

Date: 2/14/2005
To: Mike Wildgen
From: Chad Voigt
cc: David Corliss, Chuck Soules, Terese Gorman
Re: Meadows Place Subdivision, Tract A



This memo addresses the December 16, 2004 letter ([letter](#)) to the City Commission from Price Banks, attorney representing Meadows Place Homeowners Association.

Location

Meadows Place Addition is a 67-lot Planned Residential Development ([PRD1990](#)) located northeast of the intersection of 31st Street and Kasold Drive ([MAP1](#)). Development of this property required major earthwork to raise the houses out of the floodplain. The developer obtained state permits to fill the floodplain and modify the stream. Tract A covers the portion of the development that had to be left open for floodplain management.

Recorded agreements

During the planning of this development, homeowners on Atchison Avenue raised concerns about increased flooding. In response to those concerns, the developer agreed to mow and maintain Tract A to maximize water flow. That agreement is stated on the approved development plan. The developer later passed those responsibilities on to the homeowners association in the recorded covenants. This issue was discussed by the Planning Commission ([PCJul90](#)) and City Commission ([CCAUG90](#)).

The recorded covenants ([covenants](#)) state that association fees will be collected for the purpose of Tract A maintenance. The homeowners association is responsible for mowing, debris removal and sediment removal within Tract A.

Recent flooding concerns

Residents along Atchison Avenue have contacted Public Works to report that Tract A has not been maintained as originally promised. They are concerned that this contributes to increased flood elevations near their homes. After heavy rains in the summer of 2004 ([photo1](#)) ([photo2](#)), we reviewed the development plan, subdivision plat and homeowners covenants relative to current conditions ([memo](#)).

Findings

Based on recorded documents, Tract A is in need of sediment removal, regrading and mowing. Our review is based on the assumption that the area must be mowed periodically to optimize channel capacity. Current conditions, dense vegetation and standing water, are the result of sediment accumulation. The area needs to be regraded to return it to a mowable condition.

October 2004 Notification

Recorded covenants state that the City must notify the homeowners association when maintenance has been deficient. If the association does not address the problem, the City must initiate maintenance and assess project costs to the association. On October 6, 2004 we notified the Meadows Place Homeowners Association of these requirements ([letter](#)). On October 25, I met on-site with Kenneth McKenzie, homeowner representative, to discuss the notice. We agreed that the work should be completed by March 1, 2005. Mr. McKenzie indicated that he would discuss this at the next association meeting.

Work completed by City crews

The stormwater utility fee, initiated in 1997, provides resources for drainage system maintenance. Administrative policy adopted in 1998 defines where and when those resources are used ([policy](#)). Consistent with that policy, City crews have provided maintenance within Tract A several times. The

sanitary sewer interceptor crossing this property often traps debris in the stream. Public Works periodically removes debris at the sewer crossing as well as several beaver dams along the stream channel. In 2002 Public Works completed a project to remove sediment in the stream channel near Kasold Drive to improve hydraulics at the Kasold bridge ([photo3](#)). City maintenance within Tract A has been directed at large scale system performance and does not relieve the homeowners association of their responsibilities.

Flooding of Tract A - Atchison watershed

Meadows Place Tract A is located at the downstream end of the Atchison watershed ([MAP2](#)), which has a drainage area of 2.8 square miles. The FEMA floodplain through Tract A averages 600 feet in width, including a 300' floodway. Flooding of Tract A should be expected to occur frequently.

Flooding of Tract A - downstream conditions

Flooding within Tract A is directly affected by conditions in Yankee Tank Creek, southwest of Kasold Drive. Yankee Tank Creek has a drainage area of 12.8 square miles, including most of the City southwest of 6th and Iowa ([MAP3](#)). Four major tributaries converge upstream from the culvert at E 1200 Road (Kasold extended) ([photo4](#)). One-half mile downstream from this culvert, Yankee Tank Creek enters the Wakarusa River. Flooding in the Wakarusa River or in Yankee Tank Creek will cause flooding within Tract A and should be expected to occur frequently.

Recommendation

1. In response to the letter from Mr. Banks, we recommend that the City enforce the covenants as written. The Homeowners Association should complete a grading project to return the area to a mowable condition. The Association should mow the area 2 to 3 times each year.

Other Options

2. The City initiates a construction contract to complete the grading project. The City assesses all costs to the homeowners through a benefit district. A survey and plan drawings would be needed for the bid process, so this option would probably be more expensive to individual homeowners. Future mowing would still be a requirement.
3. The City initiates a project to reconstruct the stream system to eliminate the mowing requirement. An updated hydraulic study would be needed. Widening of the main channel would provide increased capacity, allowing Tract A to become overgrown with trees over time. This approach has been taken at 27th and Crossgate ([photo5](#)), and would be consistent with current development standards. Survey, design and construction costs would be considerably higher for this project. All or part of the costs could be assessed to the homeowners. Most of the existing trees would be removed for construction, although subsequent tree growth would be of higher quality. Homes in this area have not flooded, so City participation in project costs would not be consistent with current capital improvement priorities. Removal of the mowing requirement would need to be documented with amendments to the final development plan and review by the planning commission.
4. The City assumes ownership as suggested and bears the cost of either of the previous two options. At a minimum the area would need to be maintained as stated in the current covenants. Ownership and management of this property would not be consistent with long-range plans for Parks or Public Works, and conflicts with current policy. City assumption of these responsibilities would reduce stormwater utility resources available for higher priority projects and is not budgeted in 2005. The transfer of these responsibilities would need to be documented with amendments to the final development plan and review by the planning commission.

PRICE T. BANKS

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P.O. BOX 442341
901 KENTUCKY STREET
SUITE 206
LAWRENCE, KANSAS 66044
785/842-7900
FAX 785/841-2296



December 16, 2004

City Commission
City of Lawrence
6 East Sixth Street
PO Box 708
Lawrence, Kansas 66044

Re: Meadows Place Subdivision Drainage Issues

Honorable Mayor and City Commissioners:

I represent the Meadows Place Homeowners Association.

The purpose of this communication is to respectfully request the City of Lawrence assistance in dealing with the drainage issues.

The Association was notified by letter dated October 6, 2004, from the City Director of Public Works, that the floodway portion of the subdivision, known as Tract A, needed to be cleared of sediment, standing water, dense vegetation and small trees. Meadows Place is a small subdivision (67 lots), and the task is formidable, and frankly, beyond the means of the Association. Tract A provides no particular amenities to the subdivision because it contains no recreation facilities and no other attributes.

Meadows Place is a subdivision of modest, starter homes averaging in value between \$130,000 and \$140,000. Our homeowners are working people and lack the resources to take on a problem that we believe was largely created by upstream properties.

