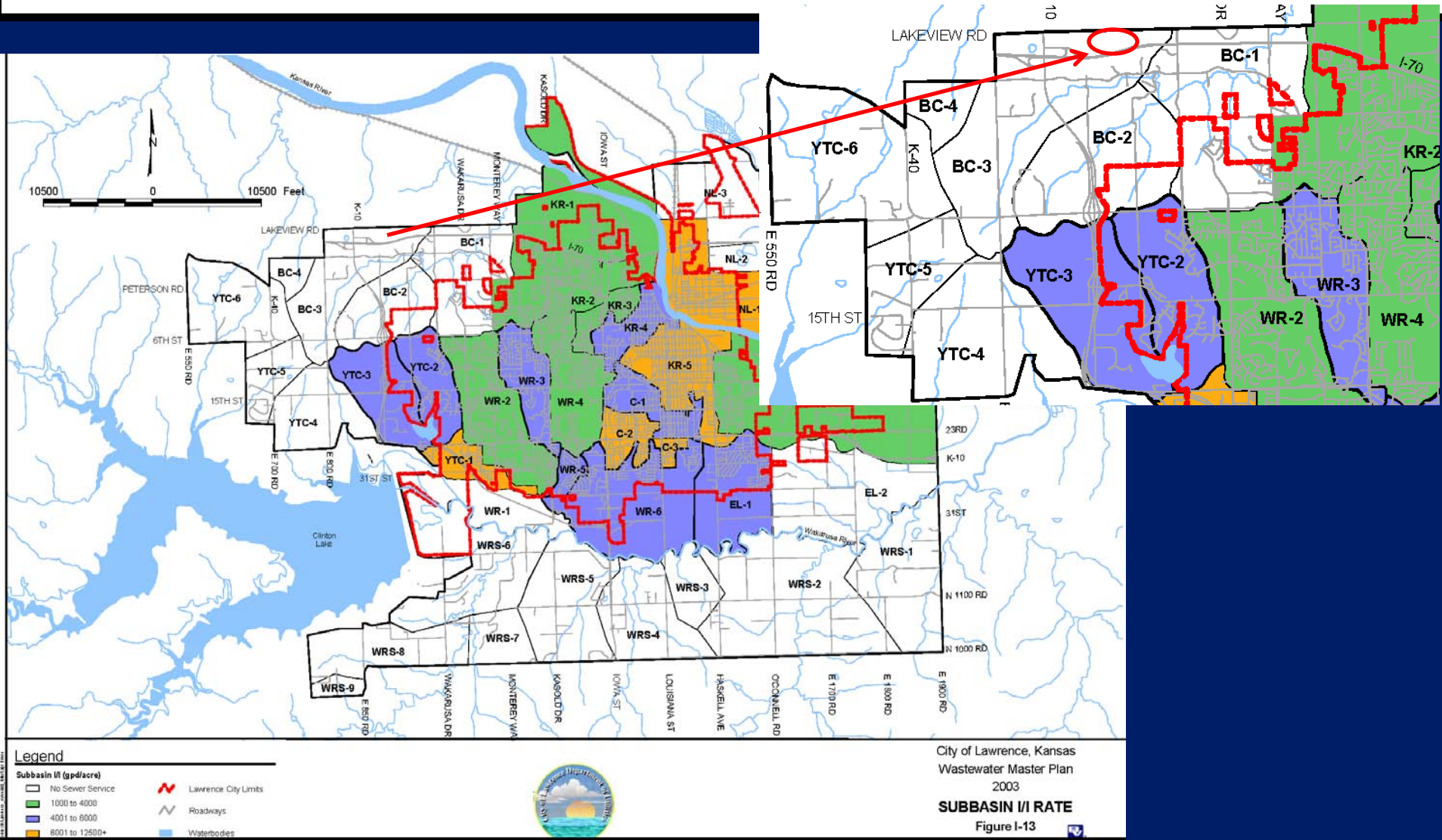
- Existing Pipes
- Existing Facilities**
 - Holding Basins
 - Lift Station
 - WWTP
- Basins**
 - BC-Baldwin Creek
 - C-Central
 - EL-East Lawrence
 - KR-Kansas River
 - NL-North Lawrence
 - WR-Wakarusa River
 - YTC-Yankee Tank Creek
- Streets
- Existing City Limit
- Waterway

