



Updated:

2/23/11 @ 5:00pm

Added Item 6 - Text Amendment; Minor & Major Subdivisions

2/22/11 @ 11:50am

Added communications for the following items:

Item 1 - Initiate rezoning of 800 block of Lynn St

Item 5 - Conditional Use Permit for 2102 N 1500 Rd

2/17/11 @ 3:20pm

Added staff memo for Item 4B - Special Use Permit for 4000 W 6th St

Added attachment (Well Capture Zones) for Item 5 - Conditional Use Permit for 2102 N 1500 Rd

2/16/11 @ 11:50am

Item 6 will be posted by 2/23/11 - Text Amendment; Minor & Major Subdivisions

DEFERRED: Item 7 - Conditional Use Permit for 768 E 661 Diagonal Rd

Removed from Agenda: Item 8 - Preliminary Development Plan for 4671 Bauer Farm Dr

****The Monday, February 21st Planning Commission meeting has been canceled****

**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
CITY HALL, 6 EAST 6TH STREET, CITY COMMISSION MEETING ROOM
AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS
FEBRUARY 21 & 23, 2011 6:30 - 10:30 PM**

GENERAL BUSINESS:

PLANNING COMMISSION MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of January 24, 2011.

COMMITTEE REPORTS

Receive reports from any committees that met over the past month.

COMMUNICATIONS

- a) Receive written communications from the public.
- b) Receive written communications from staff, Planning Commissioners, or other commissioners.
- c) Receive written action of any waiver requests/determinations made to the City Engineer.
- d) Disclosure of ex parte communications.
- e) Declaration of abstentions from specific agenda items by commissioners.

AGENDA ITEMS MAY BE TAKEN OUT OF ORDER AT THE COMMISSIONS DISCRETION

**REGULAR AGENDA (FEBRUARY 23, 2011) MEETING
NON-PUBLIC HEARING ITEM:**

ITEM NO. 1 INITIATE REZONING; IG & IL TO RMO; 800 BLK LYNN ST (MJL)

Consider initiation of a rezoning of the 800 block of Lynn Street (bounded by Lynn St, Homewood St, Haskell Ave, and Bullene Ave), approximately 3.9 acres, from the IG (General Industrial) and IL (Limited Industrial) Districts to the RMO (Multi-Dwelling Residential-Office) District to implement recommendations in the adopted Burroughs Creek Corridor Plan.

PUBLIC HEARING ITEMS:

ITEM NO. 2 SPECIAL USE PERMIT FOR LAWRENCE COMMUNITY SHELTER; 214 W 10TH ST (SLD)

SUP-12-10-10: Consider the renewal of a Special Use Permit and a request to increase the maximum occupancy year round from 57 persons to 82 persons for Lawrence Community Shelter, located at 944 Kentucky Street/214 W. 10th Street. Submitted by Lawrence Community Shelter, tenant, for James Dunn, property owner of record.

ITEM NO. 3 RM24 to CN1; .27 ACRES; 313 E 8TH ST (MKM)

Z-12-16-10: Consider a request to rezone approximately .27 acres from RM24 (Multi-Dwelling Residential) to CN1 (Inner Neighborhood Commercial), located at 313 E. 8th Street. Submitted by John Flanders for R&B Holdings LC, property owner of record.

ITEM NO. 4A PCD TO CN2; 3.47 ACRES; 4000 W 6TH ST (MKM)

Z-12-19-10: Consider a request to rezone approximately 3.47 acres from PCD (Planned Commercial Development-Monterey Center) to CN2 (Neighborhood Commercial Center), located at 4000 W. 6th Street. Submitted by Allen Belot, for Monterey Partners, LLC., property owner of record.

ITEM NO. 4B SPECIAL USE PERMIT; 4000 W 6TH ST (MKM)

SUP-12-9-10: Consider a Special Use Permit for a drive through window in a retail center located at 4000 W. 6th Street. Submitted by Allen Belot, for Monterey Partners, LLC., property owner of record.

ITEM 5 WILL BE HEARD NO SOONER THAN 7:30PM

Recess LDCMPC

Convene Joint Meeting with Eudora Planning Commission

**ITEM NO. 5 CONDITIONAL USE PERMIT FOR KAW VALLEY EUDORA SAND FACILITY;
2102 N 1500 RD (SLD)**

CUP-10-6-10: Consider a Conditional Use Permit for Kaw Valley Eudora Sand Facility, located at 2102 N 1500 Road, NE of SW Cor. SW ¼ S32-T12S-R21E, on approximately 196.58 acres. Submitted by Landplan Engineering, P.A., for Kaw Valley Companies, Inc., contract purchaser, for James and Ronda Bigger and Wellsville Bank, property owners of record. *Joint meeting with Eudora Planning Commission.*

**Adjourn Joint Meeting
Reconvene LDCMPC**

ITEM NO. 6 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE & DOUGLAS COUNTY CODE; MINOR & MAJOR SUBDIVISIONS (SMS)

TA-3-3-10: Consider Text Amendments to the joint city/county subdivision regulations in the City of Lawrence Land Development Code, Chapter 20, Article 8 and the Douglas County Code, Chapter 11, Article 1 to revise requirements and standards related to the processing of Minor and Major Subdivisions, including minor housekeeping changes. *Initiated by City Commission on 2/16/10.*

No action will be taken on this item. The draft text for this Text Amendment should be posted by 2/23/11 to begin public review for Planning Commission action later this spring.

****DEFERRED****

~~ITEM NO. 7 CONDITIONAL USE PERMIT FOR FRATERNAL ORDER OF POLICE; 768 E 661 DIAGONAL RD (MKM)~~

~~**CUP-12-8-10:** Consider Conditional Use Permit for the Fraternal Order of Police shooting range, located at 768 E. 661 Diagonal Road. Submitted by Dan Affalter, for Fraternal Order of Police, property owner of record.~~

****REMOVED FROM AGENDA****

~~ITEM NO. 8 PRELIMINARY DEVELOPMENT PLAN FOR BAUER FARM; 4671 BAUER FARM DR (SLD)~~

~~**PDP-12-4-10:** Consider modifying Lot 1 and Lot 2, Block 9 of the Preliminary Development Plan for restaurant uses, at Bauer Farm, located at located at 4671 Bauer Farm Drive, approximately 43.88 acres. Submitted by Landplan Engineering for Free State Holdings, Inc. and Sachi Real Estate, LLC, property owners of record.~~

~~*The revisions to the PDP for Bauer Farm have been determined to be minor and are being reviewed administratively. The Final Development Plan for each of these lots will be placed on a future Planning Commission agenda for action.*~~

MISCELLANEOUS NEW OR OLD BUSINESS

MISC NO. 1 Initiate Text Amendment to Section 20-814 of the Joint City/County Subdivision Regulations of the Code of the City of Lawrence, Kansas and Chapter 11, Section 814 of the Douglas County Code, which concerns extraordinary building setbacks along US Highway 40, west of K-10 Highway (**DDW**)

Consideration of any other business to come before the Commission.

PUBLIC COMMENT SECTION

ADJOURN

CALENDAR

January 2011						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

February 2011						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
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6	7	8	9	10	11	12
13	14	15	16	17	18	19
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27	28					

March 2011						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

PCCM Meeting:

(Generally 2nd Wednesday of each month, 7:30am-9:00am)

Sign up to receive the Planning Commission agenda or weekly Planning Submittals via email:

<http://www.lawrenceks.org/subscriptions>



PLANNING COMMISSION MEETING

January 24, 2011

Meeting Minutes DRAFT

January 24, 2011 – 6:30 p.m.

Commissioners present: Blaser, Burger, Culver, Dominguez, Finkeldei, Harris, Hird, Liese, Rasmussen, Singleton, and Student Commissioner Davis

Staff present: McCullough, Stogsdill, Day, J. Miller, M. Miller, Warner, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of December 13, 2010.

Commissioners Burger and Harris emailed their proposed minor changes to Ms. Denny Ewert prior to the meeting.

Motioned by Commissioner Harris, seconded by Commissioner Hird, to approve the December 13, 2010 Planning Commission minutes with the suggested changes by Commissioners Burger and Harris.

Approved 10-0. Student Commissioner Davis voted in the affirmative.

COMMITTEE REPORTS

Commissioner Hird said the Agri-Tourism Committee met the first week in January with community members that are doing agri-tourism activities. He said they had a thorough discussion of the Conditional Use Permit process and the problems people have encountered as well as suggestions they had. He said it was very enlightening.

COMMUNICATIONS

Mr. Scott McCullough, Planning Director, stated there were no new attachments/communications posted to the online Planning Commission agenda after the initial posting date.

Mr. McCullough said each Commissioner received a bike rideability map tonight. The bicycle rideability map was designed to promote, encourage and educate bicyclists. The map assists riders in choosing routes most applicable to their skill level, alerts them to difficult intersections, shows major landmarks to help bicyclists navigate around town and identifies transit connections.

No written action of any waiver requests/determinations made to the City Engineer.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Burger said she received a nice note from Ms. Marci Francisco indicating that she had dedicated a tree in her honor.
- No abstentions.

PC Minutes 1/24/11 **DRAFT**

**ITEM NO. 1 FINAL DEVELOPMENT PLAN FOR CROSSGATE DRIVE CASITAS; 2451
DROSSGATE DR (SLD)**

FDP-11-11-10: Consider Final Development Plan for Crossgate Drive Casitas, located at 2451 Crossgate Drive, for a 46 unit Multi Dwelling Residential development on approximately 4.6 acres. Submitted by BG Consultants, Inc for Michael D. Stultz, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

NON-PUBLIC HEARING ITEM

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the Final Development Plan based upon the findings of fact presented in the body of the Staff Report subject to the following conditions:

1. Provision of a revised drawing to show deed book and page reference for dedication of additional easements associated with this project (general note 9), prior to recording of the Final Development Plan.
2. Provision of a photometric plan and applicable details per minimum lighting standards per planning staff approval prior to recording of the Final Development Plan.

Commissioner Harris said she voted against the Preliminary Plat for this project because she felt it would have been better to complete the area plan first, but since it was approved by City Commission she would vote in favor to be consistent with the Preliminary Plat.

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 1/24/11 **DRAFT**

ITEM NO. 2 VARIANCE FOR 5217 BRANCHWOOD COURT (MKM)

FDP-11-10-10: Consider a variance from the peripheral setback through a revised Final Development Plan for Foxchase Patio Homes, located at 5217 Branchwood Court. Submitted by Gary D Boyer and Lavenna R Boyer, property owners of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Gary Boyer said the south facing wall reflects sun and makes the deck unusable and that was his motivation for asking for the variance.

PUBLIC HEARING

Mr. Tim Vanleer, 5213 Branchwood Ct (neighbor to the east), said he was in favor of the variance.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Dominguez, to approve the requested variance from the 35 ft peripheral setback required in Section 20-1007 of the pre-2006 Development Code to allow a peripheral setback of 25 ft at 5217 Branchwood Court subject to the following conditions:

1. Provision of a revised Final Development Plan which includes the following note: *"The Planning Commission approved a variance from the 35 ft peripheral setback required in Section 20-1007 of the pre-2006 Development Code to permit a 25 ft peripheral setback along the south property line of 5217 Branchwood Court as identified on the plan."*
2. The plan shall identify the location of the porch as the area for which the variance has been granted.
3. The building coverage summary revised to include the 200 sq ft porch area.

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 1/24/11 **DRAFT**

ITEM NO. 3 RS5 TO RSO; .36 ACRES; 1701 MASSACHUSETTS ST (MJL)

Z-11-15-10: Consider a request to rezone approximately .36 acres from RS5 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential-Office), located at 1701 Massachusetts Street. Submitted by Jennifer O'Driscoll, for First Church of Christ Scientists, property owner of record.

STAFF PRESENTATION

Ms. Sheila Stogsdill, Assistant Planning Director, presented the item.

Commissioner Harris inquired about the use of accessory parking that was allowed in the RSO District but not allowed in Residential.

Ms. Stogsdill said that would be a parking lot such as a separate lot. She said if the church wanted to expand and purchase property adjacent they might rezone to RSO so they could have an additional parking lot. She gave the example of the parking lot directly north of Castle Tea and directly south of the mortuary. She said that was an accessory parking lot developed after the mortuary was built and purchased to be supplemental parking for that use.

Commissioner Harris asked if it was a separate lot but accessory to a use on another lot.

Ms. Stogsdill said yes.

Commissioner Harris said she noticed that the RSO District could have a homeless shelter or community meal program.

Ms. Stogsdill said they would require Special Use Permits.

APPLICANT PRESENTATION

Ms. Jennifer O'Driscoll said she has been a veterinarian for about 7 years. She said it was her dream to have a specialized all cat veterinary hospital. She said she wanted to open an all cat facility because it was a calmer environment for cats to be in without barking dogs.

Commissioner Harris inquired about the possibility of conditioning the zoning to exclude the uses of a transitional shelter and a community meal program. She asked if Ms. O'Driscoll would object to that.

Ms. O'Driscoll said she would not object to the conditional zoning.

Commissioner Blaser asked if she would be leasing the property.

Ms. O'Driscoll said she would not be the owner of the property.

Mr. George Paley said he was the potential property owner (currently under contract) and he did not object to the conditional zoning.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Harris said Massachusetts Street was a gateway to the community and that there were also a lot of single-family homes in the area and she felt it would not be healthy to have the two uses of homeless or transient shelter and community meal program at that location.

Commissioner Finkeldei said he was not a fan of conditional zoning. He asked if it could be tracked.

Mr. McCullough said yes. He said the temporary shelter and community meal program would require Special Use Permits if they were the primary uses on the property. They would also be allowed as accessory uses to the religious institutions. He asked if the intention was to restrict out the accessory shelter and community meal program from a religious use as well. He said there were two different categories of use, the primary use and accessory use. He said the primary use would require a Special Use Permit and the accessory use would be allowed by right with a church located there.

Commissioner Harris said she did not realize the difference but that she would be okay with the temporary smaller accessory use in that area, but not a larger facility as the primary use.

Commissioner Hird asked if the use went back to a religious institution would the restrictions apply.

Commissioner Harris said no because it would be an accessory use to the primary use of a church and the impact would be much smaller.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Dominguez, to approve the request to rezone approximately .36 ac, from RS5 (Single-Dwelling Residential) District to RSO (Single-Dwelling Residential Office) District based on the findings presented in the staff report, with the condition to exclude the primary uses for temporary shelter and community meal program and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 1/24/11 **DRAFT**

ITEM NO. 4 UR TO COUNTY A; 2.4 ACRES; 1820 E 1450 RD (DDW)

Z-12-17-10: Consider rezoning approximately 2.4 acres from UR (Urban Reserve) to County A (Agricultural), located at 1820 E 1450 Road. *Initiated by Planning Commission on 12/13/10.*

STAFF PRESENTATION

Mr. Dan Warner presented the item.

Commissioner Liese asked if this came up because the property owner wanted to build an outbuilding.

Mr. Warner said the property was going to be rezoned anyway.

Commissioner Liese inquired about the procedural process.

Mr. McCullough said this was a unique situation. He said the annexation and rezoning could happen currently with or shortly thereafter.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to approve the rezoning request for approximately .6 acres, from IG (General Industrial) District to RS7 (Single-Dwelling Residential) 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.

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 1/24/11 **DRAFT**

ITEM NO. 5 IG TO RS7; .6 ACRES; 309 & 315 PERRY ST, 528 N 3RD ST (DDW)

Z-12-18-10: Consider rezoning approximately .6 acres from IG (General Industrial) to RS7 (Single-Dwelling Residential), located at 315 Perry Street, 309 Perry Street and 528 N. 3rd Street. *Initiated by Planning Commission on 12/13/10.*

STAFF PRESENTATION

Mr. Dan Warner presented the item.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to approve the rezoning request for approximately .6 acres, from IG (General Industrial) District to RS7 (Single-Dwelling Residential) 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

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 1/24/11 **DRAFT**

**ITEM NO. 6 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE &
DOUGLAS COUNTY CODE; MINOR & MAJOR SUBDIVISIONS (SMS)**

TA-3-3-10: Consider Text Amendments to the joint city/county subdivision regulations in the City of Lawrence Land Development Code, Chapter 20, Article 8 and the Douglas County Code, Chapter 11, Article 1 to revise requirements and standards related to the processing of Minor and Major Subdivisions, including minor housekeeping changes. *Initiated by City Commission on 2/16/10.*

Item No. 6 was deferred prior to the meeting.

PC Minutes 1/24/11 **DRAFT**

ITEM NO. 7 VARIANCE FOR SECTION 1-TOWNSHIP-12S-RANGE-18E

CSR-12-26-10: Consider a request for a variance from section 20-806(d)(2)(v) and (vi) of the Subdivision Regulations pertaining to Minimum Frontage and Entrance Spacing Requirements and Minimum Road Right(s)-of-way for 25 acres, 1 parcel, Residential Development Parcel No. 2, Section 1-Township 12S-Range 18E, of the Certificate of Survey submitted by Rogers Surveying for Milton Lee Norwood, Executor for Roger and Lois Norwood.

Item No. 7 was withdrawn by the applicant prior to the meeting.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

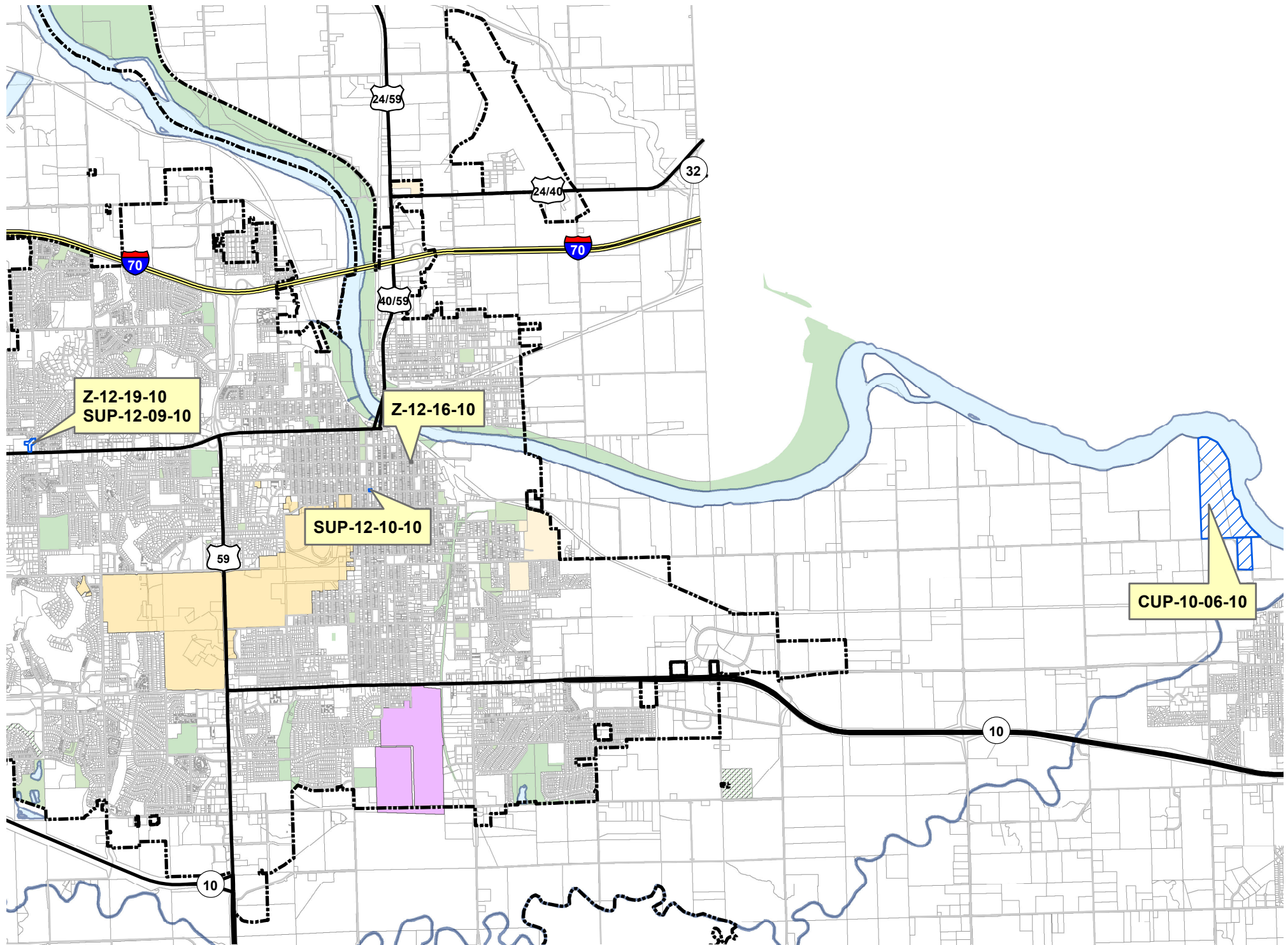
PUBLIC COMMENT SECTION

ADJOURN 7:05pm

2011
LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
MID-MONTH & REGULAR MEETING DATES

Mid-Month Meetings, Wednesdays 7:30 – 9:00 AM	Mid-Month Topics		Planning Commission Meetings 6:30 PM, Mon & Wed	
Jan 12	Housing Trends	Future Topics	Jan 24	Jan 26
Feb 9	Complete Streets		---	Feb 23
Mar 16	Historic Preservation & H2020 – Chapter 11 Update		Mar 28	Mar 30
Apr 13			Apr 25	Apr 27
May 11			May 23	May 25
Jun 8			Jun 20	Jun 22
Jul 13			Jul 25	Jul 27
Aug 10			Aug 22	Aug 24
Sep 14			Sep 26	Sep 28
Oct 12			Oct 24	Oct 26
Nov 2			Nov 14	Nov 16
Nov 30			Dec 12	Dec 14
	Suggested topics for future meetings: <i>How City/County Depts interact on planning issues</i> <i>Stormwater Stds Update – Stream Setbacks</i> <i>Overview of different Advisory Groups – potential overlap on planning issues</i> <i>Open Space Acquisition/Funding Mechanisms (examples from other states)</i> <i>TDRs</i> <i>Library Expansion Update</i> <i>Joint meeting with other Cities’ Planning Commissions</i> <i>Joint meeting with other Cities and Townships – UGA potential revisions</i> <i>Presentation from KC-metro Planning Directors</i> <i>Tour City/County Facilities</i> <i>2010 Census Data</i>			
Meeting Locations	The Planning Commission meetings are held in the City Commission meeting room on the 1 st floor of City Hall, 6 th & Massachusetts Streets, unless otherwise noticed.			
Planning & Development Services Lawrence-Douglas County Planning Division 785-832-3150 www.lawrenceks.org/pds				

Revised 01/11/11



Memorandum

City of Lawrence-Douglas County

Planning & Development Services

TO: Planning Commission

FROM: Michelle Leininger, Area/Neighborhood Planner

CC: Scott McCullough, Director of Planning and Development Services
Sheila Stogsdill, Assistant Director of Planning

Date: February 23, 2011

RE: 800 Block of Lynn St. Rezoning Initiation

Project History

The *Burroughs Creek Corridor Plan* was approved by the City Commission on February 14, 2006. At the March 6, 2006 City Commission meeting, the Commission initiated the "Tier 1" rezonings from the recommendations of the plan. The plan recommends the the 800 block of Lynn Street, owned by the Salvation Army, be rezoned under the previous code from M1-A (Light Industrial) and M-2 (General Industrial) District to O-1 (Office) District. With the adoption of the *Development Code*, the O-1 District classification changed to the CO (Commercial Office) District. The rezoning was recommended for denial by both staff and the Planning Commission because of the potential commercial uses that could develop. Commercial uses are not supported by the plan or *Horizon 2020* at that location. The Planning Commission instead initiated and recommended approval of a rezoning to the RMO (Multi-Dwelling Residential-Office) District. The RMO District allows for the office use as a transitional use between the existing residential and industrial uses in the area and is be more consistent with plan recommendation to emphasize residential infill. The *Development Code* offers no office only district.

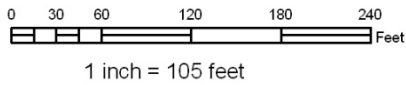
Project Status

The City Commission has not taken final action on any of the rezonings because of unresolved issues regarding the unrelated site plan for the property. The rezoning and site plan applications have expired.

Representatives of the Salvation Army have been contacted regarding the re-initiation of the rezoning of the 800 block of Lynn St. No comments have been received.

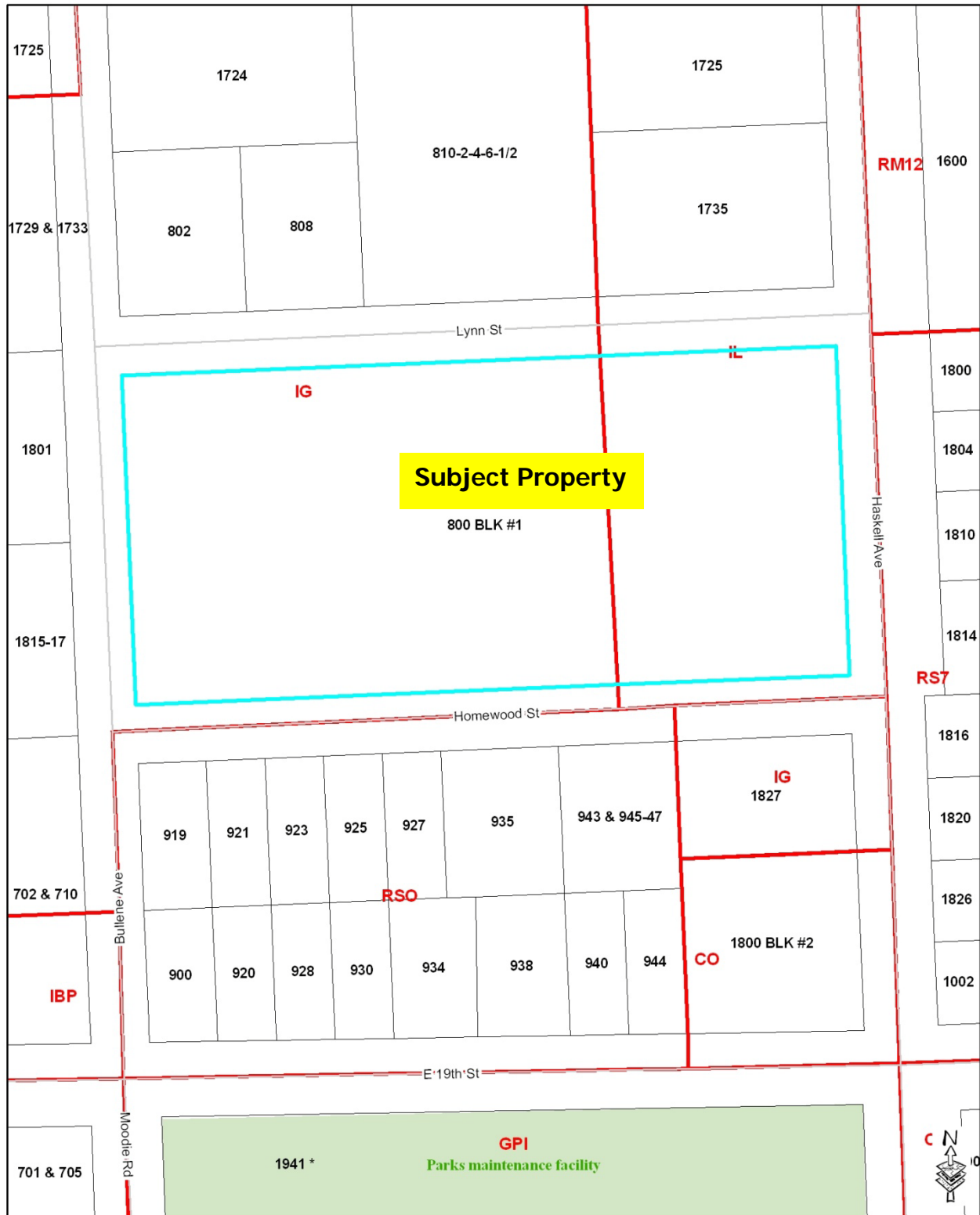
Action Requested

Initiate rezoning of the 800 block of Lynn Street (bounded by Lynn St, Homewood St, Haskell Ave, and Bullene Ave), approximately 3.9 acres, from the IG (General Industrial) and IL (Limited Industrial) Districts to the RMO (Multi-Dwelling Residential-Office) District to come back before the Planning Commission for a public hearing and action at a later date.



DISCLAIMER NOTICE

The map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use rests solely on the requester. The City of Lawrence makes no warranties, express or implied, as to the use of the map. There are no implied warranties of merchantability or fitness for a particular purpose. The requester acknowledges and accepts the limitations of the map, including the fact that the map is dynamic and is in a constant state of maintenance, correction and update.



League of Women Voters of Lawrence-Douglas County
P.O. Box 1072, Lawrence, Kansas 66044

RECEIVED

February 21, 2011

FEB 22 2011

City County Planning Office
Lawrence, Kansas

Mr. Charles Blaser, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

RE, ITEM NO. 1: INITIATE REZONING; IG & IL TO RMO; 800 BLK LYNN ST (MJL)

Dear Chairman Blaser and Planning Commissioners:

This is a letter in support of initiating the rezoning of Block 5, the Homewood Gardens Subdivision, to the RMO District. However, we have a request concerning the process. We ask that following the hearing, if you should approve the rezoning, that you condition the rezoning ordinance with two provisions: (1) prior to issuance of a building permit, the entire area subject to the rezoning must be replatted to conform to the ownership or intended ownership and/or building lot lines, and (2) any site plan or plans must conform to this future replat (or replats) for this block.

Explanation: This Block 5 in Homewood Gardens has a troubled procedural history regarding the issue of the platted land conforming to the property ownership lot lines and site plan prior to issuance of a building permit. We are not suggesting that the same sequence of events will occur as that in 2006, but we are making this request in order to avoid any future problems.

This issue came to our attention because the area map showing the location of the requested zoning change in the Staff Report does not represent the actual existing platted lots in this subdivision. (Please see *Attachment A*). The Block 5 of Homewood Gardens shown on the map which is subject to the rezoning is represented as one large unplatted lot in the current Staff Report, in contrast to the other existing platted lots on adjacent blocks shown on this map. This is not the actual situation. This block consists of "16 platted lots existing since the 1930s plus two large lots replatted in 1976 as Scott's Addition" (as quoted from our letter to the City Commission in July 11, 2006). Please see the attached material reviewing this issue. Included in this material are scanned copies of the existing plat for this area (*Attachment B*), a scanned enlargement of the 2005 City Lots and Streets Map from Public Works (*Attachment C*), and a letter to the City Commission on this issue in July, 2006 (*Attachment D*).

We view the issue of requiring site plans to be in conformance with platted lot lines and consistent with property ownerships or intended property ownerships as critically important; so important that the integrity of our planning laws and property ownership could be at stake. The way to avoid this problem, we suggest, is to condition the rezoning so that the recorded ordinance reflects this requirement. According to the staff, the 16 small existing lots would be in conformance with the RMO District now, so we believe that recording the zoning ordinance with this condition would not be a problem, and would ensure that future uses and site plans are in conformance with the future replat(s) of this property.

Sincerely yours,

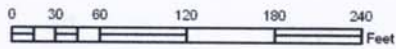
Milton Scott
Vice President

Attachments

Alan Black

Alan Black, Chairman
Land Use Committee

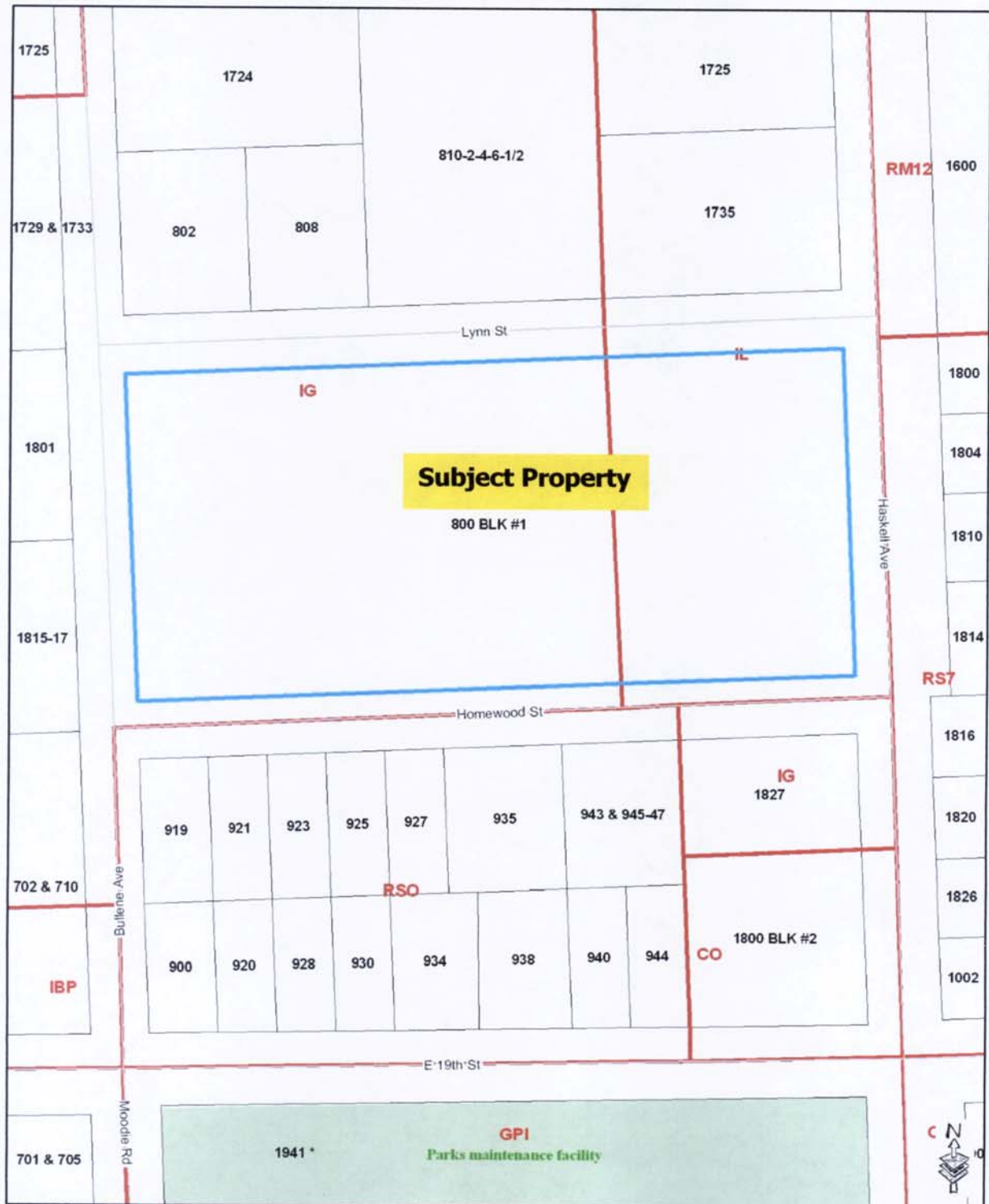
ATTACHMENT A



1 inch = 105 feet

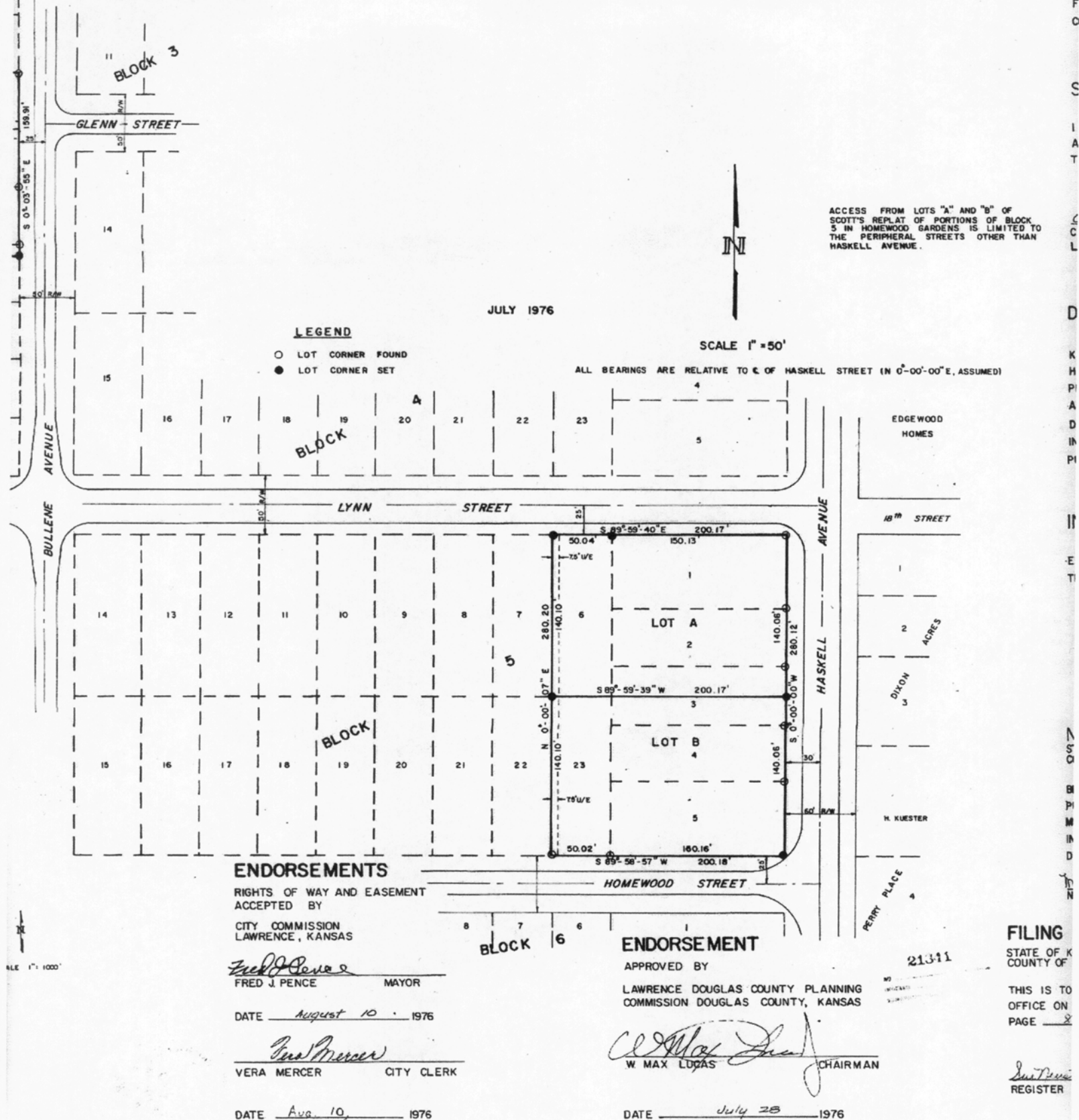
DISCLAIMER NOTICE

The map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for use rests solely on the requester. The City of Lawrence makes no warranties, express or implied, as to the use of the map. There are no implied warranties of merchantability or fitness for a particular purpose. The requester acknowledges and accepts the limitations of the map, including the fact that the map is dynamic and is in a constant state of maintenance, correction and update.



SCOTT'S REPLAT OF PORTIONS OF BLOCKS 5 AND 9 IN HOMEWOOD GARDENS

SUBURBAN ADDITION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS



Block Five in Homewood Gardens

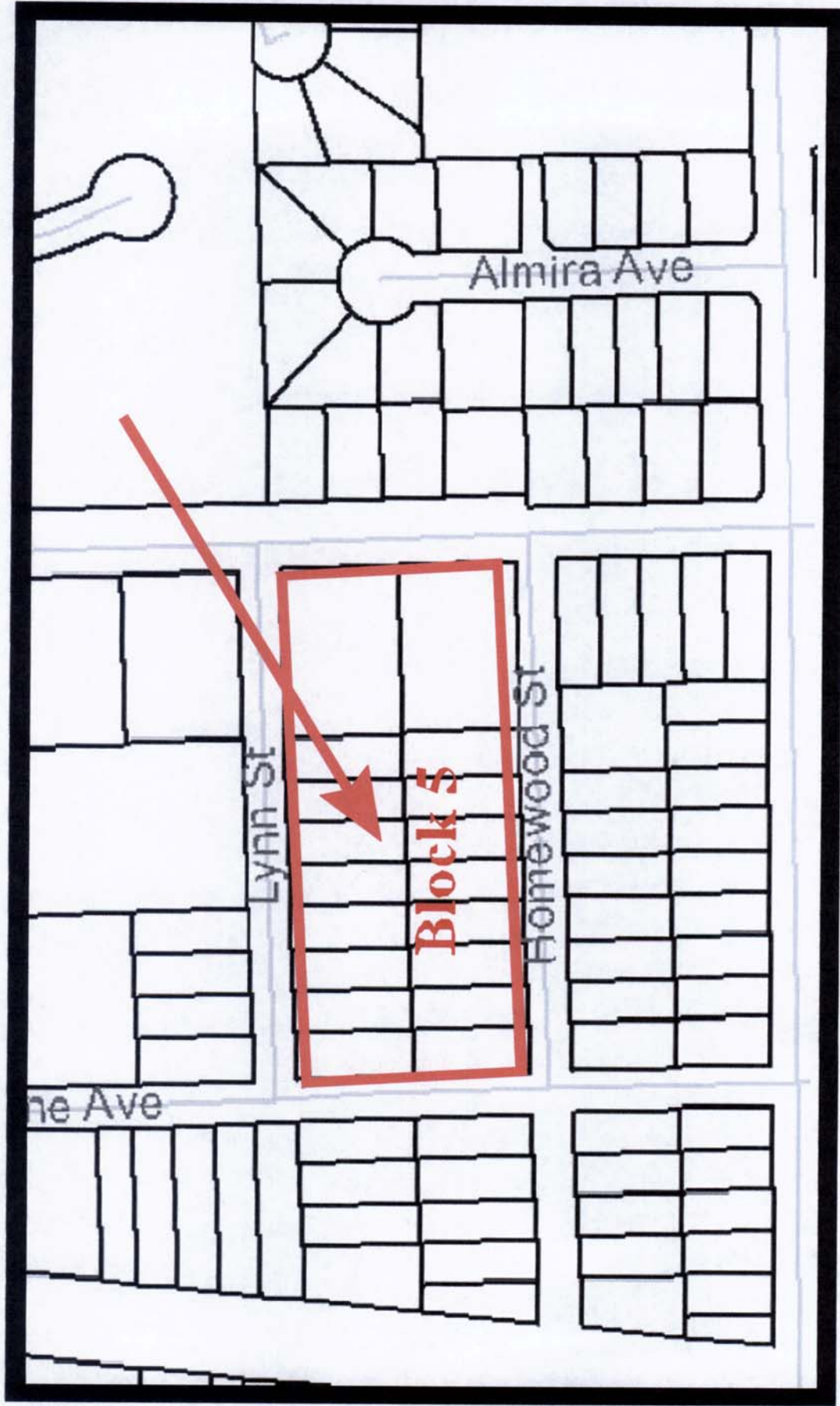


Figure 1. This is an enlarged portion of Lawrence Streets and Blocks Map purchased in 2005 from the Public Works Department. The arrow and red frame illustrate the Block 5 which is the subject of the rezoning initiation to RMO.