In my estimation, Tract A is larger than the entire area devoted to homesites. Moreover, it lies at the lower end of a drainage basin that extends north over three miles, and drains large areas of relatively intense development. It is my understanding that many improvements have been made upstream from Meadows Place. However much, of the

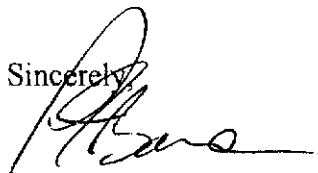
watershed has gone without maintenance and Meadows Place receives the grass clippings, sediment, dead tree limbs, logs and trash from those areas. It is a receptacle for upstream debris.

We sincerely believe that the costs associated with the City mandated cleanup and regrading of Tract A is an unfair burden to place on our homeowners. When Meadows Place was originally platted the City lacked a comprehensive Drainage Plan. Today each of the Meadows Place homeowners pays a stormwater management fee. The following proposal will allow those homeowners to realize a significant benefit from that fee.

We respectfully request that the City of Lawrence accept the dedication of Tract A in fee simple as public open space.

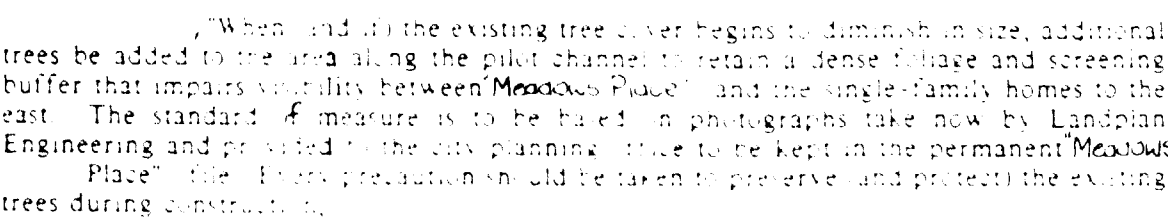
The Meadows Place Homeowners Association would like the opportunity to meet with the Commissioners, at your convenience, and discuss this proposal further.

We look forward to meeting with you on this very important matter.

Sincerely,


Price T. Banks

cc: Chad Voight



DEVELOPERS/OWNERS: ROGER J. & KATHLEEN M. JOHNSON
ROUTE 5
LAWRENCE, KANSAS 66044

LAND AND PLANNING ENGINEER: LAND AND PLANNING ENGINEERING, P.A.
1310 WINDWARD LANE, SUITE 100
LAWRENCE, KANSAS 66044

1. TECHNICAL INFORMATION ON THE ABOVE BY LAND PLANNING ENGINEERING, DECEMBER 1988. (CONTRACT NUMBER: LAP-11-11-13)

2. THIS PLAN IS SUBJECT TO CITY OF LAWRENCE, KANSAS FLOOD PLAN MANAGEMENT REGULATIONS WHICH ARE IN EFFECT AT THE TIME OF BUILDING PERMIT APPLICATION.

3. FLOODWAY AND FLOODWAY HINGE LINES AND OTHER FLOOD PLAN INFORMATION SHOWN ON THIS DRAWING ARE BASED ON INTERPOLATION OF THE FEDERAL FLOOD INSURANCE STUDY FOR CITY OF LAWRENCE, KANSAS, DATED MARCH 2, 1982.

4. FLOODWAY HINGE ELEVATION FOR SITE VARIES. MINIMUM RESIDENTIAL BASE FLOOD ELEVATION IS SHOWN A MINIMUM OF 2 FEET ABOVE SEA LEVEL. ELEVATION SEE PLAN FOR FLOODWAY HINGE ELEVATION ALONG CHANNEL.

5. PUBLIC STREETS TO BE CONSTRUCTED AS PER CITY OF LAWRENCE STANDARDS.

6. ALL PRIVATE DRIVEWAYS WITHIN PROPERTY ARE TO BE CONSTRUCTED AS PER CITY OF LAWRENCE STREET STANDARDS AND PARKING AREAS TO BE PER CITY BASED WITH 2" ASPHALT AS PER CITY OF LAWRENCE STANDARDS.

7. DWELLING UNITS TO BE INTO EXISTING SEWER, GAS AND WATER LINES ADJACENT TO SITE. STORM DRAINAGE TO BE CONNECTED TO EXISTING BARRIDGEWAY ADJACENT TO SITE.

8. DETENTION NOT PROVIDED SINCE SITE IS ADJACENT TO EXISTING CHANNEL.

9. ALL UTILITY LINES TO BE UNDERGROUND.

10. TRASH RECEPTACLES FOR DETACHED HOMES SHALL BE COLLECTED BY CURB SERVICE.

11. THIS DEVELOPMENT PLAN PROVIDES A CONTROLLED DEVELOPMENT OF COMBINED RESIDENTIAL LOCATED IN AN AREA WITHIN THE CITY LIMITS AND WILL PROVIDE A CONTROLLED DEVELOPMENT OF SAID PROPERTY.

12. ALL PUBLIC UTILITIES AND IMPROVEMENTS TO BE PROVIDED THROUGH PRIVATE FINANCING AND TO BE GUARANTEED OR INSTALLED BY OWNERS.

13. EASEMENTS SHOWN ON PLAN SHALL PROVIDE ADEQUATE ACCESS AND UTILITY SERVICE.

14. THE DEVELOPERS/OWNERS HEREBY DEDICATE TO THE CITY OF LAWRENCE THE RIGHT TO REGULATE ANY CONSTRUCTION OVER THE AREA DESIGNATED AS TRACT A WHICH IS COMMON OPEN SPACE AND PROHIBIT THE INDIVIDUAL OWNERS OF THE PARCELS AND ANY CONSTRUCTION WITHIN SAID AREAS AND SPACES INCONSISTENT WITH THE APPROVED USE OR ENJOYMENT OF RESIDENTS, LESSEES AND OWNERS OF THE PLANNED JUD DEVELOPMENT.

15. WATER IN ITS INSTALLATION TO BE COORDINATED WITH PUBLIC WORKS.

16. NO ACCESS SHALL BE ALLOWED onto KASOLD DRIVE FROM ANY LOT SHOWN ON THIS PLAN.

17. THE BARRIDGEWAY MANAGEMENT IN TRACT A AND THE SWALE ALONG THE NORTH PROPERTY LINE SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER.

18. MOWING OF THE AREA FROM THE PROPOSED FENCE TO THE CLUB HOUSE SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER.

19. STREET TREES SHALL BE PROVIDED IN ACCORDANCE WITH THE MASTER STREET TREE PLAN FILED WITH THE COUGLAS COUNTY REGISTER OF DEEDS.