Existing Collection
System Facilities and
Drainage Basins

Figure III-2

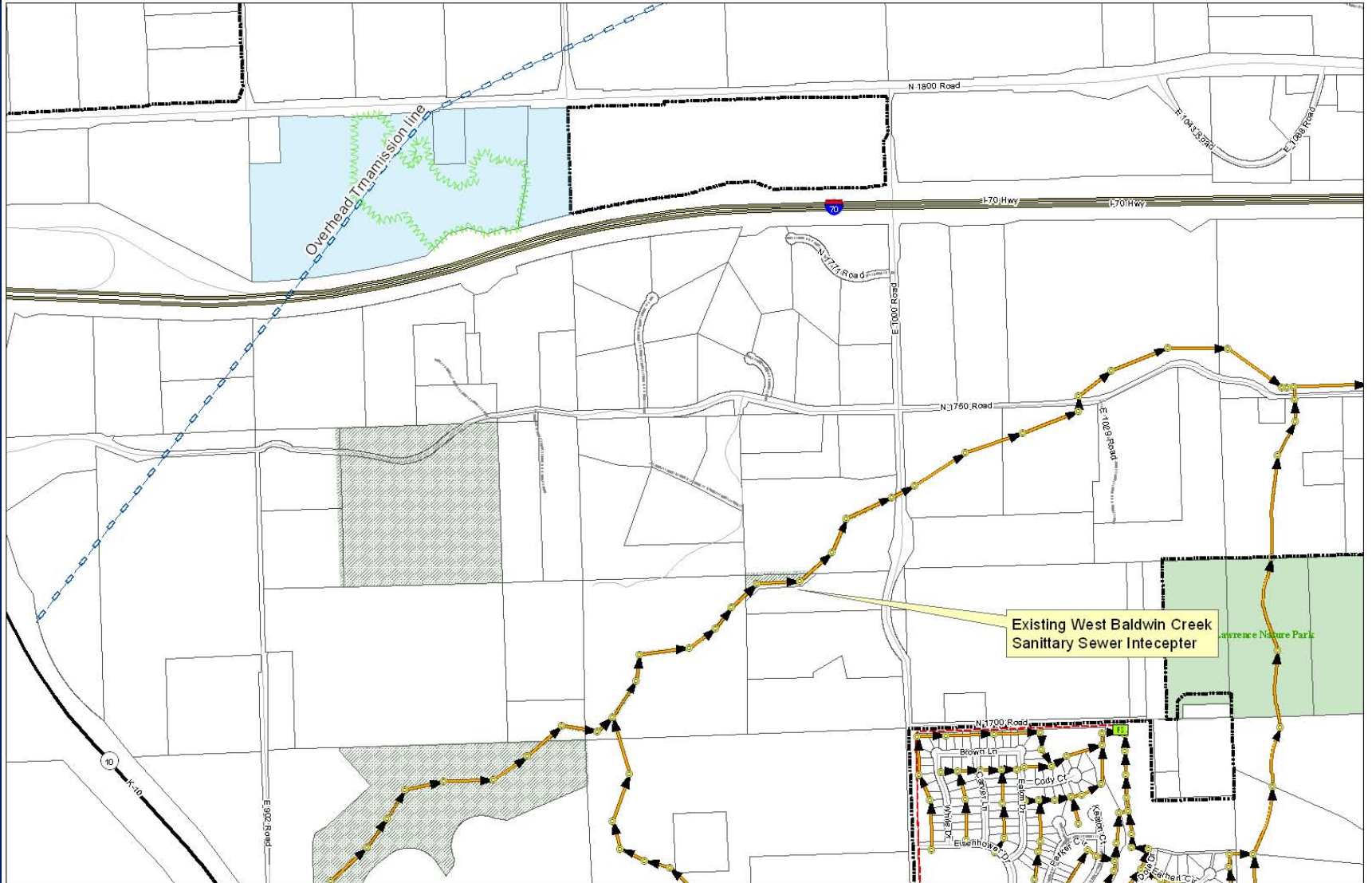


A-3-1-11: Sanitary Sewer



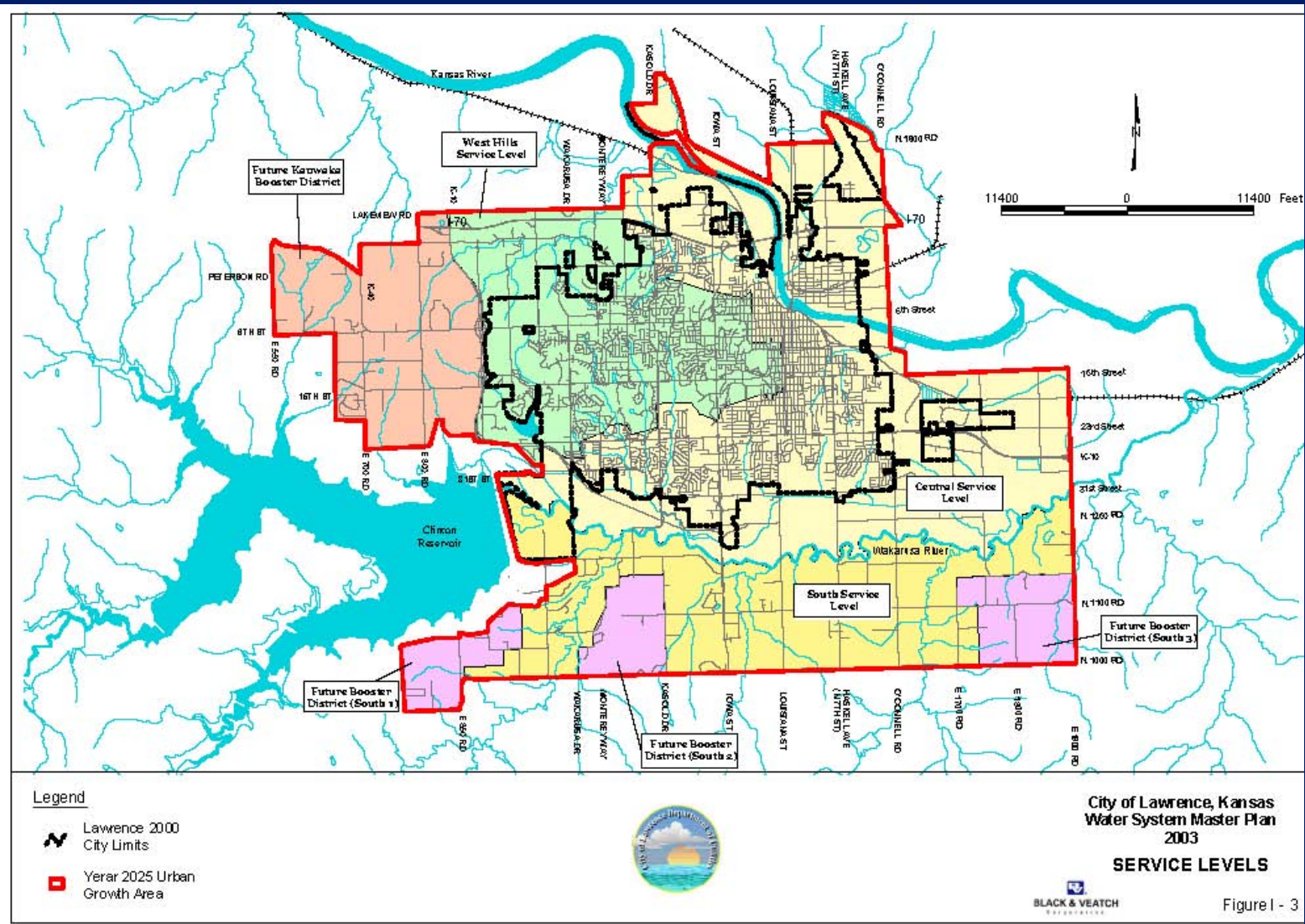


A-3-1-11: Sanitary Sewer



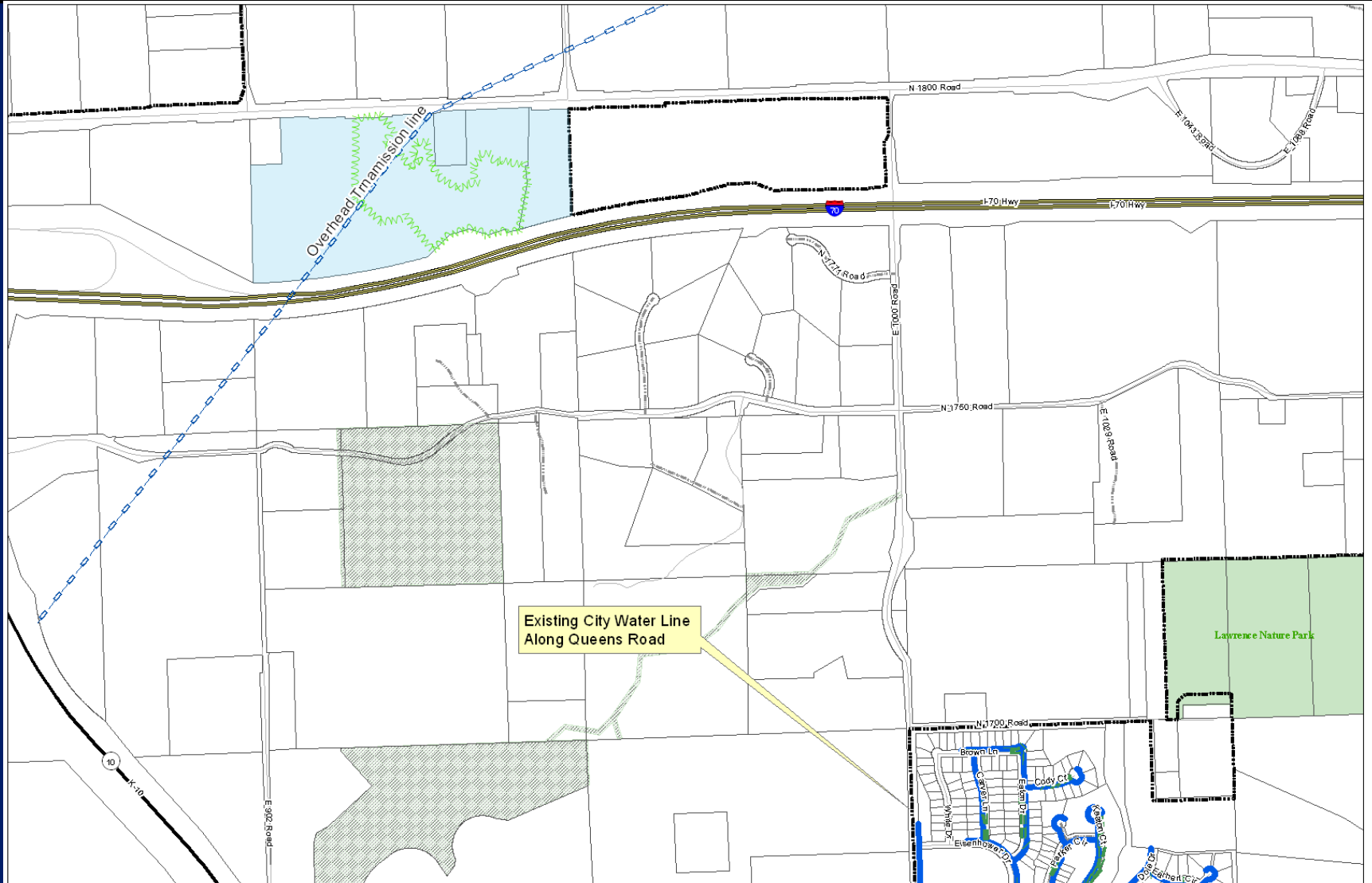


A-3-1-11: Water





A-3-1-11: Water





A-3-1-11: Annexation Policies

Chapter 4 Growth Management

- Lawrence will actively seek voluntary annexation of land within the UGA as development is proposed.
- Annexation shall be required prior to development in Service Area 1 of the Lawrence UGA
- Non-Contiguous parcels of land may be developed subject to the policies of the Comprehensive Plan and upon agreement by the owner to annex at the time the parcel of land becomes contiguous to the City.

Annexation Request

- Request is voluntary by property owner
- Request is located within Service Area 4 of the Lawrence UGA. Currently being updated by City Water and wastewater master plans.
- Plan accounts for non-contiguous development subject to City Policies. There is no immediate development request.



A-3-1-11: Annexation Policies

Growth Management Policy 3.3

“Lawrence and Douglas County should cooperate in management of non-farm land use and **development within the identified annexation areas (UGA)**. This cooperation should specifically address”

1. Recognition **watershed basins as natural boundaries** for defining and regulating future expansions of Lawrence.
2. County approval of development in the UGA **should not occur without** on-site wastewater management systems, rural water service, hard surfaced roadways, and the ability to develop the land without encroachment into environmentally sensitive lands.
3. Road ROW for county subdivisions should **comply with adopted Access Management Standards**
4. **Subdivisions** within City or County should not be approved when lots **front directly onto future arterial streets/roads**.