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

July 11, 2006

RECEIVED

JUL 11 2006

CITY MANAGERS OFFICE
LAWRENCE, KS

Mayor Mike Amyx
Lawrence City Commission
City Hall
Lawrence, Kansas 66044

Dear Mayor Amyx and City Commissioners:

We would like to bring to your attention a critically important issue that has not been addressed in the consideration of the Salvation Army Community Complex site plan. It is the fact of not requiring the replatting of the Salvation Army property prior to issuance of a building permit. According to the minutes from the June 6, 2006 City Commission meeting on this item and the recommendation on this site plan that you have been given to review, the planning staff does not include a requirement for the property to be replatted to correspond to the proposed Salvation Army one-lot development before issuance of a building permit. In the staff report, platting is mentioned only as an option; therefore, by inference, the site plan is considered to be the enabling instrument before issuance of the building permit. (Please see Attachment A.) This is a very serious digression from the proper legal process required before issuance of a building permit. (Please see Attachment B, Excerpts Two, Three and Four).

The two existing officially recorded plats underlying the Salvation Army Community Complex development site plan do not in any way accurately represent the Salvation Army proposed development. The Salvation Army site plan shows two buildings on one lot that encompasses the entire Block 5 of Homewood Gardens Addition. The official existing recorded plat for this land shows sixteen lots existing since the 1930s plus two large lots replatted in 1976 as Scotts Addition over the now non-existent other lots. These two underlying officially recorded plats do not represent an accurate description of the proposed Salvation Army ownership or the one-lot proposed development as required by the Site Plan provisions and the Zoning Code (Please see Attachment B, Excerpt One) and the Subdivision Regulations under which this is being considered. (Please see Attachment B, Excerpts Two-Four).

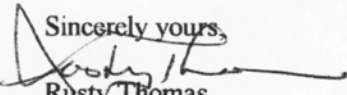
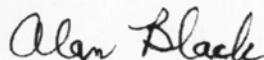
The basic purpose of a recorded plat is to accurately describe the dimensions of a lot or lots. A lot represents a parcel under single ownership or control which must be accurately and uniquely described in order to distinguish it from other property ownerships. In addition, a development has many requirements and commitments which must be met before its plat is recorded and a building permit is issued, thereby allowing development to proceed. The proper legal property description by platting is a requirement for all development in Lawrence and is fundamental to our planning law and the legal processes underlying it. In fact, platting to correspond to the lot boundaries of a proposed development prior to issuance of a building permit is the primary means of enforcing our planning laws.

Regardless of the merits of a proposal or the convincing arguments of its representatives, we regard the omission of the platting requirement for the Salvation Army Community Complex development as one of the most serious transgressions that can occur in the legal processes of Lawrence City development. Our planning laws are enabled by the State and enforced as a function of the police powers granted to the Cities and Counties. Our planning laws must be enforced evenly and equitably with the same fastidiousness as for any other City law. For the City to do otherwise is to act in an arbitrary manner and to create uncertainty among not just the development community, but the citizenry as well. If this property is not required to be properly platted before a building permit is issued, this will create a precedent that will undermine the enforcement of our newly adopted planning laws.

We ask that you not approve this site plan until this property has been legally platted and recorded, or at the very least, we ask that you insist that this property be legally platted to represent this one-lot development before a development/building permit is issued.

Thank you for considering this issue.

Sincerely yours,


Rusty Thomas
PresidentAlan Black, Chairman
Land Use Committee

~~ATTACHMENT A~~

Staff Recommendation:

Planning Staff recommends approval of the site plan, subject to the following conditions:

1. Execution of a site plan performance agreement.
2. Submission of public improvement plans including sanitary sewer extension to property, 6' wide sidewalk along Haskell Avenue, 5' wide sidewalks along Lynn/Bullene/Homewood Streets, and for Homewood Street improvements to be built to city standards from Haskell Avenue past Homewood driveway entrance.
3. Provision of an Agreement Not to Protest the formation of a future Benefit District for street improvements to Homewood Street and for Bullene Street.
4. Provision for the existing utility easements which would be located under the proposed buildings to be vacated by **either a separate document or a revised plat** and document referenced on the site plan, prior to the release of the site plan to Neighborhood Resources for a building permit.
5. Dedication of the additional public right-of-way and 15' x 15' utility easement by **either a separate instrument or a revised plat** and dedication document referenced on the site plan (by separate instrument with Book and Page Number), prior to the release of the site plan to Neighborhood Resources for a building permit.
6. Per City Code Section 9-903(B), a stormwater pollution prevention plan (SWP3) must be provided for this project. This project will not be released for building permits until an approved SWP3 has been obtained.

~~ATTACHMENT B~~

[EXCERPT ONE]

CHAPTER XX. ZONING AND PLANNING [old code]
ARTICLE 3. ZONING REGULATIONS

20-1428. SITE PLAN APPROVAL

20-1430 SAME; FEES AND PROCEDURE.

Paragraph 4,

The planning staff shall review the site plan for conformance with these regulations (Chapters 20 and 21 [the Subdivision Regulations]) and shall make a report, with recommendations, to the city commission. After receiving the site plan review from the planning staff, the city commission shall approve the site plan, with or without conditions; deny the site plan; or defer the site plan for further study.

[EXCERPT TWO]

CHAPTER XXI. SUBDIVISION REGULATIONS [current]
ARTICLE 1. GENERAL

21-101. PURPOSE.

- (5) Provide adequate and accurate records of all land subdivision.
- (13) Establish building lines.

21-104. APPLICABILITY.

- (b) For property within the incorporated city limits of Lawrence, no building permit shall be issued unless the property is platted. If subdivision is required then the subdividers shall plat all of their contiguously owned lands that are not platted.

[EXCERPT THREE]

ARTICLE 6. SUBDIVISION DESIGN STANDARDS

21-611. LOTS.

- (a) The size, width, depth, shape, and orientation of each lot in a subdivision should take into consideration location, topography, physical features, type of use contemplated and the appropriate zoning ordinance, as well as effect on adjacent lots.

[EXCERPT FOUR]

ARTICLE 12. BUILDING SETBACKS, ENFORCEMENT, EXCEPTIONS

21-1203. ENFORCEMENT.

No building or occupancy permit shall be issued for any new building within the plat approval jurisdiction of the City of Lawrence, or the unincorporated land in Douglas County, which fails to comply with the requirements of this Article. (Ord. 6146)

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
02/23/11

**ITEM NO. 2: SPECIAL USE PERMIT FOR THE RENEWAL OF LAWRENCE
COMMUNITY SHELTER, 944 KENTUCKY STREET (SLD)**

SUP-12-10-10: Consider the renewal of a Special Use Permit and a request to increase the maximum occupancy, year round, from 57 persons to 82 persons (including staff) for Lawrence Community Shelter, located at 944 Kentucky Street/214 W. 10th Street. Submitted by Lawrence Community Shelter, tenant, for James Dunn, property owner of record.

STAFF RECOMMENDATION: Planning Staff recommends approval of the renewal of the LCS Special Use Permit for one year and forwarding the request to the City Commission with a recommendation of approval and the ordinance for adoption on first reading, subject to the following conditions:

1. SUP approval granted for period of one year to expire April 30, 2012.
2. Submittal of quarterly reports to the City Commission regarding the status of fundraising and construction progress for a permanent facility.
3. Submittal of an annual report to the Planning Office within the first calendar quarter of the year.
 - a. The report shall include: a listing of law enforcement & emergency response calls, a log of guests who obtain jobs and housing, numbers of guests who utilize the day and nighttime services, and an update on the on-going commitment to communicate with the surrounding neighborhood and to address concerns of neighbors.
4. Revision of the site plan to update notes to state:
 - a. Identification of expiration dates, HRC, PC and CC action dates, as necessary to reflect SUP-12-10-10 approvals.
 - b. Amend existing notes "D and E" to states; "The noncompliant fence and carport will be removed when the SUP expires or when the Shelter moves to a new location. (Condition of DR-10-118-09)"
 - c. Modify plan to indicate improvements shown were completed following the 2009 approval. (Show site conditions as they are now.)
 - d. Modify table summary to provide building summary for total building.
5. Execution of a new Site Plan Performance Agreement.
6. Publication of an ordinance per Section 20-1306(j).

Applicant's Reason for Request: *"To extend the current SUP for one year to coincide with the relocation of the Lawrence Community Shelter to its new permanent site at 3701 Franklin Park Circle."*

KEY POINTS

- This request is to extend the operation of the Shelter at the 944 Kentucky site for one (1) year to expire on April 30, 2012.
- This request includes a petition to allow a maximum occupancy of 82 persons year round.
- The current approval only permits the higher occupancy between October 1 and April 1 only.
- There are no proposed physical changes to the site included in this application.

- The subject property is within the environs of several landmark properties and the Downtown Historic District. On November 19, 2009, the Historic Resources Commission approved the requested two-year extension of the Special Use Permit (DR-10-118-09) subject to conditions.

FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The area is characterized by a mix of community and residential uses.

CONFORMANCE WITH *HORIZON 2020*

- The proposed use conforms with several recommendations and policies of *Horizon 2020*.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None to date.

ATTACHMENTS

- Approved management plan for 944 Kentucky site.
- Site plan – *no changes proposed to approved site plan*.
- Summary of History of Approvals for 944 Kentucky.
- Conditions of Approval Ordinance Numbers 8493 and 8100.

GENERAL INFORMATION

Current Zoning and Land Use: RMO (Multi-Dwelling Residential-Office) District; Lawrence Community Shelter.

Surrounding Zoning and Land Use: RMO (Multi-Dwelling Residential-Office) District to the north, south, and west; existing residences and/or office uses to the north and west, and church to the south.

CD (Downtown Commercial) District to the east; public parking lot.

Site Summary

Lot Size: .27 acres (11,761 square feet)

Building Area: 6,515 gross square feet

Parking Provided: 10 spaces, including 1 accessible space

Review and Decision-Making Criteria (Land Development Code Section 20-1306(i))

1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE

Applicant's Response: *"Yes. The use, however, is subject to approval of a Special Use Permit."*

Temporary shelters are permitted in the RMO (Multi-Family Residential-Office) District with a Special Use Permit. This request is for renewal of a Special Use Permit for the Lawrence Community Shelter (LCS). The applicant is requesting a one year extension for this Special Use Permit (SUP) while fundraising and construction of a permanent facility is completed. There are no physical changes to the site.

Staff Finding – The proposed use is consistent with applicable provisions of the Land Development Code.

- There is no change to this finding from the previous consideration SUP-10-10-09.

2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS

Applicant's Response: *"Yes."*

Land uses surrounding this property include residential, office, and institutional uses, as well as a public parking. The site is located within a mixed-use area on the fringe of Lawrence's downtown, close to bus routes and other public services. No physical changes are proposed to the site.

LCS is compatible with neighboring multi-family and institutional uses in many regards, i.e. traffic generation, building scale and site design. However, the shelter's hours of operation and other external impacts differ from neighboring uses. The shelter operations are provided 24/7. The night shelter is open from 8 p.m. to 8 a.m. each night of the week. Once admitted, overnight clients are expected to stay the night, with the exception of health or work requirements.

Staff Finding – During the August 4, 2009 City Commission hearing, there was acknowledgement that this location is not ideal as a permanent shelter serving this many individuals. There was also recognition that this location may need to be used beyond April 2011 while a permanent facility was constructed. The City Commission approved a permanent shelter at 3701 Franklin Park Circle. Limiting the extension of this SUP is appropriate.

- This finding has been updated to reflect approval of the Franklin Park site.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED

Applicant's Response: *"Since this application is a renewal of existing SUP, the continued use will not cause any further, if there ever was any, diminution in value of neighboring properties. In fact, in recent years, a developer renovated and sold expensive condominiums in an historic building across the street diagonal from the shelter which probably increased the neighboring property values."*

Littering and loitering are typical concerns cited as contributing to diminished values by opponents of this land use. Staff contacted various City departments that provide services to the general area to inquire about the current status of the site. Site visits were made by City staff to determine that the Shelter is operating concurrently with the approved conditions of the SUP.

Parks & Recreation staff provides maintenance/trash pick-up in all of the downtown parking lots. Previously, this Department contended that more time was required to pick up litter in the parking lot across the alley from the shelter. This was attributed to the increased use and overflow Shelter activities. In response, LCS renewed its commitment to assist with regular litter cleanup for nearby properties. The previous approval included the provision of a note on the face of the site plan regarding this commitment. This note is also included on the attached site plan for this application.

Parks and Recreation staff recently reported that while occasional personal items are found in the public landscaping the overall impression is an improved situation in the past year with regard to litter.

An outside security guard position was added to Shelter staff. This staff member patrols the property at various times of day and evening hours with an irregular schedule. This allows for the application of a “surprise inspection” to avoid people anticipating rounds of the guard, thus encouraging good behavior.

Planning staff is unaware of any active property violations for this site. The shelter appears to be operating in compliance with previous approvals granted for this use at this location.

Staff Finding – A management plan for this specific site was approved by the City Commission in June 2010. It is assumed that these provisions have improved conditions and operations at the site.

With continued vigilance of LCS staff in keeping the grounds free of debris and with the continued employment of an outside security guard, the continued use of the shelter should not cause diminution in value of property in the neighborhood.

The Good Neighbor Agreement includes specific provisions for a well-maintained property. These provisions include ensuring that bicycles are parked in a bicycle rack, animals are not tied to trees or porches, litter is removed, non-functioning vehicles are removed, and guests utilize the rear patio as much as possible. An existing “no loitering” policy within 150 feet of the subject property is an additional policy aimed at maintaining order at the shelter. Approval of the Special Use Permit includes the approval of the existing management plan for the site.

- This finding has been updated to reflect recent changes and current operations of the Shelter based on the adopted management plan.

4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT

The building located at 944 Kentucky has been in existence since 1962. The drop-in shelter operated from this location beginning in 1999. The Shelter has operated at this location since 2003. Fire/medical, police, transportation, and public utility services are established to provide service to the subject site.

Staff Finding – Building improvements were made in 2009 including upgraded egress access and the addition of fire sprinklers. These life safety improvements were made to accommodate an increased occupancy of the building.

- This finding has been updated to reflect improvements made to the site in 2009.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

The site plan functions as the enforcement document, ensuring that use and maintenance of the property are consistent with the conditions of SUP approval. Additionally, the Good Neighbor Agreement includes provisions for maintaining civilized behavior on LCS property, ensuring that

bicycles are properly parked, removing litter from the property, and prohibiting extended parking of non-functioning vehicles.

The existing approval limits the maximum occupancy to 82 persons (including staff) between October 1 and April 1. This request specifically includes an amendment to allow the occupancy of 82 persons (including staff) year round during the life of the Special Use Permit. This change in the operation of the Shelter does not affect the maintenance of the property.

Staff Finding –As noted above, a management plan was approved for this site. The plan provides for continued maintenance.

- This finding is updated to reflect the approved management plan and the requested change in occupancy.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT

Applicant's Response: "No."

Staff Finding – No new development is proposed with the subject application. Thus, the natural environment will not be impacted with renewal of this SUP.

- There is no change in this finding from the previous consideration SUP-10-10-09.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE

This request has been made for a one year renewal and to allow the maximum occupancy (including staff) to be increased from 57 to 82 persons year round. The applicant has been working to secure a permanent facility. Staff will provide any updates regarding that progress at the Planning Commission meeting, if any is available at that time. The following table shows the previous and projected construction timing for moving to the permanent facility to be located at Franklin Park Circle.

September 2010 Estimated Schedule		January 2011 Estimated Schedule	
Final drawings completed	January 31, 2011	Final drawings completed	April 5, 2011
Bidding and permit process completed	February 28, 2011	Bidding and permit process completed	April 26, 2011
Construction/renovation completed	August 31, 2011	Construction/renovation completed	October 31, 2011

Staff Finding – As previously noted, during the City Commission hearing in August 2009, the Commission recognized that the shelter has outgrown this location but cannot easily relocate until a permanent facility is available. LCS is pursuing relocation and renovation of an existing building with a design tailored to its operational needs. The City Commission approved a Special Use Permit for 3701 Franklin Park Circle.

This request is for renewal of the use for one year. Additional extensions, if needed would be subject to a new Special Use Permit application, review and approval.

A time limit is included to clearly articulate the expectation of this application.

- This finding has been updated to reflect approval of the Franklin Park site.

STAFF REVIEW

In the summer of 2009, LCS requested permission to expand the number of guests permitted to stay overnight due to the increased demand following the closure of the Salvation Army overnight shelter. The City Commission approved the expansion to accommodate a total of 77 overnight guests (82 persons including staff) from October 1, 2009 – April 1, 2010. In the spring of 2010, the City Commission approved a Special Use Permit until April 2011. (SUP-10-10-09)

The applicant is requesting a one year renewal of the Special Use Permit for the Lawrence Community Shelter. This request also includes a request to increase the maximum occupancy from 57 to 82 persons, year round. This increase is currently allowed from October 1 to April 1 because of extreme weather. Staff is supportive of such a renewal. The Commission previously requested milestones be established to monitor progress towards the permanent facility site. Quarterly reports have been provided to the City Commission regarding fundraising status and project progress.

The extension recommendation is subject to the relevant previous conditions of approval imposed on the shelter operation at this location. The shelter should also continue to submit an annual report which includes a listing of law enforcement & emergency response calls, a log of guests who obtain jobs and housing, numbers of guests who utilize the day and nighttime services, and an update on the on-going commitment to communicate with the surrounding neighborhood and to address concerns of neighbors.

Historic Resources Commission Action

The subject property is within the environs of several landmark properties and the Downtown Historic District. This extension request was conditionally approved by the HRC on November 19, 2009. The Conditions of Approval related to the carport address the need to either remove the structure or to submit necessary drawings for the construction of a new structure that complies with the minimum design standards for properties within historic environs.

- If approved for only one year then the carport shall be removed from the site.
- Further extension of the approval for the use may require additional review by the Historic Resources Commission related to permanent structure improvements.

Staff recommends the notes on the face of the site plan be updated to reflect the recent approvals associated with this application and to note that any future extension of the shelter may be subject to a new consideration by the Historic Resources Commission.

Lawrence Community Shelter, Inc. (LCS)

MANAGEMENT PLAN

214 West 10th Street, Lawrence, Kansas 66044

Statement of purpose: The Lawrence Community Shelter (LCS) Management Plan is an operational document always under review and reshaping to fit changes and growth of the LCS programs. The Management Plan describes how LCS is implementing its role in Vision for Housing the Homeless as developed by the Community Commission on Homelessness. Emergency shelter is the first step in the Vision and links to other stages of housing and other resources to move families and individuals out of homelessness and into permanent housing.

1. Narrative description of the nature and characteristics of the use

The Lawrence Community Shelter, Inc. (LCS) is the emergency shelter serving homeless families and individuals in Lawrence and Douglas County, Kansas. The mission of the Lawrence Community Shelter is to provide safe shelter and comprehensive support services and programs that provide a path to a positive future for people experiencing homelessness and people who are at risk of homelessness.

2. Description of all services provided.

The Lawrence Community Shelter is a multi-level, full service, 24/7 shelter for individuals and families. Services provided are

- case management covering the LCS programs of housing, employment (Back-to Work job counseling and the Joseph Project, Good Dog! Biscuits and Treats and related work training, piece work, and skills building employment), benefits, and intervention (mental illness and addiction)
- guests will be assigned a case manager after intake with whom they will develop strengths based goals to which they will be held accountable
- night sleeping shelter for families and individuals
- LCS is a dry shelter in that guests may never drink, possess, or distribute alcohol or controlled substances on the premises.
- the LCS admits guests to the night shelter who may have been drinking as long as they follow the Actions and Consequences rules of behavior but it does not permit people on the premises during the day who may have been drinking. A breathalyzer or UA will be administered when determined appropriate by staff.
- a random UA may be also stipulated as part of a guest's case management plan.
- health screenings and education
- collaboration with Lawrence and Kansas agencies serving the homeless, such as DCCCA, ECKAN, Ballard Center/Penn House, Coalition for Homeless Concerns, Community Commission on Homelessness, Lawrence/Douglas County Housing Authority, and others
- daily living services provided at the drop-in center include:
 - Simple breakfast
 - Laundry service (self serve)
 - Telephone and mail
 - Limited storage of personal items
 - Bathroom facility (not including shower)
 - Refuge from extreme weather.
- evening dinner meals are provided only for guests staying in the shelter
- an excess number of guests will be housed in a back-up building or church as arranged by prior agreement with the City and/or the organization owning the back-up building.

3. Interior floor plan showing sleeping areas, common areas, emergency exits, and bathrooms

Attached -- site plan

4. Rules of conduct for guests

Guests may stay at the Lawrence Community Shelter only up to 90 days in a 12 month period as long as they follow shelter rules of behavior. All guests will complete an intake on arriving at the shelter and will be assigned a case manager within 72 hours. The case manager will evaluate the guest's progress during the 90 day period to determine continuation of stay. Beyond 90 days, individuals and families must be actively participating in an LCS program, and working with a case manager on a plan to get out of homelessness. [see attached Rights and Responsibilities and Actions and Consequences]

5. Maintenance plan that establishes standards for regular building and site maintenance, including regular removal of litter

- Daily maintenance of the building and grounds will be completed by a housekeeping staff and by individual guests
- All guests will participate in the daily lottery for jobs to clean shelter interior and exterior spaces, mats, and bathrooms. All guests are otherwise expected to help with cleaning building interior and exterior, assisting in the kitchen, and maintaining cleanliness of their personal area
- Building maintenance and repairs will be accomplished by the network of plumbers, carpenters, HVAC, and other specialists who have worked for the shelter in the past

6. Communications plan that establishes how the shelter will regularly communicate with neighbors and police

Good Neighbor Agreement (GNA) – this long established Agreement by the Lawrence Community Shelter and the Oread Neighborhood Association calls upon the shelter to hold twice annual public meetings for the community at large, to respond to neighbor complaints, to conduct neighborhood projects, to cooperate on security issues, and to advise the neighbors of specific events or changes at the shelter. The shelter director or designated shelter representative will always meet with neighbors, at their request. [see attached Good Neighbor Agreement]

Every neighbor of the facility will receive information about the shelter through the LCS newsletter and the shelter's website. This publication contains information about the shelter's operations, volunteer opportunities, notices of upcoming events and shelter contact information including the 24 hour-a-day staffed telephone number. Volunteer opportunities at the Shelter will be made available specifically for anyone in the neighborhood with a desire to volunteer.

The Lawrence Community Shelter maintains a website at www.lawrenceshelter.org as an additional way of communicating with its neighbors, donors, and the general public.

The Lawrence Community Shelter calls the police as required for incidents at the shelter requiring their intervention. The leadership of the shelter and the staff meet from time to time with representatives of the Lawrence Police Department to insure that all parties are cooperating as fully as possible, to train and educate the shelter staff, and to maintain a constructive relationship. The shelter defers to the Lawrence Police Department for keeping statistics of the number and types of calls to the property to track categories over time. The shelter staff has an active almost daily exchange of various information with the Lawrence Police and works closely with the Douglas County Sheriff's office on reentry to the community plans for inmates. Guest information is shared with the Lawrence Police Department, as appropriate.

Camping on public or private property is illegal and all neighbors are encouraged to call the police if they encounter such behavior. Loitering on shelter, neighbor's, or other private property is, and will be a violation of shelter policy and residents will be denied shelter services for a minimum of one day to denial for long term for such actions.

7. Response plan for emergencies that occur at the site

LCS staff is trained to call the Lawrence Police Department or the Lawrence/Douglas County ambulance service, when an emergency occurs. Staff is trained also by the local American Red Cross chapter for CPR, by Bert Nash Community Mental Health Center on First Aid for Mental Health, and by the various university degrees in psychology or social welfare that individual staff members may have. The shelter has developed a Safety Plan with the Kansas University School of Social Welfare for the guidance of interns, volunteers, and staff dealing with an incident at the shelter. [see attached Safety Plan]

8. Adequate staffing levels given the number of guests served and the nature of the facility and population served

Monday through Friday there are four to seven staff, interns, and volunteers during the administrative operating hours of 8 am to 5 pm, three staff and two to three volunteers in the evening hours from 5 pm to 10 pm, three staff or experienced volunteers during the night hours of 10 pm to 8 am; and Saturdays and Sundays there are two staff from 8am to 8 pm, three staff and two to three volunteers from 8 pm to 10 pm, and three staff from 10 pm to 8 am.

Attachments: Actions and Consequences
 Rights and Responsibilities
 Good Neighbor Agreement
 Safety Plan

Lawrence Community Shelter

RIGHTS AND RESPONSIBILITIES

Welcome to the Lawrence Community Shelter (LCS)

LCS strives to maintain a comfortable, safe, and peaceful environment, and requires all persons – both working at and staying in the shelter – treat others with respect and dignity.

Hours and Schedules

In addition to the below times and information, guests will be informed about the schedule of activities and services during the staff orientation for new guests.

Shelter day hours are 8:00 am to 8:00 pm.

Shelter night hours are 8:00 pm to 8:00 am.

Sign-up for the night shelter is throughout the day. Guests must check in by 6:30 pm.

Night shelter lights-out is at 10:00 pm. Lights-on is at 7:00 am. Any guest may request an earlier wake-up call, if needed.

Quiet hours are 10:00 pm to 7:00 am.

Once admitted each night, guests must remain on the property until their morning departure, unless prior arrangements have been made for work, school, etc.

Any guest who leaves during the night without checking out properly will not be readmitted and will not be allowed to use the night shelter for 3 days.

If a guest signs up for a night shelter space and will either be later than 6:30 pm or wishes to forfeit their spot, the guest must notify the staff before 6:30 to avoid penalty.

Day shelter services are open to any homeless person, including case management, laundry machines, mail and telephone, breakfast, AA, legal, and other projects.

All Guests – Conditions of Stay

All guests will complete an intake form on arriving at the shelter and will begin working with a case manager within 72 hours to make a plan to get out of homelessness.

An intake form will be completed upon arrival and a copy made of your photo ID. If you do not have a photo ID, we will take a picture for the file.

LCS is a dry shelter in that guests may never drink, possess, or distribute alcohol or controlled substances on the premises.

The night shelter does not administer a breathalyzer test but it does admit guests who may have been drinking as long as they follow the Actions and Consequences rules of behavior.

The day shelter does not permit people on the premises who may have been drinking. A breathalyzer or UA will be administered if determined appropriate by staff.

A random UA may be also stipulated as part of a guest's case management plan.

No illegal substances (street drugs, etc.) or alcoholic beverages are permitted on LCS property, indoors or outside, at any time.

No firearms or knives are permitted on LCS property, indoors or outside, at any time. This includes concealed weapons.

Controlled-substance prescriptions must be checked into the lockbox when the guest arrives and for the duration of their stay.

No food, medicine, or other items that may decay or draw infestations will be stored with bedding.

Sheets and pillowcases will be turned in for laundering at least weekly.

Other medications or other small (legal) personal items may be checked into the lockbox at check-in, if the guest chooses, and will be available upon request.

All guests, staff, and volunteers enter and leave the shelter only through designated entrances.

Do not open doors for persons outside wanting to come into LCS through fire exits or other unauthorized entrances.

The shelter will transport you to some appointments, job searches, etc. as appropriate or, in many cases, will assist you with a bus pass.

When walking to any destination in the city, stay on sidewalks and main streets in neighborhoods. Smoking is permitted in the designated smoking area.

Families should conduct their outside activities in the families play ground. Children should not be taken to the outside adult activity area.

Adult individuals and couples without children staying at the shelter should not be in the family/children outside area unless designated for child care by a parent and notification is given to staff.

The shelter reserves the right to recycle unattended belongings left at LCS.

Shower if asked by a staff person to control odor in the sleeping areas.

Family Shelter

Families with children will be assigned space in the family section of the shelter.

Children must be accompanied by a parent or their designated adult representative at all times.

Family rooms must be kept clean by the families and will be inspected daily.

Families will eat meals in the general dining room. No food or other items that may decay or draw infestations will be stored in the family rooms without proper care.

All Families and Individual Guests

Staff, volunteers, and guests will treat each other with courtesy and will show respect for other people's feelings, physical space, and property.

No fighting or threatening. Refrain from physical contact during conflict situations.

No offensive language (racist, sexist, homophobic, etc.)

Abstain from sexually explicit behavior in, near, or on LCS property.

Any behavior or action that is dangerous, disruptive, or disrespectful of others will be handled individually by the monitors on duty. A guest who causes difficulties for others may be asked to visit with a staff counselor in order to continue staying at the shelter, or may be asked to leave LCS.

Off Site Behavior

LCS guests are guests also of the surrounding neighborhoods and businesses. It is important to remember that there are City ordinances against aggressive panhandling and trespassing and that loitering is poor behavior. The shelter does not support guests who panhandle.

Be respectful of LCS neighbors and their property on your way to and from the shelter, and while you are around the shelter. Do not drink, smoke, hang out on, or walk across private property without permission. Walking on or across private property is trespassing and is unacceptable behavior for shelter guests.

Further admission to the shelter may be denied for any individual who causes valid concerns for neighbors.

Be a positive representative for the shelter and the homeless community.

Other things you should know

Welcome to LCS. Your help is needed in keeping the shelter clean and tidy and in any other way you think of since this is your temporary home. Please don't hesitate to pitch in with keeping the shelter clean.

If you need referrals to other resources, please ask your case manager or the monitors or volunteers. They will advise and assist you.

If you have a disability, please notify the staff so that they may make appropriate arrangements for your convenience and comfort.

Your guest status and all personal information you provide LCS is private. Some demographic information, such as age, sex, and veteran status, may be tallied so that we can describe the

guest population and assess needs for future services. No names or other identifying data will be included in these statistics. The Lawrence Community Shelter does cooperate with the Lawrence Police Department, as appropriate.

I understand and agree to abide by the above rights and responsibilities.

Signature _____ Date _____

Printed Name _____ Staff Initials _____ 12/09

Lawrence Community Shelter, Inc. (LCS)

Actions and Consequences

House Rules

Respect yourself and others

No alcohol or drugs

No weapons

No sexually suggestive comments or actions

No trespassing on private property

No violence or threats of violence

No smoking inside the shelter

No littering, inside or outside

The following is a list of common offenses that should result in the LCS guest being banned from the property and an indication of the length of time to be imposed for each type of offense.

- **Non-cooperation.** This offense refers to the refusal of a client to follow the directions of a staff person in the execution of normal LCS policy or procedure. This includes trashing, littering, trespassing, or other criminal behavior inside or outside of LCS building = **consequences determined case-by-case.**
- **Verbal Abuse.** Listening to the frustrations of guests is a normal staff function. However, a guest's verbal ventilating should not be tolerated when it is a personal attack = **1 to 2 weeks**
- **Inappropriate sexual behavior or threats = 2 weeks or greater, charges may be filed and a police report made**
- **Police assistance call.** Call constitutes the offense, even if cancelled = **2 weeks, charges maybe filed and a police report made**
- **Theft** of any property of LCS or of another guest
1st offense = **1 month minimum, police report made, charges may be filed and a police report made**
2nd offense = **2 months minimum, possible long term, police report made, charges may be filed and a police report made**
- **Threats of violence = 2 weeks minimum**
- **Physical violence** with an assault on another guest = **1 month or greater**
- **Carrying a weapon** on LCS premises = **2 months minimum**
- **Alcohol or drug usage** on LCS premises
1st offense = **2 weeks**
2nd offense = **1 month**
3rd offense = **1 month minimum, possible long term**
- **Selling, buying, trading, or distributing alcohol or drugs, or other criminal behavior** on LCS premises = **police will be called, charges will be filed, ban up to 1 year**
- **Violence with a weapon = 1 year minimum, possible long term, charges may be filed and a police report made**

Notice: Bans will be reviewed once a month by staff. Bans have the possibility of being shortened and/or revoked given cooperation and a genuine effort by the affected individual to correct the problem using agreed upon goals.

7/07

Updated per City Commission approval and adoption on 6/8/2010 for SUP-10-10-09

**GOOD NEIGHBOR AGREEMENT BETWEEN
LAWRENCE COMMUNITY SHELTER, INC. (LCS)
AND ITS NEIGHBORS**

DECEMBER 2009

The Lawrence Community Shelter, Inc. (LCS), located at 214 W. 10th Street, is a non-profit organization that provides safe shelter, comprehensive support services, and programs that provide a path to a positive future for people experiencing homelessness and people who are at risk of homelessness in Lawrence, Kansas.

The neighbors of the LCS include nearby businesses and organizations on 214 W. 10th Street, and other renters, businesses, and owners within a reasonable distance of LCS.

All parties to this Good Neighbor Agreement share a common desire to:

- Maintain a peaceful, safe, and clean neighborhood
- Share open and honest communications
- Help each other address concerns and solve problems
- Offer public service for the benefit of the neighborhood, the homeless community, and the Lawrence community at large.

This document is a road map to further communications; it is never a final document and is not a specific list of management decisions. In order to accomplish the Good Neighbor Agreement goals, the parties to the agreement are united in support of the commitments described below:

1. Property

LCS has a responsibility to keep its property well-maintained. It is desirable for LCS, property owners, and residents to show pride in the community by caring for public spaces, and by assisting in maintaining and improving the landscape. In order to maintain property at the highest possible condition,

The LCS will:

- A. Intervene to maintain civilized behavior from all persons on LCS property, including drunkenness, fighting, and inappropriate congregating, sitting, or lying down on LCS property
- B. Insure that bicycles are parked at the LCS bicycle rack
- C. Remove litter and other contributions to blight from LCS property
- D. Prohibit extended parking of seldom used or broken-down vehicles on LCS property
- E. Conduct monthly LCS neighborhood clean-up tours
- F. Encourage guests of LCS to use the rear patio as much as possible

The neighbors will:

- A. Make note of the condition of the building and grounds, and report to the LCS when property issues require attention
- B. Help develop and participate in volunteer activities to maintain the attractive neighborhood

2. Safety

Safety and security are essential for citizens to live peacefully and free from harm, and for neighborhoods to remain desirable and attractive. Property owners and residents share the responsibility of creating and maintaining a safe and secure neighborhood. In order to promote safety and security for all residents of the neighborhood, including guests of the shelter,

The LCS will:

- A. Maintain communications with the Community Cooperation Committee, city officials, and neighbors concerning security measures on LCS property
- B. Maintain existing LCS procedures for deterring harmful situations and respond promptly and firmly with in-house consequences
- C. Notify police when disruptive or illegal behavior occurs on LCS property
- D. Ensure that trespassing on neighbors' property by LCS guests is posted as not acceptable and is handled within the Actions and Consequences procedures of the LCS
- E. Maintain the policy of "no intoxication on LCS property during the day time"
- F. Respond in person to calls from neighbors when neighbors witness someone who they believe to be a shelter guest engaging in negative behaviors

The neighbors will:

- A. Provide comments and suggestions for improving safety and other conditions at the LCS.
- B. Review semi-annual summary reports of neighbor complaints to LCS
- C. Disseminate the LCS quarterly reports to the neighbors and the Lawrence Association of Neighborhoods (LAN)

3. Communications

Communication between the LCS and the neighboring community is important to develop and to maintain positive relationships. Progress reports help make the community aware of positive developments and efforts to achieve success. Awareness of upcoming events offers the community ways to interact with residents and staff, and helps both parties become more integrated. Methods will be established to ensure routine communications, feedback, and monitoring of this agreement. In order to promote communication between the program and the neighborhood,

The LCS will:

- A. Ensure the anonymity, if requested, of communications from neighbors
- B. Support efforts of the Community Cooperation Committee
- C. Provide quarterly reports of LCS program activities, and outcomes and responses to neighborhood concerns to the neighbors and the Lawrence Association of Neighborhoods for further dissemination
- D. Publicize contact information on cards distributed to neighbors, LAN newsletters, and Down- town Lawrence, Inc.'s electronic mailing list, to register concerns with the LCS Director
- E. Respond promptly to neighbors concerns regarding use of and activities on LCS property
- F. Provide follow-up response to neighbor involved with reported problem on action taken
- G. Document and report positive outcomes of neighborhood meetings and concerns
- H. Provide notice of upcoming events and invite the community when appropriate
- I. Encourage use of the word "neighbor" to refer to LCS guests as well as residents of homes near LCS. All people at LCS are to be considered responsible neighbors.
- J. Provide incident reports and outcomes to the Community Cooperation Committee for semi-annual review

The neighbors will:

- A. Encourage community attendance at events
- B. Meet with the LCS at semi-annual gatherings
- C. Monitor progress and commitments within this agreement and offer suggestions and advice
- D. Serve as a vehicle for communications
- E. Notify LCS of repeated issues
- F. Seek resolution of community concerns
- G. Encourage neighbor and community volunteerism at LCS

4. Changes to Agreement

This agreement may be changed or modified from time to time upon mutual agreement of the LCS and a public process with its neighbors. The Good Neighbor Agreement and the LCS Management Plan are always works in progress.

How to contact LCS director and staff: Website – www.lawrenceshelter.org Email – director@lawrenceshelter.org Mail – 214 W. 10 th Street, Lawrence, KS 66044 Telephone – 785-832-8864 (day) 832-0040 (night) 764-2095 (cell)
--

Signed:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Lawrence Community Shelter, Inc. (LCS)

Safety Plan

For Crises Involving Potential Threat to Staff in Public Areas

1. Staff should not hesitate to call 911 if there is eminent danger to themselves or others.
2. Volunteers should always refer a crisis situation to a staff member.
3. In the event of an escalating situation involving two or more guests, staff should immediately attempt to verbally separate the individuals involved. If guests refuse to obey, staff members are encouraged to give a verbal warning that failure to obey will result in bans. If guests refuse to respond, staff members should tell the individuals that they will contact the police. Continued failure to obey, staff members should ask others in the area to contact the police, while not leaving the scene themselves. Staff members should never put themselves in harms way by positioning themselves between two or more feuding individuals. An alternative is to direct the lesser aggressive guest into their office in order to dissolve the situation. After the situation has deescalated, staff are encouraged to discuss the situation with the involved guests individually and support them in reaching acceptable solutions to the situation. When appropriate and safe to do so, staff may ask individuals involved to have a group meeting to discuss the matter peacefully.
4. In the event of an escalating situation involving one guest, staff members should instruct the guest to calm down and be respectful of other guests. DO NOT attempt to talk through the difficulties of the person if you are uncomfortable or feel the situation is escalating out of control too quickly. In this situation, staff should: ask the guest to leave and/or contact the police. If staff feels they can work with the guest calmly and safely, continue speaking with the person to see if the difficulty can be resolved.
5. If this is the case, staff should remove the person from the public setting and use an office to speak with them in private as soon as it is safe to do so. If necessary, staff should inform other staff members of the situation so they can be close at hand for further help.

For Crises Occurring Within a Staff Office

6. If staff feel that a client may be a danger, or is in an emotional state where they do not have a normal level of self-control, it is ALWAYS okay to leave the door open.
7. Remember to use supportive words and try to help the client find acceptable choices for how to work through the crisis. Talk calmly with a person in crisis only while it is profitable. If the situation deteriorates and the threat of harm or injury increases, determine whether it is safer to call for assistance or try to leave the room. As far as it is successful, try to contain the crisis within the office so it is less likely to impact other guests. If you have to ask a guest to leave your office or the shelter, please follow them out so you can be on hand if the crisis continues and other people are put at risk.
8. If necessary, possible exit strategies include: breaking the office windows or, in the daytime, using designated exits, as appropriate.