20. RESTRICTIVE COVENANTS FILED WITH THE COUGLAS COUNTY REGISTER OF DEEDS. BOOK PAGE



SCALE: 1" = 200'

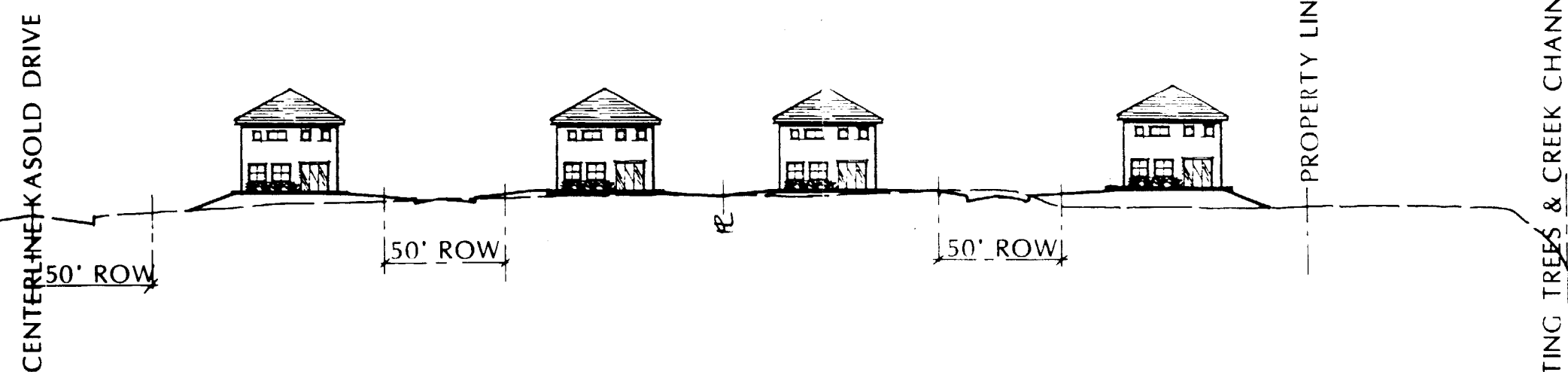
EXISTING ZONING:	PRD-2
PROPOSED ZONING:	PRD-2
EXISTING USE:	UNDEVELOPED
PROPOSED USE:	SINGLE-FAMILY LOTS LUXURY LOTS

BUILDING INFORMATION:			
	Number of Buildings	Height	Ground Floor Area
Single Family Lots	64	1 and 2 story	Approx. 1,400 sq. ft. for standard 1.5 b/w.
Duplex Lots	3	2 story	Approx. 3,200 sq. ft. for standard 1.5 b/w.

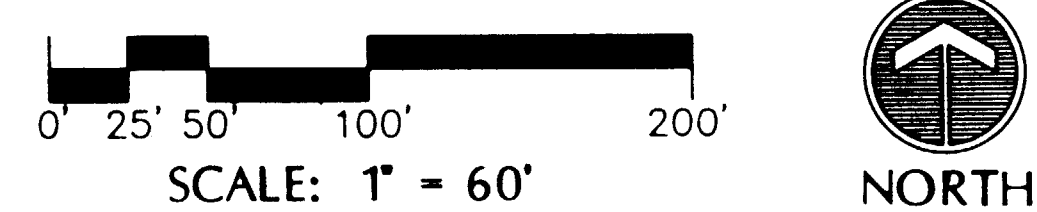
PAIRING:	
Single Family Lots	2/unit required x 64 units = 128 2/unit provided (in 2-car garage) = 128
Duplex Lots	2/unit required x 3 units = 6 2/unit provided (in 2-car garage) = 6

PROJECT SUMMARY:	
Number of Lots	67
Gross Area	13.62 acres (includes 1.89 acres of Kasold Drive right-of-way)
Building Coverage:	2.57 acres (2.0 units x 1,600 sq.ft./unit)
Net Density:	70 dwelling units in 11.73 acres = 5.97 D.U./Ac(=)

SCHEDULE FOR DEVELOPMENT:						
Phase	No. of Units	Time	Total Land Area	Public Right-of-Way	Driveways & Sidewalks	Building Coverage
1	70	Sept. Dec. 1990	13.62 Acres	4.35 Acres	0.80 Ac(=)	2.57 Acres



HORIZONTAL SCALE: 1" = 60'
VERTICAL SCALE: 1" = 30'

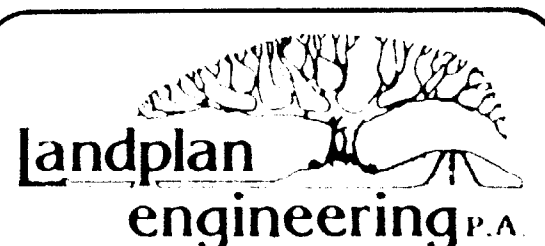
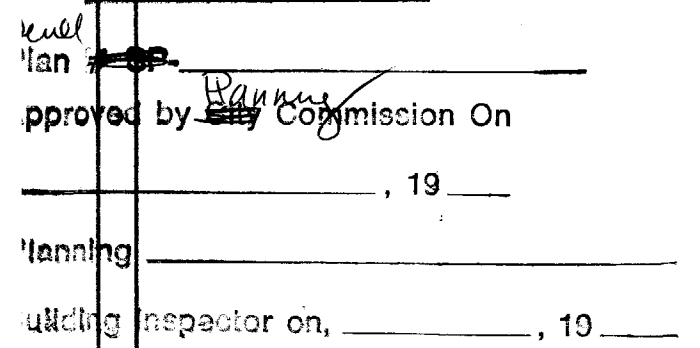


SECRETARY, LAWRENCE - DOUGLAS
COUNTY METRO PLANNING COMMISSION
PRICE T. BANKS

CHAIRMAN, LAWRENCE – DOUGLAS
COUNTY METRO PLANNING COMMISSION
DAVID EVANS



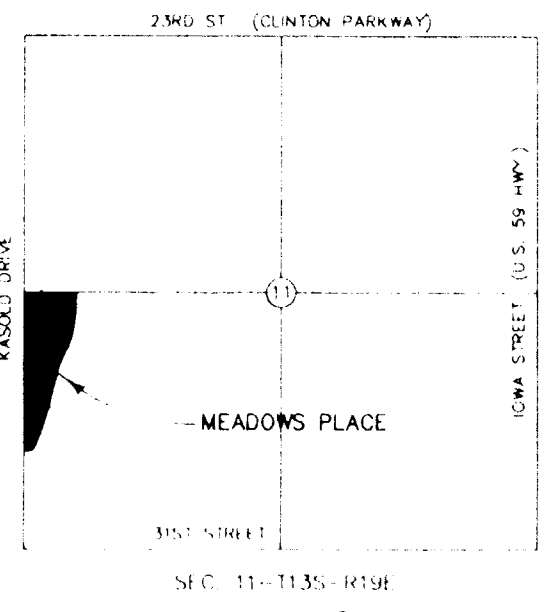
HORIZONTAL SCALE	1" = 60'
VERTICAL SCALE	1" = 30'