A-3-1-11: Annexation

Annexation Request:

- Property abuts arterial road network with direct proximity to highway access.
- Annexation facilitates industrial development with proximity to highway access.
- Annexation establishes land use intent for future development.
- Annexation allows development to be contained within the existing Urban Growth Boundary.
- Annexation allows development to be evaluated based on Lawrence City Codes and Regulations



Z-3-8-11

Zoning –Z-3-8-110
County A to IG

Use Group		IBP	IL	IG
Industrial Facilities	Explosive Storage	-	-	P
	Industrial, General Example: Pur-O-Zone Hallmark Cards Allen Press	-	P	P
	Industrial, Intensive Example: Penny Ready-mix Midwest Concrete Hamm	-	-	P
	Manufacturing and Production, Technological Example: Martin Logan M-Pact Microtech Scanning America	P	P	P
	Research Service	P	P	P



Use Group		IBP	IL	IG
Retail Sales and Service	Building Maintenance	-	P	P
	Personal Convenience	-	P	-
	Repair Service , Consumer	-	P	-
	Retail Sales, General O'Riley Pawn Shop Thrift Store Westlake/Orscheln (W/O Exterior storage)	-	P	-
	Food and Beverage Sales	P	-	P
	Construction Sales and Service Westlake/Orscheln	-	P	P
Agriculture	Agricultural Sales Tractor Supply	-	P	P



Z-3-8-11

1. Area surrounded by both County Agricultural zoning and uses and City Industrial Zoning
2. Character of the area transitional with rural residential uses and agricultural activities as well as major a major transportation corridor and highway access.
3. Upon annexation the current county zoning will not be appropriate.



Z-3-8-11

4. Current zoning has been in place since 1966
 - Structures added 1910 to 1980.
 - Interchange completed in mid 1990's.
 - Industrial zoning requests in the area made in early 1990's but were denied
 - Area Plan approved in 2009
 - Similar annexation and rezoning requests made 2009 and 2010.