Physical Restraint

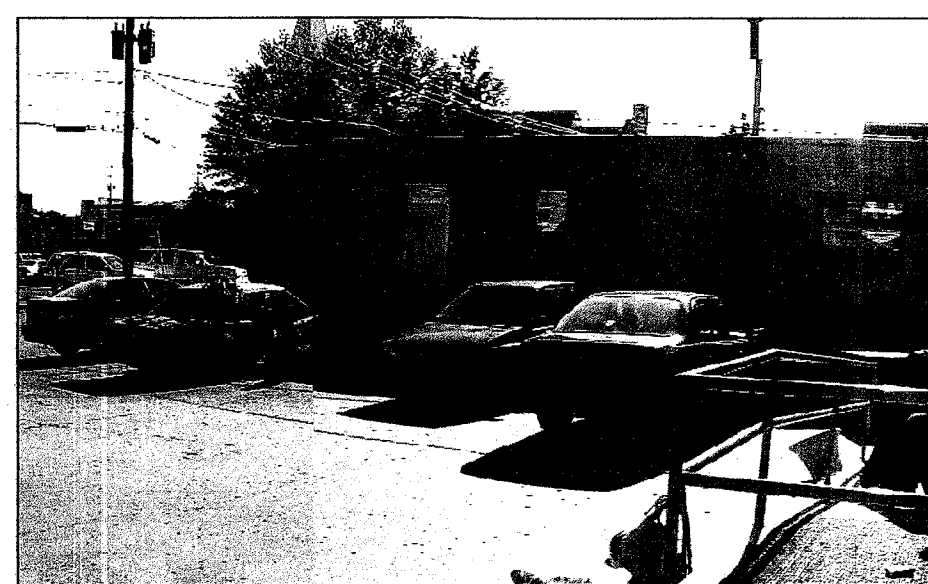
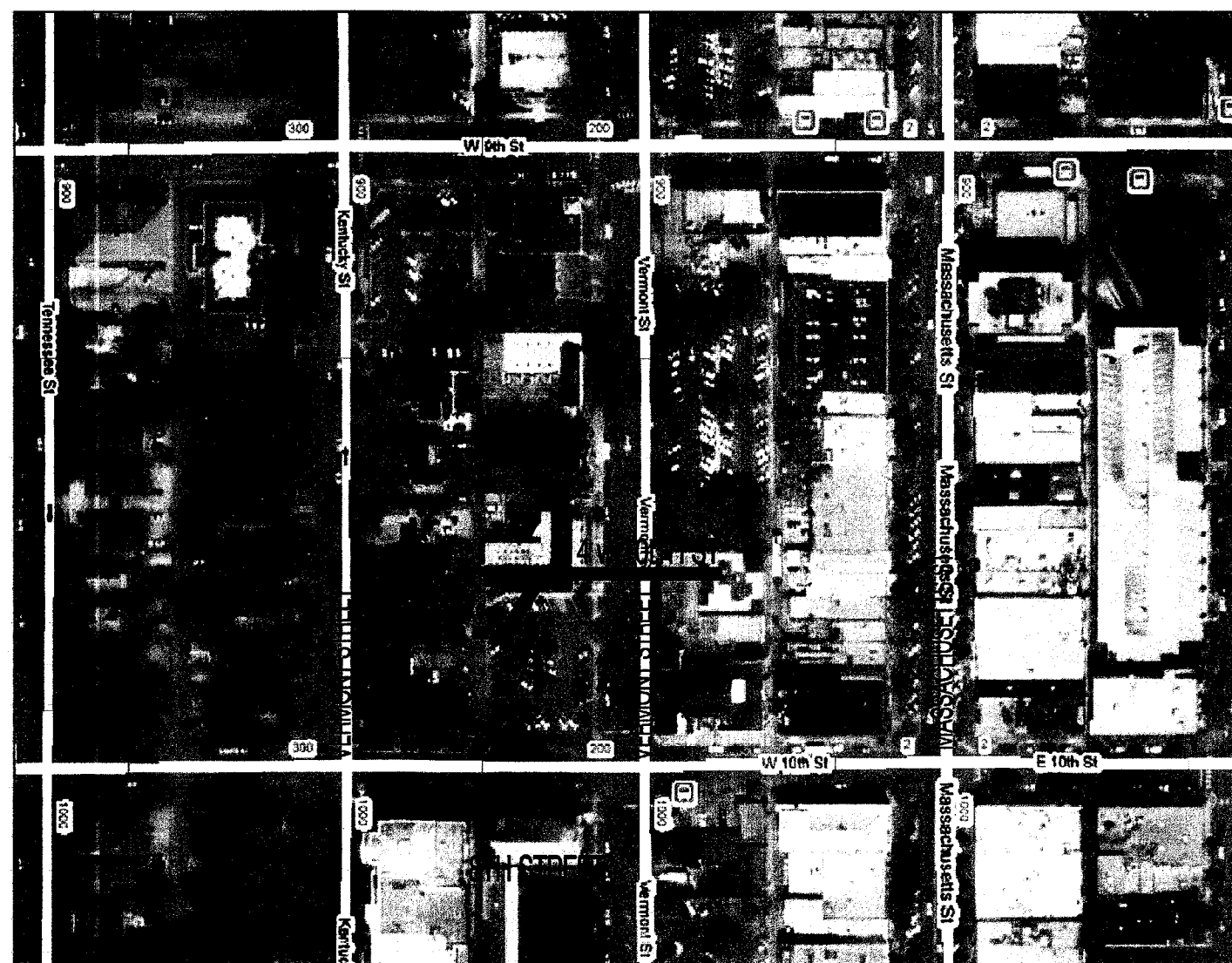
9. Physical restraint or seclusion shall be used as a method of intervention only when all other methods of de-escalation have failed and only when necessary for the protection of the staff and others.
10. No practice utilized shall be intended to humiliate, frighten, or physically harm a guest.
11. No practice that becomes necessary to implement shall continue longer than necessary to resolve the behavior at issue.

Post-crisis Procedures

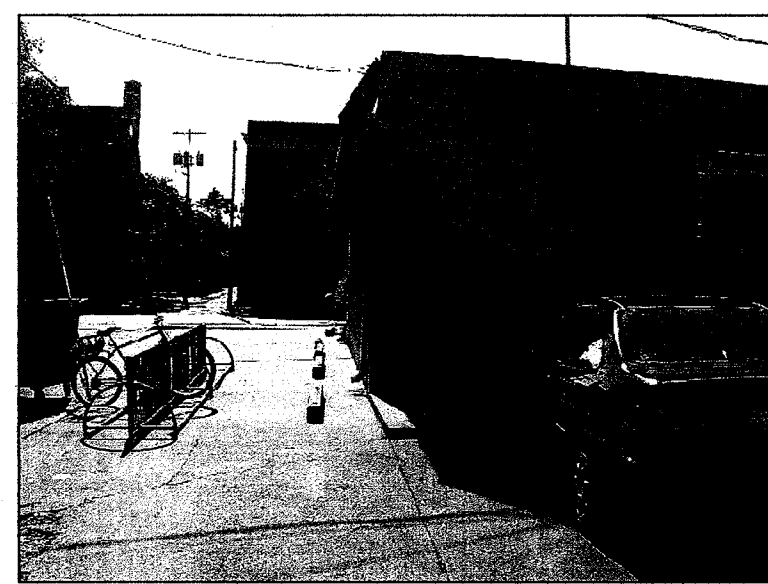
12. After the crisis, witnessing staff members are to complete an incident report if the situation warranted action. If necessary, log any police calls made.
13. Witnessing staff should collaborate and set ban for individual(s) involved.
14. Decision for ban duration should be reported to the guests only after the individual(s) involved have deescalated. The ban should be communicated to the guest as a decision made by the agency as a whole and not one individual. Further, staff members may wish to have other staff present when guests are informed of ban.
15. Bans are to be recorded on the posted ban sheet and staff should inform other staff of incident at the weekly staff meeting.

12/09

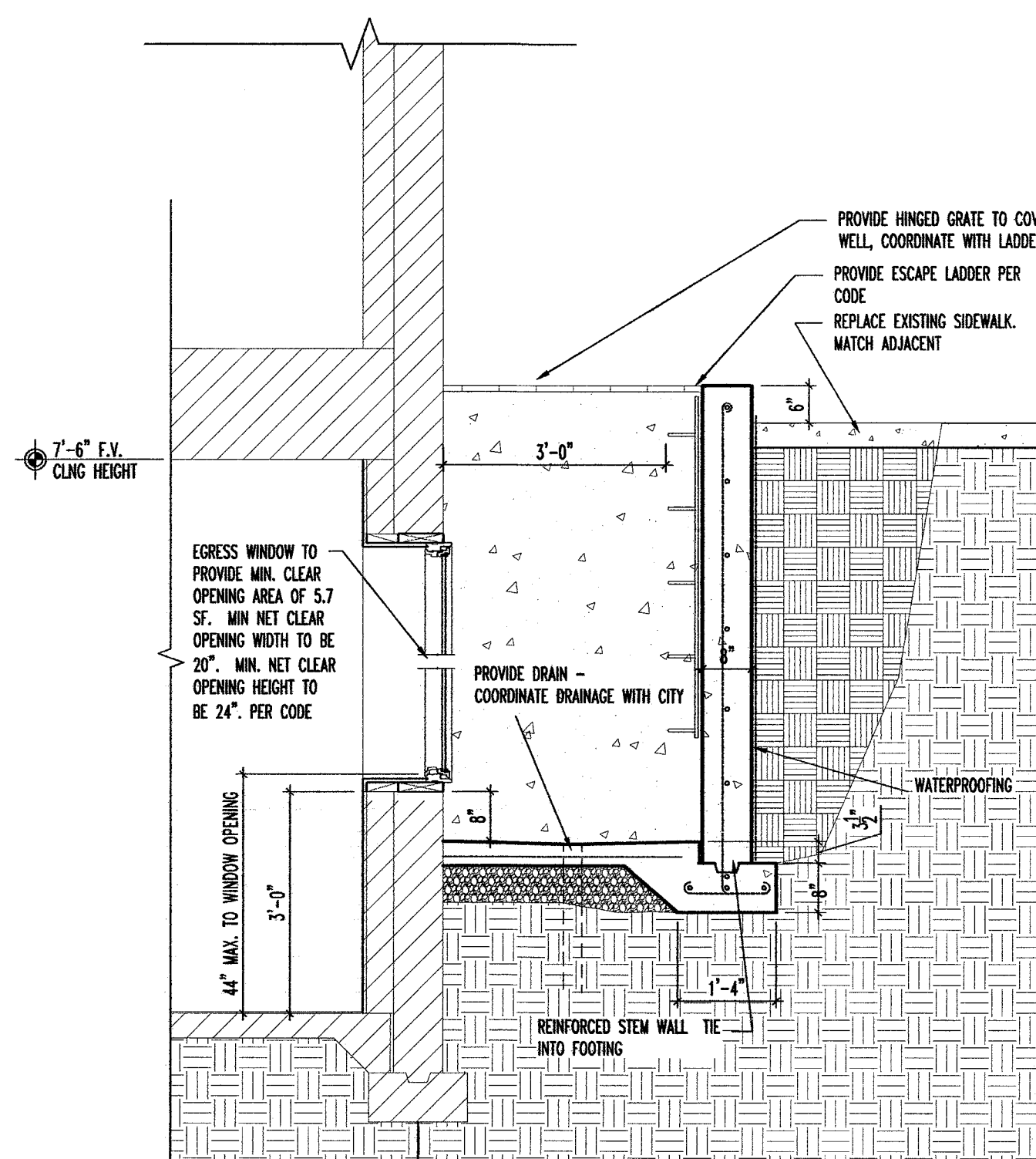
KEY PLAN:



VIEW OF NORTH SIDE OF BUILDING

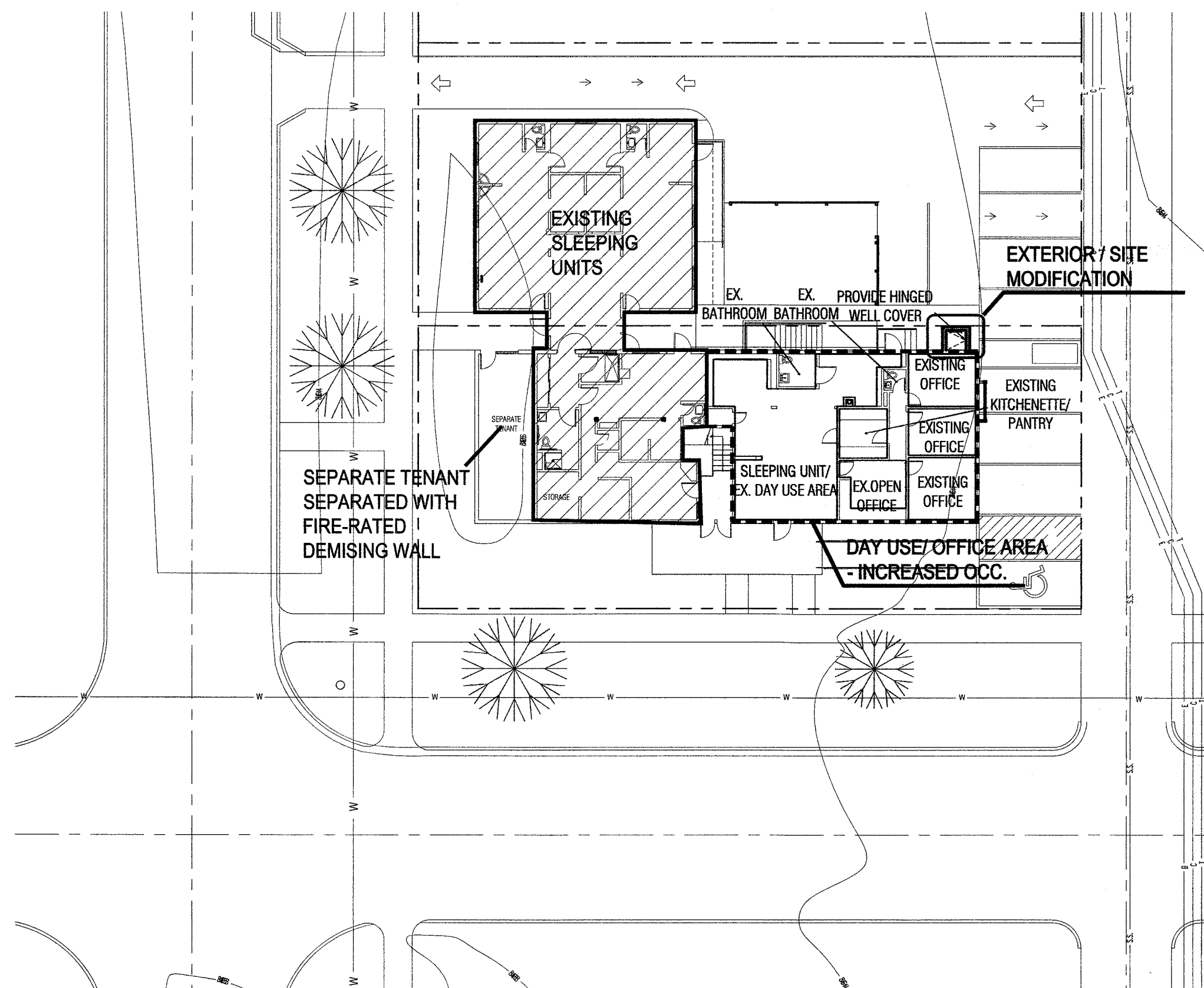


VIEW OF NORTHEAST CORNER



3 WINDOW WELL SECTION

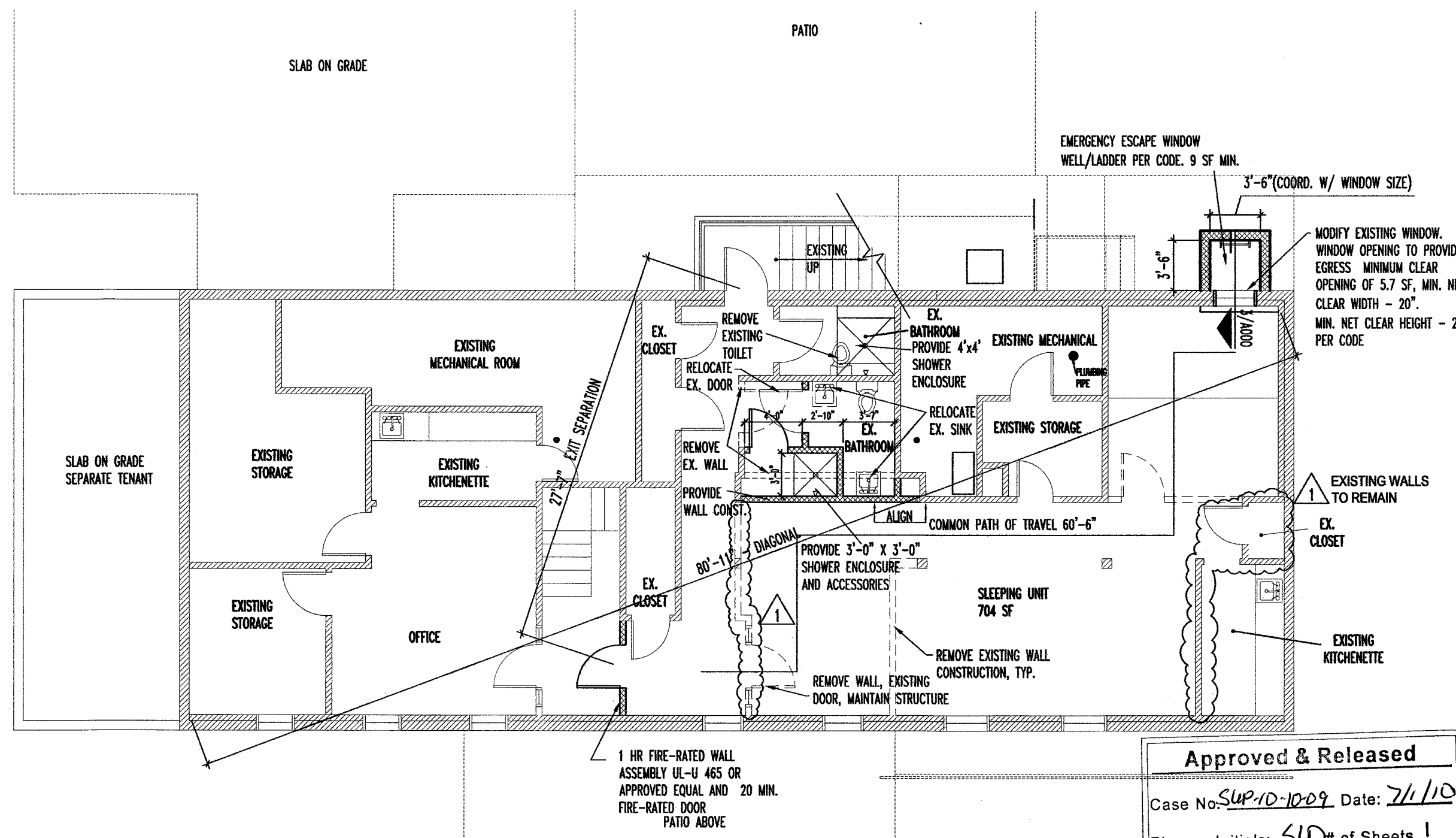
Scale: 1/8" = 1'-0"



1 SITE PLAN/FIRST FLOOR PLAN

Scale: 1" = 20'-0"

0 5' 10' 20'



2 BASEMENT FLOOR PLAN

Scale: 1/8" = 1'-0"

PROJECT INFORMATION

OWNER:
JAMES DUNN

TENANT:
LAWRENCE OPEN SHELTER
214 W 10th ST

ARCHITECT:
SABATINI ARCHITECTS INC.
730 NEW HAMPSHIRE STE. 233
LAWRENCE, KANSAS 66044
PHONE: 785.331.3399
FAX: 785.331.0846
CONTACT: DAN SABATINI

GENERAL NOTES

- LCS TO EXTEND FIRE/SMOKE ALARM AND FIRE-SPRINKLER SYSTEMS TO COVER REMAINDER OF TENANT SPACE OCCUPIED BY LOS.
- CONTRACTOR TO VERIFY EXISTING CONDITIONS AND NOTIFY ARCHITECT OF DISCREPANCIES BEFORE COMMENCEMENT OF WORK.
- ALL DIMENSIONS ARE TO FINISH FACE.
- DO NOT SCALE DRAWINGS.

CODE ANALYSIS

REASON FOR SUBMITTAL: INTERIOR IMPROVEMENTS DUE TO INCREASE OCCUPANCY FOR BASEMENT AND DAY USE AREA (FIRST FLOOR)

LOCATION: 214 W 10th ST
LAWRENCE, KS 66044

OWNER: JAMES DUNN

ARCHITECT: SABATINI ARCHITECTS, INC.
730 NEW HAMPSHIRE STREET, SUITE 233
LAWRENCE, KANSAS 66044
(785) 331-3399 PHONE
(785) 331-0846 FAX

AUTHORITIES HAVING JURISDICTION: CITY OF LAWRENCE

RESPONDING FIRE DEPARTMENT: CITY OF LAWRENCE

CODES & REGULATIONS:
2006 INTERNATIONAL BUILDING CODE
2006 INTERNATIONAL ENERGY CONSERVATION CODE
2006 INTERNATIONAL MECHANICAL CODE
2005 NATIONAL ELECTRICAL CODE (NEC)
2006 INTERNATIONAL PLUMBING CODE
2006 INTERNATIONAL ENERGY CONSERVATION CODE
2006 INTERNATIONAL FIRE CODE
AMERICANS WITH DISABILITY ACT ACCESSIBILITY GUIDELINES (IBC AND ICC/ANSI A117.1-2003)

USE GROUPS:
R-1 HOUSING - TRANSIENT

AREA AND HEIGHT: (TABLE 503) TYPE V-B, FULLY SPRINKLERED CONSTRUCTION TYPE:
ALLOWABLE 7,000 2077 (BASEMENT ONLY)
ACTUAL 1 STORY
HEIGHT 2 STORIES

SEPARATION: TABLE 508.2 - AUTOMATIC SPRINKLER SYSTEM PROVIDED THROUGHOUT

EGRESS DISTANCES: 250 FEET MAXIMUM REQUIRED (TABLE 1016.1)
COMMON PATH OF EGRESS TRAVEL: 75 FEET (SECTION 1014.3)

OCCUPANT LOAD

		AREA ALLOWANCE	OCC LOAD
1st Floor (East Portion)			
SLEEPING AREA/DAY USE	573 G	25 G*	23
OFFICE/STAFF	427 G	100 G	4
KITCHENETTE	74 G	100 G	1
SUBTOTAL OCC. AREA	1074	SUBTOTAL	28
Basement			
SLEEPING AREA	704 G	25 G*	28
STORAGE/MECH(CUMULATIVE)	714 G	300 G	2
OFFICE/STAFF	195 G	100 G	2
KITCHENETTES	131 G	100 G	1
SUBTOTAL OCC. AREA	1744	SUBTOTAL	33

* 25 GSF PERMISSIBLE FOR SLEEPING QUARTERS PER CITY CODE 8-205.24 AMMENDMENT TO TABLE 1004.1.1 (ORD. 8058)

PLUMBING TABLE 2902.1 ANALYSIS FOR DAY ROOM AND BASEMENT ONLY		
	REQUIRED	TL. PROVIDED
TOILETS 1 PER SLEEPING UNIT	2	3
LAVATORY 1 PER SLEEPING UNIT	2	3
SHOWER 1 PER SLEEPING UNIT	2	2

- A. MAXIMUM OVERNIGHT OCCUPANCY (WITH STAFF) SHALL CONTINUE TO BE LIMITED TO 57 PERSONS, EXCEPT FOR THE PERIOD BETWEEN OCT. 1 - APRIL 1 OF EACH YEAR WHEN THE MAXIMUM OCCUPANCY (WITH STAFF) MAY BE INCREASED TO 62 PERSONS.
- B. LCS COMMITS TO ASSIST IN REGULAR LITTER PICKUP FOR NEARBY PROPERTIES.
- C. THE NONCOMPLIANT FENCE AND CARPORT WILL BE REMOVED WHEN THE SUP EXPIRES OR WHEN THE SHELTER MOVES TO A NEW LOCATION. (CONDITION OF DR-10-118-09)
- D. IF THE SHELTER DOES NOT MOVE AT THE END OF THIS TWO YEAR EXTENSION, THE NONCOMPLIANT CARPORT AND FENCE WILL BE REMOVED AND A NEW STRUCTURE ALLOWING FOR OUTSIDE SHELTER IS TO BE PROVIDED. (CONDITION OF DR-10-118-09)
- E. THE APPLICANT WILL SUBMIT DRAWINGS OF A COMPLIANT STRUCTURE(S) TO THE HISTORIC RESOURCES COMMISSION PRIOR TO THEIR INSTALLATION FOR APPROVAL. (CONDITION OF DR-10-118-09)

APPROVAL DATES:
1/27/10 PC APPROVAL
2/23/10 CC APPROVAL
8/8/10 CC APPROVAL OF MANAGEMENT PLAN
DR-10-118-09 APPROVED 11/19/2009

Approved & Released
Case No. SLP-10-10-09 Date: 7/1/10
Planner: Initials: SLD of Sheets 1
Director: Scott M. Miller

LAWRENCE COMMUNITY SHELTER
944 KENTUCKY
Lawrence, Kansas 66046

Basement Modifications for Temporary Shelter

Project:

sabatini architects
730 NEW HAMPSHIRE STREET, SUITE 233, LAWRENCE, KS 66044
785.331.3399 F. 785.331.0846
www.sabatiniarchitects.com

Revisions:
08.10.09
06.30.10

HRC SUBMITTAL
PERMIT SUBMITTAL

Issue Date: 07.06.09
Scale: AS NOTED
Project No.: 09110.00
Drawn By:
Checked By:

Title:
LOCATION PLAN
SITE PLAN, BASEMENT PLAN
SECTION, DATA, PHOTOS

Sheet No.:

A100

HISTORY of Special Use approval for Lawrence Community Shelter

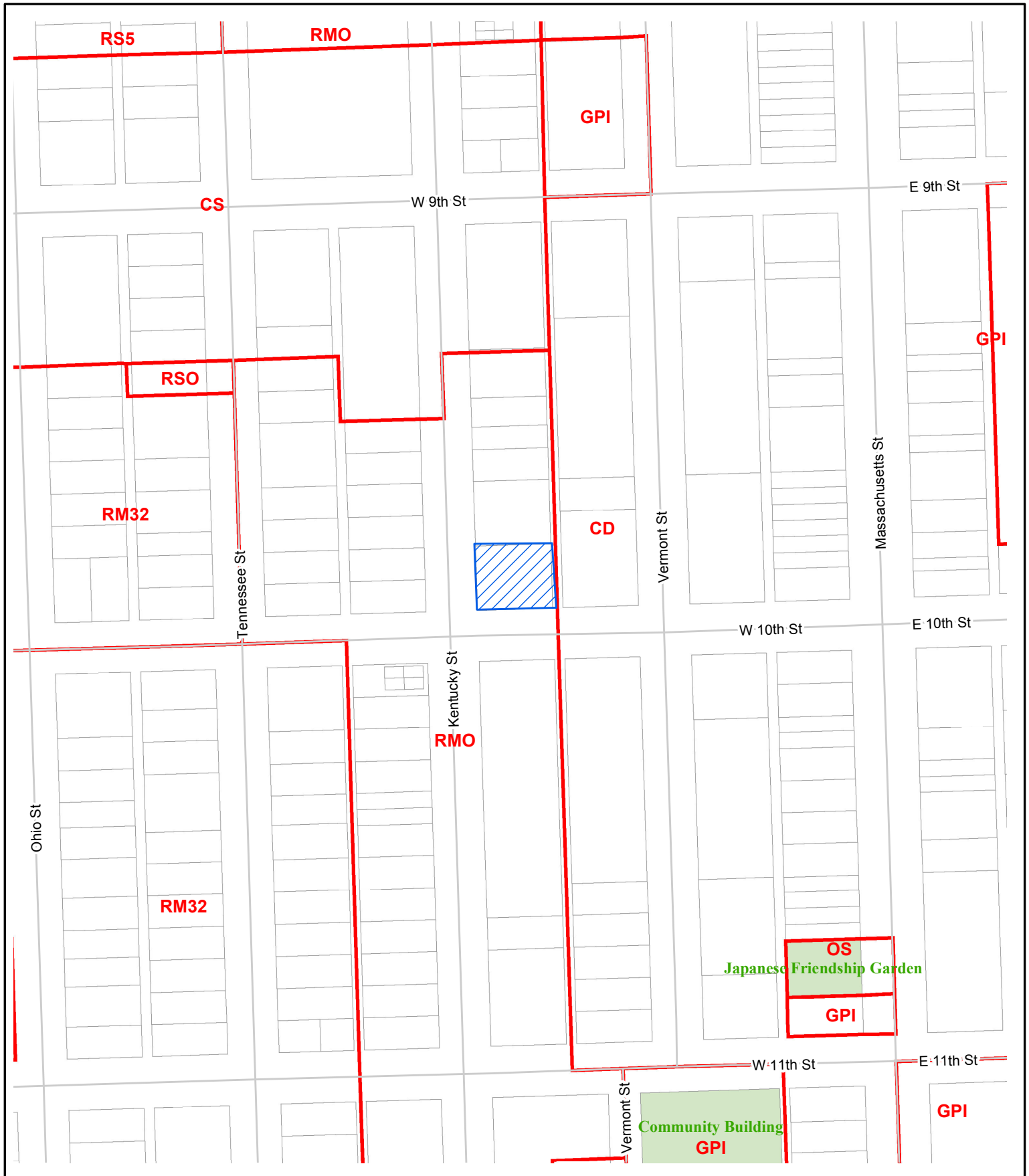
- UPR-10-11-99: Community Drop-In Shelter. This UPR was approved by the City Commission on December 7, 1999, subject to several conditions, including a two-year review of the application by the City Commission. The UPR was revisited in 2001 to expand the hours of operation to 9:00 p.m. The approval expired in September 2006.
- UPR-01-01-03: Lawrence Open Shelter. This UPR was approved by the City Commission on April 8, 2003, subject to several conditions, including a one-year expiration date upon the issuance of an occupancy permit. In November 2004, the City Commission approved the expansion of the shelter to accommodate 28 guests and 2 staff members, in addition to a one-year extension of UPR-01-01-03. The approval expired in December 2005.
 - In January 2005, the Lawrence Open Shelter and the Community Drop-In Center merged to form the Lawrence Community Shelter, Inc. (LCS).
- UPR-09-06-05: A request to extend the Use Permitted upon Review for the Lawrence Community Shelter. [The City Commission approved the UPR for one year on March 7, 2006, subject to conditions.]
 - On January 16, 2007, the City Commission voted to extend UPR-09-06-05 to April 17, 2007 to allow for Planning Commission consideration of the new LCS Special Use Permit extension request in March 2007 with City Commission consideration of the Planning Commission's recommendation on April 17, 2007.
 - On February 15, 2007, the Historic Resources Commission approved the LCS Special Use Permit (DR-01-06-07), subject to conditions.
- SUP-01-02-07: On April 17, 2007, the City Commission approved SUP-01-02-07 for the continued operation at existing location for three years (through April 17, 2010).
 - On August 4, 2009, the City Commission amended the SUP-01-02-07 to allow overnight capacity of 57 (including staff) with all other conditions of the SUP remaining. The Commission also permitted the reconfiguration of basement space and installation of a fire sprinkler system to accommodate additional overnight guests with a permitted maximum of 82 persons (including staff) for the period October 1, 2009 – April 1, 2010.
 - On November 19, 2009, the Historic Resources Commission approved the requested two-year extension of the Special Use Permit (DR-10-118-09) subject to conditions.
- SUP-9-9-09: ~~On January 25, 2010, the Planning Commission will consider a request for a Special Use Permit [SUP-9-9-09] for the location of a permanent shelter at 2176 W 23rd Street. [Request withdrawn on 1-20-2010].~~
- SUP-1-3-10: New SUP application submitted for 3701 Franklin Park Circle submitted 1-20-2010. SUP will be considered by Planning Commission in March 2010. City Commission approved a permanent facility at 3701 Franklin Park Circle.
- SUP-9-9-10: City Commission approved a SUP for the existing site to continue until April 2011 and a management plan for the current site in June 2010.

Previous Conditions SUP-10-10-09: Ordinance No. 8493 (approved by the City Commission March 9, 2010)

1. SUP approval granted for period of one year to expire on April 17, 2011.
2. Submittal of a quarterly report to the City Commission regarding the status of fundraising and construction progress for permanent facility.
3. Submittal of a semi-annual report to the Planning Office by October 1, 2010. The report shall include a listing of law enforcement & emergency response calls, a log of guests who obtain jobs and housing, numbers of guests who utilize the day and nighttime services, and an update on the on-going commitment to communicate with the surrounding neighborhood and to address concerns of neighbors.
4. Revision of the site plan to update notes to state:
 - a. Identification of expiration dates, Historic Resources Commission, Planning Commission and City Commission action dates, as necessary.
 - b. Maximum overnight occupancy (with staff) shall continue to be limited to 57 persons, except for the period between Oct. 1, 2010 – April 1, 2011 when the maximum occupancy (with staff) may be increased to 82 persons.
 - c. LCS commits to assist in regular litter pickup for nearby properties.
 - d. The noncompliant fence and carport will be removed when the SUP expires or when the Shelter moves to a new location. (Condition of DR-10-118-09)
 - e. If the Shelter does not move prior to the end of this one year approval, the non-compliant carport and fence will be removed. If an additional approval is granted for LCS to remain in the present location, a new structure allowing for outside shelter is to be provided. (Condition of DR-10-118-09)
 - f. The applicant will submit drawings of a compliant structure(s) to the Historic Resources Commission prior to their installation for approval. (Condition of DR-10-118-09)
5. Execution of a new Site Plan Performance Agreement.
6. Publication of an ordinance per Section 20-1306(j). (***Published March 12, 2010***)
7. City Commission approval of a Management Plan prior to June 17, 2010. Approval of the Management Plan requires a $\frac{3}{4}$ majority vote of the full membership of the City Commission. (***City Commission approved June 8, 2010***)

Previous Conditions SUP-01-02-07: Ordinance No. 8100 (approved by the City Commission May 1, 2007)


1. Within 45 days of SUP approval by the City Commission, LCS shall submit a signed Good Neighbor Agreement with signatures of the LCS staff and at least 15 neighbors. (*Condition has been met.*)
2. If the shelter remains in its current location within three years (2010), the following items shall be submitted to the Planning Office prior to the three-year expiration date:
 - a. An application for SUP renewal.
 - b. Information supporting a new shelter location, including the viability of the new location, i.e. a funding plan.
3. Submittal of an annual report to the Planning Office within the first calendar quarter of each year for the next three years. The report shall include a log of police calls (with type of call noted), a log of guests who obtain jobs and housing, numbers of guests who utilize the day and nighttime services, and an update on the on-going commitment to communicate with the surrounding neighborhood and to address concerns of neighbors.
4. The addition of staff member(s) to meet guest, neighborhood, and public safety needs (refer to attached LCS report for specific staff recommendations). At a minimum, one half-time paid security guard, i.e. outside monitor, shall be hired. This new staff person shall be required to work a minimum of 20 hours per week. The maximum occupancy level shall not be exceeded with the addition of new staff members. (*Part-time outside monitor has been hired.*)
5. A signed Site Plan Performance Agreement shall be submitted to the Planning Office.
6. The site plan shall be revised to show the following changes:
 - a. Inclusion of a note which states that, if the shelter remains in its current location by renewal time in three years, the items in conditions #2a, #2b, and #3 shall be submitted (the specific items shall be detailed on the site plan).
 - b. Revision of the UPR expiration date to reflect the new SUP expiration date and replacement of "UPR" with "SUP".
 - c. Revision of the zoning data to note that the site's new zoning designation is RMO (Multi-Dwelling Residential-Office) District.
 - d. Revision of the staffing section to list the numbers of current day and nighttime staff, including both full and part-time staff. If staffing additions are approved as part of this SUP, these staff members shall be included as part of this new staff count.
 - e. Inclusion of the following note: "On February 15, 2007, the Historic Resources Commission approved the LCS Special Use Permit (DR-01-06-07), subject to conditions."
 - f. Removal of the 18' by 21' by 10'4" metal canopy and picket fence, unless the City Commission grants an appeal of the Historic Resources Commission's determination for this structure to be removed. (*City Commission granted appeal, so the carport and fence may remain until the SUP expires or the use is moved to a new location. If an alternative is secured and approved by HRC in the future, the site plan will need to be revised.*)
 - g. Notation stating that the Good Neighbor Agreement and LCS policies shall be referred to for additional provisions governing the use and maintenance of the LCS property and neighborly behavior of the guests. (*Plan was updated as conditioned in 6a - 6g.*)



SUP-12-10-10: Special Use Permit for Lawrence Community Shelter 944 Kentucky Street

Lawrence-Douglas County Planning Office
February 2011



 Area Requested
Scale: 1 Inch = 200 Feet

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
02/23/11

ITEM NO. 3: RM24 to CN1; .27 ACRES; 313 E 8TH ST (MKM)

Z-12-16-10: Consider a request to rezone approximately .27 acres from RM24 (Multi-Dwelling Residential) to CN1 (Inner Neighborhood Commercial), located at 313 E. 8th Street. Submitted by John Flanders for R&B Holdings LC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for .27 acres from RM24 (Multi-Dwelling Residential) District to the CN1 (Inner Neighborhood Commercial) 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 and with the following conditions:

1. Historic Resource Commission's approval of the rezoning.
2. The use category of *Financial, Insurance and Real Estate Office* shall be removed from the list of permitted uses.

Applicant's reason for request:

"The requested zoning change from RM24 to CN1 will allow the Landowner, its Tenants, and the General Public to enjoy the social and economic gains that come from expanding the possible uses of this commercial property to include more than automotive services. In discussions with the East Lawrence neighborhood Association (ELNA), for example, some of the ideas put forth for possible tenant uses included: a neighborhood convenience store, an art studio/gallery, and a coffee shop or restaurant. The long-standing commercial use of this property has been strictly limited to automotive services. A commercial zoning of CN1 would permit additional and beneficial commercial uses for this property. We believe a rezoning would be a win-win-win for: the neighborhood, the tenant/business owner, and the property owner."

ATTACHMENTS:

Attachment A: Letter of support for conditional zoning from East Lawrence Neighborhood Association.

Attachment B: Section 20-1502 of the Development Code: Nonconforming Uses.

Attachment C: 1981 Planning Director's confirmation of nonconforming use of property

Attachment D: Applicant's future plans for the property.

KEY POINTS

- The current use is a non-conforming use per Section 20-1502(a). The subject property was zoned for commercial uses in 1966 when the commercial use was developed. The property has since been rezoned to the RM24 District and the commercial use is now nonconforming.
- The rezoning to the CN1 District will not resolve the nonconforming status of the use, as the existing use is not permitted in the CN1 District; however, when the use of the property changes, it will be possible to change to a conforming commercial use.

- In some of the applicant's responses in this report, the applicant mentions approval and restrictions the City placed on the property in 1981 for the commercial use. This reference is to a letter from Garner Stoll, Director of Planning at that time, which confirms that the use is a nonconforming use and explains the type of uses the property can be used for. Section 20-1502 of the Development Code contains regulations for nonconforming uses and is included with this report as Attachment B.

GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA

- The subject property is located in an area of mixed uses. The surrounding area, while zoned RM24 for multi-dwelling residences, is currently developed primarily with single-dwelling residences, and commercial zonings and uses are located within 500 ft of the subject property in all directions.

CONFORMANCE WITH *HORIZON 2020*

- The proposed rezoning request from RM24 to CN1 is consistent with land use recommendations found in *Horizon 2020*.

ASSOCIATED CASES/OTHER ACTION REQUIRED

ASSOCIATED CASES

- B-12-14-10; variance from the maximum building square footage permitted in the CN1 District of 3000 sq ft to permit the existing structure of 3290 sq ft. The variance was approved by the Board of Zoning Appeals at their February 3, 2011 meeting.

OTHER ACTION REQUIRED

- Historic Resource Commission approval of rezoning requests.
- City Commission approval of zoning request and publication of zoning ordinance.

PRIOR TO CHANGE OF USE OR OTHER DEVELOPMENT

- Submittal of site plan to the Planning Office if any physical alterations to the site or a change of use are proposed.
- Historic Resource Commission approval is needed for any physical changes.
- A building permit shall be obtained from Development Services prior to structural changes.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- East Lawrence Neighborhood Association provided a letter of support for conditional rezoning. This is included with this staff report as Attachment A.

GENERAL INFORMATION

Current Zoning and Land Use: RM24 (Multi-Dwelling Residential) District; auto detail company.

Surrounding Zoning and Land Use: RM24 (Multi-Dwelling Residential) District in all directions; detached dwellings.

I. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"Applicant has studied the overall goals of the Comprehensive Plan, Horizon 2020, and believes that the proposed zoning change for the subject property meets these goals in many ways. First it meets the objective of the General Goal because it will allow the Landowner, its Tenants, and the General Public to enjoy the social and economic gains that come from expanding the possible uses of this commercial property to include more than automotive services. In discussions with the East Lawrence Neighborhood Association (ELNA) for example, some of the ideas put forth for possible tenant uses included: a neighborhood convenience store, an art studio/gallery, and a coffee shop or restaurant. The long-standing commercial use of this property has been strictly limited to automotive services. A commercial zoning of CN1 would permit additional and beneficial commercial uses for this property. We believe a rezoning would be a win-win-win for; the neighborhood, the tenant/business owner, and the property owner.

Excerpted from Horizon 2020, General Goal:

The overall community goal for planning is to provide, within the range of democratic and constitutional processes, for the optimum in public health, safety, convenience, general social and physical environment and individual opportunities for all the residents of the community, regardless of racial, ethnic, social or economic origin. It is the goal of the planning process to achieve a maximum of individual freedom, but public welfare must prevail. It is the intent to meet and safeguard individual rights and vested interests in a manner which will create the minimum disruption in individual freedoms and life values.

Applicant also believes that this proposed zoning change meets the goals set forth in Chapter Six of Horizon 2020 because the building, although currently zoned RM24, has had continuous commercial use since it was built in 1965. Rezoning from RM24 to CN1 will not only increase the possible commercial uses for this property in ways that will benefit the local East Lawrence neighborhood, but it will also provide benefits to the greater community of Douglas county by strengthening downtown Lawrence per the nodal, infill, and improvement of community image goals set forth in Chapter Six. The highest and best use of this commercial property is probably not going to be an automotive shop. While the neighbors have fond memories of how the T.I.R.E. Shop served the neighborhood in the past, they also acknowledge that the neighborhood has evolved. The current limited commercial use permitted is likely not the highest and best use for the property.

Excerpted from Chapter Six – Commercial Land Use

The Plan's goal is to strengthen and reinforce the role and function of existing commercial areas within Lawrence and Douglas County and promote economically sound and architecturally attractive new commercial development and redevelopment in selected locations.

STRATEGIES: COMMERCIAL DEVELOPMENT

The principal strategies for the development and maintenance of commercial land use areas are:

- *Support downtown Lawrence as the Regional Retail/Commercial/Office/Cultural Center with associated residential uses through the careful analysis of the number, scale, and location of other mixed-use commercial/retail developments in the community. Downtown Lawrence is the cultural and historical center for the community and shall be actively maintained through implementation of the adopted design guidelines that regulate the architectural and urban design character of this regional center.*
- *Establish and maintain a system of commercial development nodes at selected intersections which provide for the anticipated neighborhood, community and regional commercial development needs of the community throughout the planning period.*
- *Require commercial development to occur in 'nodes', by avoiding continuous lineal and shallow lot depth commercial development along the city's street corridors and Douglas county roads.*
- *Encourage infill development and/or redevelopment of existing commercial areas with an emphasis on Downtown Lawrence and existing commercial gateways. Sensitivity in the form of site layout and design considerations shall be given to important architectural or historical elements in the review of development proposals.*
- *Improve the overall community image through development of site layout and accessibility plans that are compatible with the community's commercial and retail areas.*

Applicant also believes that a zoning change to CN1 will increase the probability that this building, and the businesses that will occupy it, will create increased economic value in the community by creating new jobs (current tenant is a one-man shop), enhancing the tax base (current business is quite small in revenues and taxes generated), and by improving the quality of life in the East Lawrence neighborhood as a successful commercial enterprise.

Excerpted from Chapter 12 of *Horizon 2020*:

According to the International Economic Development Council, the definition of economic development is creating wealth in a community through job creation, job retention, quality of life improvement and tax base enhancement."

END OF APPLICANT'S RESPONSE

STAFF ANALYSIS

The following statements are recommendations from *Horizon 2020* regarding Inner Neighborhood Commercial Centers. Staff comments follow in *italics*.

- *Horizon 2020* notes that an Inner Neighborhood Commercial Center is typically an existing commercial area within an established neighborhood. (page 6-6, *Horizon 2020*)

While the subject property is not specifically identified as an existing neighborhood commercial center, this could be due to the fact that the property is not zoned for commercial uses.