- LANDSCAPE ARCHITECTURE
- CIVIL ENGINEERING
- COMMUNITY PLANNING
- SURVEYING

1310 WAKARUSA, SUITE 100
LAWRENCE, KANSAS 66049
(913)843-7530

4701 COLLEGE BLVD.
LEAWOOD, KANSAS 66211
(913)491-1162



LOCATION MAP

PLANNED
RESIDENTIAL
DEVELOPMENT

KASOLD DRIVE
LAWRENCE, KANSAS

PRELIMINARY & FINAL DEVELOPMENT PLAN

REVISIONS

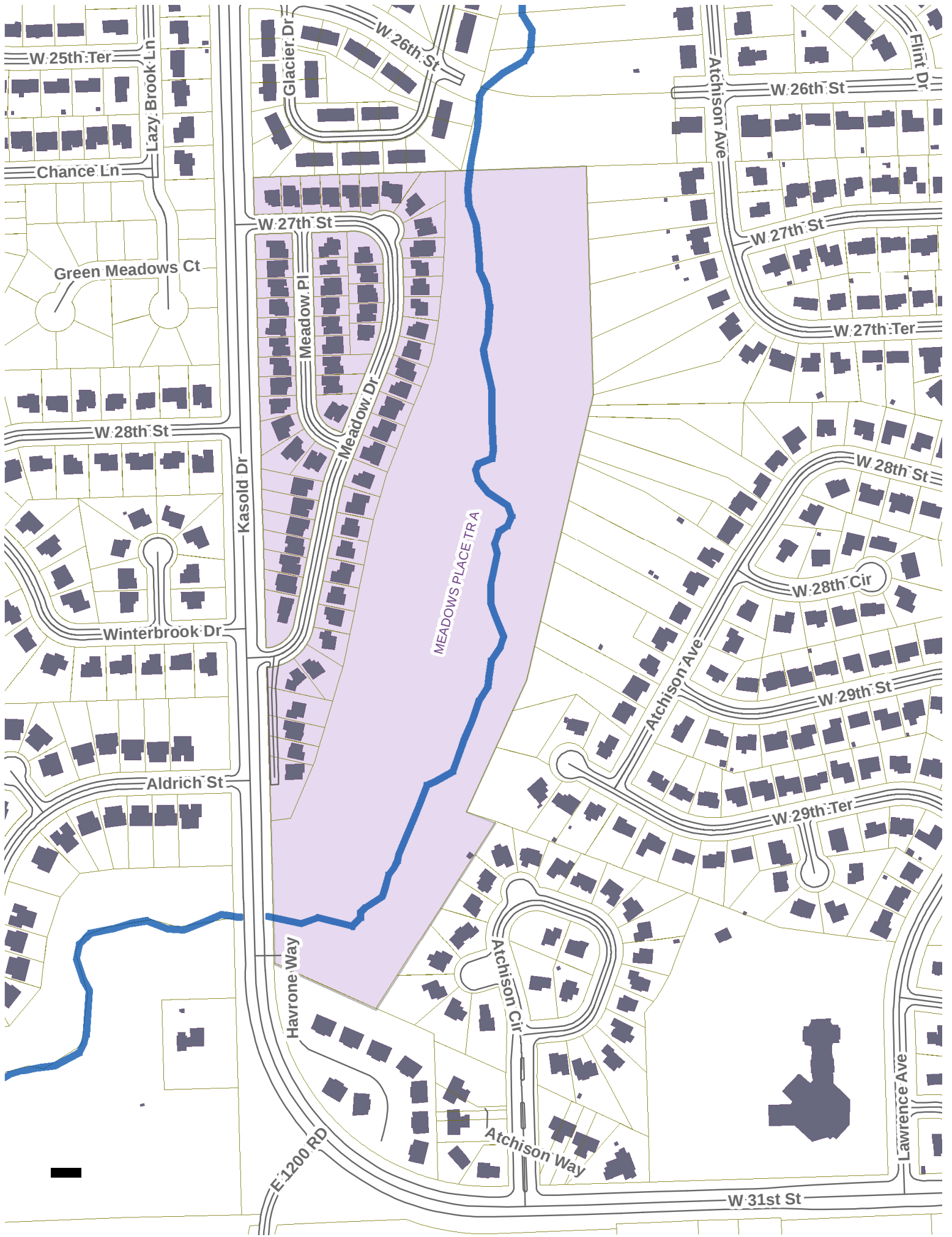
△ 10/19/90 - # OF LOTS DECREASED
FROM 69 TO 67 LOT 67
CHANGED TO DUPLEX LOT PROP
CHANGED FROM RCHG :
FACILITY BASED TO RCHG :
LARGE JOHN ROLL R :
INCREASED FROM 50' TO 60' IN
WIDTH SITE SUMMARY REVISED
TO REFLECT CHANGED PROJECT
NAME CHANGED TO MEADOWS
PLACE

△ 11/19/90 - SAN SEWER ALIGNMENT
ADJUSTED SETBACKS REVISED
TO REFLECT CHANGED PER CITY

STAFF COMMENTS

11/30/90 STAFF REPORT COMMENTS
NOTES 20, 21 EXIST. SITE NO. 10
IS 5' DELETED MIN. PER 5' BEING AS
DATE: JUNE 8, 1990

PROJECT NO.: 90588
DRAWN BY: JRG/KC
CHECKED BY: JRG
SHEET NO. 1 OF 1 SHEETS



Mr. Buhler asked how the city could enforce the pilot channel being kept free of obstruction when title is taken to the different sites over time.

Ms. Finger said they would form a homeowners' association for maintenance of the common open space which the pilot channel is a part of. The City would go directly to the homeowners' association if the channel is not maintained.

Chrm. Evans asked if the variances requested on the plat were the same as those requested for the development plan.

Ms. Finger said no. The first variance requested has to do with the 50' right-of-way. She explained that 60' right-of-way is standard on local residential streets. The Planning Commission has the power to approve a lesser right-of-way in a Planned Unit Development. There was a concern voiced by the Public Works Department/City Engineer about the width of that right-of-way. Staff met with the City Engineer and the applicant's engineer, and the City Engineer indicated she would agree to the 50' right-of-way, but may need an additional 5' or 10' easement where the sanitary sewer parallels the street on the west side (duplex lots). The applicant had agreed to provide that easement. The second variance is from the street tree ordinance which states that trees must be no more than 30' from the back of curb. Because of the topography and placement of utility lines along Kasold, the trees cannot be located both 30' from the back of curb and 8' from all existing utilities. Some of the trees would need to be 45' to 50' from the back of the curb to avoid existing power lines. This variance needed to be made a part of the record. No trees would be lost.

She listed the five recommended conditions for approval on the final plat.

Mr. Judge asked where the channel is.

Ms. Finger said it was shown on the drawing as a squiggly line between the trees.

Mr. Judge asked if the greenspace on the east side of the channel was a part of the applicant's property.

Ms. Finger said a portion of it was. All of the ox-bow areas coming off the detention areas were contained in Tract A.