Z-3-8-11: Zoning

5. Detrimental impact and restrictions

–Development Code Regulations

- Buffering
- Screening

–Subdivision Regulations

–Industrial Design Guidelines *(Adopted Nov. 2010)*



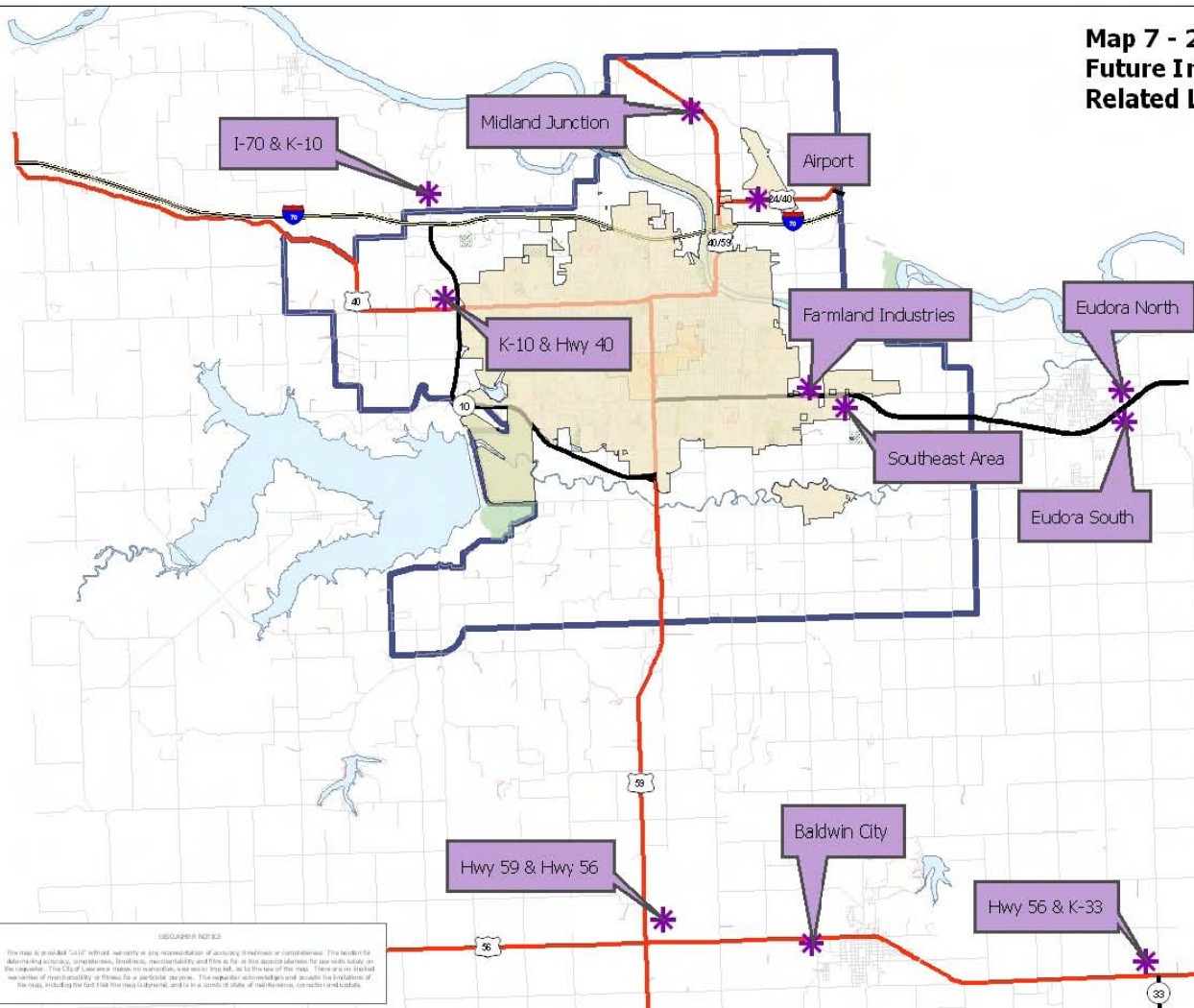
Horizon 2020 Map 7-2

Map 7 - 2, Potential Locations for Future Industrial and Employment Related Land Use

March 2008

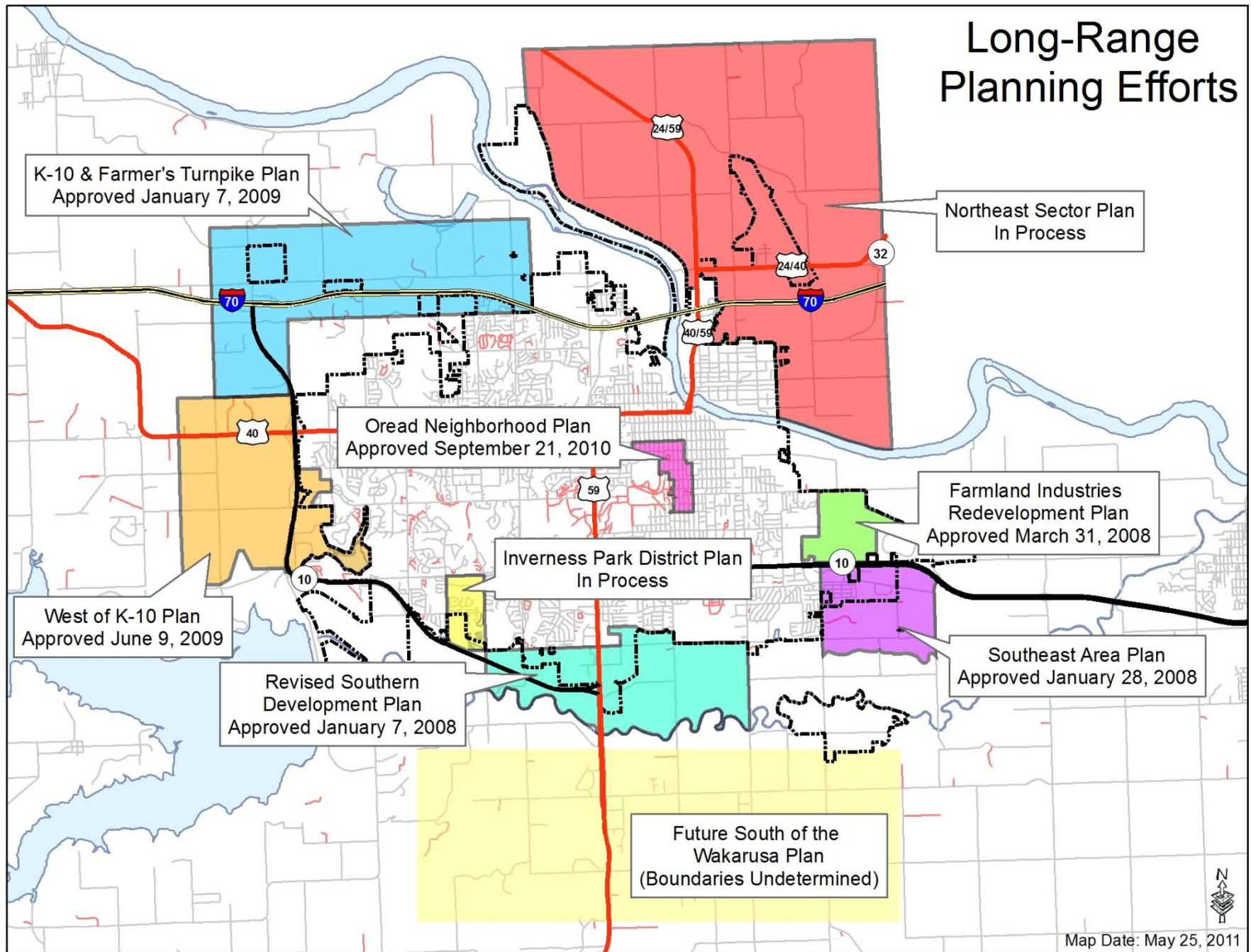
Legend

- Future Industrial Sites
- City of Lawrence
- Urban Growth Area



CARTOGRAPHER NOTICE
This map is provided "AS IS" without warranty as to accuracy, timeliness or completeness. The location for planning purposes, transportation, availability and other use for all other purposes should be verified with the appropriate authority. The City of Lawrence makes no warranty, representation or liability for any use of this map. There are no implied warranties of merchantability or fitness for a particular purpose. The preparer acknowledges and accepts the limitations of the map, including the fact that the map is dependent on the accuracy of the data provided and is not a substitute for a professional survey.

Long-Range Planning Efforts





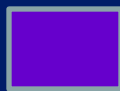
K-10 and Farmer's Turnpike Plan

“The Plan identifies appropriate land uses along an arterial road corridor and a highway interchange that aid in meeting a recognized need for industrial/employment center opportunities that will support the general health and prosperity of the region.”