- The Comprehensive Plan does not support increasing the size or number of new Commercial Centers, however small, new inner-neighborhood centers are possible and/or anticipated as part of an overall new planned neighborhoods.
- *Horizon 2020* does not specifically indicate the location of new Inner-Neighborhood Commercial Centers due to their unique situations. (page 6-19)

This development is not a part of a new neighborhood, and is not a new commercial use. The proposal is to match the zoning of the property to its historical (since 1966) commercial use, while allowing less intense commercial uses.

- A new Inner-Neighborhood Commercial Center shall have no gas pumps, drive-thru or drive-up facilities. The Center shall be located on a local, collector or arterial street. Inner-Neighborhood commercial Center uses may include book stores, dry cleaning services, food stores, beauty salons, etc.

The current use is not a permitted use in the Inner-Neighborhood Commercial Center, but the CN1 Zoning would make it possible for an inner-neighborhood commercial use to be installed when the building is no longer leased to the current tenant.

- New Inner-Neighborhood Commercial Centers shall be designed as an integrated part of the surrounding neighborhood so that appearance of the commercial area does not detract from the character of the neighborhood.

The current commercial use is located within a residential style structure (Figure 1). The applicant indicated they had no plans to change the structure with any future change in use. The property is also located within the environs of the North Rhode Island Historic District so any change to the structure would require the approval of the Historic Resource Commission.

Staff Finding -- The rezoning request conforms with *Horizon 2020* recommendations related to new Inner Neighborhood Commercial Centers.

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

The property is located within an area that is zoned for multi-dwelling residences at a density of 24 dwelling units per acre (RM24 District). This residential district contains primarily single-family residences. Commercial Zoning is located in close proximity to the subject property. CS (Commercial Strip) Zoning located on Connecticut Street to the northwest contains various retail shops. The downtown commercial district (CD) is located approximately 1 1/2 blocks to the west and commercial zoning and uses are located on the south side of the block along 9th Street. (Figure 2)

Staff Finding -- The immediately surrounding properties are zoned and used for residences, while commercial zoning and uses are interspersed with the residential uses within the general area.

III. CHARACTER OF THE NEIGHBORHOOD

Applicant's response:

"East Lawrence is an interesting, somewhat eclectic combination of historic and newer properties, which unites a very cohesive residential community with a vibrant and long-standing commercial community. The East Lawrence Neighborhood Association represents a clear, unified vision that's been created by the residents and business owners in the neighborhood."

The businesses are quite diverse, ranging from art centers to law firms, and corner restaurants to printing companies. The greater Lawrence, and Douglas County, communities seem to embrace this diversity and welcome the new businesses as well as the long-time legacy businesses. The architecture of the residential community is as diverse as the architecture of the commercial buildings and business community. There are many Historic structures in this neighborhood, and the neighborhood falls within a Historic District. In summary, we believe that it's a distinct neighborhood that really likes its identity and wishes to preserve and protect it."

Staff Finding -- The neighborhood is predominately residential with a mix of commercial and industrial uses.

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

The property is located within the East Lawrence Neighborhood. The East Lawrence Revitalization Plan (ELRP), adopted by the City Commission on November 21, 2000, provides goals and recommendations for the revitalization of this area.

The plan recognizes that there is interconnectivity between commercial and residential uses and notes "The commercial/residential relationship is important not only for maintaining economic viability, but for defining the physical character of the neighborhood." (Page 3, ELRP)

One goal identified in the vision statement on Page 10 of the plan is to "Protect and strengthen the viability of neighborhood businesses."

Staff Finding -- The proposed rezoning would maintain the commercial/residential interconnectivity which has been in existence since 1966 while allowing the commercial use to change to a more neighborhood friendly use when the current tenant vacates the building.

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

Applicant's Response:

"The fact that the subject property has been in continuous use for commercial purposes (specifically for automotive services under a non-conforming conditional use permitted by the City of Lawrence in 1981) is clear evidence that the property is commercially viable for such use. The physical structure and position of the building on the property provide good access from both East 8th Street and New York Street. There is good parking on the property also.

However, the structures on the property are completely unsuitable for use as actually zoned (RM24) today. There is a small office on the north side of the building, and the rest of the structure would be considered garage/workshop and storage space."

The applicant references a conditional use permit the City approved in 1981. The applicant is referring to the letter from the Planning Director which verified that the commercial use was a

nonconforming use regulated under the nonconforming section of the Code. The property is currently developed with a commercial structure that is residential in character. (Figure 1)

The property is zoned RM24, which permits 24 dwelling units per acre. The subject property contains .27 acres; therefore, a multi-dwelling structure with a maximum of 6 dwelling units would be possible. It is possible that this building could be converted to a multi-dwelling structure.

Staff Finding -- The property as zoned would permit a multi-dwelling structure with a maximum of 6 dwelling units; however, the existing building is not designed as a multi-dwelling structure. The use of the property for a multi-dwelling structure would require revisions to the structure, but the property itself is suited to residential uses.

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

Applicant's Response:

"The subject property has not been vacant more than a few weeks in almost 30 years. It has been occupied by the same tenant since December of 2009. Prior to that it was occupied by long-term tenant The T.I.R.E. Company until poor health forced the owner to retire."

Staff Finding – Prior to the 1960s, the property was zoned for, and developed with, residential use. The property was developed with commercial uses in the 1960s and has been used commercially since that time.

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

Applicant's response:

"Applicant does not believe that a zoning change to CN1 will have any detrimental effects on nearby properties. To the contrary, the opinions voiced by some neighbors suggested that the current zoning allows the property to be developed into multi-family housing that could potentially create parking problems and generate undesirable noise and activities in the neighborhood. Newer, multi-family units in East Lawrence have attracted student partygoers and there have been instances of 'disruptions to the neighborhood's peace and quiet' as a result. This perspective was something we hadn't considered prior to talking with the neighborhood representatives. Their opinion is that a commercial use for the property is preferable over a multi-family residential use."

"We met with and listened carefully to representatives from ELNA and came away from our discussions convinced that the East Lawrence neighborhood will be best served by a commercial use for the property rather than a residential use."

The rezoning request would allow the existing structure to continue to be used in a commercial fashion, but would permit other commercial uses. While the CN1 Zoning District does not permit the current auto oriented use but it would remain a nonconforming use. The rezoning would allow other commercial uses which are more compatible with the neighborhood to locate on the property.

Staff Finding – The change in zoning would not detrimentally affect nearby properties and provides the opportunity for a less intensive and more neighborhood friendly commercial use to locate here.

VIII.THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF THE DENIAL OF THE APPLICATION

Applicant's Response:

"Applicant believes that the East Lawrence neighborhood will gain from this zoning change in several important ways:

- Rezoning to CN1 from RM24 will prohibit the development of multi-family dwellings on this property, thereby reducing the potential for on-street parking congestion, increased traffic, and undesirable noise from tenants. Some neighbors have expressed concern that a redevelopment of this property into multi-family might attract off campus partygoers who could potentially negatively impact the neighborhood.*
- Allowing expanded commercial uses for the building will increase the economic potential for new job creation, increased tax revenues, and will benefit the neighborhood by providing new commercial space for businesses that are pulled into the neighborhood by existing consumer demand for various goods and services.*
- CN1 will increase the probability that the existing structures will be improved or replaced at some point to allow the property to achieve its highest and best commercial use. We have kept the property in good repair and it is cosmetically consistent with the neighborhood today. Improving the economic viability of the property will provide the funds that will be necessary for future capital improvements and/or redevelopment.*

Applicant believes that a denial of this application for rezoning would cause the owners to continue to be restricted to using or leasing the building solely for automotive business purposes per the restrictions issued by the City of Lawrence in July of 1981. Applicant/landowner believes that the highest and best use of this property is probably not automotive services, and intends to actively explore new and better uses that benefit the neighborhood, the larger Lawrence and Douglas County community, and ourselves if the rezoning to CN1 is approved."

Evaluation of these criteria includes weighing the benefits to the public versus the hardship to the individual landowner if the rezoning request were denied. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare. If the rezoning request were not approved, the commercial use would remain a nonconforming use and the new uses would be restricted to similar or less intense uses if the change occurred before the current tenant vacated the premises or to a similar use if the change occurred after the tenant vacated. Approval of the rezoning request would not remove the nonconforming status of the existing building but would provide additional alternative commercial uses when the current tenant vacates the premises. The East Lawrence Neighborhood Association provided a letter, Attachment A, in which they support this rezoning and the continuation of commercial uses on this property, with the exception of pay-day loan or similar loan

operations. The letter indicated that the neighborhood would prefer the commercial uses permitted in the CN1 District to multi-dwelling uses on this property.

Staff Finding – Approval of this rezoning request would benefit the general public by opening the property to other commercial uses which would be more compatible with the neighborhood. Denial of the rezoning request would require the continued the use of the property as an auto-oriented use or redevelopment as a multi-dwelling residence, which the neighborhood association is opposed to.

IX. PROFESSIONAL STAFF RECOMMENDATION

Staff Review

The rezoning request is in compliance with the goals of the East Lawrence Revitalization Plan and is supported by the East Lawrence Neighborhood Association with the condition that pay-day loan type operations be prohibited. The rezoning would not remove the nonconforming status of the use at this time but would provide other options for the future use of this property. If the rezoning is approved, it should be conditioned to prohibit the pay-day type loan use the East Lawrence Neighborhood Association is concerned with. The Historic Resource Commission (HRC) considered this rezoning request at their January meeting, but deferred it to their February 17 meeting and requested that the applicant provide a plan for the future use of the property. This plan is included with this report as Attachment D. Staff's recommendation for approval of this rezoning is contingent upon HRC approval.

Staff Finding – Contingent upon the Historic Resource Commission approval of the rezoning request and based on the rezoning requests general compliance with the recommendations in *Horizon 2020* and the *East Lawrence Neighborhood Revitalization Plan*, and support from the neighborhood association, staff recommends approval of the rezoning request with the condition noted below:

1. The use category of *Financial, Insurance and Real Estate Office* would be removed from the list of permitted uses.



Figure 1. The residential character of the commercial structure.



Figure 2. Uses in the area. Subject property is outlined. Commercially zoned properties are shaded.

East Lawrence Neighborhood Association

P.O. Box 442393
Lawrence, KS 66044
eastlawrence@yahoo.com



December 13, 2009

City of Lawrence Planning Division
ATTN: Mary Miller AICP
6 East 6th Street
Lawrence, KS 66044

Re: 313 E. 8th Street

To the Lawrence City Planning Staff:

The East Lawrence Neighborhood Association would like to go on record in support of the zoning change associated with the project proposed for 313 E. 8th Street. We see that moving to a CN1 designation is much more desirable than the RM24 that it currently has and that a CN1 is more consistent with the uses of the property. However, we do have a concern over one use that CN-1 allows. We don't think that a payday loan, title loan or car title loan type of venture is a positive use in our neighborhood. This use is allowed as a part of the Financial, Insurance and Real Estate category. We would not object to any type of office use except the predatory aforementioned uses. ELNA has been firm in our stance against this type of business locating in our neighborhood. As I'm sure you are aware, payday, etc., loans are targeted at low-income people, especially older people who have disabilities. Most borrowers must roll their loans over each month and incur rising fees and heavy debt. Congress is currently investigating these business practices so that there may be better regulation ahead. In a similar rezoning case at 1245 Connecticut this use was conditionally excluded; therefore we request that this use be conditionally excluded in this instance, also.

Please feel free to contact me if you have any questions. Thank you for your consideration of this request.

Sincerely,

Phil Collison
East Lawrence Neighborhood Association
E-mail: phil@collison.com

CC: John Flanders
Deron Belt
Heather Coates

- (2) Nothing in this article will be construed to prevent [Structures](#) from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

(3) Change of Tenancy or Ownership

Nonconformity status runs with the land and is not affected by changes of tenancy, Ownership, or management.

20-1502 NONCONFORMING USES

(a) Definition

A nonconforming use is a land use that was legally established, but that is no longer allowed by the use regulations of the [Zoning District](#) in which it is located.

(b) Expansion

(1) When and How Allowed

A nonconforming use may not be expanded except as follows:

- (i) expansions that eliminate or reduce the nonconforming aspects of the situation are allowed;
- (ii) expansions into a part of a [Building](#) or other [Structure](#) that was lawfully and manifestly designed or arranged for this use may be approved by the City Commission, if reviewed and approved in accordance with the Special Use procedures of Sec. 20-1306; and
- (iii) expansions that are necessary and incidental to the existing nonconforming use may be approved by the City Commission if reviewed and approved in accordance with the Special Use procedures of Section 20-1306.

(2) Standards and Limitations

Nonconforming use expansions are subject to the following limitations.

- (i) Nonconforming use expansion in residential Districts may be allowed only when the expansion:
 - a. does not increase the number of [Dwelling Units](#);
 - b. does not exceed 50% of the [Floor Area](#) of the original use;
 - c. complies with all [Setback](#) and [Height](#) standards of the [Base District](#); and
 - d. complies with all off-street parking and loading requirements.
- (ii) Nonconforming use expansion in nonresidential Districts may be allowed only when the expansion:
 - a. does not exceed 25% of the [Floor Area](#) of the original use;
 - b. does not encroach into a residential [Zoning District](#);

- c. complies with all applicable [Setback](#) and [Height](#) standards of the [Base District](#); and
 - d. complies with all off-street parking and loading requirements.
- (iii) With the approval of the Board of Zoning Appeals, an expansion under this section may exceed 25% of the [Floor Area](#) of the original use but may not exceed 50% of the [Floor Area](#) of the original use. In reviewing and making decisions on a proposed expansion of a nonconforming use that will exceed 25% of the [Floor Area](#) of the original use, the Board of Zoning Appeals shall consider at least the following factors:
- a. that the expansion request arises from conditions that are unique to the property in question and not ordinarily found in the same [Zoning District](#) and are not created by action(s) of the property [Owner](#) or applicant;
 - b. that granting the expansion request would not adversely affect the rights of adjacent property [Owners](#) or residents;
 - c. that strict application of the provisions of this chapter would constitute [Unnecessary Hardship](#) upon the property [Owner](#) requesting the expansion;
 - d. that the expansion request desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare;
 - e. that granting the request would not be opposed to the general spirit and intent of this chapter; and
 - f. the recommendation of the City's professional staff.

(3) Change of Use

- (i) A nonconforming use may not be changed to any use other than a use allowed in the [Zoning District](#) in which it is located, except as provided in paragraph (ii), below.
- (ii) A nonconforming use may be changed to another similar or less intensive use if reviewed and approved by the [Planning Director](#) upon a finding that the new use is no more intensive in character than the original nonconforming use. The following additional rules apply:
 - a. A nonconforming residential use may not be changed to another nonconforming residential use that would increase the number of [Dwelling Units](#) on the site.
 - b. A nonconforming nonresidential use being changed to a residential use shall comply with the minimum [Lot Area](#) and [Density](#) standards of the [Base District](#).

(4) Moving

A nonconforming use may not be moved in whole or in part to another location on the [Lot](#) or [Parcel](#) unless the movement or relocation eliminates or decreases the extent of nonconformity.

(c) Loss of Nonconformity Status

- (1) Once a nonconforming use is abandoned, the use's nonconforming status is lost and any subsequent use of the property shall comply with the regulations of the [Zoning District](#) in which it is located. A nonconforming use will be considered abandoned when any of the following occurs:
 - (i) the intent of the [Owner](#) to discontinue the use is apparent;
 - (ii) with respect to any use other than a [Detached single-Dwelling](#) residential use, the use has been discontinued for a period of 12 months or more and no concerted effort has been undertaken by the [Owner](#) to continue the use;
 - (iii) a demolition permit has been applied for;
 - (iv) the characteristic equipment and furnishings associated with the nonconforming use have been removed from the [Premises](#) and have not been replaced by similar equipment within 90 days, unless other facts show intention to resume the nonconforming use;
 - (v) the nonconforming use has been replaced by a conforming use;
 - (vi) the nonconforming use has been changed to another use in accordance with Section (b)(3); or
 - (vii) a [Building](#) Permit to reconstruct a damaged nonconforming use in accordance with Section 20-1502(c)(4) has not been secured within 12 months of the date of occurrence of that damage or construction has not been diligently pursued.
- (2) When a [Building](#) or [Structure](#), the use of which does not conform to the provisions of this Development Code, is damaged to the extent of more than 60% of its fair market value, the use may not be restored, except in conformity with the regulations of the [Base District](#) and any applicable [Overlay District](#).
- (3) The exception to the above paragraph is that a detached [Detached Dwelling Structure](#), when registered as a nonconforming use, is permitted to be rebuilt, unless it is located within the [Floodway](#) or [Regulatory Floodway](#). Nonconforming [Detached Dwelling Structures](#) cannot be rebuilt to a greater [Density](#) than existed before the damage. Rebuilding shall only be allowed if off-street parking and [Setback](#) requirements of the current [Zoning District](#) are met. Reconstruction must be commenced within 12 months of the time the damage occurred.
- (4) A [Building](#) Permit to reconstruct a damaged [Structure](#) pursuant to (2) shall be obtained within 12 months of the date of occurrence of the

damage or demolition, and once issued, construction shall be diligently pursued.

(d) Discontinuance of Nonconforming Open Uses of Land

A nonconforming commercial or industrial [Open Use of Land](#) shall be discontinued, including the removal of all above-surface improvements and [Structures](#) accessory to the [Open Use of Land](#), but not to the permitted uses, by November 1, 2008. Any [Open Use of Land](#) that becomes nonconforming because of subsequent amendments to this Development Code shall also be discontinued on the same basis within 3 years of the [Effective Date](#) of the amendment that renders the use nonconforming.

(e) Accessory Uses and Structures

A use or [Structure](#), accessory to a principal nonconforming use or [Structure](#), may not be continued after the [Principal Use](#) or [Structure](#) has been abandoned, unless the use or [Structure](#) is also an [Accessory Use](#) or [Structure](#) to the [Principal Uses](#) permitted in the [Base District](#) and any applicable [Overlay District](#).

20-1503 NONCONFORMING STRUCTURES

(a) Definition

A nonconforming [Structure](#) is any [Building](#) or [Structure](#) that was legally established, but no longer complies with the [Density](#) and Dimensional Standards of this Development Code; provided, however, that where a previously conforming [Structure](#) no longer conforms with the regulations of this Development Code solely as a result of a governmental taking or acquisition for right-of-way, [Easement](#) or other governmental use, the failure to conform created by the taking or acquisition shall not constitute a nonconformity. Nonconforming [Structures](#) may remain, subject to the regulations of this section.

(b) Structural Alterations

[Structural Alterations](#), including enlargements, are permitted if the [Structural Alteration](#) does not increase the extent of nonconformity.

- (1) When a [Structure](#) is nonconforming because it encroaches into a required side or Rear [Setback](#), this provision will be interpreted as allowing other portions of the [Structure](#) to be expanded out to the extent of the existing encroachment, as long as there is no greater encroachment into a required [Setback](#).
- (2) When a [Structure](#) is nonconforming because it encroaches into a required Front [Setback](#), this provision will be interpreted as prohibiting other portions of the [Structure](#) from being expanded out to the extent of the existing encroachment.

(c) Use

A nonconforming [Structure](#) may be used for any use allowed in the [Base District](#) and any applicable [Overlay District](#).

(d) Moving

A nonconforming [Structure](#) may be moved in whole or in part to another location on the subject [Parcel](#) only if the movement or relocation decreases or eliminates the noncompliance.



City of Lawrence KANSAS

BUFORD M. WATSON, JR., CITY MANAGER

CITY OFFICES 6 EAST 6th
BOX 708 66044 913-841-7722

CITY COMMISSION

MAYOR

MARCI FRANCISCO

COMMISSIONERS

DONALD BINNS

BARKLEY CLARK

TOM GLEASON

NANCY SHONTZ

July 28, 1981

Mrs. Beverly Kennedy
Kennedy Glass Company
730 New Jersey Street
Lawrence, Kansas 66044

RE: 801 New York Street
Lot 45 on New York Street in the Original Townsite
of the City of Lawrence, Kansas

Dear Mrs. Kennedy:

The above referenced property is presently zoned RM-2 (Multiple-Family Residential). It has been a legal non-conforming use since the area-wide rezoning that occurred in East Lawrence in 1975.

It was the former site of the Apex Glass Company and most recently an accessory storage building for your business. This type of use is listed in Use Group 13, Automotive Services; Retail Sales; Other; of the City Zoning Ordinance.

The proposed use of the property as an automotive tire and muffler repair shop is also listed in Use Group 13 of the Zoning Ordinance. Therefore, it can be considered as a similar use to the original non-conforming use. Any expansion of the non-conforming use, including outside storage, however, would need special review by the City Commission before it could occur.

If I can be of any further assistance, please do not hesitate to call.

Sincerely,

Garner Stoll
Director of Planning

GS/ed

cc: Gene Shaughnessy

February 3, 2011

Historic Resources Commission
City of Lawrence
6 East 6th Street
P.O. Box 708
Lawrence, KS 66044

RE: DR-12-149-10; 313 East 8th Street

Dear HRC Members:

Pursuant to your request for additional information regarding plans for the building located at 313 East 8th Street, I am writing on behalf of its owner, R&B Holdings, LC, a Kansas Limited Liability Company, whose members are: Linda and Forrest Harrell (Lawrence, KS) and Luann and John Flanders (Park City, UT).

The historic uses of this building have been addressed in our application documents for both the variance requests and the zoning change request. We believe it came into existence in 1965 as a home for Apex Glass Company and subsequently became an accessory building (auto glass) for Kennedy Glass before it was leased to the TIRE Company.

The non-conforming use that is permitted today is for automotive services. We are seeking a zoning change from RM24 to CN1 so we, as owners, can lease the building to other less intensive commercial tenants. Our plans for this building are to:

- Continue to maintain and operate the building and grounds in a manner that is accretive to the neighborhood via compatible commercial uses
- Secure the zoning that allows us to lease the building to different types of commercial tenants rather than continuing leasing only to automotive tenants
- Secure the CN1 zoning to ameliorate the concerns of ELNA regarding the potential for future residential development on this property per the RM24 zoning rights
- Lease the building to businesses that are good neighbors, low intensity, and beneficial to the community

While the potential for redevelopment of this property under either the existing RM24 zoning or new CN1 zoning is recognized, we have no plans to redevelop the property. Nor do we have any plans to make any changes to the exterior appearance of the building or its size or shape.

Any future redevelopment would come before the HRC and the Planning Commission in the due course of the planning and approval processes for such redevelopment. Any use or design that might be deemed incompatible with the neighborhood or non-compliant with any city codes or guidelines would be dealt with by the appropriate regulatory bodies and the East Lawrence Neighborhood Association if and when it is ever proposed.

Our plan for the building is to own and operate it as a commercial income property.

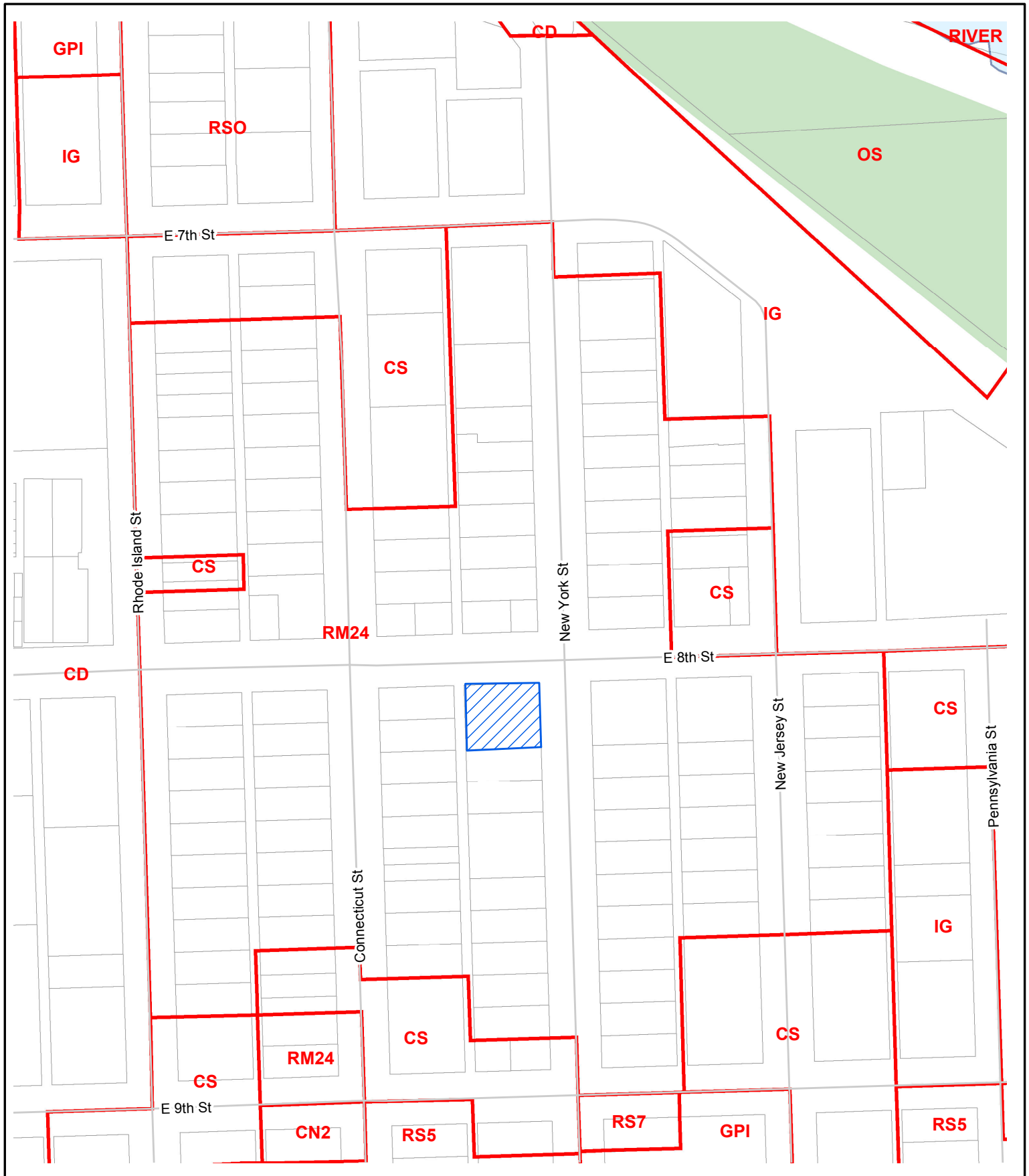
We became owners of this property by inheritance. We are not speculative purchasers or developers of this property, nor are we seeking speculative zoning. Mrs. Beverly Kennedy, long-time East Lawrence businesswoman and former owner of Kennedy Glass, gifted portions of this property to her two daughters, Luann Flanders and Linda Harrell, approximately two decades ago, and the remainder ownership interest was distributed to her daughters by her trust upon her death.

Our request for a zoning change is to legally recognize the long-standing commercial use of our property and to have the opportunity to legally lease the building to neighborhood compatible, non-automotive commercial tenants.

Thank you for your consideration in this matter, and if I may be of any assistance in clarifying anything in this letter or anything in our request applications, please call me at 435.513.1328 or email me at flandolini@hotmail.com.

Very truly yours,

John H. Flanders,
Managing Member, R&B Holdings, LC



**Z-12-16-10: Rezone 0.27 acres from RM24 to CN1
313 East 8th Street**

Lawrence-Douglas County Planning Office
February 2011



 Area Requested

Scale: 1 Inch = 200 Feet

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
2/23/11

ITEM NO. 4A PCD TO CN2; 3.47 ACRES; 4000 W 6TH ST (MKM)

Z-12-19-10: Consider a request to rezone approximately 3.47 acres from PCD (Planned Commercial Development-Monterey Center) to CN2 (Neighborhood Commercial Center), located at 4000 W. 6th Street. Submitted by Allen Belot, for Monterey Partners, LLC., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 3.5 acres located at 4000 W 6th Street from PCD-[Monterey Center] to CN2, based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval contingent upon the following condition:

That the property owner of the remaining portion of the Planned Development provide their written consent to the rezoning.

Reason for Request:

"Suite 'A' in the existing building was designed in the original PCD with a drive-up pick-up window with a drive-up lane attached. The first and only tenant in this space was a dry cleaner that used the drive-up window for drop-off and pick-up. That establishment has vacated that space and a national restaurant franchise would like to move into this space and continue to use the drive-up window for pick-ups only; no menu/order kiosk will be installed. The existing Land Development Code will not allow this new use without a change in the zoning even though the proposed use is almost identical to the previous allowed use.

KEY POINTS

- The subject property is part of the Monterey Center Planned Commercial Development which was zoned PCD-1. This zoning converted to the PCD-[Monterey Center] zoning with the adoption of the 2006 Development Code.
- The pre-2006 Code permitted the following restaurant uses in the PCD-1 District: *Restaurant, not including one with drive-up facilities or service to automobiles.* The restaurant drive-up facility is not permitted in the PCD-1 Zoning; therefore, rezoning is necessary.
- The CN2 District permits *Fast Order Food with Drive-In* uses with the approval of a Special Use Permit (SUP). A SUP has been submitted and is being considered at the February Planning Commission with this rezoning request.
- The rezoning request is for one lot; however, the lot has been divided into a smaller parcel and the remainder was combined with Lot 2, Monterey Addition No 7. (Figures 1A and 1B) These parcels are under the same ownership.
- The rezoning request would remove Lot 1B from the Monterey Center Planned Commercial Development. The applicant should provide consent from the other property

owner of the Planned Development for the rezoning.

ASSOCIATED CASES/OTHER ACTION REQUIRED

Other action required on this rezoning:

- City Commission approval of the rezoning request and publication of Ordinance following the second reading.

Other case and action required: SUP-12-9-10; Special Use Permit for the *Fast Order Food with Drive-In* use.

- This item is being considered by the Planning Commission at their February meeting concurrently with the rezoning.
- City Commission approval and publication of an ordinance following the second reading is required.

ATTACHMENTS

- Attachment A: Comparison Table of Permitted Uses
- Attachment B: Page Map

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None

Project Summary:

The request is for rezoning from a Planned Commercial Development District to a Neighborhood Commercial Center District to allow the addition of a restaurant with a pick up window, which is classified as a *Fast Order Food with Drive-In* use in the Development Code.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The Comprehensive Plan identifies the 6th & Monterey Way intersection as a Neighborhood Commercial Center. The proposed zoning would be compatible with this designation."

Staff Finding –The 6th and Monterey intersection is listed as an existing Neighborhood Commercial Center in Chapter 6 of the comprehensive plan. The rezoning to the Neighborhood Commercial Center, which is a new zoning designation created with the 2006 Development Code, is in conformance with the comprehensive plan.

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

Current Zoning and Land Use: PCD-[Monterey Center] (Planned Commercial Development) District; shopping center.

Surrounding Zoning and Land Use: To the north, west and southeast: PCD-[Monterey Center] (Planned Commercial Development) District; townhomes to the north, shopping center to the west, and a bank to the southeast.

To the south: RSO (Single-Dwelling Residential-Office) District; bank.

To the east: RM12 (Multi-Dwelling Residential) District; townhomes.

Staff Finding – The subject property is a part of the Monterey Center Planned Commercial Development and is surrounded on the north, west and southeast by other property within this development. The surrounding uses are predominately retail and office with multi-dwelling structures, townhomes, to the north and across Monterey Drive to the east.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"Multi-family duplex to the North, multi-family townhouse and residential office to the east. Neighborhood commercial to the south and west."

Staff Finding – The neighborhood contains a mix of retail, office and multi-dwelling residential uses in close proximity to W 6th Street, a principal arterial, and Monterey Way, a collector street.

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

Staff Finding – The subject property is not within any formal neighborhood boundaries.

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

Applicant's Response:

"Suite A with the drive-up window is not sustainable under the present code due to the extensive limiting factors placed on it. About the only use that could fully realize the potential of this space would be another dry cleaner. For whatever reason, it has been demonstrated that a dry cleaner was not able to survive at this location and the Lawrence market does not seem to have a pent up demand for more dry cleaners."

The subject property is currently zoned for a Planned Commercial Development which permits a mix of retail, office and residential uses. The property is developed with these uses; therefore, the property is suited for the uses to which it is restricted with the PCD zoning. The property is also well suited for the uses permitted under the CN2 Zoning, as it is the current zoning designation for a Neighborhood Commercial Center and the permitted uses in both districts are quite similar. (Table 1, Attachment A)

Staff Finding –The property is well suited for the uses it is restricted to under the PCD zoning as well as the proposed CN2 Zoning, as the property is developed with commercial uses which are permitted in both zoning districts.

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

Applicant's Response:

"May 2008 Pride Cleaner vacated Suite 'A' (2 years 7 months)"

Staff Finding – The subject property, Lot 1B, Monterey No 7 Addition, is developed with a retail center. Planning files indicate that a revised preliminary and final development plan for the Center was submitted in 1995 so it is clear that it has been developed since that time. Suite A has been vacant for over 2 years; however, the rezoning would apply not only to Suite A, but all of Lot B, approximately 3.5 acres.

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

Applicant's Response:

"The neighboring properties should benefit from this change by extending a service that is in demand within the service area but not presently available. It would also allow limited flexibility of other services that could be offered to the surrounding neighborhood in the future."

The rezoning is being requested to allow the conversion of an existing drive-up facility which previously served a dry cleaning business into a drive-up facility for a fast order restaurant. This rezoning would make it possible to develop other restaurants with drive-thrus on the lot; however, negative impacts of any additional drive-thru use would be evaluated and minimized through the Special Use Permit process.

Table 1, Attachment A lists the uses which are permitted on the subject property under the current zoning and those which would be permitted under the CN2 Zoning. The permitted uses are very similar with the following differences:

- A fast order food with drive-in is permitted under the CN2 Zoning with Special Use Permit approval but is prohibited under the current zoning.
- Different types of community facilities are permitted in each zoning.
 - 'Halfway house', 'rehabilitation', 'government health center' and 'institutions for children and the aged' are permitted under the current zoning with a Special Use Permit.
 - 'Temporary shelter' and 'community meal program' are permitted in the CN2 Zoning with a Special Use Permit.
- A laboratory is permitted in the current zoning, but is not a permitted use in the CN2 District.
- Public safety (police), mixed media and crop agriculture are permitted uses in the CN2 District but are not permitted in the current zoning.

Given the similarity of permitted uses, the rezoning should have no detrimental impact on nearby properties.

Staff Finding – The rezoning should have no negative impact upon nearby properties due to the similarity of permitted uses between the current and proposed zoning districts and the fact that a fast order food with drive-in, and other uses which could have an impact on nearby properties, would require additional review and approval through a Special Use Permit.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicant's Response:

"The status quo would remain if the zoning change were allowed due to the fact that the type of use would not be substantially different than what previously occupied this space. The hardship would be that the present zoning is so limiting in what this space can be used for that it could very well remain vacant for an indefinite period of time or under-utilized for improvements that have been approved and installed."

Evaluation of this criterion includes weighing the benefits to the public versus the hardship imposed on the owners of the subject property if the rezoning were denied. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

Denial of a rezoning request could benefit the public by maintaining the nature of the development. In this case the nature of the development would be maintained by the similarity of permitted uses between the current and the proposed zoning districts. If the rezoning request is denied, it is possible that the retail space may remain vacant. Other drive-thrus similar to the dry cleaner, such as a pharmacy drive-thru would be permitted in this zoning district; however, the predominate use for a drive-thru is fast order food.

Approval of this request will allow a retail space to be reused, after a vacancy period of over 2.5 years. Approval of the request will add a drive-thru component to the commercial development on this lot. A Special Use Permit is required in the CN2 District for any fast order food with drive-in, so there would be an opportunity for a public hearing to evaluate any negative impacts associated with additional restaurant drive-in uses.

Staff Finding – The approval of the rezoning could benefit the public by allowing the reuse of a commercial space. The denial of the rezoning request would have minimal impact on the public health, safety, and welfare.

9. PROFESSIONAL STAFF RECOMMENDATION

Rezoning of Lot 1B, Monterey No 7 Addition from the PCD [Monterey Center] zoning to the CN2 zoning is being requested to allow a fast order restaurant to utilize an existing drive-up facility. A Special Use Permit is required for this drive-thru use and the applicant indicated that the window will be restricted to pick-up only, so there will be no speaker or order box. This restriction will maintain the character of the drive-up facility from the previous use. With the rezoning to the CN2 District, a fast order food with drive-thru is possible but requires a public hearing and approval of a Special Use Permit. This process ensures the compatibility of the current proposal and any future proposed drive-thru uses with the surrounding area.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 3.5 acres from PCD-[Monterey Center] District to CN2 (Neighborhood Commercial Center) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval contingent upon the consent of the property owner of the remainder of the Planned Development, Heartland Pantry.



Figure 1A Property included within this rezoning request, Lot 1B Monterey Addition No 7, outlined in red.

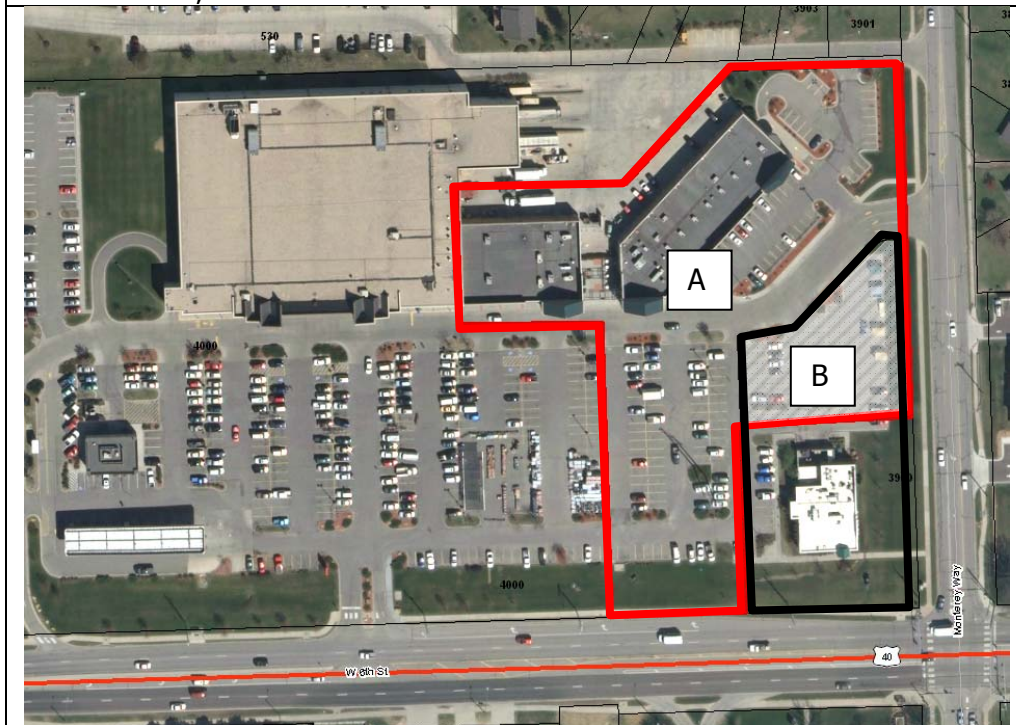
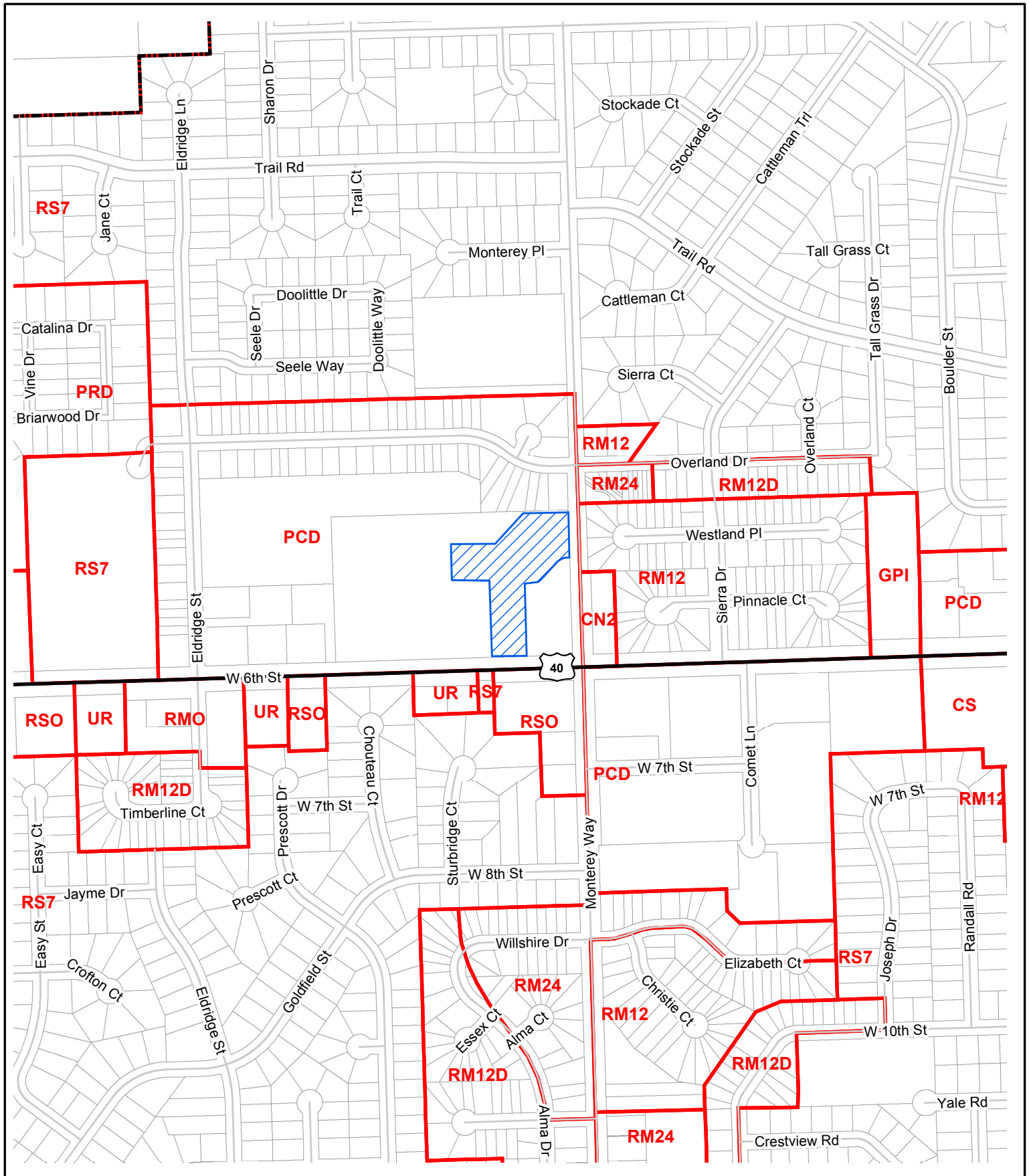


Figure 1B Lot 1B has been divided into a parcel (labeled as A) and the remaining property (highlighted and labeled as B) was added to Lot 2 Monterey Addition No 7 to create a larger parcel. These parcels, A and B, are under the same ownership.