Mr. Judge asked about condition 3e on p. 8 of the staff report with regard to replacement of trees to maintenance of a dense screen. This buffer was necessary when the development was to be multiple-family on the west and single-family on the east. Was it still necessary? He asked for examples of other developments where this was required.

Ms. Finger said that condition was left in not so much for screening as it was to deter encroachment into the channel and the nature of the floodplain. The channel should be maintained in as natural a state as possible. Staff was staying with the City Commission's recommendations on the channel maintenance.

Mr. Judge asked if the applicant would be required to plant a new tree every time one died.

Ms. Finger said the way the condition is written, they would.

C. APPLICANT PRESENTATION

Jay Gordon, Landplan Engineering, representing the applicant, described the differences in this plan and former plans, noting the lesser density now proposed. He described fill and grading procedures and utility layout for the property and the necessity for variances requested. They had agreed to grant utility easements as requested by the City Engineer.

No access will be allowed onto Kasold Drive from this development. An access easement will be provided to allow the City access for maintenance of the box culvert as required on the original plan.

He said two large overflow channels were to be constructed on either side of the pilot channel. All of the overflow channels are on their property. This will lower the high level of the water surface elevation on the site by an average of 1'.

Maintenance of the channel will be by the homeowners' association. The property owners will be assessed a maintenance fee by the association, which will be used to pay someone to maintain the ditch.

There were no questions of Mr. Gordon or of staff.

D. PUBLIC COMMENT

Charles Brichford, 2609 Atchison, representing his neighbors, said this change from apartments to single-family homes has eliminated all of their earlier concerns except drainage. The drainage plan, as outlined by the applicant, should help the existing bad drainage situation, especially on the Save Our Swamp property on the east. The new plan is supported by the neighbors and hope it is approved. They were, however, concerned about maintenance of the channel and the dense foliage areas. It could be hard to collect fees from the homeowners, but he had no other suggestion as to how to do it.

Mr. Brichford asked if existing conditions of approval would remain in force for the portion of the PUD not included in this plan.

Mr. Banks said yes.

Mr. Brichford said then they were happy with the whole project.

Mr. Rockhill said he was glad the neighbors were happy with the new plan.

E. PLANNING COMMISSION DISCUSSION/ACTION TAKEN

Item #3 - Variances:

It was moved by Mr. Buhler, seconded by Mr. Rockhill, to approve the two variances as requested.

The motion carried unanimously. (9-0)

Item #3 - Preliminary/Final Development Plan:

It was moved by Mr. Buhler, seconded by Ms. Prewitt, to approve the preliminary/final development plan and forward it to the City Commission with a recommendation for approval, subject to the following conditions:

- 1) The restrictive covenants be filed with the Register of Deeds pertaining to maintenance of open space and floodplain area, after approval by city staff;
- 2) Additional information which needs to be provided on the development plan for clarity includes:

- a. A legend identifying the buildable dotted lines shown on each lot
 - b. The minimum first floor elevation for each structure as referenced in note 5.
 - c. Note 11 be revised to state trash will be collected by curb service.
 - d. Note 15 be revised to make specific reference to Tract A as the common open space and prohibiting the individual sale of this property.
 - e. A note be added to the plan referencing the book and page of the filing of the restrictive covenants and master street tree plan. This note should also state the responsibilities of the homeowners association to maintain common open areas, the drainage swale along the north property line and the grass strip between the curb and fence along Kasold Drive.
 - f. A note that direct access from individual lots to Kasold Drive is prohibited; and.
- 3) The following conditions on the original development plan for this area carry through to this development plan:
- a. A site plan performance agreement be executed;
 - b. General maintenance of the open space and floodway area be the responsibility of the homeowners' association;
 - c. The pilot channel be kept free of obstruction. Failure to do so would result in the city entering the site, cleaning the obstruction and the expense for this being charged to the homeowners' association;
 - d. The **property owner of record** guarantee the hydrologic studies are accurate or, through the practical application (storms) the **owner of record** be responsible for re-working the area to the requirements of city staff (to maintain an acceptable level of operation);
 - e. The homeowners' association be required to retain the existing tree coverage and a note be placed on the plan to require, "When (and if) the existing tree cover begins to diminish in size, additional trees be added to the area along the pilot channel to retain a dense foliage and screening buffer that impairs visibility between the development and the single-family homes to the east. The standard or measure is to be based on photographs take now by Landplan Engineering and provided to the city planning office to be kept in the permanent "Meadows Place" file. Every precaution should be taken to preserve (and protect) the existing trees during construction; and,
 - f. The hydrology study receive all necessary approvals (state, federal and local);

Staff noted that final development plans are not normally sent to the City Commission. However, since this is a joint preliminary/final development plan, it should be forwarded for approval.

Mr. Judge said he would vote in favor of the motion because he felt it was a good plan. However, he still felt it was overkill on trying to maintain all of the trees in the channel, and that portion of the condition was a carryover from the prior project.

The motion carried unanimously. (9-0)

CC 8/14/90
Final Dev. Plan for
Meadows Place

Planner Linda Finger presented the staff report for the Preliminary Development Plan and Final Development Plan for Meadows Place, a Planned Residential Development, approximately 13.62 acres in size located on the east side of Kasold Drive, north of 31st Street and the Kasold-on-the-Curve residential development. The Development Plan is for 64 single family residential lots and 3 duplex lots. The Planning Commission unanimously approved the requested variances and unanimously approved the Development Plan subject to three conditions.

Jay Gordon, representing the applicant, answered questions concerning the development of the drainageway through the project.

Rundle asked how the maintenance agreement for the drainageway would be enforced. Planning Director Banks said the agreement will be filed with the Register of Deeds and placed on the Final Development Plan. Enforcement is generally on a complaint basis. The Public Works Department, however, monitors flow of the drainageways in the City.

Charles Richer, 2609 Atchison, representing the former organization "Save Our Swamp", said the neighbors in the area view this plan favorably. He said that they still have concerns about problems with the drainage channel. He requested that the Commission require all drainage improvements to be completed prior to building permits being issued.

Schumm said he would like a phased plan to be developed and worked out in conjunction with staff.

Gordon said building the drainageway improvements must take place prior to the construction of the homes and they had no problem with the phased concept.