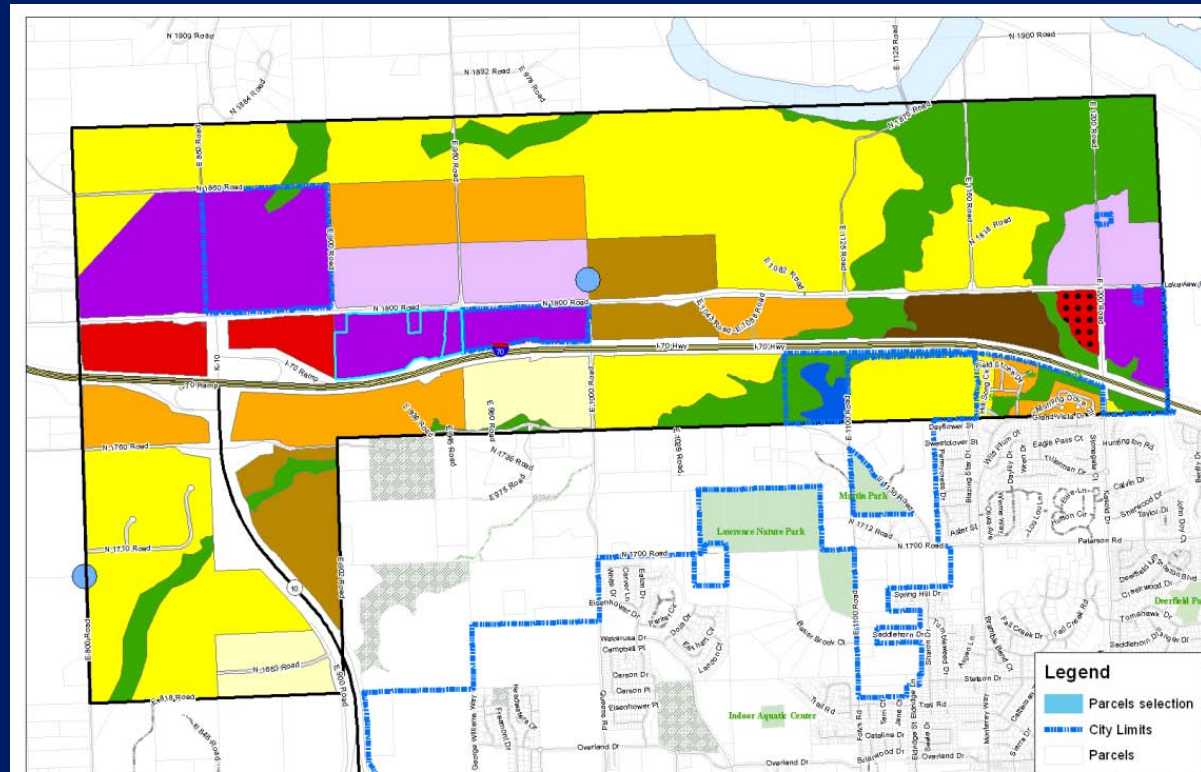
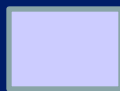
Plan Features:

- Large parcel development
- Minimal slope
- Ideal for industrial and employment development access to highway
- High activity node

Industrial



Office/Research





Z-3-8-11: Zoning

Recommendation: 3.2 Land Use

“The intent of the industrial use is 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.”

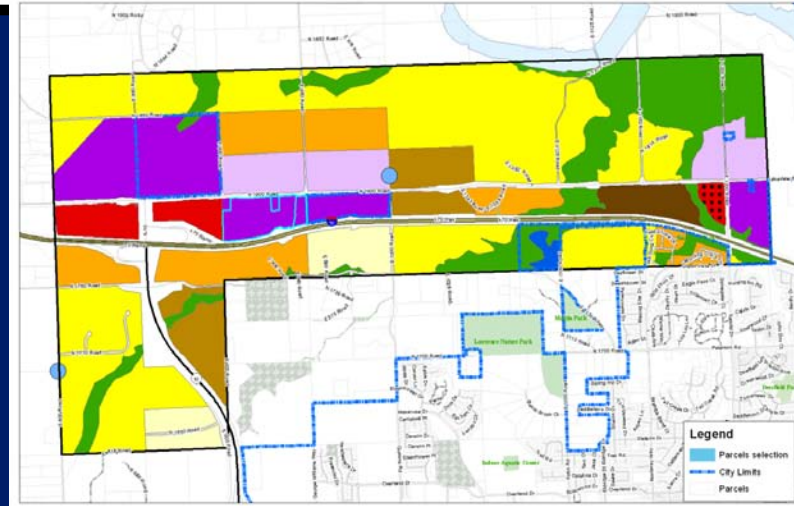


Z-3-8-11: Zoning

Recommendation: 3.2.1.8

Intensity: Medium-High

Applicable Area: N 1800 Rd. (Farmer's Turnpike) on the north,
I-70 on the south,
E 900 Road extended on the west and
E 1000 Road on the east.





A-3-1-11 / Z-3-8-11 Summary

- Location in the Urban Growth Area
- Proximity to major transportation network
- Conformance with *H2020* and Sector Plan
- Industrial uses are associated with long lead time for development
- City engaged in facility planning for water and sewer
- Some industrial users can function with low utility impact.



A-3-1-11 / Z-3-8-11

Staff Recommendations



Staff Findings Annexation: A-3-1-11

Annexation is:

- within the Lawrence UGA
- Consistent with *Horizon 2020*
- Consistent with *K-10 and Farmer's Turnpike Plan*
- *“The annexation will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within the county.”*



A-3-1-11: Annexation Recommendation

STAFF RECOMMENDATION #1:

Staff recommends that the Planning Commission forward a recommendation to the County Commission that they find 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 the Douglas County and that the annexation is compatible with *Horizon 2020* and the *K-10 and Farmer's Turnpike Plan*



A-3-1-11: Annexation Recommendation

STAFF RECOMMENDATION #2:

Staff recommends that the Planning Commission forward a recommendation to the City Commission to approve the requested annexation of approximately 69 acres located on the south side of N 1800 Road (Farmer's Turnpike) and between the extended alignments of E 900 road and E 950 Road subject to the following conditions:

1. Building permits may be issued for the property if the City of Lawrence reasonably determines that either City water or City sanitary sewer service is not required to serve the use or uses on the property, the uses being those that can be served by rural water or on-site sanitary sewer management systems (including, but not limited to sewage storage tanks).
2. The applicant shall execute an agreement not to protest the future annexation of any adjacent rights of way or roadway easements.



Staff Findings Zoning: Z-3-8-11

Zoning is:

- Consistent with *Horizon 2020* and with *K-10 and Farmer's Turnpike Plan*.
- Close proximity to a major transportation corridor.
- The land is presently developed with residential uses and will create a non-conform scenario.
- Development will be subject to City Development Standards.
- Providing additional opportunities for industrial development adding to the City's economic base.



Z-3-8-11: Zoning Recommendation

- **STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request for 69 acres from County A (Agricultural) 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.

Memorandum

City of Lawrence

Planning & Development Services

TO: David L. Corliss, City Manager

FROM: Planning Staff

CC: Diane Stoddard, Assistant City Manager
Cynthia Wagner, Assistant City Manager

Date: March 29, 2011

RE: Annexation of approximately 69 acres

Please include the following item on the City Commission's April 5, 2011 agenda for consideration:

Request to annex approximately 69 acres.

Background:

On March 21, 2011 Steven C. Rothwell, representing several property owners and three parcels, submitted an application for annexation and an application for rezoning property located on the south side of N 1800 Rd (Farmers Turnpike) and between the extended alignments of E 900 Rd and E 950 Rd to IG [General Industrial District].

Per city policy, a request to annex over ten (10) acres should be referred to the Planning Commission for a recommendation.

Action Requested:

Receive annexation request and forward to the Lawrence Douglas County Metropolitan Planning Commission for consideration at their May regular meeting.