Table 1. Comparison of permitted uses under current and proposed zoning districts.	
PCD-[Monterey Center] Pre-2006 Zoning Designation PCD-1	CN2
SIMILAR USES PERMITTED IN BOTH DISTRICTS	
Residential dwelling units Attached, detached or mixed	Residential Multi-Dwelling Structures Non-Ground Floor Dwelling; Work/Live Unit Group Home General (SUP)
Adaptive reuse (SUP)	Adaptive reuse (SUP)
Communication towers (SUP)	Communication towers (SUP)
Art Gallery , Library, museum	Cultural Center/Library
Cemetery, Mausoleum , Mortuary	Cemetery, Funeral and interment
Child care	Day Care
Church or Institution of Religious Training	Religious Assembly
Club or Lodge	Lodge (SUP)
School	College/School
Public Utilities (SUP)	Minor Utility, Major Utility (SUP)
Medical Offices	Health Care Office (SUP) Outpatient Care Facility Extended Care, General (SUP) Extended Care, Limited
Professional and Governmental Offices Financial Institutions, Loan Office, Photographic Studio	Administrative and Professional Offices Financial, Insurance and Real Estate Offices; Other Offices
Veterinarian office and incidental boarding	Pet Sales and Grooming, Veterinarian Office
ATM	ATM
Post Office Branch	Postal service
Studio for professional work or teaching of fine arts	Personal Improvement
Food store, not including 24 hr convenience store	Food and Beverage
Hair Care Establishment, Dry Cleaning , Laundry-Self Serve	Personal Convenience
Restaurant, not including one with drive-up facilities or service to automobiles	Fast Order Food Private Dining Establishment, Quality Restaurant
Shoe Repair, Bicycle Sales, rental, repair	Repair Service, Consumer
Reverse Vending Machine (recycling) Small Collection Facilities (recycling)	Small Collection (Recycling)
Retail stores and service establishment General Retail Sales including Department Store, Drug Store, Pawn Shop, Variety Store and Retail Baker, Copy Center	Retail Sales, General Retail Establishment, Medium Retail Establishment, Specialty
Licensed premises Liquor, wine and beer sales, for consumption off the premises	Accessory Bar Brewpub
Radio and Television or Recording Studio	Communication Service Establishment
Professional cleaning services	Building Maintenance, Business Equipment
Secretarial Service , Personnel Services Telephone answering service	Business Support
Theatre, live; Bowling Alley; Community Building Golf Course	Entertainment and Spectator Sports; Indoor Sports/Recreation Active Recreation
Automobile service stations Food convenience store, including gasoline sales and single- bay auto wash	Cleaning/ car wash (SUP) Gas and Fuel Sales (SUP) Light Equipment Repair (SUP) Light Equipment Sales/Rental

DIFFERENT USES PERMITTED IN EACH DISTRICT	
Halfway house/rehabilitation (SUP)	---
Health center, government (SUP)	
Institution for children and aged (SUP)	
Laboratory	---
---	Fast Order Food with Drive-In (SUP)
---	Temporary Shelter (SUP/A)
---	Social Service Agency
---	Community Meal Program (SUP/A)
---	Public Safety
---	Mixed Media Store
---	Crop Agriculture



**Z-12-19-10: Rezone 3.5 acres from PCD to CN2
4000 W 6th Street**

Lawrence-Douglas County Planning Office
February 2011



 Area Requested

Scale: 1 Inch = 500 Feet

Memorandum

City of Lawrence

Planning Department

TO: Lawrence-Douglas County Planning Commission

FROM: Mary Miller, Planning Staff

CC: Scott McCullough, Director of Planning and Development Services
Sheila Stogsdill, Assistant Planning Director

Date: For February 23, 2011 meeting

RE: Item 4B: SUP-12-9-10; Special Use Permit for 4000 W 6th Street Suite 1

The applicant provided a revised plan after the Planning Commission February agenda packet was prepared. The revised plan, attached with this memo, made the revisions noted in the recommended Condition of Approval Number 2 in the staff report.

The staff recommendation has been revised to reflect the revised plan. The revised recommendations are listed below, with deleted text shown as ~~struck through~~.

STAFF RECOMMENDATION: Staff recommends approval of SUP-12-9-10, a Special Use Permit for a fast order food with drive-in, based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Publication of an ordinance per Section 20-1306(j).
2. ~~Applicant shall provide a revised site plan with the following changes:~~
 - a. ~~Note added which limits this window for 'pick-up' only with no separate order window or speaker box.~~
 - b. ~~General Note 1 revised to indicate that the current zoning for the development is PCD [Monterey Center] and that the proposed zoning for Lot 1B is CN2.~~
 - c. ~~The legal description revised to "Lot 1B, Monterey Addition No 7".~~
 - d. ~~General Note 2 revised to indicate that the current use is general retail sales.~~
 - e. ~~General Note 3 revised to indicate that the proposed use is general retail sales with a 'fast order food with drive-in'.~~
 - f. ~~Lot 1B shall be bubbled or otherwise delineated from the remainder of the development so it is clear that the SUP applies only to Lot 1B.~~
 - g. ~~The plan shall be relabeled 'SUP site plan for Lot 1B, 4000 W 6th Street STE 1.'~~
 - h. ~~The property ownership for Lot 1B shall be added to the plan and the developer information changed, if necessary.~~
 - i. ~~The plan shall show the entire property being rezoned to the CN2 District (all of Lot 1B) and include a parking summary for this lot as well as the parking~~

requirements for the entire commercial development, both the CN2 and the remaining PCD [Monterey Center] zoned areas.

~~j. The following note shall be added to the plan: "*The parking requirements for the Commercial Development will continue to be evaluated based on the entire commercial development, including the portion that retains the PCD-[Monterey Center] zoning and Lot 1B, which is zoned CN2.*"~~

2. The applicant shall provide an exhibit for recording with the previously approved Final Development Plans for the Monterey Center with the following:
 - a. Clearly delineates the property being rezoned to the CN2 District, and the area which remains in the Planned Development.
 - b. Notes that uses permitted in the PCD-1 District are permitted on the remaining portion of the Planned Development, but uses permitted in the CN2 District are permitted on Lot 1B.
 - c. Provides a parking summary for the entire development and for Lot 1B Monterey Addition.
 - d. Includes the following Note: "*The parking requirements for the Commercial Development will continue to be evaluated based on the entire commercial development, including the portion that retains the PCD-[Monterey Center] zoning and Lot 1B, which is zoned CN2.*"

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item:

PC Staff Report
02/23/11

ITEM NO. 4B SPECIAL USE PERMIT; 4000 W 6TH ST (MKM)

SUP-12-9-10: Consider a Special Use Permit for a drive through window in a retail center located at 4000 W. 6th Street. Submitted by Allen Belot, for Monterey Partners, LLC., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of SUP-12-9-10, a Special Use Permit for a fast order food with drive-in, based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Publication of an ordinance per Section 20-1306(j).
2. Applicant shall provide a revised site plan with the following changes:
 - a. Note added which limits this window for 'pick-up' only with no separate order window or speaker box.
 - b. General Note 1 revised to indicate that the current zoning for the development is PCD-[Monterey Center] and that the proposed zoning for Lot 1B is CN2.
 - c. The legal description revised to "Lot 1B, Monterey Addition No 7".
 - d. General Note 2 revised to indicate that the *current* use is *general retail sales*.
 - e. General Note 3 revised to indicate that the proposed use is *general retail sales* with a '*fast order food with drive-in*'.
 - f. Lot 1B shall be bubbled or otherwise delineated from the remainder of the development so it is clear that the SUP applies only to Lot 1B.
 - g. The plan shall be relabeled 'SUP site plan for Lot 1B, 4000 W 6th Street STE 1."
 - h. The property ownership for Lot 1B shall be added to the plan and the developer information changed, if necessary.
 - i. The plan shall show the entire property being rezoned to the CN2 District (all of Lot 1B) and include a parking summary for this lot as well as the parking requirements for the entire commercial development, both the CN2 and the remaining PCD-[Monterey Center] zoned areas.
 - j. The following note shall be added to the plan: "*The parking requirements for the Commercial Development will continue to be evaluated based on the entire commercial development, including the portion that retains the PCD-[Monterey Center] zoning and Lot 1B, which is zoned CN2.*"
3. The applicant shall provide an exhibit for recording with the previously approved Final Development Plans for the Monterey Center with the following:
 - a. Clearly delineates the property being rezoned to the CN2 District, and the area which remains in the Planned Development.
 - b. Notes that uses permitted in the PCD-1 District are permitted on the remaining portion of the Planned Development, but uses permitted in the CN2 District are permitted on Lot 1B.
 - c. Provides a parking summary for the entire development and for Lot 1B Monterey Addition.
 - d. Includes the following Note: "*The parking requirements for the Commercial Development will continue to be evaluated based on the entire commercial development, including the portion that retains the PCD-[Monterey Center] zoning and*

Lot 1B, which is zoned CN2.

Applicant's Reason for Request: *"Suite 'A' in the existing building was designed in the original PCD with a drive-up pick up window with a drive-up lane attached. The first and only tenant in this space was a dry cleaner that used the drive-up window for drop-off & pick-up. That establishment has now vacated that space and a national restaurant franchise would like to move into this space and continue to use the drive-up window for pick-ups only; no menu/order kiosk will be installed. The existing Land Development Code will not allow this new use without a change in the zoning even though the proposed use is almost identical to the previous allowed use."*

KEY POINTS

- The subject property was previously zoned PCD-1. The PCD-1 zoning designation converted to the PCD-[Monterey Center] Zoning District with the adoption of the Development Code.
- Per Section 20-1004(b)(1) of the pre-2006 Code a *restaurant with a drive-in or which provides service to automobiles* is not permitted in the PCD-1 District.
- The CN2 District permits a *fast order food with drive-in* with a Special Use Permit.
- No physical changes are being proposed to the site. The restaurant would reuse an existing pick up window which previously served a dry cleaner.

FACTORS TO CONSIDER

- Procedural requirements of Section 20-1306; Special Use Permits.

ASSOCIATED CASES/OTHER ACTION REQUIRED

On the March Planning Commission Agenda

- Rezoning Request [Z-12-19-10] from PCD-[Monterey Center] (Planned Commercial Development) District to CN2 (Neighborhood Commercial Center) District for subject property, Lot 1B Monterey Addition No 7. This rezoning is being considered by the Planning Commission concurrently with this Special Use Permit application.

Future Action

- City Commission approval of the rezoning request and publication of ordinance.
- City Commission approval of Special Use Permit and publication of ordinance.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

No public comment has been received.

GENERAL INFORMATION

Current Zoning and Land Use:

PCD-[Monterey Center] (Planned Commercial Development) District; shopping center. Rezoning request to CN2 (neighborhood Commercial Center)

District has been submitted and is being considered concurrently with this SUP.

Surrounding Zoning and Land Use:

To the north, west and southeast: PCD-[Monterey Center] (Planned Commercial Development) District; property within the Monterey Center Planned Commercial Development which contains townhomes to the north, shopping center to the west, and a bank to the southeast.

To the south: RSO (Single-Dwelling Residential-Office) District; bank.

To the east: RM12 (Multi-Dwelling Residential) District; townhomes.

Summary of Special Use

A restaurant with drive-up facilities or service to automobiles is prohibited in the PCD-1 District; however, a pick-up window for other uses is permitted. This property was developed with a drive up lane and a pick up window for a dry cleaner. The dry cleaner business has been vacant for about 2 ½ years and a potential tenant is proposing a drive through window with a fast order food restaurant. This use is specifically prohibited in the current zoning; therefore, a rezoning request to the CN2 District was submitted for this property. The CN2 District permits a fast order food establishment with a drive-in but requires a Special Use Permit. The drive through area was not designed for a restaurant; therefore there is not adequate space for queuing traffic behind an order board. For this reason, the applicant is requesting a drive-up window which would be used only for order pick-up. No physical changes are being proposed with this Special Use, but the use of the pick-up window is being altered slightly to allow it to be used with a restaurant. (Figure 1)

Site Plan Review

The additional use, a drive-up window, does not require any parking spaces; therefore the amount of parking required with the commercial development is not altered. The Monterey PCD Final Development Plan notes that the retail strip center was developed as Phase II of the planned development. The plan indicates that 84 parking spaces were required for Phase II and 138 parking spaces are provided on Lot 1B. With the rezoning of this lot to CN2 it is no longer zoned as a part of the Planned Development; however, the parking was designed to be shared for the development as a whole and the parking requirements/parking provided for the center would continue to be calculated in this manner with any future land use changes.

The rezoning and Special Use Permit will affect all of Lot 1B, which is currently a portion of the Monterey Center Planned Commercial Development. If the rezoning and Special Use Permits are approved, the applicant should provide an exhibit to be recorded with the previously approved Final Development Plans which identify the area which is being removed from the Planned Development through the rezoning, notes that the uses permitted in the CN2 District are permitted on Lot 1B, provides a parking summary for Lot 1B and the other phases of the development and notes that Lot 1B will remain a portion of the commercial development for the purpose of calculating parking requirements and provided parking.

Review and Decision-Making Criteria (20-1306(i))

1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE

Staff Finding – The site plan complies with the requirements set out in the Development Code. The proposed use is an allowed use in the proposed CN2 (Neighborhood Commercial Center) District subject to Special Use Permit approval.

2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS

Applicant's Response: *"This request is for the purpose of allowing limited expansion of approved uses for this one lease space that has an existing drive-up service window with related drive-through lane improvements already installed but to prohibit installation of a drive-through menu-order kiosk. If allowed, there should be little noticeable change from the previous use in regards to the above external impacts on the surrounding neighborhood."*

The proposed use is very similar to the use which was there previously. There will be no physical changes to the property. Without a menu board, the window will be used only for order pick-up; therefore, there will be no speaker box.

Staff Finding – The proposed use will be compatible with adjacent uses.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED

Applicant's Response: *"Please see answer to No. 2."*

As the applicant pointed out in their response to Question No 2, the change in use is minor and there will be no physical changes to the site.

Staff Finding – The proposed use is not anticipated to result in any diminution of value of other property in the neighborhood.

4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT

The property is currently developed with commercial uses and adequate public services are currently serving the development. No physical changes are being proposed with this Special Use Permit and the public services currently serving the development are adequate for the proposed use.

Staff Finding – The public services currently serving the development are adequate for the proposed use.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

Staff Finding – The site plan will function as the enforcement document to assure that maintenance and use of the property is consistent with the approval.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT

Applicant's Response: *"None since no changes are proposed from the existing pervious use which was approved as part of the original zoning/FDP."*

Staff Finding – The proposed use is the reuse of an existing facility to serve a restaurant rather than a dry cleaner. No adverse impacts are anticipated with this use.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO WHAT THAT TIME PERIOD SHOULD BE.

Time limits are established on Special Use Permits to permit a periodic review to determine if the use remains compliant with the area or if a rezoning would be appropriate. The use, with the limitation on an order board, is very similar to the previous use on the site and should have no negative impact on the area. A time limit would not be appropriate in this case.

Staff Finding – The project would be compatible with surrounding development so it would not be appropriate to place a time limit on this use.

Conclusion

The proposed use is compatible with, and appropriate for, this location and staff recommends approval of the Special Use Permit with the conditions noted.

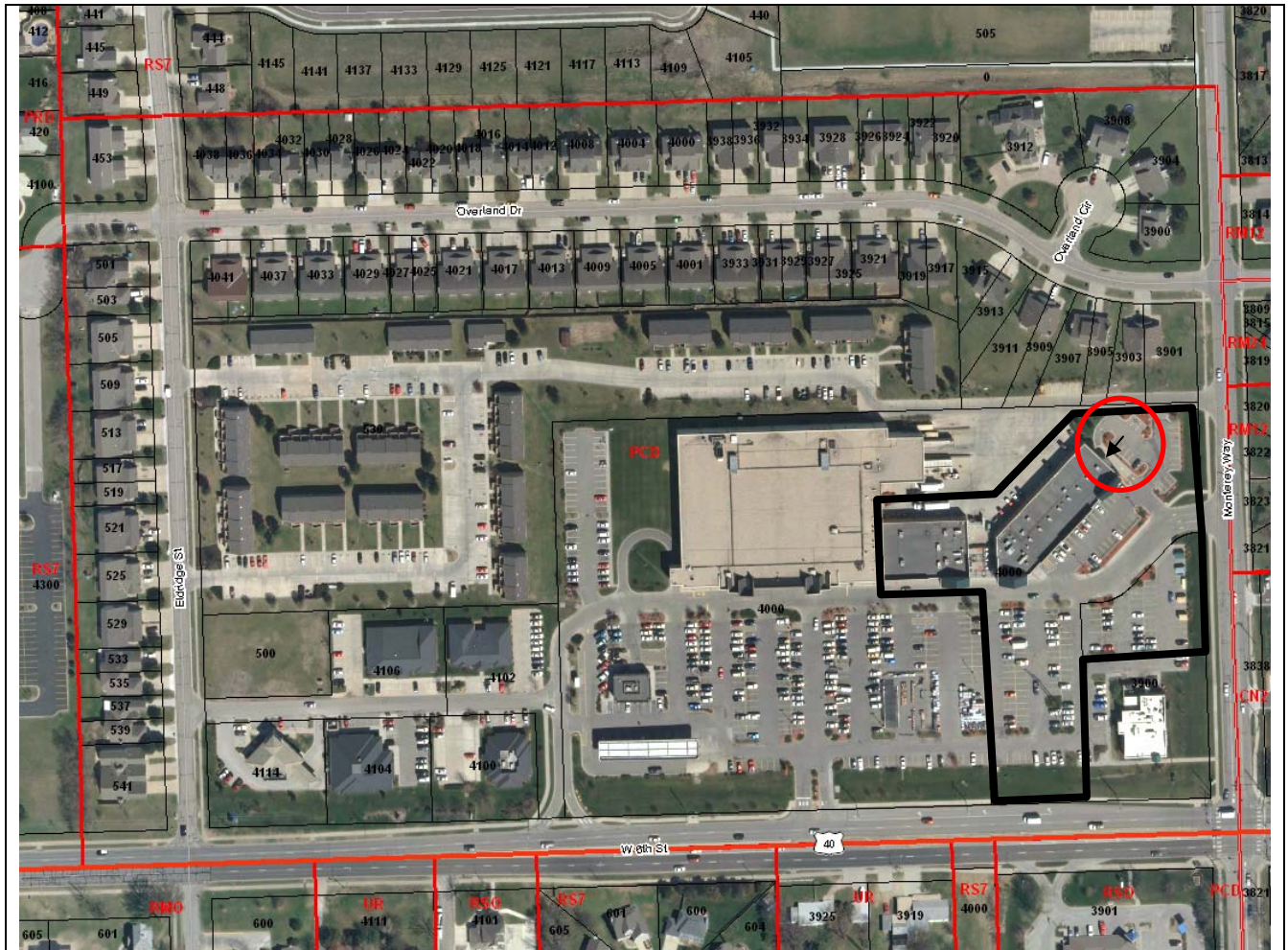


Figure 1. The Monterey Center PCD with the subject property, Lot 1B Monterey Addition No 7, outlined. The drive-thru area is circled and an arrow marks the approximate location of the pick-up window.

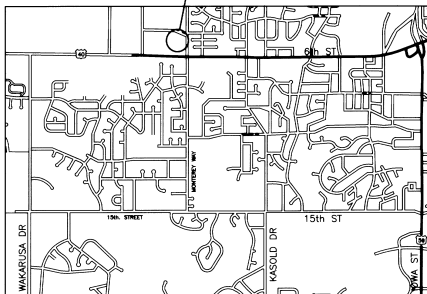
1. Existing zoning: PCD-1
2. Current use: Undeveloped Lot
3. Proposed Use: Strip Mall Retail Center
4. Written dimensions shall prevail over scaled dimensions.
5. Topographic information for the proposed retail center was prepared by Bartlett and West Engineers, A/E/C 2002
6. Private drives and parking areas to be per City of Lawrence standards. All streets and parking areas to have 24" curb and gutter. All standard parking spaces to be min. 9' wide and 18' long. All perimeter parking spaces to be 9' wide and 18' long.
7. City of Lawrence will not be responsible for pavement damage due to refuse collection
8. All handicapped site features shall be constructed to meet all state, local, and ADA Specifications as currently in effect.
9. This document is for planning purposes only, not for construction.
10. Mechanical equipment and all roof top units shall be screened per Section 20-14A04
11. All utility information shown herein is based on the information available to the Engineer at the time of design. The contractor shall verify all utility depths and locations prior to construction. The Contractor shall be responsible for contacting all utility companies to locate fields and/or adjust their utility as required. All utility locations shown on the plans are approximate and the Engineer assumes no liability.
12. Relocation and/or damage to utilities shall be the responsibility of the developer.
13. A Vacation Easement was submitted to the City of Lawrence on 5/17/2002 for portions of the existing 30 1/2 a.c. Refer to Book _____, Page _____ for filed document.

PROPERTY OWNER: (OFFICE)
HEARTLAND PANTRY, INC.
5820 WESTOWN PARKWAY
WEST DES MOINES, IA 50266


SUBDIVISION DEVELOPER:
SWAN MANAGEMENT COMPANY, L.C.
2300 WAKARUSA DRIVE
LAWRENCE, KS 66047


RETAIL CENTER DEVELOPER:
R.H. JOHNSON COMPANY
801 W 47th ST, SUITE 219
KANSAS CITY, MO 64112

- 1) Contractor responsible for locating and protecting all underground utilities prior to digging.
- 2) Contractor responsible for protecting existing trees to be saved, from damage during construction.
- 3) The Landscape Contractor shall guarantee all plants installed for one full year from date of acceptance by the owner. All plants shall be alive and at a vigorous rate of growth at the end of the guarantee period.
- 4) Any plant that is determined dead, in an unhealthy or unsightly condition, lost or damaged due to dead or damaged plants, or any other non-vigorous growth shall be replaced by the Landscape Contractor with the cost of replacement included in the bid or proposal price.
- 5) Prior to installation, the Landscape Contractor shall inspect the subgrade, general site conditions, elevations, utility locations, irrigation, approve topsoil provided by General Contractor and observe the site conditions under which the work is to be done. Notify General Contractor of any unsatisfactory conditions, and if acceptable, shall not proceed with the work until all items are corrected and acceptable to the Landscape Contractor.
- 6) All planting areas with color beds and groundcover: to be mulched with clean shredded hardwood mulch at a 3" minimum depth. River rock to be used in planting beds and around the plan. All remaining areas to be clean shredded hardwood mulch. Rock type to be tan to yellow-brown washed river rock, 1" - 3" in size.
- 7) All annual and perennial beds to be tilled to a minimum depth of 15 inches and amended with 4 inches of organic material. Mulch color beds with 3" depth of clean shredded hardwood mulch.
- 8) Planting holes to be dug a minimum of twice the width of the root ball of both shrub and tree and to be amended with prepared backfill soil mixture (See Appendix B). Stake all evergreen and deciduous trees.
- 9) Prepared backfill soil mixtures shall be mixed on site in one part topsoil, one part organic material (i.e. Nature's Helper or Pro Mix) and one part soil excavated hole. Water thoroughly twice in first 24 hours and apply mulch immediately.
- 10) Existing grass to be removed, if present, and topsoil to be spread smooth and hand raked to remove all rocks and debris larger than 1 inch in diameter prior to laying sod.
- 11) Sod to be tested to determine fertilizer and lime requirements and distributed prior to laying sod.
- 12) Sod to be delivered fresh (not less than 24 hours prior to arriving on site), laid immediately, rolled and watered thoroughly within one hour of installation.
- 13) All changes to design or plant substitutions are to be authorized by the owner.
- 14) All landscape and sod areas to be 100% covered with automatic irrigation system.
- 15) Topsoil used for berming and backfilling of planting areas to be screened, clean topsoil.



SITE LOCATION MAP
Scale: NTS


CHAIRMAN
Lawrence - Douglas County Planning Commission


SECRETARY
Lawrence - Douglas County Planning Commission

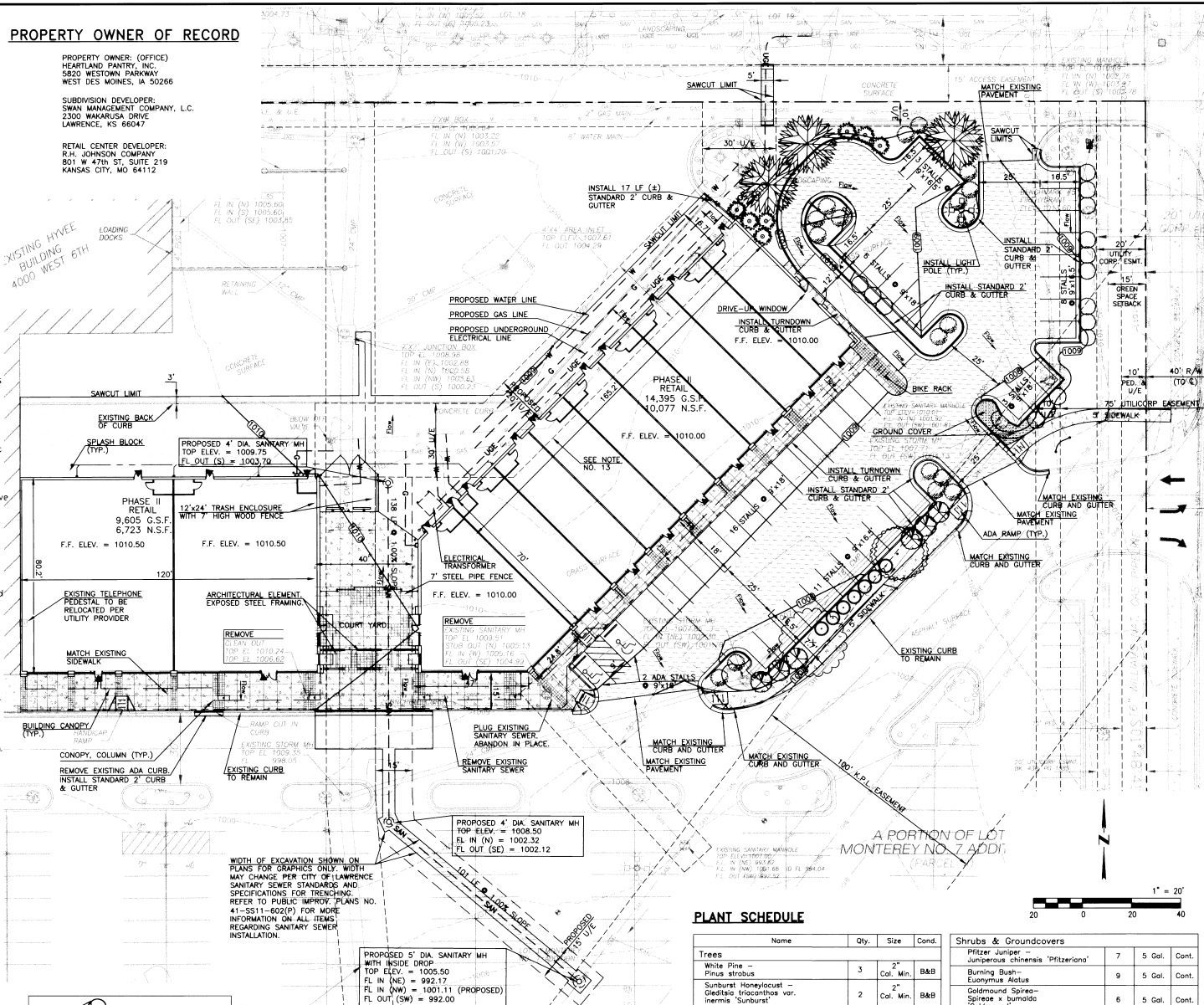
LOT 1, MONTEREY NO. 7 ADDITION,
AN ADDITION IN THE CITY OF
LAWRENCE, DOUGLAS COUNTY,
KANSAS

☐ 5" ASPHALT PAVEMENT

☐ 7" ASPHALT PAVEMENT

☐ 8" REINFORCED CONCRETE PAVEMENT

☐ 4" CONCRETE SIDEWALK



Name				Qty.	Size	Cont.	Shrubs & Groundcovers			
Trees										
White Pine		3	2"		B&B	Pfitzer Juniper		7	5 Gal.	Cont.
Pinus strobus			Col. Min.			Juniperus chinensis 'Pfitzeriana'				
Sambur Honeylocust			2"			Burning Bush				
Celastrus trinocarpus var. 'nervosa 'Samburats'			2"		B&B	Eumyrtus alata			5 Gal.	Cont.
Ornamental Linden			Col. Min.			Goldmound Spirea- Spirea x burnnoid				
Tilia cordata		1	Col. Min.		B&B	'Goldmound'		6	5 Gal.	Cont.
						Redstart opressa Borberry- Berberis Thunbergii		7	2 Gal.	Cont.
						'Redbird'				
Ground Cover										
Common Periwinkle		175	4" min.		Cont.	Broomrape Juniper		6	5 Gal.	Cont.
Vinc. O.C.						Juniperus horizontalis 'Plumosa'		16	5 Gal.	Cont.
						Andorra Juniper				

**PHASE II, LOT 1 - MONTEREY PCD
STRIP MALL RETAIL CENTER - FINAL DEVELOPMENT PLAN**

MONTEREY PCD/HY-VEE CENTER

FINAL DEVELOPMENT PLAN

SIXTH STREET & MONTEREY WAY

LAWRENCE, KANSAS

BW Bartlett & West Engineers, Inc.

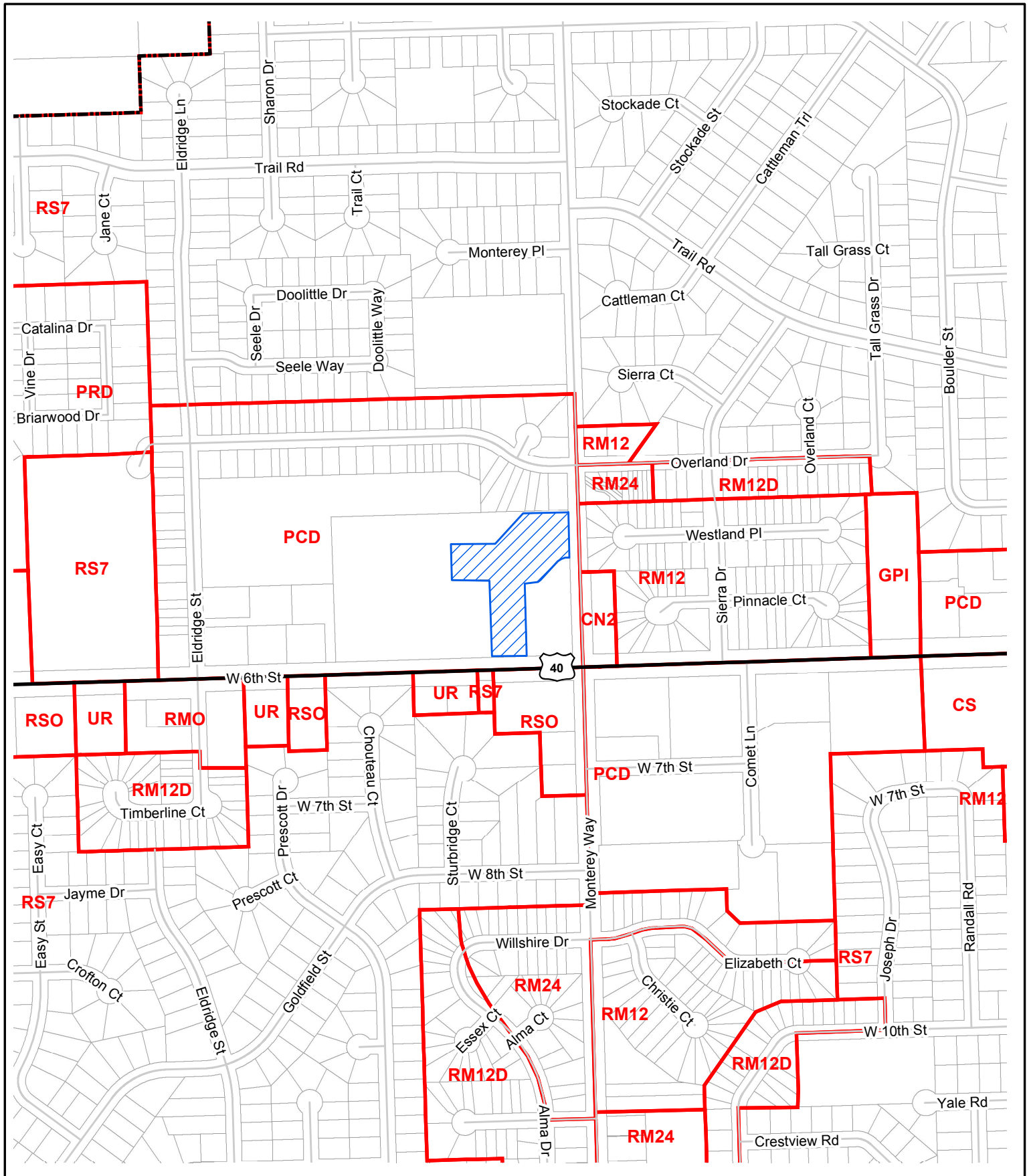
Jalisco City, MO
Lawrence, MO
Kansas City, MO
Overland Park, KS
Midvale, KS
Lawrence, KS
Lawrence, KS
Lawrence, KS

806 VERMONT STREET
LAWRENCE, KANSAS 66044-0902

(785) 843-2222
FAX (785) 740-0801

DESIGNED BY:	DRA
DRAWN BY:	RLW
APPROVED BY:	SFM
W.O.	13441.000
DATE	5-17-02

6



SUP-12-09-10: Special Use Permit for a drive through window 4000 W 6th Street



PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
2/23/11

**ITEM NO. 5 CONDITIONAL USE PERMIT FOR KAW VALLEY EUDORA SAND
FACILITY; LOCATED AT 2102 N 1500 ROAD (SLD)**

CUP-10-6-10: Consider a Conditional Use Permit for Kaw Valley Eudora Sand Facility, located at 2102 N 1500 Road, NE of SW Cor. SW ¼ S32-T12S-R21E, on approximately 196.58 acres. Submitted by Landplan Engineering, P.A., for Kaw Valley Companies, Inc., contract purchaser, for James and Ronda Bigger and Wellsville Bank, property owners of record. *Joint meeting with Eudora Planning Commission.*

<p>STAFF RECOMMENDATION: Staff recommends the Planning Commissions forward recommendations for denial of this Conditional Use Permit to the Board of County Commissioners based on the findings of fact in the staff report.</p>

Reason for Request: *"The owner wishes to conduct sand excavation, extraction and processing operations on the subject property in conjunction with the existing agricultural uses."*

KEY POINTS

- The property is currently in agricultural production during the growing seasons of the year.
- Kansas Geologic Services web site is provided for reference documentation:
<http://www.kgs.ku.edu/Publications/KR/>
- Sand, Gravel and Crushed Stone: Their Production and Use in Kansas:
http://www.kgs.ku.edu/Publications/pic6/pic6_1.html

ASSOCIATED CASES/OTHER ACTION REQUIRED

- State and local permitting required following local approval, if granted.
- Local Floodplain Development Permit will be required from Douglas County.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

See communications attached to report.

ATTACHEMENTS

1. Site Plan (including reclamation plan)
2. On line Soils Report form
3. Well Report
4. Staff summary – Eudora Economic Development Plan

I. ZONING AND USES OF PROPERTY NEARBY

GENERAL INFORMATION

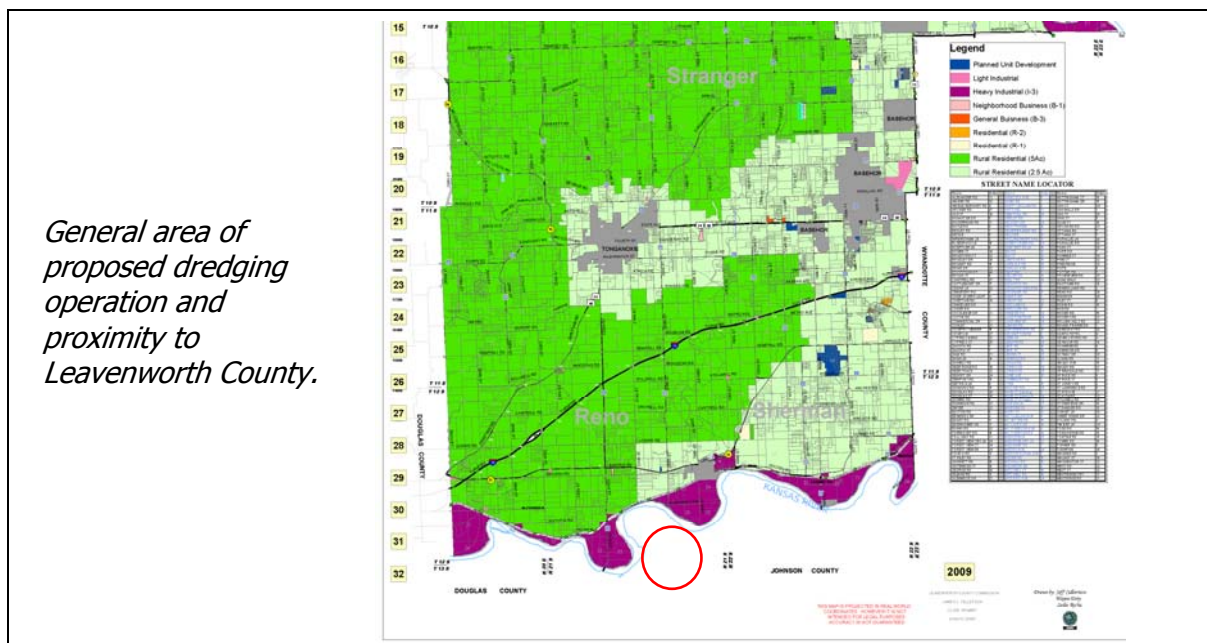
Current Zoning and Land Use: VC (Valley Channel) District; existing unmaintained golf course with substantial trees along river bank.

Surrounding Zoning and Land Use: VC (Valley Channel) District to the west and south within Douglas County; crop land with scattered rural residences.

Kansas River to the immediate north and east.

I-3 (Heavy Industrial) District – Leavenworth County Zoning (see inset).

Staff Finding – The property is not actively used for any specific use. The property was, at one time, developed and operated as a golf course but has since fallen to disuse. The area includes Valley Channel zoning within Douglas County and Heavy Industrial zoning in Leavenworth County. Both Douglas and Leavenworth County surrounding properties are predominantly used for agricultural crop production. Leavenworth County includes a railroad line that generally parallels the Kansas River. All land south of the railroad to the County line is zoned for industrial uses in Leavenworth County. The area within Douglas County east and south is zoned VC – Valley Channel and is used for agricultural activities.



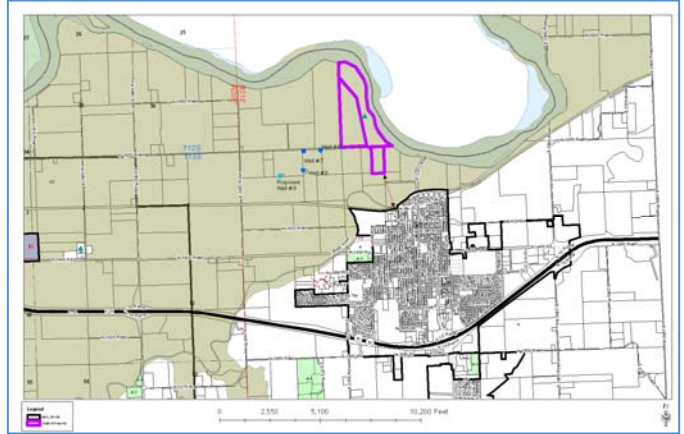
II. CHARACTER OF THE AREA

This area is located north of the City of Eudora and within 3 miles of the Eudora City Limits. More specifically, the incorporated Eudora City Limits is located approximately .3 miles mile south of the proposed use. The proposed dredging operation area is also located within the City of Eudora's Planning Area as found in the Eudora Comprehensive Plan (ECP). This planning area extends north and east to the Douglas County Line boundary lines and generally 3 miles to the west and south of the existing city limits.

The property was originally developed as a public golf course but is currently vacant. The surrounding area includes extensive agricultural fields and scattered rural residential homes found along the County roads.

A dominating characteristic of the area is the floodplain encompassing the subject property and the surrounding land. The floodplains from the Kansas River and the Wakarusa River converge northeast of the City of Eudora. Approximately 141 acres of the proposed sand dredging operation are located within the floodplain. The balance of the subject property is located within the 100 year fringe area.

The encumbrance of floodplain designations tend to hinder development and limit land uses to those compatible with open uses of land.



Staff Finding – The character of the area is rural agricultural. The presence of extensive floodplain limits development opportunities in this area. The proximity of the subject property to the City of Eudora is a key factor of this consideration.

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

Applicant response: *The majority of the subject property will remain open space.*

Suitability is reviewed based in the following subjects:

- Current County zoning VC.
- General provisions of a Conditional Use Permit.
- Eudora Industrial Zoning.
- Soils Classifications for the subject property.
- Geology

The subject property is restricted to the uses permitted in the Valley Channel zoning district, which includes mining as a conditional use permit.

a) Zoning. This property is currently zoned V-C (Valley Channel) District.

The purpose of this district is to prevent, in those areas subject to periodic or potential flooding, such development as would result in a hazard to health or safety, and to insure the general public will not be forced to expand exorbitant funds to remedy flood problems (per section 12-314-1 of the County Zoning Regulations).

Uses allowed in this district include farms, truck gardens, orchards, nurseries, grazing, hunting and fishing, public or private commercial recreation facilities and structures, preserves, reservations and other similar open uses. Section 12-314-3.08 prohibits "the removal of top soil, or damming or relocating of any water course except with the approval of the Planning Commission." Mining activities are further defined in Section 12-319-4.05 as a Conditional Use. While the use is potentially allowed, approval is required through a public review process.