Moved by Schumm, seconded by Walters, to approve the Preliminary and Final Development Plan for Meadows Place, a Planned Residential Development, approximately 13.62 acres in size, located on the east side of Kasold Drive, north of 31st Street and Kasold-on-the-Curve, subject to the following conditions:

1. The restrictive covenants be filed with the Register of Deeds pertaining to maintenance of open space and flood

plain area after approval by City staff;

2. Additional information which needs to be provided on the Development Plan for clarity includes:
 - a. A legend identifying the buildable dotted lines shown on each lot;
 - b. The minimum first floor elevation for each structure as referenced in Note 5;
 - c. Note 11 be revised to state trash will be collected by curb service;
 - d. Note 15 be revised to make specific reference to Tract A as a common open space and prohibiting the individual sale of this property;
 - e. A note be added to the Plan referencing the Book and Page of the filing of the restrictive covenants and Master Street Tree Plan; this note should also state the responsibilities of the Homeowners Association to maintain common open areas, the drainageway along the north property line, and the grass strip between the curb and fence along Kasold Drive; and
 - f. A note that direct access from individual lots to Kasold Drive is prohibited;
3. The following conditions on the original Development Plan for this area carry through to the Development Plan which are:
 - a. A Site Plan Performance Agreement be executed;
 - b. General maintenance of the open space and floodway area be the responsibility of the Homeowners Association;
 - c. The pilot channel be kept free of obstruction and failure to do so will result in the City entering site and cleaning the obstruction at the expense of the Homeowners Association;
 - d. The property owner of record guarantees the hydrologic studies are accurate, are through the practical application of storms; the owner of record will be responsible for reworking the area through requirements of City staff to maintain an acceptable

From and after that time, the Class B member shall be deemed to be a Class A member entitled to one vote for each Lot and one vote for each Living Unit in which the Class B member holds the interests required for membership under Section 1 of this Article III.

ARTICLE IV

POWERS AND DUTIES OF ASSOCIATION

Section 1. Duties. The Association shall have the following duties:

(a) To maintain the Easement for Open Space, utility easements and drainage easements, which maintenance shall include keeping the area mowed and free from debris and litter, and shall also include the performance of such other things as may from time to time be necessary to maintain the quality and appearance of the Easement for Open Space, utility easements and drainage easements.

(b) To maintain the Easements for Public Road, which maintenance shall not include any repairs necessary to meet the requirements of the City of Lawrence from time to time and keeping the Easements for Public Road free from debris and litter.

(c) To maintain the Easements for Pedestrian Way, which maintenance shall include any repairs necessary to keep said easements suitable for the purposes set forth herein for which they were intended.

(d) To obtain and provide public liability, casualty, and other insurance deemed necessary by the Association for the Easement for Open Space and the Easements for Pedestrian Way, as more specifically set forth herein in Article VI.

(e) To pay all real estate taxes levied against the Easement for Open Space.

limited to the costs of liability and casualty insurance and other items necessary for the maintenance of the Easement for Open Space and the Easements for Pedestrian Way as herein provided. The assessments, both general and special, together with interest and costs of collection thereof, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Determination and Payment of Annual Assessments. Prior to the beginning of each calendar year, the Association, by its Board of Directors, shall prepare a budget for the ensuing calendar year and such budget shall cover the estimated costs of maintaining the Easement for Open Space and the Easements for Pedestrian Way and performing all of the obligations and exercising the powers established under this Declaration. In addition, such budget may, at the discretion of the Board of Directors, provide for contributions to a sinking fund to defray long-range costs of maintaining the Easements for Open Space, playground equipment, landscaping, and the Easements for Pedestrian Way.

On the basis of this budget, the assessment for each Owner of each Living Unit for the ensuing year shall be established by the Association on the basis that the costs as estimated under such Budget shall be borne equally by the Owners of the Living Units. [The assessments shall be paid yearly by the 5th day of January and shall be deemed delinquent if not paid within five (5) days thereafter.] At the end of each calendar year the Association shall determine, as soon as is reasonably possible, all of the costs incurred in that year, and if the costs have exceeded the Budget, the deficiency shall be taken into account and defrayed as part of the Budget for the following calendar year. If

there is an excess of money collected from the annual assessment over the costs for such year, such excess shall also be taken into account in preparing the budget for the following calendar year. Should the Board of Directors decide to include an amount for the establishment of the sinking fund as provided above, it shall be empowered to invest all excesses in the assessments over the actual costs in an interest bearing account in the name of the Association in a bank or savings and loan association, or in certificates of deposit bearing interest issued by such institutions. The administration of such sinking fund shall be handled by the Board of Directors using reasonable business judgment within the limitations provided herein. All computations relating to obligations to be performed under this Declaration shall be accomplished in accordance with accepted accounting practices and, as part of the costs to be defrayed hereby, the Association shall employ a Certified Public Accountant to render a written audit of its operations for each calendar year and a copy of such written audit shall be given to the Owner of each Living Unit.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be one hundred twenty dollars (\$120.00) per Lot. Thereafter, the assessment shall be determined annually in accordance with Section 2 of this Article.

Section 4. Special Assessments for Maintenance of Easement for Open Space and Easements for Pedestrian Way. In addition to the annual assessments authorized above for owners of Lots, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of extraordinary maintenance required for the Easement for Open Space and

lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. Maintenance by the City of Lawrence. In the event that the Declarant or the Association, their successors or assigns, shall fail at any time to maintain the Easement for Open Space or the Easements for Public Road, the City of Lawrence may serve a written Notice of Deficiency upon Declarant or the Association, their successors or assigns, setting forth the manner in which Declarant or the Association, their successors or assigns, has failed to maintain such Open Space or Public Roads. Such Notice shall include a statement describing the part of the Open Space or Public Road Easement that has not been maintained and shall grant twenty (20) days' time within which the Declarant or the Association may correct any deficiency in or otherwise maintain such Open Space or Public Road Easement. If said correction or maintenance is not commenced within the time specified, the City of Lawrence, in order to preserve the taxable values of the Lots within the Properties and to prevent the Easement for Open Space or Easements for Public Road from becoming a nuisance, may enter upon said

Easement for Open Space or said Easements for Public Road and perform the necessary correction or maintenance listed in the Notice of Deficiency. All costs incurred by the City of Lawrence in carrying out the obligations of Declarant or the Association may be assessed against the properties in the same manner as provided by law for the assessment of taxes and special assessments, and said assessments may be established as liens upon the Properties. Should Declarant or the

Association, their successors or assigns, upon receipt of said Notice of Deficiency, believe that the deficiency or maintenance listed on said Notice is not proper or required for any reason, they may, within the twenty (20) day period provided in such notice, apply for a hearing before the Board of City Commissioners to appeal such notice and any further proceedings under the Notice shall be delayed pending the outcome of any proceedings on appeal of said Notice.

ARTICLE VI

INSURANCE

Section 1. Purchase of Insurance. The Association shall obtain public liability insurance covering all of the Easement for Open Space, Easements for Public Road and Easements for Pedestrian Way insuring the Association and the Owners, as its and their interestes may appear, in such amounts as the Association may from time to time determine. The Association may also obtain such other insurance as its Board of Directors deems necessary for carrying out the purposes of the Association. Premiums for the payment of such liability insurance or other insurance shall be chargeable as a maintenance cost for the Easement for Open Space, Easements for Public Road and Easements for





Date: 8/3/2004
To: David Corliss
From: Chad Voigt
cc: Terese Gorman
Re: Meadows Place Tract A maintenance



Attached are records from the Planning Office and the Register of Deeds regarding maintenance of Meadows Place Tract A. I've received a complaint from an adjoining property owner saying that the City needs to enforce the maintenance requirements.