The Rothwells
933, 939 & 943 N. 1800 Road
Lawrence, Kansas 66049

May 6, 2011

Dear Neighbors:

Our family owns approximately 69 acres of land between the Kansas Turnpike and the Farmer's Turnpike, near the Lecompton interchange, and we have recently requested that the land be annexed into the City of Lawrence. As our neighbors, we wanted to contact you to let you know about the pending annexation and to request your support of our request. Although the zoning designation for the property will likely change once it is annexed, we have no current plans to develop the property and do not anticipate any actual change in use in the foreseeable future.

Our family has owned the property for nearly 50 years, and our decision to be annexed into the city did not come without serious consideration of the land's present use as rural residences for our families. However, it has become clear to us that the city is moving in this direction and it is only a matter of time before our land is developed. We are pursuing annexation at this time so we can have the option to begin marketing it to potential developers.

You may receive a separate, formal notice from the city, but our request is tentatively placed on the agenda for the Planning Commission meetings on May 23 and May 25. You have the opportunity to participate in the city planning process, and we would truly appreciate your support in writing and at the public meetings.

If you have any questions or concerns about the annexation or rezoning of our property, we respectfully request that you contact us directly to discuss the matter.

Sincerely,

Donald L. Rothwell
(785) 218-8310

Steven C. Rothwell
(785) 843-5081

Timothy W. Rothwell
(785) 766-8550

From: Steve Schwada [mailto:Steve@meadowbrookapartments.net]
Sent: Monday, May 23, 2011 9:59 AM
To: Sandra Day
Subject: ANNEXATION OF 69 ACRES; SOUTHWEST CORNER OF N 1800 ROAD

Lawrence-Douglas County Metropolitan Planning Commission

Dear Chairman Blaser:

Venture Properties owns the property directly east of the subject property. We support the annexation and rezoning requested by the Rothwell family. We believe that it is consistent with the K-10/Farmer's Turnpike Sector Plan and it is consistent with our expectations for our land. We request that you support the Rothwell annexation and rezoning requests.

Thank You

Steve Schwada
Venture Properties, Inc.
2601 Dover Square
Lawrence, Kansas 66049
785.842.4454 office
785.842.2871 fax
steve@venturepropertiesinc.com

May 21, 2011

Dear Planning Commissioners,

The Scenic Riverway Community Association has been before you on two rural island annexation and rezoning issues in the past several years.

For all the previous reasons presented by this neighborhood association, we stand again to say we believe that this is yet another premature annexation request in this area. For all the difficulties of balancing federal, state, and local budgets, etc, it seems inconceivable that distant additional island annexations for the city of Lawrence should be permitted until the tax payers have spoken that they will support the yet unknown costs to deliver and maintain utilities to such requests. There is more land in Lawrence than necessary for “choices” for prospective business opportunities than the city can provide for or find prospects for now and into the near future.

Additionally, the sector plan for this area does not exclusively support IG requests for zoning as the only kind of industrial to be committed to this area. IBP and IL are more consistent with the surrounding rural context while IG remains incompatible with the vast majority of adjacent and surrounding rural residential land ownership.

We ask that you recommend against this annexation. The city is not required to accept every request for annexation. The ongoing lack of cost/benefit analysis and return on investments to the taxpayers for extension of city services continues to be a fundamental basis for denial of the requested annexation.

At a minimum, we request that you recommend against rezoning to IG as it is incompatible with the majority of surrounding land use. There is nothing in the Sector Plan which orders the entire area to be condemned to IG impacts. IBP and IL are alternatives which this group has in private and public venues agreed to accept.

Thank you for your consideration,

Scenic Riverway Community Association

May 23, 2011

My name is Darrel Ward and I live directly across from the Rothwell's on N 1800 Road. Like the Rothwell's, I've lived in the area for most of my life. I grew up on the farm that I'm living on, and I was really hoping I could stay here for many more years. Unfortunately, because of this annexation and the annexations to the south-east and west of us, our dreams of living on the farm and enjoying country life are now in jeopardy. Unless of course, I can somehow convince you that this annexation and rezoning is a bad idea and you vote to deny it.

This is an island annexation. Horizon 2020 clearly states that island annexations are a bad idea, and should be avoided at all costs. The planning staff disregards Horizon 2020's island annexation prohibition by says that because other properties in the area have been annexed into the city this really isn't island annexation. This is just clever word play and the ignoring of facts. These other properties that the staff references were also island annexations which the staff ignored. There seems to be a group think mentality with the planning staff that says if they ignore island annexations long enough, more and more properties will be annexed into the city, and after awhile, they'll be speaking the truth when they say that an annexation isn't an island annexation. The truth however is different. This is an island annexation, and the #1 planning document for the city and county recommends against this type of annexation. It's one thing for the planning staff to ignore Horizon 2020, but it's unthinkable that the planning commission ignores Horizon 2020 as well. I think the planning commission should clear this particular issue up: is the planning commission required to follow Horizon 2020?

The planning document for this annexation mentions the occurrence of Class II soils on the property; in fact Class II soils make up 11.3% of the property. Staff says that the Class II soils on this site "are isolated and in small amounts relative to areas where significant contiguous amounts exist in Douglas County"; what about the Class II soils that make up 37% of the property adjacent to the east? Despite statements in Horizon 2020 about how valuable Class II soils are to the county and how these must be protected, staff says that because there are not as much Class II soils in this area as say, Grant Township, it's OK to destroy these soils. Yes, this isn't Grant Township, but does that really matter? Where in Horizon 2020 does it say that only Class I & II soils in certain parts of the county are worthy of protection? As far as I've been able to find, there is no document that says Class I & II soils in only certain parts of the county are worth saving. Perhaps I've missed something in the documentation, so I'd like the planning staff to clear this up: are Class I & II soils only to be protected in certain parts of the county?

As per the staff memo, this proposed annexation does not meet the requirement for utility infill as mentioned in the Comprehensive Plan; the Comprehensive Plan specifically recommends annexation of "areas which are needed to complete sewer or water line extensions for a closed loop system" per Growth Management Goal 3, Policy 3.2.a.

The applicant's letter to the neighbors makes reference to building and development activity in the area that indicates that Lawrence is moving this way and the time is right for him to be annexed into the city. I've seen no proof of building and development activity in the area. We've spoken with McGrew Reality several times in the past four years about development activity in this area, and they continue to tell us the same story: there are no sales, no purchases, and no inquiries. Does the Chamber of Commerce know something that McGrew doesn't? Is McGrew really so far removed from the real estate market in this area that they don't know what's going on? I think not.

The planning commission will note that I live directly across from the applicant. Prior to moving to my current home, my parents lived on this property since 1964, so I've got an idea of what's been happening in the neighborhood. What is this activity and where is it? The only thing going on that I've seen is the land adjacent to his property on the east being annexed and rezoned. I really don't think the annexation and rezoning of a 51 acre parcel proves that the city is moving any closer. Where is the proof that the city is moving out this way? I'd like the planning staff to answer this question:

what development (extension of utilities, improvement of roads, etc) has happened in this area in the last two years to indicate that Lawrence is moving closer to this area?

While we're on the subject of proof of intent of development, let's talk about Beth Johnson and her role in promoting this area for development. As far as I can see, the only people talking up development in this area are a certain developer, and Beth Johnson. What is Beth's incentive for promoting the annexation, rezoning, and sale of land in this area? Does Beth Johnson benefit financially from the sale of land? Some have questioned whether Beth has a conflict of interest regarding sales of property, so I'd like to have Beth address this question: Does Beth Johnson get a commission (or other financial incentives) from the sale of industrial property?