The property is also encumbered by the 100 year floodway except for a small area located in the southwest corner and a portion along the west side of N 1500 Road. This designation further limits development options as set out in section 12-328 of the County Zoning Regulations. The Floodplain management regulations are intended to, among other things, *"Control grading (fill or excavation), dredging, and development which may unduly increase the potential for flood damage."* It should be further noted that any improvements to the property such as the addition of structures and berms are subject to local, state review with regard to As such, a local Floodplain Development Permit from Douglas County would also be require for this project.

The proposed request will not alter the base zoning. However, if approved, the ultimate result (when the resource is exhausted) will be a permanent alteration to the area by the creation of a 114 acre lake.

It is assumed that areas not actively being mined will remain in unimproved open space or agricultural production. The site plan does not clearly designate this activity.

- If approved, the site plan should be revised to include notes regarding the continued use of property during phases.

b) Conditional Use Permits. Section 12-319 of the County Zoning Regulations states:

Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district, certain conditional uses listed in Section 12-319-4 below, when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified, in any district from which they are prohibited.

Specific uses are listed in the Zoning Code including mining excavation and extraction of minerals. This use is allowed in the district subject to the approval of a Conditional Use Permit. The code states:

12-319-4.05. To assure that the continued development of all natural resources will be made possible through inclusion of known mineral deposits within zones reserved for their development and production, to guarantee that these sources will not be forever lost for the benefit of Douglas County, Kansas:

- (a) Mining excavation and extraction of mineral or raw materials including but not limited to stone, sand, gravel or the other building materials and the manufacturing, processing, storage and selling of said minerals and materials shall be permitted to continue in operation in "A" Agricultural District, "VC" Valley Channel District and Floodway and Floodway Fringe Overlay Districts (only on those areas under lease and on record at the time this resolution goes into effect.)*
- (b) Mining, extraction and excavation of raw materials at new locations within Agricultural, Valley Channel districts, in Douglas County, shall require that an approved plan of restoration of land be submitted to the Planning Board for its recommendation to the Board of County Commissioners. This plan shall show that all excavated material will be returned to a level no higher than the elevation of surrounding land, and that proper drainage is provided. All shafts or tunnels must be left in a safe condition when abandoned.*

This use is allowed in the VC zoning district subject to approval of a Conditional Use Permit. Conditions may be placed on the use to assure compatibility and address concerns through mitigation standards if approved. Douglas County does not include any specific use standards for mining activities with the exception of the restoration plan as noted above.

- c) **Eudora Industrial Zoning.** While the property is not within the City of Eudora, a review of the applicable base zoning district is included, since the subject property is within the Eudora growth boundary.

Eudora Industrial Zoning:

16-308 I – Industrial District

(1) General Description: The purpose of the Industrial District is to provide for the establishment of warehousing, manufacturing, and administrative office development. The overall character of the industrial district is intended to allow industrial development but to ensure that it is compatible with adjacent land uses, whether they be industrial, business or residential in nature. The method of ensuring such compatibility is by the imposition of performance standards which will lessen any potential detrimental effects of a particular industrial use.

(2) Uses Permitted: The manufacturing, compounding, assembly, packaging, repair, testing, treatment, wholesaling, or storage of products, materials or equipment, and physical recreation or training facilities (such as, but not limited to, dance studios and health clubs), and administrative office facilities, and sexually oriented businesses, and pawnshops, and facilities necessary to operate public services, are permitted uses in the I District.

Development standards with regard to industrial development state:

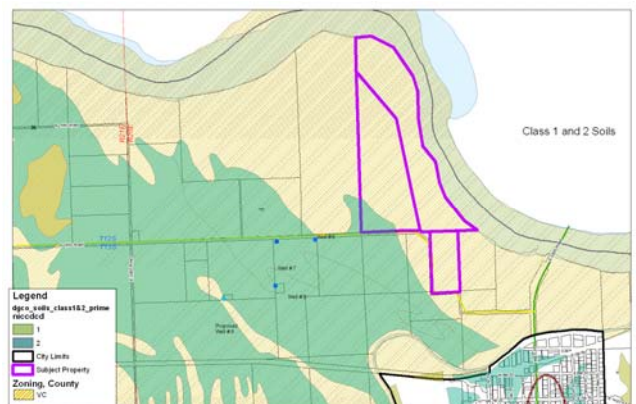
Exterior Storage: Except as otherwise permitted by these regulations or during permitted construction on any tract, all exterior storage of equipment, raw materials or finished products shall be fully screened from the view of adjacent parcels and streets by a solid screen at least six (6) feet in height. Storage within I - Industrial Districts shall be exempt from screening of exterior storage visible from abutting streets.

Other land use policies included in the Eudora Comprehensive Plan state that industrial development is not suitable in flood prone areas.

- d) **Soils Classifications.** In the staff report CUP-12-7-94 the area was described as follows:

The Soil Survey of Douglas County, Kansas, 1977 identifies the majority of the site as Eudora-Kimo fine sandy loams, overwash; Eudora silt loam; and Sharpy-Eudora complex, overwash which are all classified as highly productive farmland. The northern portion of the property is Riverwash areas, which are classified as low productive potential.

The southwest corner of the subject property is encumbered by Type Two Soils. Soils are not necessarily limiting other than they are not reported to be highly productive agriculturally. This factor lends its support toward other types of open spaces uses such as recreation uses as previously approved for this site.



- e) **Geology.** Sand, like gravel, soil, oil, and other materials are mined from the ground as a marketable resource. Some of resources are renewable with good land management practices; others once mined are not renewable and substantially alter the landscape. Soils associated with rich sand deposits are most commonly found located along rivers.

The Kansas River is the contributor to the deposit of sand and gravel within the river bed and along the river. Changes in Federal and State law restrict accessibility from excavation in the river. These materials are described as low-value, high-bulk commodities. As such they are generally marketed for construction purposes in the immediate vicinity of the extraction facility. As communities develop the accessibility to the resources becomes restricted. A large segment

of the Kansas River is within a regulatory airport zone that prohibits the constriction of ponds as a hazard to the Lawrence Municipal Airport. Other segments of the river are located within designated urban growth areas of Lawrence and Eudora.

"...demand for these materials comes from areas of growing population where new construction and road-building are most common. Because sand, gravel, and other geologic commodities come from the earth, their production often raises a conflict between people's desire for an undisturbed landscape and the demand for these resources." *Sand, Gravel, and Crushed Stone: Their Production and Use in Kansas* by David A. Grisafe Source: <http://www.kgs.ku.edu/kgs.html>

The proposed request represents a consideration of the balance of co-located resources. Each resource, open space or mineral extraction, includes inherent value. The value of the preservation of agricultural properties and open space uses and soils are articulated in the Communities comprehensive plan, *Horizon 2020*.

Staff Finding – When reviewing the county codes, the property is suited for the proposed use of a sand dredging operation if it can be shown that it is not *incompatible with other uses permitted in a district...* and is... *found to be in the interest of the public health, safety, morals and general welfare of the community*. The operation of the use will be industrial in nature and will have certain impacts to nearby properties. These impacts can be mitigated if the public good is served by extracting the natural resource.

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

This property was developed as a golf course in 1994 with revisions to add the sale of cereal malt beverages in 1997 and a caretakers residence in the clubhouse in 1999 (CUP-12-7-94; CUP-1-1-97, SP-2-11-99). Improvements include an existing two story residence located in the southwest corner on the north side of N. 1500 Road and several accessory structures north of the residence. These buildings are shown on the site plan and will not be removed as part of the proposed use, if approved.

Staff Finding –County Zoning Regulations were adopted in 1966; this property has been zoned "VC (Valley Channel)" since that adoption. The property was developed as a golf course but has been unused since 2006. Property improvements include a two story residence with a total of 2,900 Sf.

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

Applicant Response: *"No detriment to nearby properties will occur. This CUP request maintains existing agricultural uses on the land while adding employment and revenue opportunities in northeast Douglas County."*

Section 12-319 of the County Zoning Regulations recognizes that "*certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...*" The proposed use falls under section 12-319 Count Zoning Regulations) of the County Zoning Regulations. Mining and excavation uses are enumerated in this section 12-319-4.05.

Approval of a Conditional Use Permit does not remove any restrictions imposed by the VC zoning of the property. Approval of this application would allow the applicant to remove top

soil, regrade the property, and extract the sand/gravel material. There are no shafts or tunnels associated with this operation that will require abandonment as are associated with other types of mining activities. The code specifically requires a restoration plan approved by the Planning Commission. As noted, this type of mineral extraction operation will permanently alter the surface contours by creation of a lake. It is unlikely that "restoration" to the pre-extraction conditions is feasible. Therefore a more correct interpretation is that a mitigation/reclamation plan is required to re-establish a productive use of the property. Given the proximity of the floodplain it is unlikely that development such as lake front suburban homes is feasible.

- Key concerns focus on the impact of traffic, water well protection, and structural protection of the Kansas River jetties.
- City and County staff have reviewed the traffic study and a study of the project on the Eudora water wells located to the southwest of the project.

Traffic. The traffic study indicated that the roads are capable of supporting the resulting traffic. The County Engineer noted that some road widening, surface, and subgrade stabilization in some areas may be needed on N 1500 between the entrance and Route 1061. County staff recommended the applicant provide rock for township improvement. The study further indicated that three (3) trucks per day (on average) travel west from the facility on N 1500 Road. Should the number of trips increase to 10 or more vehicle trips per day County staff recommends the applicant provide dust control along the route. Options for this include application by the operator of the facility directly to the roads or funding the township for the application of treatment for dust.

Well. The well report adequately, in staff's opinion, concludes that the proposed sand pit operation will not contaminate groundwater pumped from the Eudora city wells. The City of Eudora is conducting an independent review of the report. Findings will be provided to the Planning Commission at the public hearing if available.

Rock Jetties. An additional concern identified by staff is the required protection of the Kansas River rock jetties located within the proposed mining area. Plans have been revised to protect the eastern most jetty with a setback that will allow continued protection of the jetty. The northern jetty is located within phases 7 through 9.

The functionality of the northern jetty has been questioned by the applicant. Given changes in the river the applicant generally asserts that this jetty could be safely removed. To date no convincing argument or evidence to that assertion from the Corps of Engineers or the applicant has been provided to County Staff.

The purpose of the jetty is to redirect the river and to limit riverbank erosion. There was a system of three jetties constructed on the south river bank in this vicinity in the 1950's when the river threatened to cut through Route 1061 south of the Kansas River Bridge. After construction of the jetties, the river moved back to the north and eroded areas filled in. Since in the past the river has shown a tendency to migrate south and threaten the Route 1061 bridge, and since the system of jetties corrected the problem and has worked well, the County Public Works staff feels it unwise to allow removal or disturbance of any jetty. The County Public Works staff is charged with maintenance of the jetties by the Corps of Engineers. If approved no work beyond phase 6 should be allowed until documentation is provided by the Corps of Engineers. Douglas County has a blanket easement on this property to maintain the jetties. No

excavation should be allowed within 50' of the rock jetties to avoid disturbing the jetties and to allow access to the jetties.

Approval of the request introduces an industrial type activity to the north of the City of Eudora. The Community plans this area as future open space since the area is within the floodplain. This would be a substantial deviation from planned land use for the City of Eudora.

Staff Finding – Affects to nearby properties include increased truck traffic, including dust, and the industrial aesthetic of the processing plant portion of the site. Noise is not viewed by staff to be a detrimental impact though noise from trucks and machinery will be present. Strict controls are needed to assure protection of the Kansas River structures as well as public infrastructure investments.

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

Applicant Response: *No identifiable gain will result by denial of this request; no identifiable hardship will result from its approval."*

This factor is a test of balance; weighing the relative gain to the public against the hardship imposed upon the property owner/applicant if the application is denied.

Agricultural Resource. Portions of the property have been mapped as Class 1 and 2 soils. The initial phase and plant will be located in the south central portion of the site along the west property line. Phase 1 of the dredging operation and the initial improvements area located in a type 2 soils area. The west half of Phase 2-4 appears to be out side of the mapped soils area. Existing residences and buffer areas would also not encroach into the mapped soils areas identified as Class 1 and 2 Soils.

Traffic Impacts. The relatively low traffic volume has been reviewed and deemed to be acceptable by County staff. Specific road improvements are needed as noted in the County Public Works review comments.

Interstate access. Highway access is important to the project to allow for delivery of the product to the main facility located in Kansas City, Kansas. The most direct route is by using County Road 1061 (Main Street in the City of Eudora) across the Kansas River to County Highway 1 in Leavenworth County for access to I-70. The applicant anticipates that the majority of trips will use this route (70%) the remaining trips would be west bound to and from Lawrence (20%) and south on Co Road 1061 through Eudora (10%). This use will have a presence in the Eudora traffic system.

Approval of the request will result in a change to the maintenance requirements of the existing township roads. As such staff recommends a per ton charge be added to the project if approved. The details of this mitigation tool are discussed later in this report.

Water Resource. As stated earlier, the proposed operation will not harm, in staff's opinion, the existing Eudora wells located to the south and west of the proposed activity.

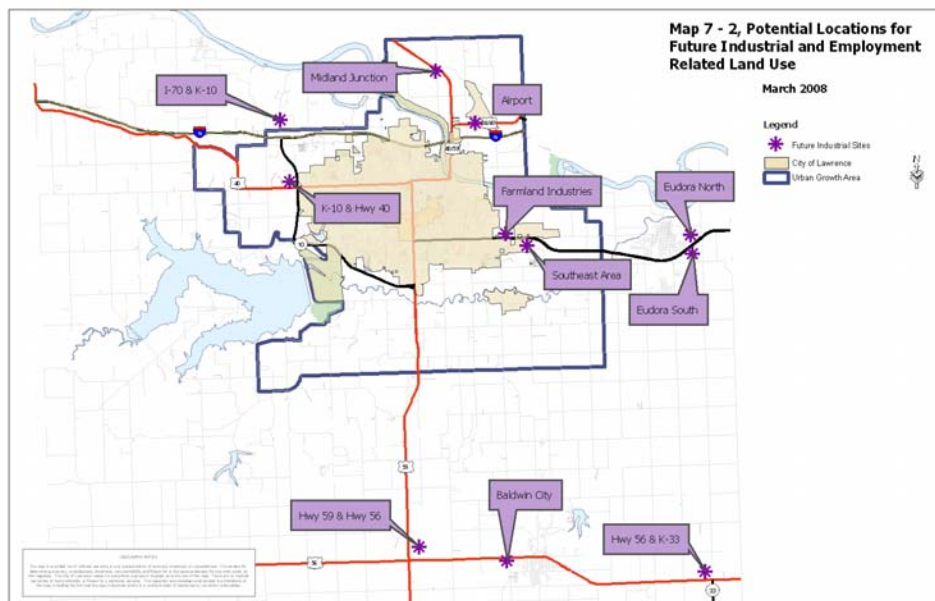
Staff Finding – Approval of the use does not clearly benefit nor harm the public. Approval of the request will alter the physical site by creating a 114 acre lake. Development opportunities are limited because of the presence of floodway. Once the sand is extracted the property will be removed from the agricultural inventory.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN OF DOUGLAS COUNTY AND WITH THE COMPREHENSIVE PLAN OF EUDORA

Applicant Response: *"This request complies with H2020. As a prospective industrial/employment-related development, the proposed sand excavation operation meets all 4 general and all 6 specific location criteria set forth in Chapter 7, Policy 2.1."*

A review of the applicable comprehensive plans is included in this report. *Horizon 2020* governs the unincorporated areas of Douglas County. The City of Eudora designates an area outside of the existing city limits as part of the City's planning area. The proximity of the request to the Eudora city limits is significant in this evaluation. *Horizon 2020* notes the importance of establishing urban growth areas as stated in Chapter 4 of the plan. The Eudora growth area was updated in 2003 upon Eudora's adoption of a comprehensive plan. This element will be discussed in further detail later in this report.

HORIZON 2020. An evaluation of the conformance of a Conditional Use Permit request with *Horizon 2020's* strategies, goals, policies and recommendations finds that the comprehensive plan does not address special or conditional use permits. The plan identifies several future locations of new industrial areas. These locations are mapped on page 7-24 (Map 7-2) of *Horizon 2020*.



Horizon 2020 identifies several future new industrial areas including an area described as Eudora North and Eudora South. The plan states:

Areas have been generally identified on the east side of Eudora both north and south of K 10 Highway that would be appropriate for Industrial Development. It is recommended that Eudora annex both areas prior to development. (page 7)
<http://www.lawrenceplanning.org/documents/Horizon2020.pdf>

The plan assumes that these future uses include buildings and parking lots as the primary investment in the property. The proposed use has only limited amount of building structure associated with the activity.

Horizon 2020 recognizes that various land uses often compete when there are similar land features desirable for a group of uses. To provide balance to the competing concerns for of a health natural environment and a diversified economy a set of location criteria have been established for locating new industrial developments.

LOCATIONAL CRITERIA FOR INDUSTRIAL DEVELOPMENTS (PAGE 7-4 AND 7-5)

*A given site, whether located within City limits, in the UGA, or in unincorporated areas of Douglas County, should substantially meet the following **general** locational criteria:*

- *have feasible access to Federal and State transportation networks;*
- *be of adequate parcel size, generally over forty acres;*
- *lie primarily outside of the regulatory floodplain;*
- *have minimal average slopes.*

*After identifying a general location for potential industrial and employment park development, further site analysis and environmental suitability should be conducted considering site-specific criteria. Sites should substantially meet the following **specific** criteria on a site plan or development plan level:*

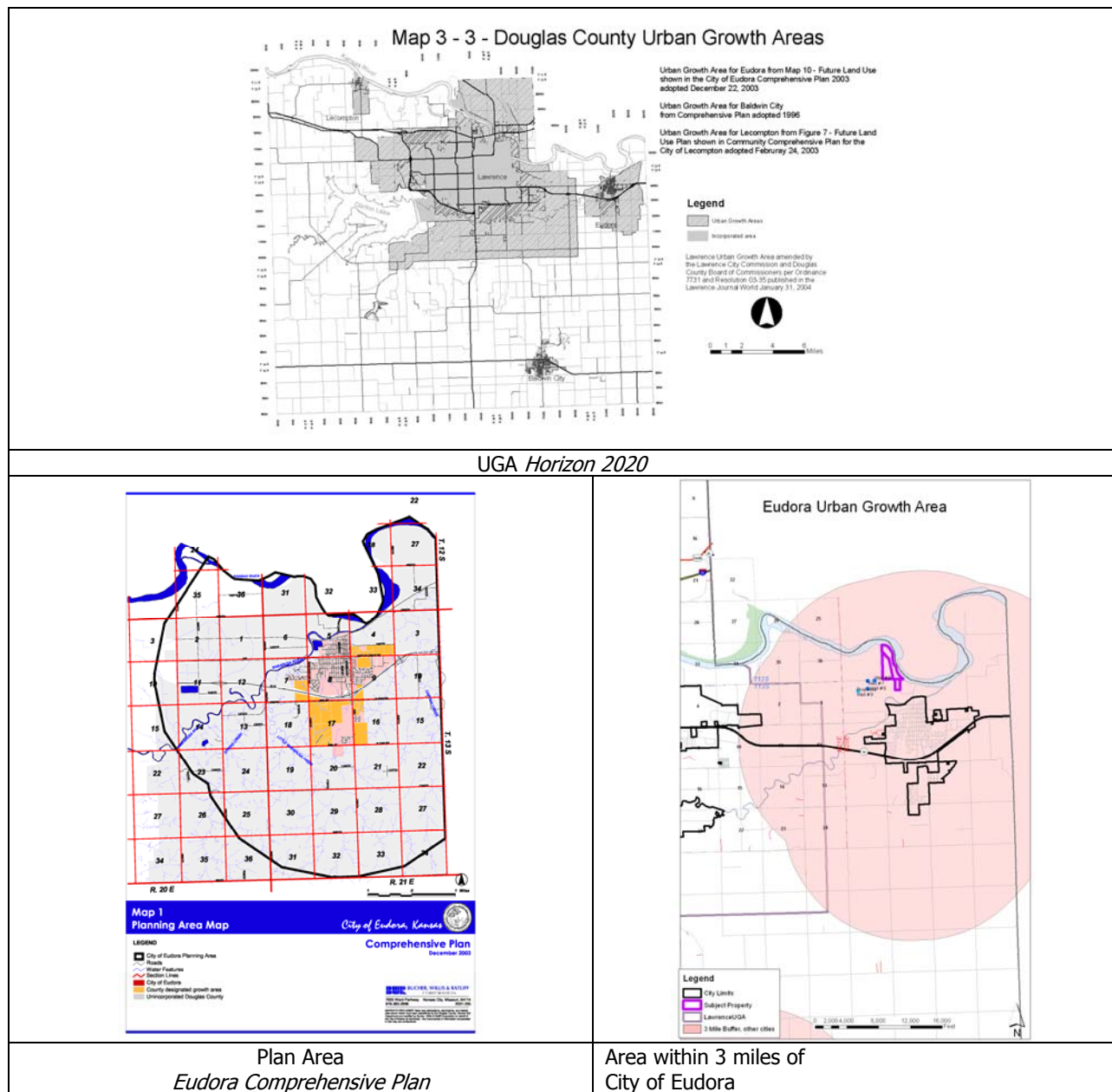
- *preserve environmentally sensitive areas, including vegetative cover and wildlife habitat, to act as buffers and site amenities;*
- *encourage natural stormwater management, including locations that permit direct discharge to the floodplain;*
- *have available and adequate utilities, infrastructure and services (i.e. police and fire protection) for the proposed use;*
- *be compatible with existing and future zoning/land use patterns, including the use of appropriate buffers between land uses;*
- *be annexed before development if adjacent to municipal boundaries.*

Access to state (K-10) (K-32) and federal (I-70) highways require travel of several miles to reach these highways using county roads. Access is feasible but not within the immediate proximity. The requested area clearly exceeds the minimum 40 acre standard listed above. However, the property is fully within the 100 year floodplain and a substantial portion is located in the floodway. The property also includes minimal slope. The proposed request satisfies two of the initial criteria listed in *Horizon 2020*.

The Plan does address agriculturally zoned/used land. *Horizon 2020* recommends; "Agricultural uses should continue to be the predominant land use within the areas of the county beyond the designated urban growth/service areas (rural area). Uses permitted in the rural area should continue to be limited to those which are compatible with agricultural production and uses." (page 5-6, *Horizon 2020*).

The Planning Commission approved language for Chapter 16 Environment in August 2010. A section of this chapter addresses "marketable resources." This proposed chapter recognizes that, "They are essential to sustainable development activity, primarily in the form of low cost raw materials, such as sand, gravel, timber, oil, gas, and stone, etc." A recommended action item of the chapter is to map the resources to assist in reviewing land use applications. To date the plan does not include a map of marketable mineral deposits in Douglas County.

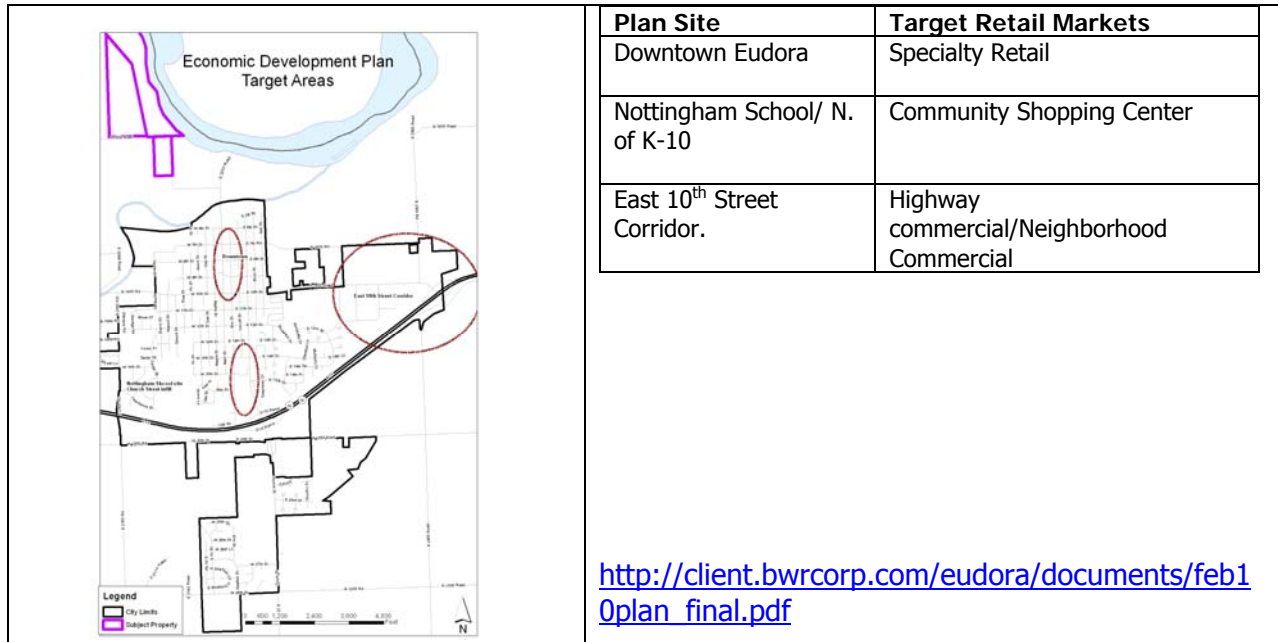
Urban Growth Areas. *Horizon 2020* includes growth areas for the Cities of Baldwin, Eudora, Lawrence and Lecompton. They are shown in the composite map 3-3 of *Horizon 2020*. The City of Eudora's designated urban growth area was added in December 2003. The 2009 update expands the plan area for Eudora.



Land uses planned for the area generally north of the Wakarusa river (north Eudora) are identified as continued floodplain with no specific land uses planned for the area.

Eudora Comprehensive Plan (ECP). The City of Eudora engaged in an update to the community comprehensive plan in 2009. The plan focuses on three “primary target areas.” The result of the update was the adoption of the Economic Development Plan. The three targeted areas are, Downtown Eudora, Nottingham School Area and East 10th Street Corridor. These three areas each have specific features noted in the plan as beneficial to future economic development. The Downtown area includes access to the I-70 interchange to the north; The Nottingham School Area is identified as a primary gateway to the community, and the E. 10th Street Corridor features larger tracts with easy access to K-10 highway.

The focus of these areas centers on either the ability to redevelop properties or buildings or accommodate new construction to encourage economic development opportunities. Two of the sites are described in the plan as intended for retail related uses. The E. 10th Street Corridor, however, is designated for large-scale commercial and light-industrial growth.

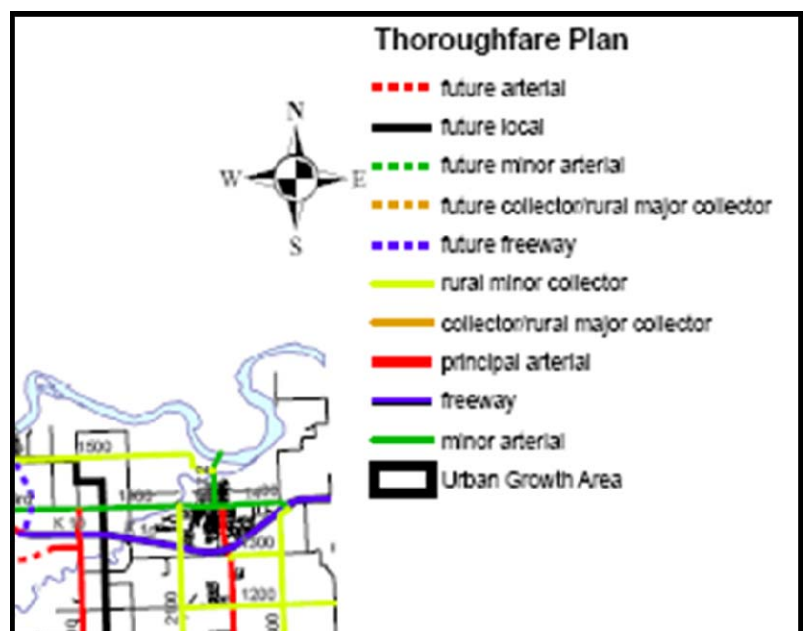


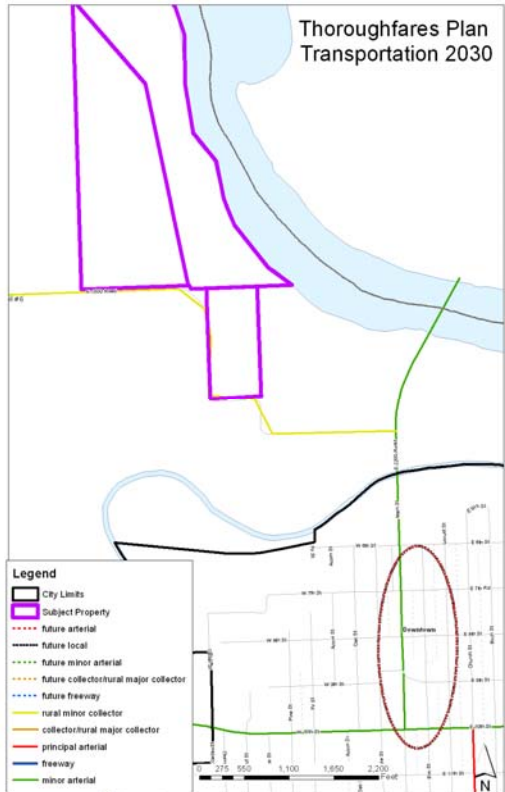
The Eudora Plan seeks to position the community to take the best advantage of K-10 access for development opportunities. General land uses targeted for these areas are described in Chapter 2 of the Economic Development Plan (page 2-3).

Transportation:

One action step identified in the *ECP* (page 3-5) recommends coordination with regional and state partners to support an alignment of the I-70/K10 connector route near east Eudora. *Horizon 2020* includes all unincorporated areas of Douglas County. The adopted *Transportation 2030*, recently adopted as Chapter 8 of *Horizon 2020*, does not include this street network connection at this time.

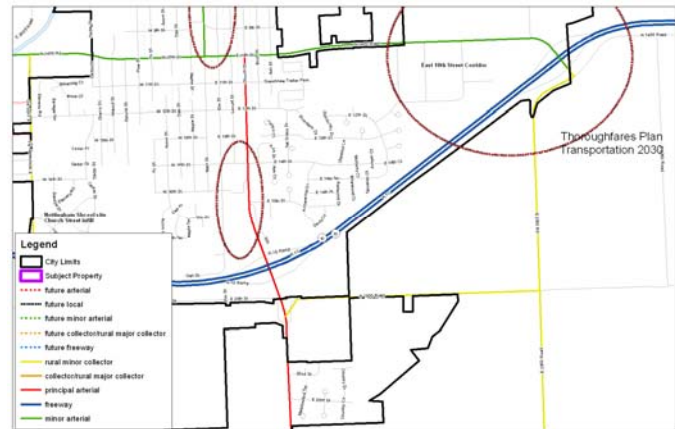
This type of connector road would divert traffic flow around the City of Eudora and avoid main thoroughfare through Eudora. This east Eudora connection is listed in Chapter 14 of *Transportation 2030* as an illustrative or unfunded project. An I-70/K10 connection east of Lawrence (west of Eudora) is shown in figures 6.9 and 6.10 of T2030.





The plan identifies the north Downtown area as a gateway. This is enhanced by the connection of Main Street to Leavenworth County Highway 1 and connection to I-70 interchange. N 1500 Road intersects this "corridor". Traffic from the proposed dredging operation is likely to use the Leavenworth County connection to, I-70, to haul materials to the main processing center in Kansas City Kansas. At this point that travel route would not enter Eudora City Limits.

The Nottingham and East 10th Street areas likewise are designated as gateways to the community. The plan specifically recommends rezoning of the East 10th Street area to accommodate commercial uses and support of an alignment of the I-70/K10 connector route on the east side of Eudora.



The Eudora Economic Development Plan focuses on three specific areas. A summary prepared by staff is provided as an attachment to this report.

General industrial policies included in the **Eudora Comprehensive Plan** state:

- Industrial development should be on land that is well drained and free from flooding
- Industrial development should be concentrated on land currently zoned for industrial and in existing and new industrial parks, promoting the proper mix of light and heavy industrial development and encouraging employment opportunities for existing pool of skilled labor.

More specifically the Plan shows Industrial Park and Business Park uses. The narrative suggests that such development would include internal circulation, landscaping, and architecturally pleasing buildings.

Staff Finding – The location criteria outlined in Chapter 7 of *Horizon 2020* have been assessed for this site. While some criteria are met, not all are met. The proximity to the City of Eudora is a critical element in assessing the proposed project. As interpreted by the City of Eudora, this requested land use would be a substantial deviation from planned land use for the City of Eudora. The area is clearly encumbered by regulatory floodway. Long range land use for this general area is identified as floodplain in the City of Eudora Comprehensive Plan and as a rural growth area in *Horizon 2020*. The City of Eudora interprets their plan to exclude industrial type development in this designation. Planning staff believes that *Horizon 2020*, by recognizing growth areas, places emphasis on how cities desire their growth areas to develop.

If approved the land feature will be permanently altered from “land” to “water”. Areas of restore land (reclamation area) are located on the periphery of the project.

The issuance of special or conditional use permits is not discussed in *Horizon 2020*. However, the Plan does address agricultural uses and the fact that such uses should be continued as the predominant land use and the preservation of agricultural land.

STAFF REVIEW

The subject property includes a total of 169.58 acres. Of this a total of 55.46 acres will be left as open space. This area is generally located immediately adjacent to the river. Open space is also designated as a 50’ perimeter buffer along the west property line and along the adjacent road right of way.

The property is generally located along the north side of N 1500 Road. This road zigzags along the south property line of the subject. The area in the southeast area is designated for the processing and stockpiling activities associated with this use.

Within the boundary of the property are to rock jetties discussed in part V of this report. The site plan shows protection measures for the jetty located at the north end of the processing area. No such protections are provided for the jetty that crosses phases 7, 8 and 9.

The property is substantially encumbered by floodway. This element presents special considerations that have not yet been fully resolved. Any such approval will require both local and state approval for activity in the floodway. Mitigation measures, including the planting of vegetation, will be reviewed by multiple state departments. The dredge ponds or lakes are generally bounded by a type of berm either constructed or resulting from the removal of soil to access the material. These berms will require approval by other agencies.

Existing Development

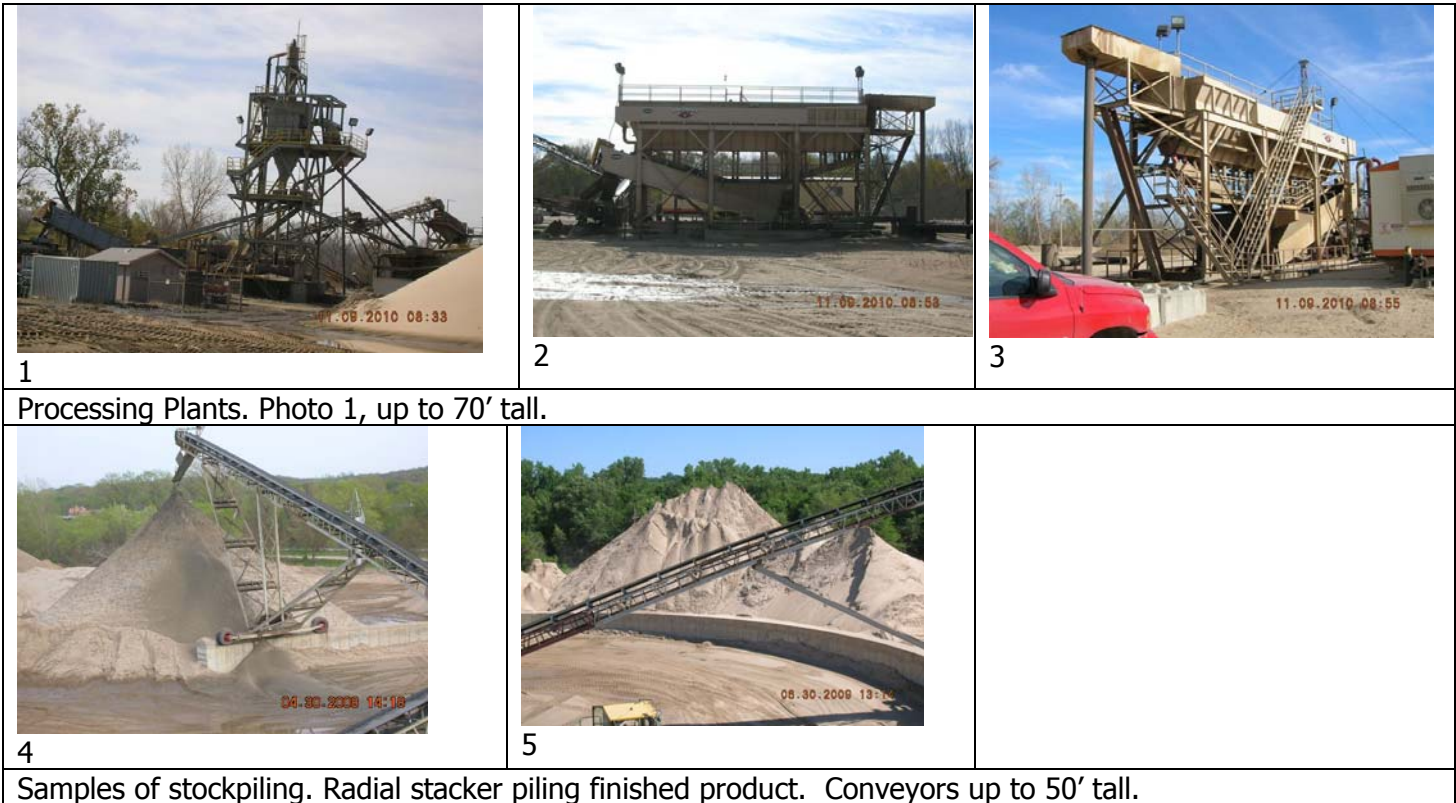
The property includes an existing two story residence. The residence is shown to be located on a part of the property that is generally 150’ by 400’ or 1.3 acres. This would not comply with today’s minimum area requirements as a parcel. At a minimum three acres of undisturbed area should be reserved around this structure, if approved, to accommodate minimum county standards if the parcel is ever divided in the future.

Site Plan Analysis:

The following table provides a summary of the use areas of the property including active and open space areas throughout the site.

Site Summary: (Acres)	169.58 acres
Buffer /Riparian area	49.03 acres
Processing Area:	6.43 acres
Excavation area	114.12 acres
Total Active Area:	120.55 acres
Phases	16 phases

Site improvements for the dredging operation include a 2,000 Sf scale house and laboratory space and a processing plant. The processing plant is comprised of a series of movable equipment that separates and directs the material to stockpiles on the site. An interior drive is provided around the processing area for access to the equipment and the stockpiles.



Height:

The plan does not detail the maximum height of the equipment proposed nor does it detail the height of the stockpiles. Section 12-318 of the County Zoning Regulations provides the height area and bulk requirements for the county zoning districts. The VC district is limited to a maximum of 35' or 2.5 stories. Certain structures may exceed these height limitations and are listed in section 12-321.301 of the County Zoning Regulations. Structures that may exceed the height standard of a district include chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, flag poles, grain elevators, radio and television antennas, silos etc. The elevators associated with the material processing operations could therefore exceed the maximum height limitation of the district.

Setback:

The location of the processing equipment exceeds the 50' front yard setback (155' proposed) and the 15' side yard setback (200' west property line and 290' east property line). The equipment is also setback from the north parcel line (rear yard) by 850'. This setback exceeds the minimum 50' district required rear yard standards.

The scale house is setback from N 1500 Road (front yard) by 200'. The scale house is located approximately 35' east of the east property line. The proposed interior drive that circles the site is located approximately 10' from the property line. This drive does not have a setback and abuts the Neis property to the east. There is no proposed screening along this property line.

The south 900' is located in the floodway fringe and could potentially be provided with screening.

Traffic and Roads:

As discussed in the body of the staff report, some improvements in the County and Township Roads may be needed depending on the volume of traffic. Any approval of the request would need to include mitigation for dust and for a contribution to the township for necessary road improvements. A per ton charge could be used as a method to finance some of the road improvements.

Mitigation Plan:

The resulting land feature of this project, if approved, will be a 114 acre lake. The mitigation plan as proposed provides landscaping only along the road right-of-way. There is no developable land except for that south 6.43 acres that was the processing area. The plan specifically notes that the area will be regraded and reconditioned with top soil and seeded following the *Kansa Conservation Commission surface mining reclamation recommendations*.

It is not clear on the plans if the return water settling basis will also be backfilled and the grade restored. That portion of the site was heavily wooded and if back filled presumable would be an open field as part of the reclamation. The provision of cross sections should be provided to clearly articulate the final site restoration.

CONCLUSION

The proposed use in many ways demands adjacency to a river due to the location of sand deposits. A recent application at Midland Junction led to the knowledge that much of the Kansas River in Douglas County precludes this use for FAA reasons, which limits where sand dredging can occur in the county.

Staff believes that *Horizon 2020*, by recognizing growth areas, places emphasis on how cities desire their growth areas to develop. Eudora does not support the request for reasons identified in their report to the commission. The proximity of the project to the Eudora City limits and with the existing industrial policies for Eudora, staff cannot support the proposed request.

MEMORANDUM

TO: Douglas County Planning Commission
City of Eudora Planning Commission

CC: City of Eudora staff and governing body
Douglas County staff

FROM: Scott Michie, City of Eudora Planning Advisory Consulting Staff

SUBJECT: **Staff Findings** for Application for Kaw Valley Eudora Sand Facility Conditional Use Permit to Douglas County by Landplan Eng/Kaw Valley Sand & Gravel Co.

DATE: **February 16, 2011** **County Agenda 2-23-2011, Item No. 5-1**

On behalf of the City of Eudora I would like to express the City's appreciation to the Douglas County Planning Commission and staff for coordinating with the City on this important review and public hearing process. The City of Eudora Planning Commission, in reviewing applications for conditional use permits, must consider and make positive findings on three standards. These staff findings for an application to Douglas County for a proposed sand dredging operation—south of the Kansas River, west of CR 1061 and north of the City of Eudora in its planning area—address the City's standards.

Eudora Standard #1: Whether the proposed use and site plan conform to the purpose and intent of (the City zoning regulations).

Staff Finding: The subject application does not meet the three standards of City of Eudora regulations, because it does not meet the City's long-standing public policies for Industrial Development. For City Development Policy to be valid it must be applied to all cases. As City Development Policy must be applied to all cases, it must be applied to each individual case, including the CUP application by Kaw Valley Sand & Gravel Co.

The City of Eudora's long-standing Industrial Development Policies are very clear and very simple. Industrial development in Eudora and its designated planning area must be:

1. Directly accessible to K-10 Highway, and
2. Out of the 100-year floodplain.

This application meets neither policy.