- The Development Plan states, "Maintenance of the drainageway in Tract A and the swale along the north property line shall be the responsibility of the property owner."
- The recorded plat states, "Maintenance of drainageway to be provided by property owner."
- The recorded covenants address the maintenance requirement, fees to be collected and the responsibilities of the City to enforce the requirements.
- The development plan shows contours for grading of the drainageway. These grades presumably correspond to calculations submitted to FEMA for approval of the LOMR and floodplain development. I have not found any other flood study records on file with the City.

I've met with the adjacent owners on Atchison Avenue twice in the last two years to discuss the current condition of the property. Sediment has been transported in the area, creating high spots in the original overflow channels. As a result there are several large areas of standing water on the property. Mr. Burnett reported that he has been mowing the east side of Tract A for several years; however the standing water continues to limit his ability to access the area. Thick vegetation is growing in those areas.

From the standpoint of drainage design, it would be appropriate at this time to notify the owners of their responsibilities. The thick vegetation and accumulated sediment may affect the conveyance capacity of the drainageway, leading to elevated flood levels. The overflow channels were constructed to offset the fill placed along Kasold Drive. The development plan should be used as the reference for sediment removal and regrading of the overflow channels. The Engineering Department can provide technical review of the completed work. The owners should also establish a schedule of periodic mowing outside the limits of the mature tree line.

Please advise on the notification process.



MIKE RUNDLE, MAYOR
COMMISSIONERS
DENNIS "BOOG" HIGHBERGER
DAVID M. DUNFIELD
SUE HACK
DAVID M. SCHAUNER

City of Lawrence KANSAS

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Box 708 66044-0708 785-832-3000
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MIKE WILDGEN, CITY MANAGER

October 6, 2004

VIA CERTIFIED U.S. MAIL

Mr. Kenneth E. McKenzie
Resident Agent

Meadows Place Homeowners Association, Inc.
2717 Meadow Place
Lawrence, KS 66047

Re: Meadows Place Subdivision - Tract A

Dear Ms. Walker,

Per the Declaration of Covenants, Conditions and Restrictions (Revised 3/18/91) for the Meadows Place Home Association, Recorded in Book 457, pages 1224-1473, June 11, 1991 with the Douglas County Register of Deeds, you are hereby served with the attached Notice of Deficiency.

We anticipate that the Homeowners Association will have questions concerning this notice, the time for response pursuant to the covenants, and the improvements which need to be made to Tract A. The City's stormwater engineer, Chad Voigt can be reached at 832-3142.

Sincerely,

Charles F. Soules
Director of Public Works

cc: David L. Corliss, Asst. City Manager & Director of Legal Services
Chad Voigt, Stormwater Engineer



We are committed to providing excellent city services that enhance the quality of life for the Lawrence Community

NOTICE OF DEFICIENCY

Per the Declaration of Covenants, Conditions and Restrictions (Revised 3/18/91) for the Meadows Place Home Association, Recorded in Book 457, pages 1224-1473, June 11, 1991 with the Douglas County Register of Deeds, the City of Lawrence hereby provides Notice of Deficiency per Section 9 of said Declaration. Per said section, you have twenty (20) days to correct said deficiency regarding the Open Space, known as Tract A of Meadows Place as set forth below.

Statement Per Section 9 of said Declaration of Covenants regarding the part of the Open Space (Tract A) that has not been maintained.

The owners of Meadows Place Tract A have not maintained the property (Tract A) as required by the development plan, subdivision plat and covenants on file with the Douglas County Register of Deeds. Per those documents, the "easement for open space" must be mowed and kept clear of obstructions. The mature trees along the main channel are intended to remain in place. Currently the overflow channels contain accumulations of sediment, large areas of standing water, dense vegetation and small trees. These channels must be regraded per the 1990 development plan to ensure positive drainage and adequate conveyance of flood water. Once the original grades are established, the easement for open space must be mowed regularly to discourage sedimentation.

Public Works

MEMO

Department

To: Mike Wildgen
From: Chad Voigt
Subject: Administrative Policy regarding storm drainage maintenance
Date: May 15, 1998

Attached is a proposed administrative policy for your review. This draft incorporates comments from George, Terese and David. We have been working for several months to define appropriate storm drainage maintenance responsibilities for the Public Works Department. The goal of this policy is to provide consistent information and cost effective service.

I've given a summary of the policy below. Please provide further direction or call with questions.

Summary of important points:

1. This policy emphasizes maintenance of publicly owned curb inlets and storm sewer pipes. These facilities represent the greatest public investment, and must be the primary concern of the stormwater maintenance crew.
2. The Department will no longer provide random "ditch dipping" in roadside ditches along unimproved roads. Instead, the Department will correct problems per a defined system plan which represents the ideal end state for the area. In many areas, extensive system improvements will be required and must be considered to be beyond the scope of maintenance.
3. The Department will remove beaver dams, beavers and vegetation greater than 4" in diameter within the bankline of natural channels with tributary areas of 160 acres or more. At this time we estimate these to total 21 miles. The Department will also remove sediment and regrade in open channels immediately upstream or downstream from publicly owned drainage structures as required.
4. Most storm drainage maintenance tasks are subject to access limitations. Where access cannot be obtained, the Department will not provide maintenance.
5. The Department will consistently notify affected landowners prior to maintenance work.
6. Problem areas that cannot be corrected within the scope of maintenance will be added to the list of discretionary improvement projects initiated by the *Stormwater Management Master Plan*. The City Manager and City Commission will assess the list of discretionary projects on an annual basis. The stormwater maintenance crew may be assigned to periodic discretionary projects.

c: George Williams, Terese Gorman, David Corliss

City of Lawrence
Administrative Policy

SUBJECT Maintenance of Storm Drainage Systems		APPLIES TO Public Works Department	
EFFECTIVE DATE 6-1-98	REVISED DATE None		NEXT REVIEW DATE 6-1-00 6-1-05
APPROVED BY City Manager		TOTAL PAGES 8	POLICY NUMBER AP-##

1.0 **Purpose:**

To define the maintenance responsibilities of the Public Works Department regarding storm drainage systems.

2.0 **Background:**

In the City of Lawrence, the public owns hundreds of miles of storm drainage improvements associated with land development and public street construction. Coordinated maintenance is necessary to protect this investment and to pursue the goal of optimal system performance.

The majority of the drainage system is not publicly owned. Natural drainage paths preceded land ownership and are still the primary means of stormwater conveyance in the City. Individual land owners must reasonably maintain the natural flow of water across their property to avoid harm to themselves or others.

Public easements may be platted to provide for the conveyance of stormwater on private property. Landowners must maintain the property within the public easement, however certain public maintenance tasks are appropriate as defined by this policy.

This policy considers the amount of stormwater utility revenue appropriated by the City Commission for storm drainage maintenance. There are hundreds of miles of drainage systems in the City, therefore certain maintenance functions are limited by available resources.