This isn't the first time that Beth has come before the planning commission to speak of the need for industrial land near I-70. Once again, where is the proof of intent that companies are looking for land in this area? As far as I can see, it's all anecdotal and unsubstantiated evidence given by Beth Johnson and Tom Kern. When is the last time someone asked about land in this area? When is the last time that Beth showed someone property in this area? And who instigated the conversation about land near I-70: the potential customer, or was it Beth Johnson? Lastly, where do Beth Johnson's allegiances lie: with the community, the Chamber, or the developers?

Who will provide fire, police, and ambulance service to this property if something happens? There is no agreement in place with the police department, the fire department, or the ambulance service to provide emergency services to this property if it is annexed. According to planning staff, they are hopeful an agreement can be reached with the appropriate parties. Also there is no timetable for the above mentioned agreement. Am I the only one who thinks that something like police, fire, and ambulance service should be lined up prior to annexing a property two miles from the city limits? What is the role of the planning commission in deciding whether arrangements for emergency services are necessary prior to annexation? Are you really going to allow property that has three residences on it to be annexed into the city without arranging for police, fire, and ambulance service?

In conclusion, the annexation and rezoning of this property is a bad idea. Horizon 2020 speaks out specifically against it. Horizon 2020 also speaks out for the protection of Class I & II soils, as they are a valuable commodity. This annexation does not meet the Comprehensive Plan requirements as per Growth Management Goal 3, Policy 3.2.a. Despite what the applicant says, there's no proof that the city is moving any closer to the area. All we have is anecdotal and unsubstantiated evidence presented by Beth Johnson that companies have been interested in the past in this area, but there is some uncertainty of whether or not Beth has a financial interest in seeing properties in this area sell. In fact, a major realtor in the Lawrence area says there is absolutely no real estate activity going on in the area. Lastly, there are currently no agreements in place to provide police, fire, and ambulance service to the three residences on the property.

I respectfully ask the planning commission to support and uphold the development guidelines as put forth in Horizon 2020 and deny this annexation request.

Thank you,

Darrel Ward

-----Original Message-----

From: Ken Ward [mailto:kenward1000@mac.com]

Sent: Monday, May 23, 2011 9:47 AM

To: Sandra Day

Subject: Rothwell annexation and rezoning comment

Dear Sandra Day,

My name is Ken Ward and I own property directly across from the Rothwell's on N 1800 Road.

1. Thank you to the planning commission for listening to the voices of the property owners
2. There is still no evidence that any development is occurring in this area, confirmed by speaking with a prominent Lawrence real estate agent. The loudest voices in favor of island annexation are coming from developers and their attorney, both of whom have a huge vested financial interest in the outcome. The people who want to live in a rural atmosphere are being ignored in favor of the voices with the largest bank accounts.
3. My hope is that the planning commission affirms and continues to follow the guidelines of horizon 2020.

Regards,
Ken Ward

ITEM NO. 14A ANNEXATION; 69 ACRES; SOUTH SIDE OF N 1800 RD & BETWEEN E 900 RD & E 950 RD (SLD)

A-3-1-11: Consider an annexation request for approximately 69 acres, located on the south side of N 1800 Rd (Farmers Turnpike) and between the extended alignments of E 900 Rd and E 950 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.

ITEM NO. 14B A TO IG; 69 ACRES; 933, 939, & 943 N 1800 RD (SLD)

Z-3-8-11: Consider a request to rezone approximately 69 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.

STAFF PRESENTATION

Ms. Sandra Day presented items 14A and 14B together.

Commissioner Dominguez asked what percentage of the property was type I and II soils.

Ms. Day said there were no type I, only type II soils, and that she did not do that analysis.

Commissioner Liese asked if an Urban Growth Area was legally defined.

Ms. Day said it was very specifically defined in Horizon 2020.

Commissioner Liese asked if this was within 3 miles of Lecompton.

Ms. Day said no.

Commissioner Liese asked if the Urban Growth Area expanded with annexation.

Ms. Day said no, it would require a change in the future to the Urban Growth Area.

Mr. McCullough said it was already initiated in a Text Amendment that was deferred until the water and wastewater master plans were completed.

Commissioner Harris inquired about the criteria to evaluate *'...hinder or prevent the proper growth..'*

Ms. Day said the legislation did not give any more guidance than that. She said annexations were evaluated based on policies in Horizon 2020.

Mr. McCullough said the County looks at whether it hinders or prevents the proper growth. He said staff interprets the statute to require the County to act as an arbitrator of whether a request to annex in one city would impact another city. He said in this circumstance there were well defined growth boundaries and planning documents that helped give guidance about whether something in that area of the county would be appropriate in Lawrence.

Commissioner Harris asked if the findings of fact would be the planning documents and the fact that no one from other cities came tonight to say that this would impact their city negatively.

Mr. McCullough said those would be appropriate findings. He said also the finding that Lawrence was planning for infrastructure in that area and no other city was.

Commissioner Harris inquired about the language of one of the conditions regarding building permits.

Ms. Day said the conditions with this request were identical to what they have seen previously. She said in some ways it would be easier to get sanitary sewer to the property than water so the interim ability to use an agreement with the Rural Water District to provide water service could be an option. She said depending on what the end user was they may have to have sanitary sewer, but may be able to do on-site as well.

Commissioner Harris read part of the condition '*...the uses being those that can be served by rural water or on-site sanitary sewer...*' She thought there were no plans in the near future to extend services until the area in between was developed.

Ms. Day said there were no near plans. She said they did a general assessment of what could or would be needed.

Commissioner Harris asked if the City would pay for the sewer line.

Mr. McCullough said that was undetermined. He said there were different financing mechanisms that would help finance the infrastructure and that it would have to be completely analyzed and determined for opening up an area or specific property.

Commissioner Rasmussen inquired about the long term effect of this provision. He asked if it would always run with the land. He also inquired about being able to get building permits.

Mr. McCullough said the intent was not to allow the user to perpetually go without City services. He said the intent was to have an interim plan established until City services were extended to the area.

Commissioner Rasmussen asked if the provision meant only prior to the extension of City water and sanitary sewer service.

Mr. McCullough said that was the intent of that provision.

Commissioner Culver said regarding an earlier question from Commissioner Dominguez, that type II soils made up 11.3% of the property, according to the staff report.

APPLICANT PRESENTATION

Mr. Matthew Todd, Barber Emerson, thanked staff for their work. He said the location of the property made for an excellent industrial site. He said there was no specific development plan in place but the applicant was asking to be annexed into the City and to be rezoned. He said the Rothwell's made multiple efforts to contact their neighbors and get them involved. He said regarding water usage the Rothwell's have been in contact with Rural Water District #6 and received confirmation that the district would be pleased to continue to provide water service if and when the annexation was approved. He said the property was in the Urban Growth Area and that it was a voluntary annexation request which was prioritized by Horizon 2020. He said regarding the earlier concern from Commissioner Harris about the specific findings to whether the annexation would be detrimental to the proper growth and development of the area or any other cities; it would be appropriate for Planning Commission to make certain findings but ultimately the statute directs for the County Commission to make that determination. He said based on the Sector Plan the Planning Commission may be able to make findings that by approving the rezoning they would be facilitating the growth and development in accordance with the Sector Plan, which would be an appropriate growth and development of the area.