Over the years the City has considered industrial development in its northern floodplains; and after careful study, has expressly rejected that development option. In the 2008 plan update workshop sessions, citizens a) considered this option for industrial development in the City's northern floodplains, and b) decided that the City of Eudora should not allow industrial land uses in its northern floodplains. To the contrary, the City decided it should promote industrial development

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where there is direct access to K-10 Highway, so that industrial traffic does not have to drive through the City on local streets to reach the regional highway. Douglas County approval of industrial development north of the City corporate limits—in the 100-year floodplain, outside of the City’s “three primary target areas for industrial and commercial” growth—would be **contrary to the City of Eudora’s current and long-standing development policies**. From a strategic policy perspective, Douglas County-approved industrial development in such areas that are not in the City’s planned industrial areas would have the negative potential of diverting limited city resources away from its well-documented “primary target areas” for industrial and commercial development.

Each annual Plan update by the City of Eudora that followed the 2008 planning charrettes has shown how the City continues—to this day—implementing its long-standing plans for industrial and commercial development: the 2009 *Economic Development Plan* and the 2010 *Nottingham Development Guidelines and Site Plan* (which was jointly adopted by the City and the Eudora School District). Both plans further documented the City’s strategic, public commitment to its three primary non-residential target areas—the areas where it has publicly stated its municipal support for non-residential development—in Downtown Eudora, the Church Street Corridor at K-10 Highway, and the East 10th Street Corridor at K-10 Highway.

Eudora Standard 2: Whether the proposed use complies with the Comprehensive Plan.

Staff Finding: The application does not comply with the City of Eudora Comprehensive Plan. The prior major plan update (2003) and recent plan updates by the City of Eudora call for preservation of the river floodplains in its planning area, recognizing them as “the most prominent natural features north and west of the City.” Specifically, the 2003 updates consider *preservation of environmental and natural resources* as a tool that defines the character of the community and greatly contribute to the overall quality of life. The primary natural resources in Eudora are the Wakarusa and Kansas Rivers, the creeks, designated open spaces and floodplains. Requiring specific consideration during the platting and site planning processes should protect these resources. Clearly the application by Kaw Valley Sand and Gravel Co. will adversely affect the preservation of these natural resources.

In addition, the 2003 Comprehensive plan updates support the industrial land use recommendation of the Future Land Use Map:

1. Industrial uses should be on land that is well drained and free from flooding.
2. Industrial development should be concentrated on land currently zoned for industrial and in existing and new industrial parks, promoting the proper mix of light and heavy industrial development, and encouraging employment opportunities for the existing pool of skilled labor.
3. Industrial areas should have reasonable and convenient access to major arterials and railroad facilities as required. The use of local streets and traffic that cuts through the community off of arterial streets is strongly discouraged as it increases road maintenance and traffic conflicts.

The 2008 Comprehensive Plan update referred to the Wakarusa and Kansas Rivers as “the primary (natural) resources in Eudora.” The plan update went on to define public policy vis-à-vis “Environment/Natural Resources” by stating, “Natural resources help define the character of

the community and greatly contribute to the overall quality of life . . . (including) the designated open spaces and floodplains.” Participants in the 2008 Plan update were asked to identify future growth areas in the greater Eudora area where industrial development should be focused (**ref. map on page five of this memorandum**). The following items received support from participants:

- General-commercial areas, especially along K-10.
- Nottingham School site for future commercial use.
- Promote commercial development along K-10 Highway both to the west and the east; long-term growth into Johnson County.
- Concentrate commercial development on the east interchange to serve future traffic if the I-70/K-10 connector is built at this location; also increase commercial in this area on Future Land Use map.

The majority of workshop participants in 2008 did **not** support the idea of promoting industrial development in the floodplain of the Kansas River. Plan update participants discussed that, “Development in this area would be made more difficult due to 100-year floodplain restrictions . . . there are **other areas** that would be more suitable for industrial development, such as **west of the Wakarusa River north of K-10 Highway (in the 500-year floodplain)**.” The maps created in 2008 and selected by the planning commission built on long-standing plans for linear parks and passive recreation in the river floodplains—left undeveloped—and for industrial development in long-standing targeted nodes outside of the 100-year floodplains, with direct access to K-10 Highway.

Eudora Standard 3: Whether the proposed use and site plan will be objectionable or detrimental to the public welfare of the community under the circumstances of the particular case regarding setback, height, density and similar aspects.

Staff Finding: The application does not meet the following City zoning requirements:

- Exterior Storage: Except as otherwise permitted by these regulations or during permitted construction on any tract, all exterior storage of equipment, raw materials or finished products shall be fully screened from the view of adjacent parcels and streets by a solid screen at least six (6) feet in height.
 - (1) Planting Screens. Planting screens shall consist of trees, bushes or shrubs of a variety and so planted and kept as to be achieved within thirty-six (36) months after occupancy of the premises to be screened.
 - (a) Any two (2) foot square segment of a planting screen shall contain no more than Twenty-five percent (30%) open space affording a direct horizontal view through such screen if such segment is over two (2) feet above grade.
 - (b) Such screen shall have a minimum height of six (6) feet above grade at any particular point along its length.
 - (2) Landscaped Berm. Adequate evidence shall be furnished demonstrating that the construction of such berm, along with any necessary culverts and ditching, will not create adverse drainage and flooding conditions on adjacent property.
 - (a) Such berm shall be at least thirty (30) feet in width at the base and at least four (4) feet in height, as measured perpendicular to grade level at any point along its length. Side slopes shall have a gradient no steeper than three to one.
 - (b) Side slopes of such berm shall be sodded so as to prevent erosion. The top of the berm shall contain a planting screen above except that the minimum height of such planting screen need be no more than three feet above the top

of the berm at any particular point along its length. Construction and material of such berm shall be as approved by the Planning Commission.

- (3) Fence Screen. A fence screen shall not be less than eight (8) feet, nor more than ten (10) feet in height above grade level, at any particular point along its length. Any two (2) foot square segment of such screen shall contain no more than Twenty-five percent (30%) open space affording a direct horizontal view through such screen. Construction and material of such fence screen shall be as approved by the Planning Commission.

- Show the location of all outdoor lighting features including street lights, a photometric study, direction and amount of illumination.
- Improvement guarantees shall be provided to ensure the proper installation of improvements required by the site plan. These improvements shall include, without limitation as to other improvements but only if applicable to the particular site plan:
 - Drainage Improvements.
 - Buffering (fences, walls, etc.).
 - Outdoor Trash Storage Areas.
 - Outdoor Lighting Fixtures.
- Preservation of Natural Features. Mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. Abrupt changes in natural slope shall be avoided. Preservation shall be directed toward:
 - (I) enhancing the quality of new development,
 - (II) protecting the natural environment, and
 - (III) preserving the character of existing neighborhoods

SUMMATION

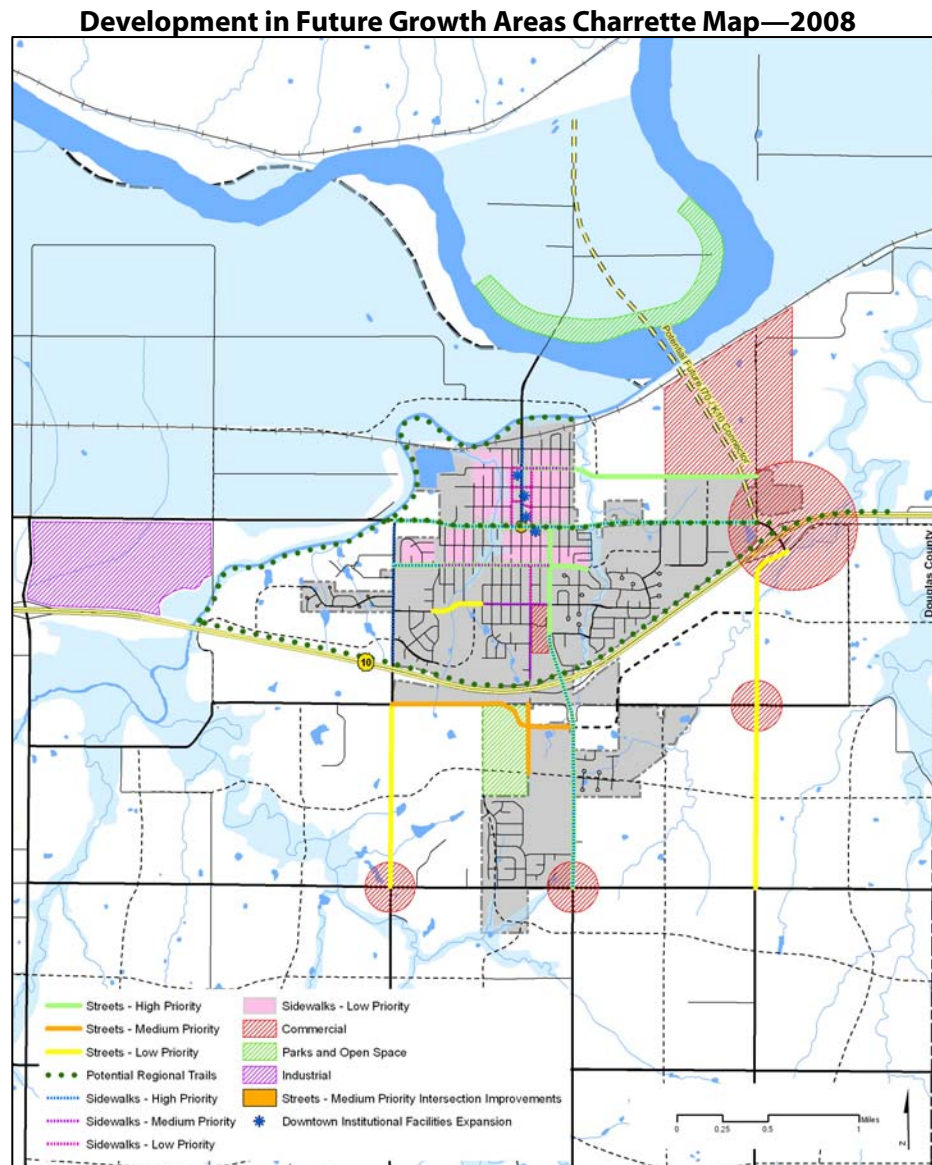
The subject application does not meet the three standards of City of Eudora zoning regulations, because it does not meet the City's long-standing, well-documented public policies for industrial development, which clearly state that it must be:

1. Directly accessible to K-10 Highway, and
2. Out of the 100-year floodplain.

The City of Eudora has consistently planned for industrial development in targeted areas of the City and its planning area (including parcels in 500-year floodplain of the planning area) that have direct access to K-10 Highway—which is clearly contrary to Douglas County approving industrial development in Eudora's planning area on parcels in 100-year floodplain at locations where direct access to the regional highway system cannot be provided.

Comprehensive Plan Update Map—2008

The maps created in 2008 and selected by the planning commission built on long-standing plans for linear parks and passive recreation in the river floodplains—left undeveloped—and for commercial and industrial development to focus in long-standing targeted nodes outside of the 100-year floodplains.



The 2008 Plan update called for 100-year floodplains to be kept open and industrial development to be targeted west of the Wakarusa River in the 500-year floodplain with direct access to K-10 Highway (at CR 1057), and at the long-established Intech Business Park near the East 10th Street interchange with direct access to K-10 Highway.

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End of Memorandum



City Of Eudora, Kansas

September 22, 2010

Chairman Thellman
Douglas County Courthouse, 2nd Floor
1100 Massachusetts Street
Lawrence, Kansas
66044

Dear Chairman Thellman,

Representatives from the city of Eudora joined several neighbors in the surrounding rural area to attend a public meeting hosted by the Kaw Valley Company regarding a proposed sand pit they hope to develop near the Wakarusa River. It is our understanding that the developer will begin the process to obtain a conditional use permit for the proposed operation in the near future. In addition, we understand a vote of the Douglas County Commission is required to approve the conditional use permit. The purpose of this letter is to express the city of Eudora's concern with this development and to ask that you take serious consideration of the affects the proposed development may have on our community.

One of the wells that serve as a source of water supply for the city of Eudora is located approximately 2,000 feet from the proposed location of the sand pit operation. As the city grows over time, new wells may need to be established in the area near the proposed project. The city of Eudora requests that the Douglas County Planning Commission and the Douglas County Commissioners require an independent analysis be conducted to assess the potential impact of the proposed sand pit on the Eudora water supply (both current & future) before consideration for approval is given. Any negative effect to the city's water supply and well field will cause extreme damage to the quality of life offered to our citizens and should serve as a reason to deny the permit.

Secondly, the city of Eudora requests a detailed traffic analysis be conducted to determine the anticipated number of vehicles entering and exiting the sand pit operation that will travel through Eudora so we can determine the affect of the development on our roadways. County road 1061 serves as Eudora's Main Street and will likely serve as one route for trucks entering in and out of the sand plant. Numerous pedestrians use Eudora's Main Street on a daily basis and we desire to understand the impacts the sand plant may have on their safety.

We hope this letter articulates our concerns regarding the proposed project and look forward to working with the Douglas County Planning Commission and the Douglas County Commission to assure these concerns are addressed during the planning process.

Sincerely,

Scott Hopson
Mayor

Bill Whitten
City Council
President

Maria Nelson
City Council

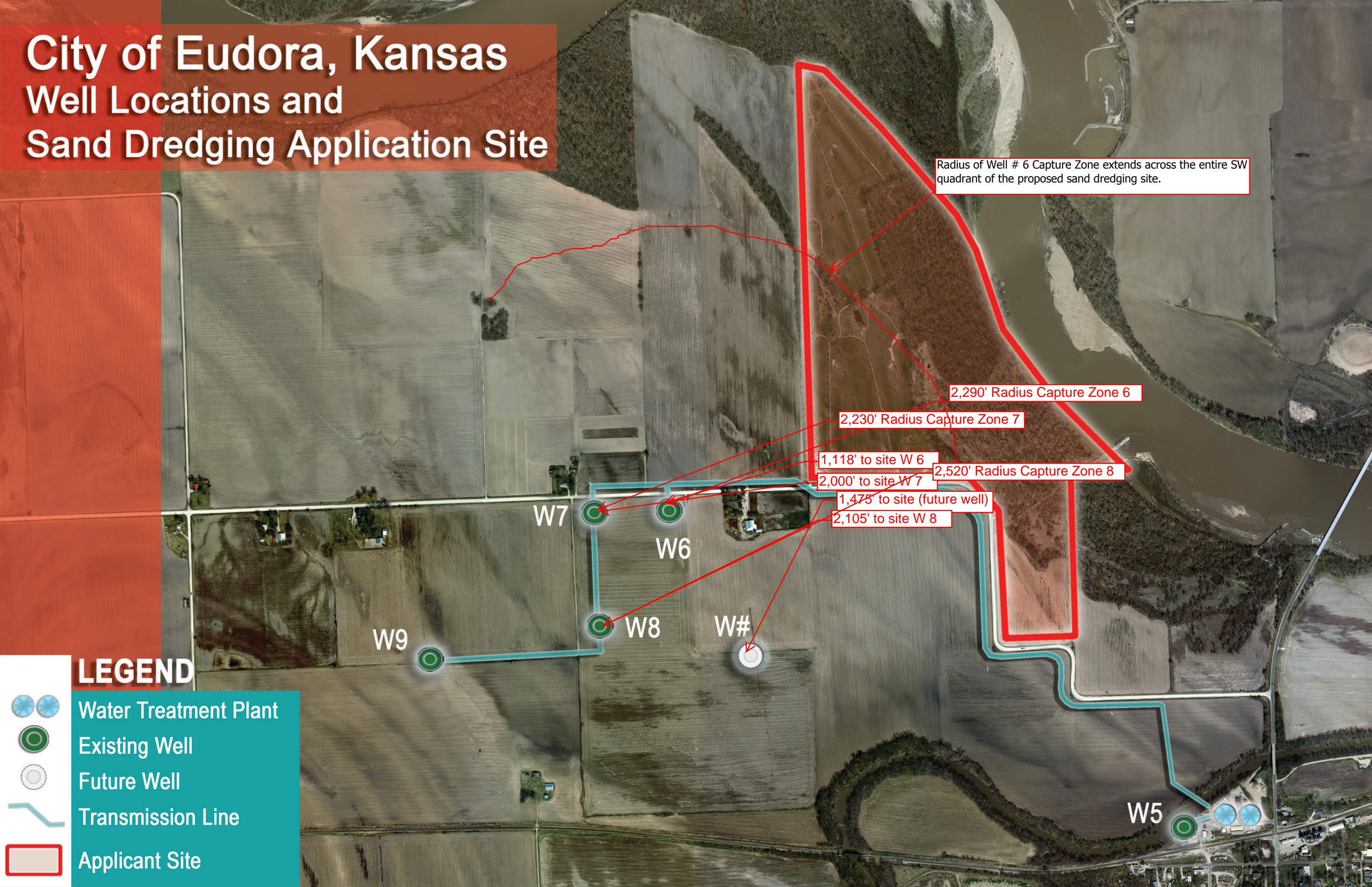
Tim Reazin
City Council

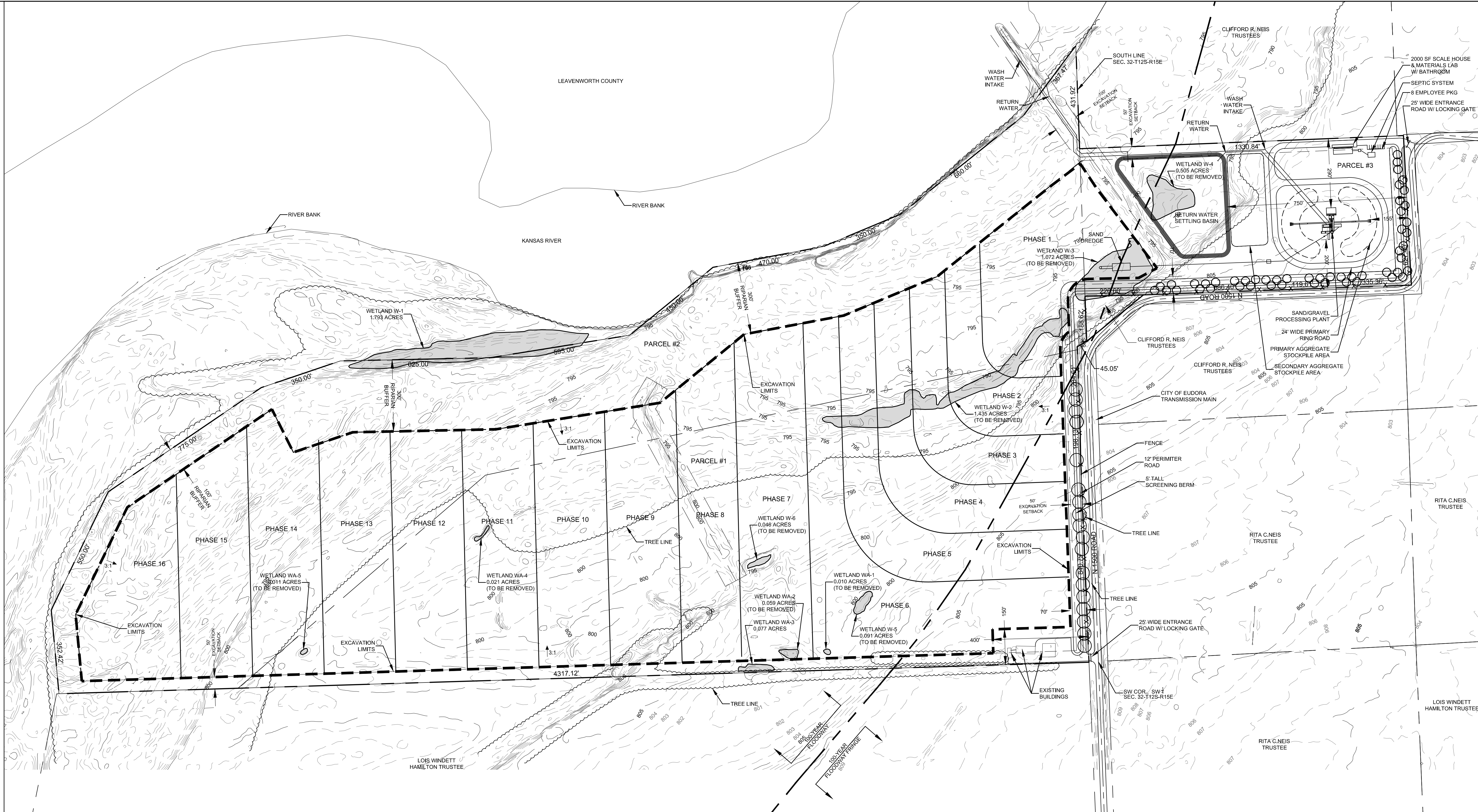
Ruth Hughes
City Council

Jeff Peterson
City Council

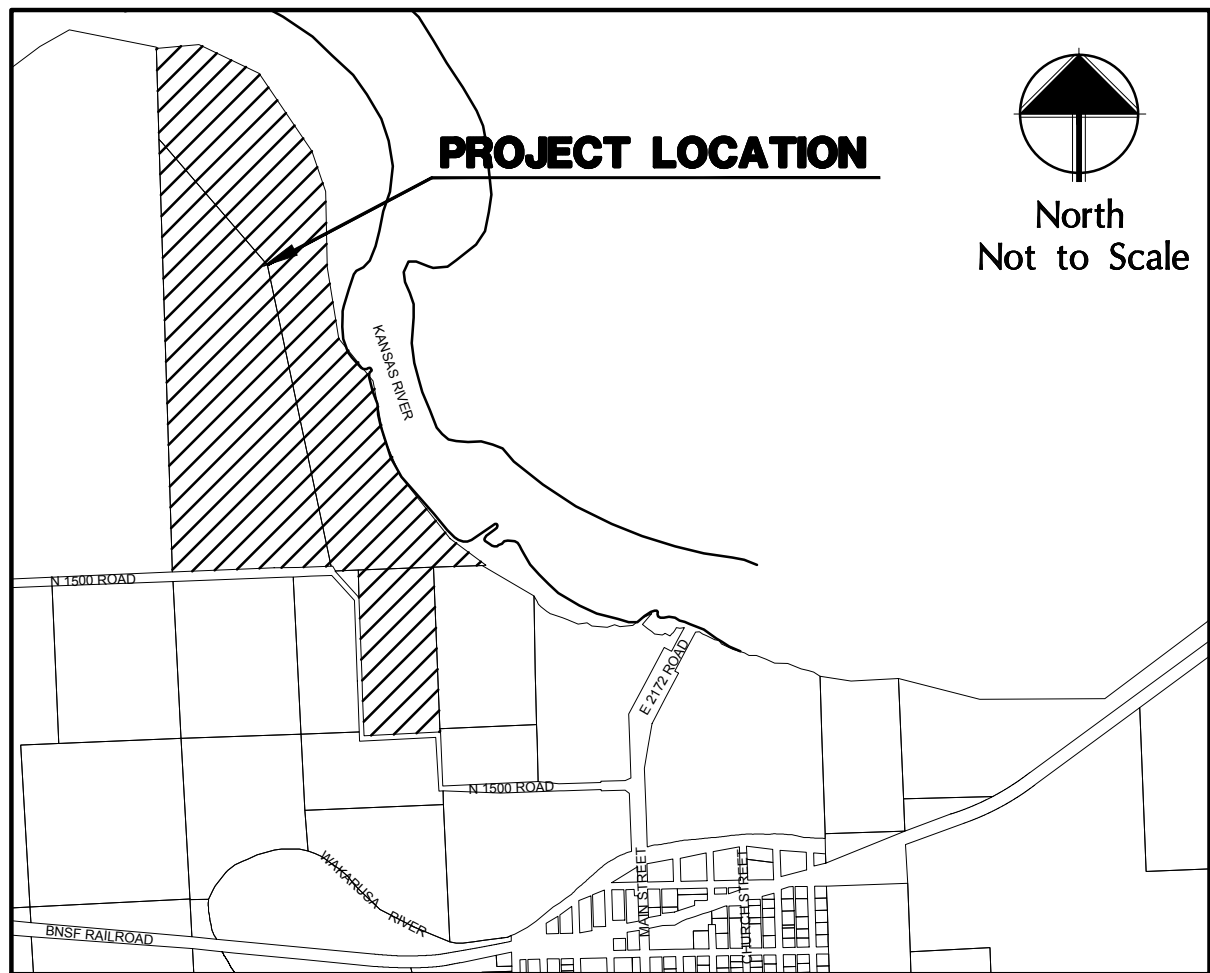
Cc: Commissioner Mike Gaughan
Commissioner Jim Flory
Lawrence-Douglas County Planning Commission
Eudora Planning Commission
Craig Weinaug, County Administrator

City of Eudora, Kansas Well Locations and Sand Dredging Application Site





Location Map



Legal Description

A TRACT OF LAND IN THE WEST HALF OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 21 EAST AND THE NORTHWEST QUARTER OF SECTION 05, TOWNSHIP 13S, RANGE 21 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN DOUGLAS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

PARCEL #1
BEGINNING AT THE SOUTHWEST CORNER OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 21 EAST THENCE NORTH 0°18'56" EAST, ALONG WEST LINE OF SAID QUARTER SECTION 3619.59 FEET; THENCE SOUTH 89°41'04" EAST, 34.40 FEET; THENCE SOUTH 38°40'12" EAST, 1368.99 FEET; THENCE SOUTH 09°52'55" EAST, 2544.71 FEET; THENCE SOUTH 0°00'00", TO A POINT ALONG SOUTH LINE OF SAID SECTION 47.76 FEET; THENCE NORTH 89°49'14" WEST ALONG SOUTH LINE 1346.44 FEET TO THE POINT OF BEGINNING. CONTAINS 72,800 ACRES, MORE OR LESS.

PARCEL #2
BEGINNING AT THE SOUTHWEST CORNER OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 21 EAST THENCE NORTH 0°18'56" EAST, ALONG WEST LINE OF SAID QUARTER SECTION 4375 FEET TO RIGHT BANK OF THE KANSAS RIVER; THE NEXT ELEVEN COURSES ARE ALONG THE SOUTHERLY AND WESTERLY BANK OF THE KANSAS RIVER; THENCE NORTH 86°48'56" EAST, 350.00 FEET; THENCE SOUTH 62°11'04" EAST, 550.00 FEET; THENCE SOUTH 32°11'04" EAST, 775.00 FEET; THENCE SOUTH 16°36'04" EAST, 350.00 FEET; THENCE SOUTH 0°53'56" WEST, 625.00 FEET; THENCE SOUTH 07°06'04" EAST, 595.00 FEET; THENCE SOUTH 37°06'04" EAST, 450.00 FEET; THENCE SOUTH 08°36'04" EAST, 470.00 FEET; THENCE SOUTH 20°36'04" EAST, 350.00 FEET; THENCE SOUTH 36°36'04" EAST, 660.00 FEET; THENCE SOUTH 51°06'04" EAST, TO A POINT ALONG SOUTH LINE OF SAID SECTION 411.10 FEET; THENCE NORTH 89°49'14" WEST ALONG SOUTH LINE 2614.92 FEET TO THE POINT OF BEGINNING, LESS PARCEL #1 CONTAINS 77,600 ACRES, MORE OR LESS.

PARCEL #3
BEGINNING AT A POINT FROM THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 21 EAST THENCE EAST, 2128.50 FEET; THENCE SOUTH, 1391.00 FEET; THENCE WEST, 626.30 FEET; THENCE NORTH, 1391.00 FEET; THENCE EAST, TO THE POINT OF BEGINNING 626.30 FEET. CONTAINS 19,700 ACRES, MORE OR LESS.

General Notes

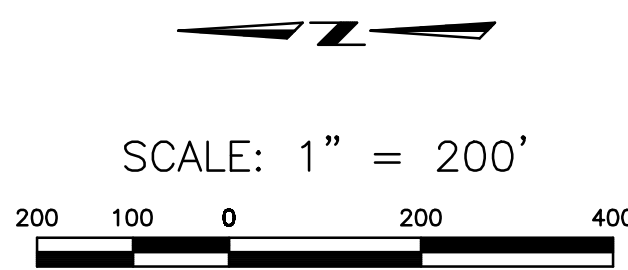
- OWNER: KAW VALLEY COMPANIES, INC.
ATTN: ALAN TEUTEMACHER
5600 KANSAS AVENUE,
KANSAS CITY, KS 66106
- LAND PLANNER/ENGINEER: LANDPLAN ENGINEERING, P.A.
1310 WAKARUSA DRIVE
LAWRENCE, KS 66049
 - TOPOGRAPHIC INFORMATION OBTAINED FROM 2006 CITY OF LAWRENCE LIDAR AERIAL DATA.
 - EXISTING LAND USE: AGRICULTURAL
 - PROPOSED LAND USE: SAND EXCAVATION, EXTRACTION & PROCESSING; AGRICULTURAL
 - EXISTING ZONING: A
 - PROPOSED ZONING: A
 - THIS SITE IS LOCATED WITHIN THE FLOODPLAIN PER FEMA MAP #20045C0203D, DATED AUGUST 5, 2010.
 - THIS SITE HAS BEEN DESIGNED TO COMPLY WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES (ADAAG) FOR BUILDINGS AND FACILITIES, APPENDIX A TO 28 CFR PART 36.
 - DOUGLAS COUNTY HAS A BLANKET EASEMENT ON THE PROPERTY TO MAINTAIN THE TWO ROCK JETTIES.

Site Summary

GROSS CUP/SITE AREA:	7,387,103 SF	/	169.58 AC
PUBLIC RIGHTS-OF-WAY:	SF	/	AC
NET CUP/SITE AREA:	SF	/	AC
SAND EXCAVATION & AGRI AREA:	4,971,151 SF	/	114.12 AC
SAND/GRAVEL PROCESSING AREA:	280,000 SF	/	6.43 AC
SCALE HOUSE & MATERIALS LAB:	200 SF		
SAND/GRAVEL PROCESSING PLANT:	APPROX. 15,000 SF		

Parking Summary

REQUIRED = 1 SPACE/2 EMPLOYEES; 4 TOTAL EMPLOYEES = 2 SPACES
PROVIDED = 8 SPACES



A CUP Site Plan #2 for
**Kaw Valley
Eudora Sand Facility**
Douglas County, Kansas

Civil Engineering
Landscape Architecture
Community Planning
Surveying

Landplan Engineering, P.A.
Lawrence, KS • Kansas City, MO • Manhattan, KS
Blue Springs, MO • The Woodlands, TX

1310 Wakarusa Drive
Lawrence, KS 66049
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Web: www.landplan-pa.com

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EUDORA SAND FACILITY
CONDITIONAL USE PERMIT
SITE PLAN #2

REV	DATE	DESCRIPTION

PICK A STAMP OR SEAL

DATE:	11/16/10
PROJECT NO.:	20101019
DESIGNED BY:	LPE
DRAWN BY:	TURD/BS
CHECKED BY:	RD/CLM

ISSUE	SHEET NO.
A	C-001

OF 2 SHEETS

EUDORA SAND FACILITY
CONDITIONAL USE PERMIT
SITE PLAN #2

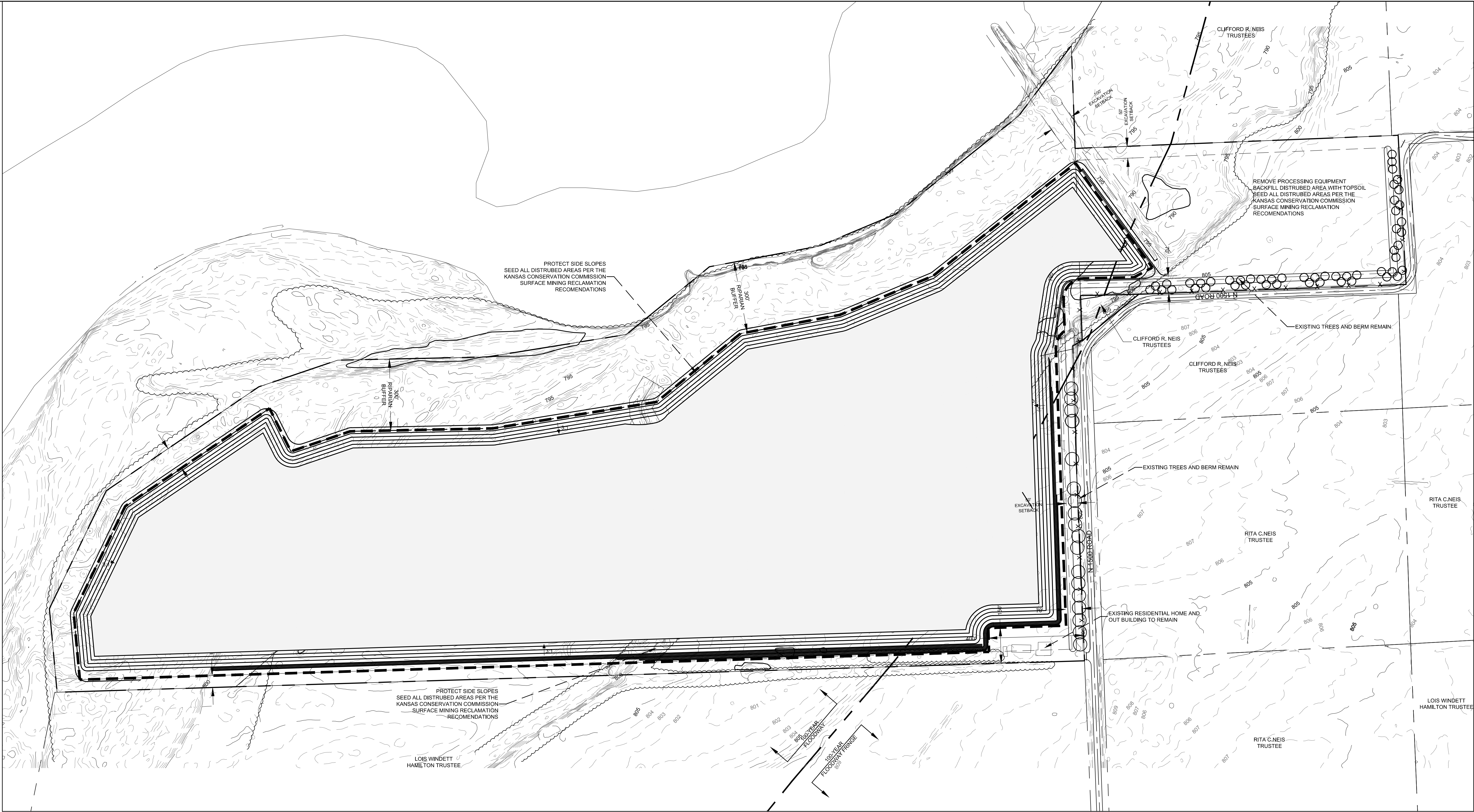
REV	DATE	DESCRIPTION

PICK A STAMP OR SEAL

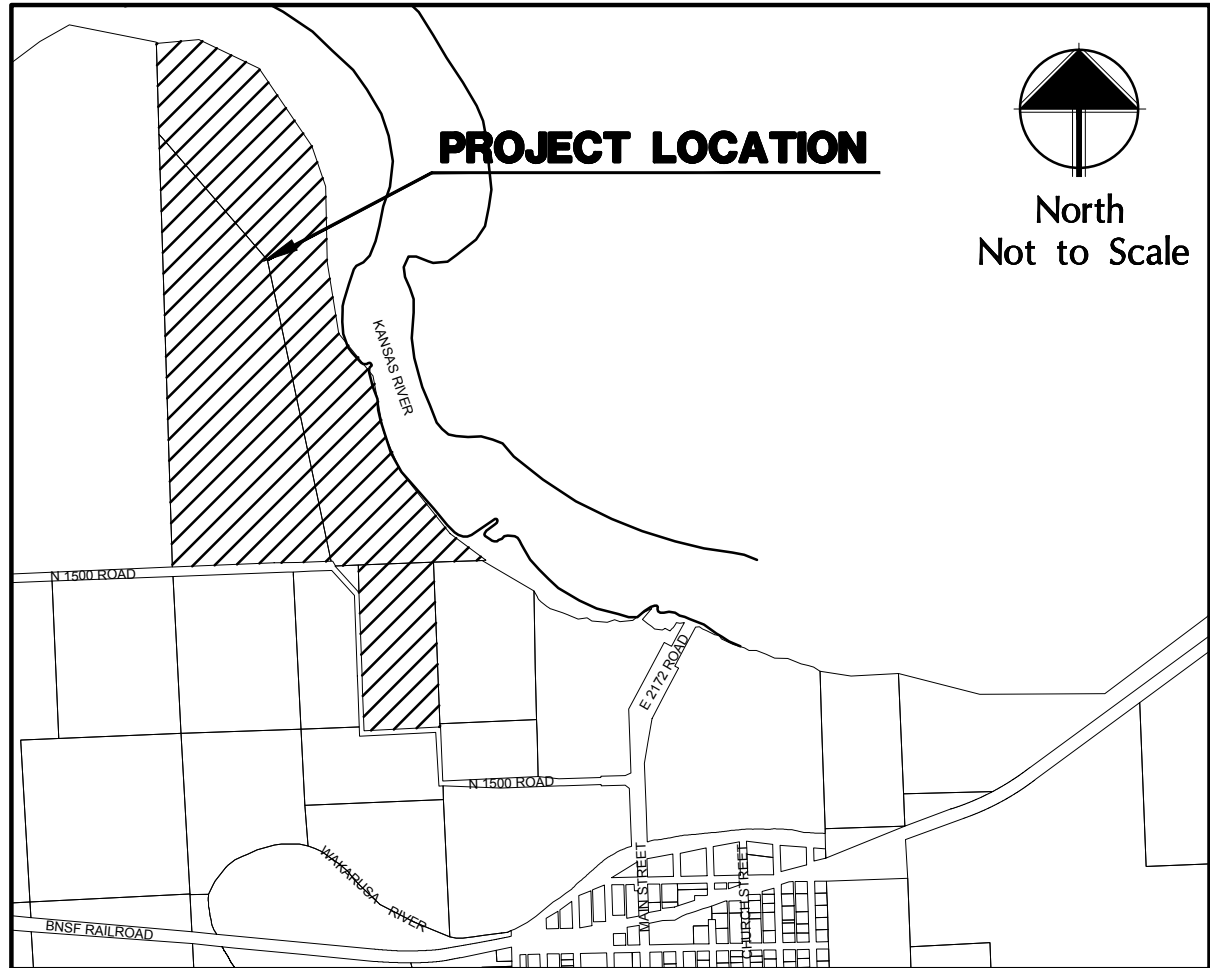
DATE:	11/16/10
PROJECT NO.:	20101019
DESIGNED BY:	LPE
DRAWN BY:	TURD/BS
CHECKED BY:	RD/CLM

ISSUE	SHEET NO.
A	C-001

OF 2 SHEETS



Location Map



Legal Description

A TRACT OF LAND IN THE WEST HALF OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 21 EAST AND THE NORTHWEST QUARTER OF SECTION 05, TOWNSHIP 13S, RANGE 21 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN DOUGLAS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

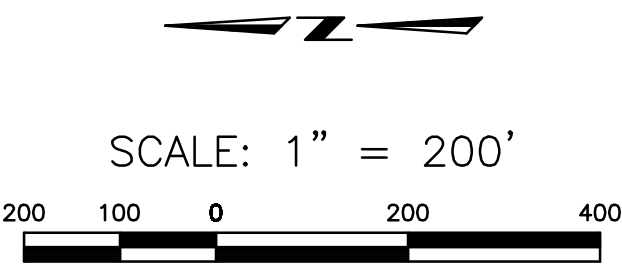
PARCEL #1
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Site Summary

GROSS CUP/SITE AREA:	7,387,103 SF	/	169.58 AC
PUBLIC RIGHTS-OF-WAY:	SF	/	AC
NET CUP/SITE AREA:	SF	/	AC
SAND EXCAVATION & AGRI AREA:	4,971,151 SF	/	114.12 AC
POND AREA:	4,007,520 SF	/	92 AC
SCALE HOUSE & MATERIALS LAB:	200 SF		
SAND/GRAVEL PROCESSING PLANT:			
RESEEDING PER SCC	APPROX. 669,952 SF	/	15.38 AC
RESEEDING SIDE SLOPE PER SCC APPROX.	958,320 SF	/	22 AC

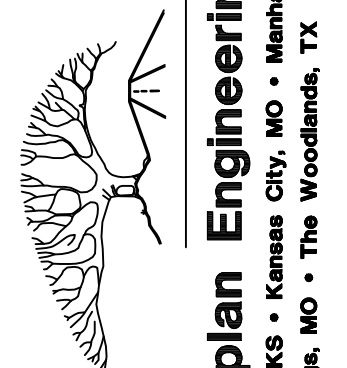


A Reclamation Plan for

Kaw Valley Eudora Sand Facility

Douglas County, Kansas

Civil Engineering
Landscape Architecture
Community Planning
Surveying

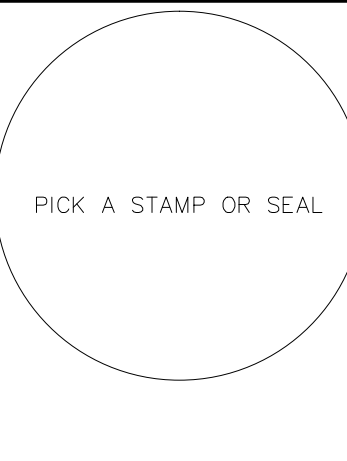


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EUDORA SAND FACILITY
RECLAMATION PLAN
SITE PLAN #2

REV	DATE	DESCRIPTION



DATE:	11/16/10
PROJECT NO.:	20101019
DESIGNED BY:	LPE
DRAWN BY:	TJRD/BS
CHECKED BY:	RD/CLM

ISSUE	SHEET NO.
A	R-001
OF 2 SHEETS	



United States
Department of
Agriculture



NRCS

Natural
Resources
Conservation
Service

A product of the National
Cooperative Soil Survey,
a joint effort of the United
States Department of
Agriculture and other
Federal agencies, State
agencies including the
Agricultural Experiment
Stations, and local
participants

Custom Soil Resource Report for Douglas County, Kansas, and Leavenworth County, Kansas

Kaw Valley Sand Facility



December 13, 2010

Preface

Soil surveys contain information that affects land use planning in survey areas. They highlight soil limitations that affect various land uses and provide information about the properties of the soils in the survey areas. Soil surveys are designed for many different users, including farmers, ranchers, foresters, agronomists, urban planners, community officials, engineers, developers, builders, and home buyers. Also, conservationists, teachers, students, and specialists in recreation, waste disposal, and pollution control can use the surveys to help them understand, protect, or enhance the environment.