3.0 **Policy:**

3.1 **Defined Maintenance Tasks:**

This policy is defined by the chart in section 3.10, "Public Maintenance of Storm

Drainage Systems." Public Works will perform specific storm drainage maintenance tasks in locations marked by an "x", subject to stated conditions. Additional policy issues and commentary are provided below.

Private landowner responsibilities have been stated for several commonly discussed tasks. The chart should not be considered a comprehensive list of private landowner responsibilities.

3.2 Notification:

The City will notify landowners of any storm drainage maintenance work proposed *in public easements*, outside the public right-of-way, except in emergency situations where immediate action is required to protect public safety or structures. Notification will be issued to all owners of record for properties on which the City plans to work. Notification will be issued by door hanger or personal contact at least 48 hours prior to start of work. A supervisor will respond to inquiries from land owners in a timely manner.

The City will request written permission from all landowners of record for any storm drainage maintenance work proposed *outside public easements* and outside the public right-of-way. Written permission will be required prior to the start of work.

The City will notify adjacent landowners of any storm drainage maintenance work proposed *in the public right-of-way*, except in emergency situations where immediate action is required to protect public safety or structures. Notification will be issued by door hanger or personal contact at least 24 hours prior to start of work. A supervisor will respond to inquiries from land owners in a timely manner.

3.3 Work Dependent upon Access:

Tasks which have been defined as "Access Dependent" will not be performed in areas where the required equipment access cannot be obtained. Access requirements will be defined by the supervisor for each proposed project.

Areas will be considered inaccessible when physical barriers prevent access. Physical barriers may include but are not limited to trees, fences, buildings or steep slopes. Where physical barriers are determined to violate City code by obstructing a drainage easement, the property owner must remove the obstruction.

Access will be implied within public easements and rights-of-way, but may still be limited by physical barriers. Physical barriers may be removed at the property owner's expense to provide access. Areas outside public easements and rights-of-way will be considered inaccessible when property owners refuse access.

3.4 Unimproved Roadside Channel Maintenance:

Unimproved roadside channels exist in the public right-of-way, where public streets have not been improved through the construction of enclosed storm sewers and curb and gutter. Unimproved roadside channels provide a lower level of service than improved street systems. Typical problems include slow drainage, standing water and steep ditch slopes. Unimproved roadside channels are typically unstable, resulting in erosion and sedimentation problems.

As a result of development policies, improved street systems are ultimately paid for by individual property owners. Where streets have not been improved, the individual investment of property owners is not commensurate with that of other property owners in the City. This maintenance policy recognizes the lower level of service associated with unimproved systems.

Maintenance of unimproved roadside channels will be provided only to correct flooding of structures, flooding of public streets or structural failure of culverts. Maintenance will not be provided to remove isolated standing water within unimproved channels. Standing water problems typically require extensive system reconstruction, which is beyond the scope of public maintenance. Where property owners are concerned about standing water, they may request that the location be added to the list of discretionary projects for public system improvements.

All maintenance work on unimproved channels will follow a defined system plan. The system plan will provide flowline elevations, channel slopes and channel cross-sections for all channels within the watershed. The system plan will represent the ideal end state of the publicly maintained system.

All maintenance work on unimproved channels will occur within the public right-of-way. Maintenance will be limited to regrading and/or culvert replacement, followed by reseeding of disturbed areas. Property owners are responsible for maintenance of vegetation within the roadside right-of-way, including watering, mowing and trimming.

New driveways will require culverts as defined by the system plan. Driveway culverts will be installed by the Public Works Department, and paid for by the landowner. Current material and installation costs are available from the Public works Department.

3.5 Unimproved Open Channel Maintenance:

Unimproved open channels include natural streams, natural ditches and graded channels without lining materials. These channels typically occur on private

property, outside the public right-of-way. Public easements may or may not exist for an unimproved open channel.

Maintenance of unimproved open channels is primarily the responsibility of the private landowner. This policy identifies the specific open drainage maintenance tasks that the City will perform. These tasks will be performed regardless of the presence of public easements, subject to accessibility and permission from private landowners. Open channel maintenance is highly dependent upon access.

The bank line of an unimproved open channel is the physical break between the channel which conveys recurrent flows and the overbank which conveys extreme flows. The bank line is often visible as a vertical exposed face. Unimproved open channel maintenance tasks specified by this policy are confined to areas within the bank line only. Where vegetation is removed from within the bank line, it may be deposited in the overbank area, dependent on equipment access and apparent land use.

Certain tasks are limited based on tributary area to the open channel location. Tributary areas are a permanent physical feature of the City, based on contours developed from aerial photography.

Open channel maintenance is often necessary in conjunction with maintenance of the improved drainage system. Where accumulated sediment in an open channel affects the performance of a publicly maintained, improved drainage system, the sediment will be removed as required, limited only by accessibility. Where channel geometry affects the performance of a publicly maintained, improved drainage system, the channel will be modified within the distance limits specified by this policy.

In most locations, channel regrading or reconstruction will not be considered to be maintenance. These projects require design and construction resources which exceed those defined for public maintenance. These projects will be added to the list of discretionary improvements defined in the 1996 *Stormwater Management Master Plan*.

3.6 Obstructions in Public Easements:

Pursuant to City code, the Director of Public Works may exercise authority for removal of obstructions in public drainage easements. In cases where the required abatement has not been completed by the property owner, the City staff responsible for storm drainage maintenance may be assigned to this task.

3.7 Driveway Aprons Connecting to Improved Streets:

Landowners are responsible for construction and maintenance of driveway aprons. Driveway aprons must be constructed per the City policy to ensure proper drainage within the public right-of-way. Landowners are responsible for repairs of structural failures, including any curb and gutter which has been reconstructed with the driveway apron.

The City will repair or reconstruct driveway aprons which have drainage problems due to pavement overlays or other public construction projects only when the existing apron complies with the City policy.

3.8 Revegetation of Disturbed Areas:

All areas disturbed by public construction projects will be prepared, seeded and mulched per the current Standard Specifications. Watering, mowing and continued maintenance of these areas are the responsibility of the landowner.

Disturbed lawns will be seeded with a standard fescue seed mixture. In areas where another grass variety has been established, the landowner will be responsible for seeding and mulching.

3.9 Discretionary Projects:

Projects which require extensive design and construction resources will be added to the list of discretionary improvements defined in the 1996 *Stormwater Management Master Plan*. The City staff responsible for storm drainage maintenance may be periodically assigned to discretionary improvement projects. Other discretionary projects may be completed by private contract.

Funding for discretionary projects may be provided by benefit district or public funds as determined by the City Manager or City Commission. Discretionary projects are prioritized based on public benefit and public cost.

3.10 Public Maintenance of Storm Drainage systems:

The referenced chart is provided on the following pages.



- Atchison watershed
- FEMA floodway
- FEMA flood fringe
- Meadows Place Tract A