PUBLIC HEARING on Annexation

Mr. Dan Brogran, Trust Company of Kansas, said he was the agent investment advisor for the property owner immediately to the west, and that they had no reservations about the rezoning and annexation.

Mr. Don Rothwell, applicant, said he was not looking to move for 3-4 years. He said he would appreciate their recommendation of approval.

COMMISSION DISCUSSION

Commissioner Harris asked if there had been progress on infrastructure planning since the last annexation request.

Ms. Day said it was still being analyzed between City Utilities staff and the consultant who were going through the modeling process. She said there were some discrepancies in some flow data so they had to go back and revisit that which set them back about 90 days.

Mr. McCullough said regarding the Wastewater Master Plan there had not been much advancement in specifically getting sewer and water to the property since they last had a potential user in the area.

Commissioner Dominguez inquired about the issue of island annexation discussed in the letter sent by Mr. Darrel Ward.

Mr. McCullough said the staff report articulated the annexation policies that supported this annexation. He said the goal was to identify areas for industrial, primary job growth, and employment areas, which was seen as high value to the community.

Commissioner Rasmussen suggested additional language to the beginning of condition 1, *'Prior to the extension of City water or City sanitary sewer service,...'*

ACTION TAKEN on Item 14A

Motioned by Commissioner Rasmussen, seconded by Commissioner Singleton, to recommend approval and forward the recommendation to the City Commission for the approval of the requested annexation of approximately 69 acres located on the south side of N 1800 Road (Farmer's Turnpike) and between the extended alignments of E 900 Road and E 950 Road subject to the following conditions:

1. *Prior to the extension of City water or City sanitary sewer service*, building permits may be issued for the property if the City of Lawrence reasonably determines that either City water or City sanitary sewer service is not required to serve the use or uses on the property, the uses being those that can be served by rural water or on-site sanitary sewer management systems (including, but not limited to sewage storage tanks).
2. The applicant shall execute an agreement not to protest the future annexation of any adjacent rights of way or roadway easements.

Motion carried 8-1, with Commissioner Harris voting in opposition.

Motioned by Commissioner Singleton, seconded by Commissioner Liese, to make a recommendation to the County Commission that they find 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 the Douglas County and that the annexation is compatible with Horizon 2020 and the K-10 and Farmer's Turnpike Plan.

Motion carried 9-0.

PUBLIC HEARING on Rezoning

Ms. Beth Johnson, Lawrence Chamber of Commerce, stated Lawrence needed more industrial sites. She said Topeka added 1,000 acres of industrial space in the past year with a new business park that they purchased with money through their economic development funds that were put aside each year. She said Topeka gives land away for free to companies and also gives them a check to move their company. She said Lawrence could not begin to compete with that because Lawrence did not have property zoned correctly or infrastructure in place. She said in 2010 the Chamber saw five different opportunities come to them for land along I-70. She showed on the overhead two letters that came to the Chamber in the past two weeks that were specific requests for industrial sites.

Mr. Darrel Ward requested the rezoning be tabled. He stated he did not receive proper notification for commonly owned property. He said his brother received notification, he and his wife received notification, but the commonly owned property did not receive notification. He referenced the Kansas State Statute regarding notice requirements.

Commissioner Singleton asked who the four joint property owners were.

Mr. Ward said himself, his brother, his sister, and his nephew. He expressed concern about inconsistency with notification.

Commissioner Liese asked what Mr. Ward was requesting.

Mr. Ward requested that they table the rezoning request. He said at this meeting he was not trying to argue for or against the rezoning.

Commissioner Rasmussen asked if he received notice concerning the annexation.

Mr. Ward said two of the three properties received notice.

Commissioner Rasmussen asked if he personally received notice.

Mr. Ward said he did.

Commissioner Harris asked Mr. Ward when he receives his tax bill from the County who it is sent to.

Mr. Ward said it is addressed to all the property owners and is sent to his mailing address.

Commissioner Dominguez asked if he wanted to defer the rezoning and then come back and argue against it.

Mr. Ward said he would like it tabled until notification was given. He said the biggest issue was that notification was not provided as per statute.

Commissioner Singleton asked if he discussed it with his sister or nephew.

Mr. Ward said no.

Mr. McCullough said the state statute required newspaper legal notification, sign posting, and mailed notice. He said the intent was to get broad notice out to the stakeholders affected by a zoning application. He said the County Clerk provided a certified property ownership list and it would seem to indicate all the property owners were notified that were required to be notified by statute.

Mr. Ward said there was inconsistency with the mailed notice because not all of the property owners received notice.

Mr. McCullough said the further intent of wide distribution notice was that people would talk amongst themselves or neighbors.

Mr. Ward said he was not an agent for the Planning office and under no obligation to speak to anyone.

Mr. McCullough said preliminary analysis of the record indicated staff did what was required under state statute.

Mr. Ward said he respectfully disagreed.

Ms. Gwen Klingenberg said she was having trouble with the concept that IG was a better product because it had more available. She said she went through the Code and found that IL had 21 more uses than IG. She said IG had uses that they probably would not want, such as explosive storage, industrial intensive, and mining. She said the idea of possibly putting a hotel at this location would do a lot more for the City than just something an IG could. She thought they needed to consider whether they wanted IG or IL. She was in favor of IL because she liked the hotel idea. She said when it came to policy making there needed to be balance. She said the neighborhood was not against IL, they were against IG.

Commissioner Harris asked what her understanding was of what was considered industrial intensive.

Ms. Klingenberg said anything that was obnoxious, major light pollution, major smell pollution, anything dangerous, chemical storage, mining, etc. She did not feel this corner would be appropriate because it was a major center into the community and into Lecompton.

COMMISSION DISCUSSION

Commissioner Rasmussen inquired about why IG was requested.

Mr. Todd said if the property was annexed into the City it needed some sort of City zoning designation. He said IG came from the Sector Plan which already evaluated what the appropriate uses for the area would be. He said at this point in time a specific use for the site was unknown so it would enable the property owners to promote the property adequately and for the Chamber to bring in companies interested in stimulating the economic development of the community. He said there was certainly opportunity for uses in the IL category that also fall in the IG category but at this point in time until a specific use was known or a specific user was interested in the property it needed to have some sort of general industrial zoning classification in order to open it up for potential uses. He said regarding the issue of notification, the certified list from the County Clerk's office did have three separate tracts owned by the Ward family but they all had the same mailing address.

ACTION TAKEN on Item 14B

Motioned by Commissioner Liese, seconded by Commissioner Singleton, to approve the rezoning request (Z-3-8-11) 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.

Commissioner Dominguez said there needed to be a tax base to support nice amenities for the community. He stated he hated for that scenery to go away but that he would support the motion.

Commissioner Harris said she agreed this was a good place for industrial but was uncomfortable with how quickly they were moving toward putting infrastructure there. She said the Comprehensive Plan cautioned against doing that because it was not good for the community to pay for that. She said if there was another mechanism or language in the Comprehensive Plan that said industrial parks would use different rules she would feel more comfortable approving this. She said she would vote against the motion.

Motion carried 8-1, with Commissioner Harris voting in opposition.