Various land use regulations of Federal, State, and local governments may impose special restrictions on land use or land treatment. Soil surveys identify soil properties that are used in making various land use or land treatment decisions. The information is intended to help the land users identify and reduce the effects of soil limitations on various land uses. The landowner or user is responsible for identifying and complying with existing laws and regulations.

Although soil survey information can be used for general farm, local, and wider area planning, onsite investigation is needed to supplement this information in some cases. Examples include soil quality assessments (<http://soils.usda.gov/sqi/>) and certain conservation and engineering applications. For more detailed information, contact your local USDA Service Center (<http://offices.sc.egov.usda.gov/locator/app?agency=nrcs>) or your NRCS State Soil Scientist (http://soils.usda.gov/contact/state_offices/).

Great differences in soil properties can occur within short distances. Some soils are seasonally wet or subject to flooding. Some are too unstable to be used as a foundation for buildings or roads. Clayey or wet soils are poorly suited to use as septic tank absorption fields. A high water table makes a soil poorly suited to basements or underground installations.

The National Cooperative Soil Survey is a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local agencies. The Natural Resources Conservation Service (NRCS) has leadership for the Federal part of the National Cooperative Soil Survey.

Information about soils is updated periodically. Updated information is available through the NRCS Soil Data Mart Web site or the NRCS Web Soil Survey. The Soil Data Mart is the data storage site for the official soil survey information.

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How Soil Surveys Are Made

Soil surveys are made to provide information about the soils and miscellaneous areas in a specific area. They include a description of the soils and miscellaneous areas and their location on the landscape and tables that show soil properties and limitations affecting various uses. Soil scientists observed the steepness, length, and shape of the slopes; the general pattern of drainage; the kinds of crops and native plants; and the kinds of bedrock. They observed and described many soil profiles. A soil profile is the sequence of natural layers, or horizons, in a soil. The profile extends from the surface down into the unconsolidated material in which the soil formed or from the surface down to bedrock. The unconsolidated material is devoid of roots and other living organisms and has not been changed by other biological activity.

Currently, soils are mapped according to the boundaries of major land resource areas (MLRAs). MLRAs are geographically associated land resource units that share common characteristics related to physiography, geology, climate, water resources, soils, biological resources, and land uses (USDA, 2006). Soil survey areas typically consist of parts of one or more MLRA.

The soils and miscellaneous areas in a survey area occur in an orderly pattern that is related to the geology, landforms, relief, climate, and natural vegetation of the area. Each kind of soil and miscellaneous area is associated with a particular kind of landform or with a segment of the landform. By observing the soils and miscellaneous areas in the survey area and relating their position to specific segments of the landform, a soil scientist develops a concept, or model, of how they were formed. Thus, during mapping, this model enables the soil scientist to predict with a considerable degree of accuracy the kind of soil or miscellaneous area at a specific location on the landscape.

Commonly, individual soils on the landscape merge into one another as their characteristics gradually change. To construct an accurate soil map, however, soil scientists must determine the boundaries between the soils. They can observe only a limited number of soil profiles. Nevertheless, these observations, supplemented by an understanding of the soil-vegetation-landscape relationship, are sufficient to verify predictions of the kinds of soil in an area and to determine the boundaries.

Soil scientists recorded the characteristics of the soil profiles that they studied. They noted soil color, texture, size and shape of soil aggregates, kind and amount of rock fragments, distribution of plant roots, reaction, and other features that enable them to identify soils. After describing the soils in the survey area and determining their properties, the soil scientists assigned the soils to taxonomic classes (units). Taxonomic classes are concepts. Each taxonomic class has a set of soil characteristics with precisely defined limits. The classes are used as a basis for comparison to classify soils systematically. Soil taxonomy, the system of taxonomic classification used in the United States, is based mainly on the kind and character of soil properties and the arrangement of horizons within the profile. After the soil scientists classified and named the soils in the survey area, they compared the

individual soils with similar soils in the same taxonomic class in other areas so that they could confirm data and assemble additional data based on experience and research.

The objective of soil mapping is not to delineate pure map unit components; the objective is to separate the landscape into landforms or landform segments that have similar use and management requirements. Each map unit is defined by a unique combination of soil components and/or miscellaneous areas in predictable proportions. Some components may be highly contrasting to the other components of the map unit. The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The delineation of such landforms and landform segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, onsite investigation is needed to define and locate the soils and miscellaneous areas.

Soil scientists make many field observations in the process of producing a soil map. The frequency of observation is dependent upon several factors, including scale of mapping, intensity of mapping, design of map units, complexity of the landscape, and experience of the soil scientist. Observations are made to test and refine the soil-landscape model and predictions and to verify the classification of the soils at specific locations. Once the soil-landscape model is refined, a significantly smaller number of measurements of individual soil properties are made and recorded. These measurements may include field measurements, such as those for color, depth to bedrock, and texture, and laboratory measurements, such as those for content of sand, silt, clay, salt, and other components. Properties of each soil typically vary from one point to another across the landscape.

Observations for map unit components are aggregated to develop ranges of characteristics for the components. The aggregated values are presented. Direct measurements do not exist for every property presented for every map unit component. Values for some properties are estimated from combinations of other properties.

While a soil survey is in progress, samples of some of the soils in the area generally are collected for laboratory analyses and for engineering tests. Soil scientists interpret the data from these analyses and tests as well as the field-observed characteristics and the soil properties to determine the expected behavior of the soils under different uses. Interpretations for all of the soils are field tested through observation of the soils in different uses and under different levels of management. Some interpretations are modified to fit local conditions, and some new interpretations are developed to meet local needs. Data are assembled from other sources, such as research information, production records, and field experience of specialists. For example, data on crop yields under defined levels of management are assembled from farm records and from field or plot experiments on the same kinds of soil.

Predictions about soil behavior are based not only on soil properties but also on such variables as climate and biological activity. Soil conditions are predictable over long periods of time, but they are not predictable from year to year. For example, soil scientists can predict with a fairly high degree of accuracy that a given soil will have a high water table within certain depths in most years, but they cannot predict that a high water table will always be at a specific level in the soil on a specific date.

After soil scientists located and identified the significant natural bodies of soil in the survey area, they drew the boundaries of these bodies on aerial photographs and identified each as a specific map unit. Aerial photographs show trees, buildings, fields, roads, and rivers, all of which help in locating boundaries accurately.

Soil Map

The soil map section includes the soil map for the defined area of interest, a list of soil map units on the map and extent of each map unit, and cartographic symbols displayed on the map. Also presented are various metadata about data used to produce the map, and a description of each soil map unit.


Custom Soil Resource Report
Soil Map



Custom Soil Resource Report

MAP LEGEND






















Area of Interest (AOI)

 Area of Interest (AOI)

Soils

 Soil Map Units

Special Point Features

-  Blowout
-  Borrow Pit
-  Clay Spot
-  Closed Depression
-  Gravel Pit
-  Gravelly Spot
-  Landfill
-  Lava Flow
-  Marsh or swamp
-  Mine or Quarry
-  Miscellaneous Water
-  Perennial Water
-  Rock Outcrop
-  Saline Spot
-  Sandy Spot
-  Severely Eroded Spot
-  Sinkhole
-  Slide or Slip
-  Sodic Spot
-  Spoil Area
-  Stony Spot



Very Stony Spot



Wet Spot



Other

Special Line Features



Gully



Short Steep Slope



Other

Political Features



Cities

Water Features



Oceans



Streams and Canals

Transportation



Rails



Interstate Highways



US Routes



Major Roads



Local Roads

MAP INFORMATION

Map Scale: 1:9,790 if printed on A size (8.5" × 11") sheet.

The soil surveys that comprise your AOI were mapped at 1:24,000.

Please rely on the bar scale on each map sheet for accurate map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
Coordinate System: UTM Zone 15N NAD83

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Douglas County, Kansas
Survey Area Data: Version 8, Nov 30, 2010

Soil Survey Area: Leavenworth County, Kansas
Survey Area Data: Version 5, Nov 23, 2010

Your area of interest (AOI) includes more than one soil survey area. These survey areas may have been mapped at different scales, with a different land use in mind, at different times, or at different levels of detail. This may result in map unit symbols, soil properties, and interpretations that do not completely agree across soil survey area boundaries.

Date(s) aerial images were photographed: 6/15/2006

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Douglas County, Kansas (KS045)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
7031	Eudora silt loam, occasionally flooded	12.6	6.1%
7035	Eudora-Bismarckgrove fine sandy loams, overwash, occasionally flooded	24.5	11.8%
7089	Stonehouse-Eudora fine sandy loams, overwash, occasionally flooded	77.6	37.3%
Subtotals for Soil Survey Area		114.7	55.2%
Totals for Area of Interest		207.8	100.0%

Leavenworth County, Kansas (KS103)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
9982	Fluvents, frequently flooded	86.8	41.8%
9999	Water	6.3	3.0%
Subtotals for Soil Survey Area		93.1	44.8%
Totals for Area of Interest		207.8	100.0%

Map Unit Descriptions

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the

contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however, onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a *soil series*. Except for differences in texture of the surface layer, all the soils of a series have major horizons that are similar in composition, thickness, and arrangement.

Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into *soil phases*. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A *complex* consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An *undifferentiated group* is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include *miscellaneous areas*. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.

Douglas County, Kansas

7031—Eudora silt loam, occasionally flooded

Map Unit Setting

Elevation: 750 to 980 feet

Mean annual precipitation: 31 to 47 inches

Mean annual air temperature: 52 to 55 degrees F

Frost-free period: 175 to 215 days

Map Unit Composition

Eudora and similar soils: 85 percent

Minor components: 0 percent

Description of Eudora

Setting

Landform: Terraces

Landform position (three-dimensional): Tread

Down-slope shape: Linear

Across-slope shape: Linear

Parent material: Coarse-silty alluvium

Properties and qualities

Slope: 0 to 1 percent

Depth to restrictive feature: More than 80 inches

Drainage class: Well drained

Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high
(0.60 to 2.00 in/hr)

Depth to water table: More than 80 inches

Frequency of flooding: Occasional

Frequency of ponding: None

Calcium carbonate, maximum content: 5 percent

Available water capacity: High (about 11.8 inches)

Interpretive groups

Land capability (nonirrigated): 2w

Ecological site: Loamy Lowland (PE 30-37) (R106XY013KS)

Typical profile

0 to 7 inches: Silt loam

7 to 14 inches: Silt loam

14 to 40 inches: Silt loam

40 to 48 inches: Silt loam

48 to 80 inches: Very fine sandy loam

Minor Components

Aquolls

Percent of map unit: 0 percent

Landform: Depressions, drainageways, hillslopes

Down-slope shape: Concave

Across-slope shape: Concave

7035—Eudora-Bismarckgrove fine sandy loams, overwash, occasionally flooded

Map Unit Setting

Elevation: 750 to 980 feet

Mean annual precipitation: 31 to 47 inches

Mean annual air temperature: 52 to 55 degrees F

Frost-free period: 175 to 215 days

Map Unit Composition

Eudora and similar soils: 55 percent

Bismarckgrove and similar soils: 25 percent

Minor components: 0 percent

Description of Eudora

Setting

Landform: Terraces

Landform position (three-dimensional): Tread

Down-slope shape: Linear

Across-slope shape: Linear

Parent material: Coarse-silty alluvium

Properties and qualities

Slope: 0 to 1 percent

Depth to restrictive feature: More than 80 inches

Drainage class: Well drained

Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high
(0.60 to 2.00 in/hr)

Depth to water table: More than 80 inches

Frequency of flooding: Occasional

Frequency of ponding: None

Calcium carbonate, maximum content: 5 percent

Available water capacity: High (about 11.1 inches)

Interpretive groups

Land capability (nonirrigated): 2w

Ecological site: Loamy Lowland (PE 30-37) (R106XY013KS)

Typical profile

0 to 7 inches: Fine sandy loam

7 to 14 inches: Silt loam

14 to 40 inches: Silt loam

40 to 48 inches: Silt loam

48 to 80 inches: Very fine sandy loam

Description of Bismarckgrove

Setting

Landform: Terraces

Custom Soil Resource Report

Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Silty alluvium

Properties and qualities

Slope: 0 to 1 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately high (0.20 to 0.60 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: Occasional
Frequency of ponding: None
Calcium carbonate, maximum content: 5 percent
Available water capacity: High (about 10.6 inches)

Interpretive groups

Land capability (nonirrigated): 2w
Ecological site: Loamy Lowland (PE 30-37) (R106XY013KS)

Typical profile

0 to 6 inches: Fine sandy loam
6 to 14 inches: Silty clay loam
14 to 19 inches: Silty clay loam
19 to 29 inches: Silt loam
29 to 44 inches: Silt loam
44 to 80 inches: Stratified loamy fine sand to fine sandy loam

Minor Components

Aquolls

Percent of map unit: 0 percent
Landform: Depressions, drainageways, hillslopes
Down-slope shape: Concave
Across-slope shape: Concave

7089—Stonehouse-Eudora fine sandy loams, overwash, occasionally flooded

Map Unit Setting

Elevation: 750 to 980 feet
Mean annual precipitation: 31 to 47 inches
Mean annual air temperature: 52 to 55 degrees F
Frost-free period: 175 to 215 days

Map Unit Composition

Stonehouse and similar soils: 50 percent
Eudora and similar soils: 30 percent

Custom Soil Resource Report

Minor components: 0 percent

Description of Stonehouse

Setting

Landform: Terraces

Landform position (three-dimensional): Tread

Down-slope shape: Linear

Across-slope shape: Linear

Parent material: Sandy alluvium

Properties and qualities

Slope: 0 to 2 percent

Depth to restrictive feature: More than 80 inches

Drainage class: Excessively drained

Capacity of the most limiting layer to transmit water (Ksat): High (1.98 to 5.95 in/hr)

Depth to water table: More than 80 inches

Frequency of flooding: Occasional

Frequency of ponding: None

Calcium carbonate, maximum content: 5 percent

Available water capacity: Low (about 5.4 inches)

Interpretive groups

Land capability (nonirrigated): 4s

Ecological site: Sandy Lowland (PE 30-37) (R106XY023KS)

Typical profile

0 to 9 inches: Fine sandy loam

9 to 23 inches: Loamy fine sand

23 to 31 inches: Stratified loamy sand

31 to 45 inches: Stratified fine sand

45 to 71 inches: Stratified sandy loam

71 to 80 inches: Stratified loamy fine sand

Description of Eudora

Setting

Landform: Terraces

Landform position (three-dimensional): Tread

Down-slope shape: Linear

Across-slope shape: Linear

Parent material: Coarse-silty alluvium

Properties and qualities

Slope: 0 to 1 percent

Depth to restrictive feature: More than 80 inches

Drainage class: Well drained

Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high
(0.60 to 2.00 in/hr)

Depth to water table: More than 80 inches

Frequency of flooding: Occasional

Frequency of ponding: None

Calcium carbonate, maximum content: 5 percent

Available water capacity: High (about 11.1 inches)

Interpretive groups

Land capability (nonirrigated): 2w

Ecological site: Loamy Lowland (PE 30-37) (R106XY013KS)

Typical profile

0 to 7 inches: Fine sandy loam
7 to 14 inches: Silt loam
14 to 40 inches: Silt loam
40 to 48 inches: Silt loam
48 to 80 inches: Very fine sandy loam

Minor Components

Aquolls

Percent of map unit: 0 percent
Landform: Depressions, drainageways
Down-slope shape: Concave
Across-slope shape: Concave

Leavenworth County, Kansas

9982—Fluvents, frequently flooded

Map Unit Setting

Mean annual precipitation: 31 to 47 inches

Mean annual air temperature: 52 to 55 degrees F

Frost-free period: 175 to 215 days

Map Unit Composition

Fluvents: 100 percent

Minor components: 0 percent

Description of Fluvents

Setting

Landform: Flood plains

Down-slope shape: Linear

Across-slope shape: Linear

Parent material: Fine-silty alluvium

Properties and qualities

Depth to water table: About 33 to 38 inches

Frequency of flooding: Frequent

Interpretive groups

Land capability (nonirrigated): 6w

Minor Components

Aquolls

Percent of map unit: 0 percent

Landform: Depressions, drainageways

Down-slope shape: Concave

Across-slope shape: Concave

9999—Water

Map Unit Setting

Elevation: 600 to 1,300 feet

Mean annual precipitation: 24 to 31 inches

Mean annual air temperature: 50 to 54 degrees F

Frost-free period: 190 to 210 days

Map Unit Composition

Water: 100 percent

References

American Association of State Highway and Transportation Officials (AASHTO). 2004. Standard specifications for transportation materials and methods of sampling and testing. 24th edition.

American Society for Testing and Materials (ASTM). 2005. Standard classification of soils for engineering purposes. ASTM Standard D2487-00.

Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deep-water habitats of the United States. U.S. Fish and Wildlife Service FWS/OBS-79/31.

Federal Register. July 13, 1994. Changes in hydric soils of the United States.

Federal Register. September 18, 2002. Hydric soils of the United States.

Hurt, G.W., and L.M. Vasilas, editors. Version 6.0, 2006. Field indicators of hydric soils in the United States.

National Research Council. 1995. Wetlands: Characteristics and boundaries.

Soil Survey Division Staff. 1993. Soil survey manual. Soil Conservation Service. U.S. Department of Agriculture Handbook 18. <http://soils.usda.gov/>

Soil Survey Staff. 1999. Soil taxonomy: A basic system of soil classification for making and interpreting soil surveys. 2nd edition. Natural Resources Conservation Service, U.S. Department of Agriculture Handbook 436. <http://soils.usda.gov/>

Soil Survey Staff. 2006. Keys to soil taxonomy. 10th edition. U.S. Department of Agriculture, Natural Resources Conservation Service. <http://soils.usda.gov/>

Tiner, R.W., Jr. 1985. Wetlands of Delaware. U.S. Fish and Wildlife Service and Delaware Department of Natural Resources and Environmental Control, Wetlands Section.

United States Army Corps of Engineers, Environmental Laboratory. 1987. Corps of Engineers wetlands delineation manual. Waterways Experiment Station Technical Report Y-87-1.

United States Department of Agriculture, Natural Resources Conservation Service. National forestry manual. <http://soils.usda.gov/>

United States Department of Agriculture, Natural Resources Conservation Service. National range and pasture handbook. <http://www.glti.nrcs.usda.gov/>

United States Department of Agriculture, Natural Resources Conservation Service. National soil survey handbook, title 430-VI. <http://soils.usda.gov/>

United States Department of Agriculture, Natural Resources Conservation Service. 2006. Land resource regions and major land resource areas of the United States, the Caribbean, and the Pacific Basin. U.S. Department of Agriculture Handbook 296. <http://soils.usda.gov/>

Custom Soil Resource Report

United States Department of Agriculture, Soil Conservation Service. 1961. Land capability classification. U.S. Department of Agriculture Handbook 210.

**Evaluation of Kaw Valley Companies, Inc.,
Proposed Sand Pit Operation on Ground Water
in the Vicinity of Eudora, KS**

For

**Kaw Valley Companies, Inc.
Alan Teutemacher, General Manager of Sand
5600 Kansas Avenue
Kansas City, Kansas 66106**

**Sand 913 287 0035
Cell 913 915 7444**

By

**Carl E. Nuzman, P.E., P.Hg.
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Silver Lake, Kansas 66539-9243**

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February 11, 2011

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Evaluation of Kaw Valley Companies, Inc. Proposed Sand Pit Operation on Ground Water in the Vicinity of Eudora, KS

1. INTRODUCTION

In response to a concern by a citizen of the City of Eudora, a study and evaluation of the possible effects of the sand pit operation proposed by Kaw Valley Companies, Inc. on the City of Eudora water supply wells is the subject of this report. Kaw Valley Companies, Inc. proposes to establish a sand mining operation north of the City of Eudora in the SW ¼ of Section 32, Township 12 South, Range 21 East in Douglas County, Kansas, next to the Kansas River as shown in Exhibit A. The City of Eudora currently has a group of three existing (3) wells and a proposed future well, westerly of the proposed sand mining site as their primary water supply, and an existing irrigation well exists in the vicinity as shown in Exhibit B.

2. GEOLOGIC SITUATION

The geology and ground water resources of the Kansas River valley has been studied by the Kansas Geologic Survey located in Lawrence, KS. The valley itself narrows from more than three (3) miles wide to less than two (2) miles wide at Eudora. The Wakarusa River hugs the south boundary of the Kansas River valley in the vicinity of Eudora, while the Kansas River leaves the north side of the valley and meanders across the valley to the south edge at Eudora and then meanders back to the north side east of Eudora. The Kansas River valley has a general eastward slope of about 3 feet per mile with low dissected hills bounding the flood plain on both sides.

The valley alluvium that comprises the aquifer consists principally of sand, but contains lenses of both coarser and finer material. Generally, the saturated thickness of the aquifer is about 40 feet to 50 feet in the vicinity of the City wells, but thins to about 30 feet in saturated thickness, in the vicinity of the proposed sand mining operation. Well logs can be found in Appendix I from the WWC-5 forms filed at the Kansas Geologic Survey water well log file in Lawrence, KS. In Exhibit C, a geologic cross-section along North 1500 Road shows the geology from the well logs obtained.

3. HYDROLOGIC SITUATION

The Eudora area has a humid continental climate. Normally, more than 70% of the annual precipitation of 39 inches falls during the growing season, April through September, precipitation during this period is usually from thunderstorms (high intensity rainfall of brief duration) in the evening and early morning hours. The mean hourly wind speed is about 10 miles per hour, and the sun usually shines more than 60% of the daylight hours.

The Kansas River, which flows in an easterly direction, is the principal stream in the area. The Army Corps of Engineers normally maintains a minimum desirable stream flow of 1,000 cubic feet per second (cfs) at the DeSoto gaging station on the Kansas River. The Wakarusa

River is hydrologically an important tributary stream because it is a major source of recharge to the alluvial aquifer.

4. SAFE YIELD ANALYSIS

The safe yield available for appropriation from an unconfined aquifer at a specific location is determined by the amount of average annual precipitation that becomes recharge to the aquifer occurring within the area of consideration by the chief engineer of the Division of Water Resources, Kansas Department of Agriculture. The area of consideration means the portion of the aquifer area that lies within a two-mile radius circle with the proposed point of interest (the sand pit) as the center.

Although a safe yield analysis is not required for a sand pit operation in the Kansas River Basin by the Division of Water Resources, Kansas Department of Agriculture, such an appraisal was made to identify all registered ground water appropriators within a two (2) mile radius of the proposed sand pit operation. There were 15 identified ground water users of which five (5) pertained to the City of Eudora wells. The three (3) Northwest wells are shown on Kaw Valley Eudora Sand Facility, Eudora City Well Exhibit B. These data are given in Appendix II. The City Well No. 6 and the Neis irrigation well are both ½ mile from the Phase 1 planned mining by Kaw Valley Companies, Inc.

Based on established recharge rates by the Division of Water Resources, the safe yield for the 2-mile circle is 2,749.76 acre-feet. The prior appropriation in the circle is 1,629.50 acre-feet of which 43% (699 ac-ft) is for municipal appropriation including future water use for population growth. The remainder of the 930.5 ac-ft appropriated in this area is for irrigation of which only about ½ is used in any particular year then only for about 6 weeks from July into September. The un-appropriated water available for use is 40.7% of the total available in this area of consideration.

City of Eudora original well No. 1 has long since been abandoned. Plugging reports have been filed for Wells No. 2, 3 and 4 showing these wells to be abandoned, are included in Appendix I. The status of well No. 5 which is located within the north city limits of Eudora is unknown.

5. AQUIFER PROPERTIES

You do not get water from a well. A well is a stabilized hole in the ground to gain access to water bearing material called an *aquifer*. The yield of an aquifer is controlled by the permeability of the geologic formation and the thickness of that formation. The yield of a well can never be greater than that of the aquifer and usually less depending upon the efficiency of well construction and development. A well can decrease in yield due to biological fouling and lack of proper maintenance but unless the static water level had a substantial decline reducing the saturated thickness, the yield available from the aquifer remains constant.

Data from the WWC-5 report for City Well No 8, shown in Exhibit D was used to estimate the properties of the aquifer. The reported drawdown was 4 feet after 11 hours of pumping at 521 gallons per minute (gpm). These values give a well specific capacity of 130

gpm/foot of drawdown when constructed. This value is used to estimate the transmissivity of the aquifer which calculates to 220,000 gpd/ft. Utilizing the 25 feet of well screen installed which is less than the formation thickness, the calculated formation permeability is 8,800 gpd/ft², a very good formation value. Typical average value of formation permeability for the Kansas River valley alluvium is about 5,000 gpd/ft², with a maximum value observed of 10,000 gpd/ft².

When a well is pumped, the pump energy creates a partial vacuum that causes a cone of depression to develop around the bore hole [Reference exhibit No. E]. The bore hole for the construction of Well No. 8 was reported to be 42 inches. Using the formation transmissivity value of 220,000 gpd/ft, the drawdown per log cycle was calculated to be 1.25 feet. This information was then plotted on a semi-log plot to obtain the radius of influence [Reference exhibit F], or zero (0) drawdown of this well which was ½ mile [Reference exhibit G]. Drawdown values of less than 1 foot are considered insignificant. The 1-foot drawdown occurs at a radius of 450 feet from a City well shown in Exhibit F. The approximate 1,000 feet distance between City wells eliminates the mutual interference effects from simultaneous pumping of these wells.

In so far as contaminant in the aquifer, the water movement is from west to east in a down-gradient direction. This means that if any contaminants were to occur at the sand pit, they would move into the Kansas River or remain in the aquifer system down-gradient (Easterly). The estimated travel time in the Kansas River alluvium aquifer, based on the formation transmissivity and land surface gradient is 0.7 feet /day or about 8.4 inches per day.

The static water level elevation in the sand pit will be about the same as the water surface elevation in the Kansas River. Sand pit lakes that are within the effective radius of influence of a water well support the water production from a well during drought conditions due to the increase of lake water storage which is 5 times greater than the water storage yield capacity of the aquifer itself. This storage yield effect is applicable to any unconsolidated aquifer.

Water pumped by the sand dredge is piped to the sand separator, then diverted to a sediment pond, and then returned to the sand pit. Storm water runoff from local precipitation is diverted around the pit to the Kansas River. Berms and a grass swale will be provided on the west and south sides of the sand pit for the diversion of local storm water.

6. WICHITA SAND PIT STUDY

Sedgwick County Department of Environmental Resources organized and conducted much of the efforts to determine which sand pits to study in more detail. The study group obtained assistance from the U.W. Bureau of Reclamation in drilling and installing three (3) monitoring wells around each of six (6) sites selected for study. Funds were obtained for the U.S. Geological Survey to sample and analyze surface water from the pits, ground water from the monitoring wells, and pit bottom sediment at four (4) sites located at the northwest edge of Wichita. The USGS analyzed the water samples for 18 physical and chemical properties, five (5) bacteriological values, 40 inorganic constituents, 118 pesticides and degradate compounds, and 134 organic compounds other than pesticides. The USGS analyzed the bottom sediments for five (5) physical and chemical properties, 45 inorganic constituents, and 32 organic compounds.

The four pits in the Phase I sampling were; Barefoot Bay, Ridge Port, Mooring, and Cropland. Later two south pits were sampled which were; Kingston Cove and Pine Bay Estates.

Maize retention pond/ground-water pit is used for storage of storm water runoff. A special sampling of the storm water flow into the pit was made by others within 30 minutes of when flow commenced and within one to two hours following a storm event. The TDS of the storm water flow was very low at 49 to 111 mg/L when compared to the computed values in the analysis of data of 46 to 83 mg/L by the Kansas Geological Survey. Organic compounds found in the runoff water of concern was alachlor at 3.8 µg/L in the first June 2007 runoff sample, alachlor of 3.0 µg/L in the second June 2007 sample. The drinking water MCL for alachlor is 2 µg/L. However, in the October 2007 pond sample alachlor was significantly reduced by sunlight and bacterial activity of the pond. The Maize detention pond appears to be an effective means of removing storm water runoff with high bacteria content from the Big Slough waterway.

Storm water runoff into the sand pits does contribute to ground water recharge. The study showed no *significant* evidence of contamination of ground water by storm water runoff into the pits. The key word is *significant* contamination. Trace levels of some organics and mineral constituents such as iron, manganese and the ammonium ion were detected in the down gradient monitoring wells in slightly greater concentrations than the up gradient monitoring wells. On the contrary, most organic contaminants were reduced by the sunlight and bacterial activity existing within the sand pit lakes. Bacterial levels were never greater than the level recommended by KDHE for body contact.

Although some of the pits had piped storm water runoff into the pits from streets, broad width flow ways with grass filtering would capture silt and other contaminants prior to entering the ponds or pits. Road side drainage ditches may have a broad width overflow channels into nearby pits temporarily storing the storm water surge allowing orderly flow to the natural water courses. The long term accumulation of silts, sediments and other solids will eventually restrict the recharge to the ground water system as has occurred at the Sedgwick County Zoo pit.

Residential areas have the greater potential for ground water contamination than rural areas. However, the spring runoff from corn fields with atrazine must be bounded by grass filter strips and flows need to be routed in grass waterways to capture sediments with atrazine attached.

In the area of consideration, the herbicide Alachlor, which is used for the control of annual grasses and broadleaf weeds, may be the most prevalent in the vicinity of the sand pit. Alachlor is reduced by sunlight and bacterial activity in the pit lake. The sand pit will have a minimum of 50 feet wide grass filter strip surrounding the pit area. There will be a gentle slope to the grass filter strip away from the active pit area.

7. CONCLUSION

It was found in this study that the proposed sand pit lake that will eventually be developed in this study area will have **no** deleterious effect on the City of Eudora's wells or water supply. All activity at the proposed sand pit operation is down-gradient from the City wells and of sufficient distance that the operation of the City wells will not in any way draw any potential contaminants into the area of influence of these wells.

After extensive study and analysis in the Wichita Study, it was concluded that storm water runoff into sand pit lakes was not a threat to any significant contamination of the ground water system. The benefit of ground water recharge to shallow aquifers has the potential to offset the loss of water from evaporation for the average year.

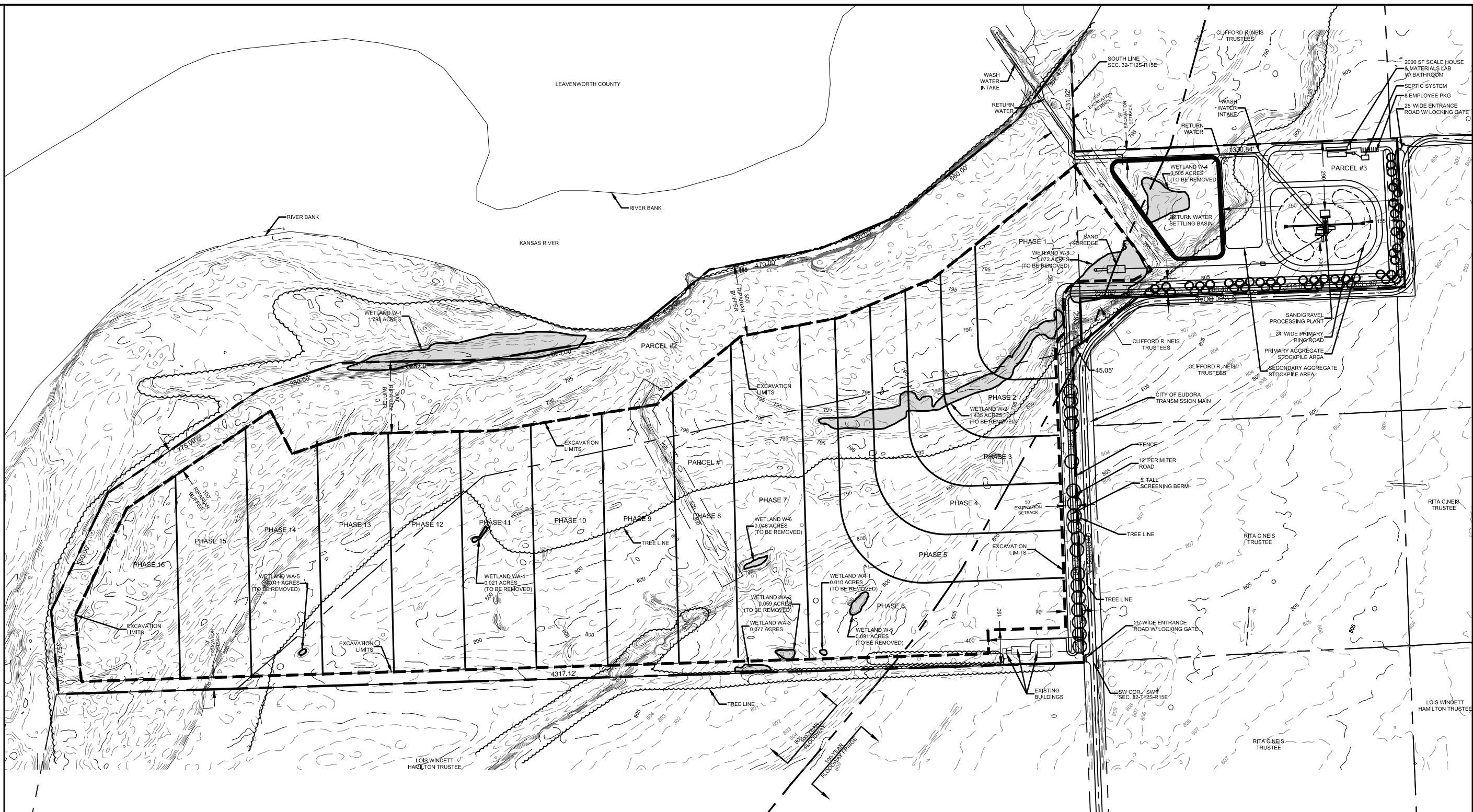
By using runoff from the adjacent areas and routing the storm water flow through broad and relatively flat natural grass filter areas, sediment and most organic contamination can be reduced to manageable levels. Contaminants will naturally degrade in the sand pit lakes as shown by the Kansas Geological Survey study in Wichita.

With Best Management Practices (BMP's) sand pit lakes can benefit the management of storm water runoff and substantially add to ground water recharge of shallow aquifers. Storm water is very low in minerals and with proper natural filtration for the removal of sediment and organics, ground water recharge through sand pit lakes can improve the overall quality of ground water that is high in dissolved minerals.

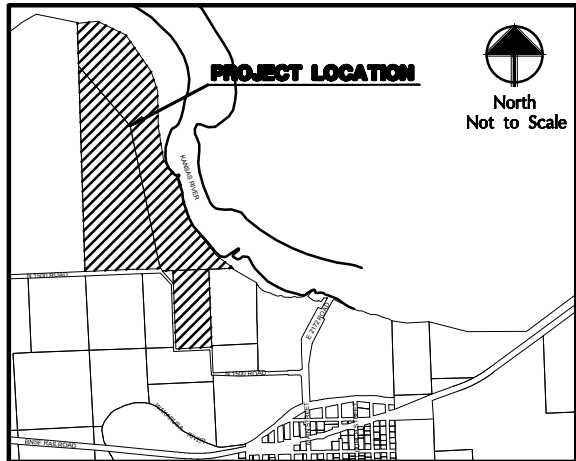
There is not complete agreement between State agencies on routing storm water into or around sand pits. Kaw Valley Companies, Inc. is taking the conservative position of providing diversion of local storm water around the sand pit from west side to the south, then eastward to the Kansas River. The plans and work will be reviewed by the State Conservation Commission Director and staff during reclamation following the sand mining operation.

EXHIBITS

- A. Eudora Sand Facility Conditional Use permit Site Plan #2**
- B. Kaw Valley Eudora Sand Facility Eudora City Well Exhibit**
- C. West to East Geologic Cross-Section along N 1500 Road**
- D. WWC-5 Water Well Record for City of Eudora Well No. 8**
- E. Cone of Depression around a Pumping Well**
- F. Distance-Drawdown Semi-Log Plot of Eudora Well No. 8 Data**
- G. Radius of Influence**



Location Map



Legal Description

A TRACT OF LAND IN THE WEST HALF OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 21 EAST AND THE NORTHWEST QUARTER OF SECTION 05, TOWNSHIP 13 SOUTH, RANGE 21 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN DOUGLAS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

PARCEL #1
BEGINNING AT THE SOUTHWEST CORNER OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 21 EAST THENCE NORTH 0°18'56" EAST, ALONG WEST LINE OF SAID QUARTER SECTION 3619.59 FEET; THENCE SOUTH 89°41'04" EAST, 34.40 FEET; THENCE SOUTH 38°40'12" EAST, 1368.99 FEET; THENCE SOUTH 09°52'59" EAST, 2544.71 FEET; THENCE SOUTH 0°00'00", TO A POINT ALONG SOUTH LINE OF SAID SECTION 47.75 FEET; THENCE NORTH 89°49'14" WEST ALONG SOUTH LINE 1346.44 FEET TO THE POINT OF BEGINNING. CONTAINS 72.800 ACRES, MORE OR LESS.

PARCEL #2
BEGINNING AT THE SOUTHWEST CORNER OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 21 EAST THENCE NORTH 0°18'56" EAST, ALONG WEST LINE OF SAID QUARTER SECTION 4375 FEET TO RIGHT BANK OF THE KANSAS RIVER; THE NEXT ELEVEN COURSES ARE ALONG THE SOUTHERLY AND WESTERLY BANK OF THE KANSAS RIVER; THENCE NORTH 86°48'56" EAST, 350.00 FEET; THENCE SOUTH 62°11'04" EAST, 550.00 FEET; THENCE SOUTH 32°11'04" EAST, 775.00 FEET; THENCE SOUTH 16°36'04" EAST, 350.00 FEET; THENCE SOUTH 0°53'56" WEST, 625.00 FEET; THENCE SOUTH 0°06'04" EAST, 595.00 FEET; THENCE SOUTH 37°06'04" EAST, 450.00 FEET; THENCE SOUTH 08°36'04" EAST, 470.00 FEET; THENCE SOUTH 20°36'04" EAST, 350.00 FEET; THENCE SOUTH 36°36'04" EAST, 660.00 FEET; THENCE SOUTH 51°06'04" EAST, TO A POINT ALONG SOUTH LINE OF SAID SECTION 411.10 FEET; THENCE NORTH 89°49'14" WEST ALONG SOUTH LINE 2614.92 FEET TO THE POINT OF BEGINNING, LESS PARCEL #1 CONTAINS 77.800 ACRES, MORE OR LESS.

PARCEL #3
BEGINNING AT A POINT FROM THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 21 EAST THENCE EAST, 2128.50 FEET; THENCE SOUTH, 1391.00 FEET; THENCE WEST, 626.30 FEET; THENCE NORTH, 1391.00 FEET; THENCE EAST, TO THE POINT OF BEGINNING 626.30 FEET. CONTAINS 19.700 ACRES, MORE OR LESS.

General Notes

- OWNER:** KAW VALLEY COMPANIES, INC.
ATTN: ALAN TEUTEMACHER
5600 KANSAS AVENUE,
KANSAS CITY, KS 66106
- LAND PLANNER/
ENGINEER: LANDPLAN ENGINEERING, P.A.
1310 WAKARUSA DRIVE
LAWRENCE, KS 66049
 - TOPOGRAPHIC INFORMATION OBTAINED FROM 2006 CITY OF LAWRENCE LIDAR AERIAL DATA.
 - EXISTING LAND USE: AGRICULTURAL
 - PROPOSED LAND USE: SAND EXCAVATION, EXTRACTION & PROCESSING; AGRICULTURAL
 - EXISTING ZONING: A
 - PROPOSED ZONING: A
 - THIS SITE IS LOCATED WITHIN THE FLOODPLAIN PER FEMA MAP #2004SC0203D, DATED AUGUST 5, 2010.
 - THIS SITE HAS BEEN DESIGNED TO COMPLY WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES (ADAAG) FOR BUILDINGS AND FACILITIES, APPENDIX A TO 28 CFR PART 36.
 - DOUGLAS COUNTY HAS A BLANKET EASEMENT ON THE PROPERTY TO MAINTAIN THE TWO ROCK JETTIES.

Site Summary

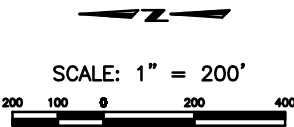
GROSS CUP/SITE AREA: 7,387,103 SF / 168.56 AC
PUBLIC RIGHTS-OF-WAY: SF / AC
NET CUP/SITE AREA: SF / AC

SAND EXCAVATION & AGRI AREA: 4,971,151 SF / 114.12 AC
SAND/GRAVEL PROCESSING AREA: 280,000 SF / 6.43 AC

SCALE HOUSE & MATERIALS LAB: 200 SF
SAND/GRAVEL PROCESSING PLANT: APPROX. 15,000 SF

Parking Summary

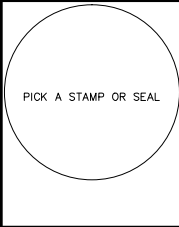
REQUIRED = 1 SPACE/2 EMPLOYEES; 4 TOTAL EMPLOYEES = 2 SPACES
PROVIDED = 8 SPACES



A CUP Site Plan #2 for
**Kaw Valley
Eudora Sand Facility**
Douglas County, Kansas

EUDORA SAND FACILITY CONDITIONAL USE PERMIT SITE PLAN #2

REV	DATE	DESCRIPTION



DATE: 11/16/10
PROJECT NO.: 20101019
DESIGNED BY: LPE
DRAWN BY: TLRD/BS
CHECKED BY: RD/CLM

ISSUE: A **SHEET NO.:** C-001

Civil Engineering
Landscape Architecture
Community Planning
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1310 Wakarusa Drive
Lawrence, KS 66049
Tel: (785) 843-7530
Fax: (785) 843-7531
Email: info@landplan-pa.com
Web: www.landplan-pa.com

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EXHIBIT B KAW VALLEY EUDORA SAND FACILITY EUDORA CITY WELL EXHIBIT

PREPARED 2/09/11

NOTES:

1. CITY WELL LOCATIONS ARE PER "WELL LOCATIONS AND PLACE OF USE, CITY OF EUDORA, KANSAS WATER APPROPRIATION PERMIT APPLICATION," DATED 12-17-2003, PREPARED BY BURNS & MCDONNELL.
2. THE DIMENSIONS SHOWN ARE BASED ON APPROXIMATE WELL LOCATIONS AND HAVE NOT BEEN VERIFIED BY FIELD SURVEY.



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**Civil Engineering
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tele (785)843-7530
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email: info@landplan-pa.com
Web: www.landplan-pa.com

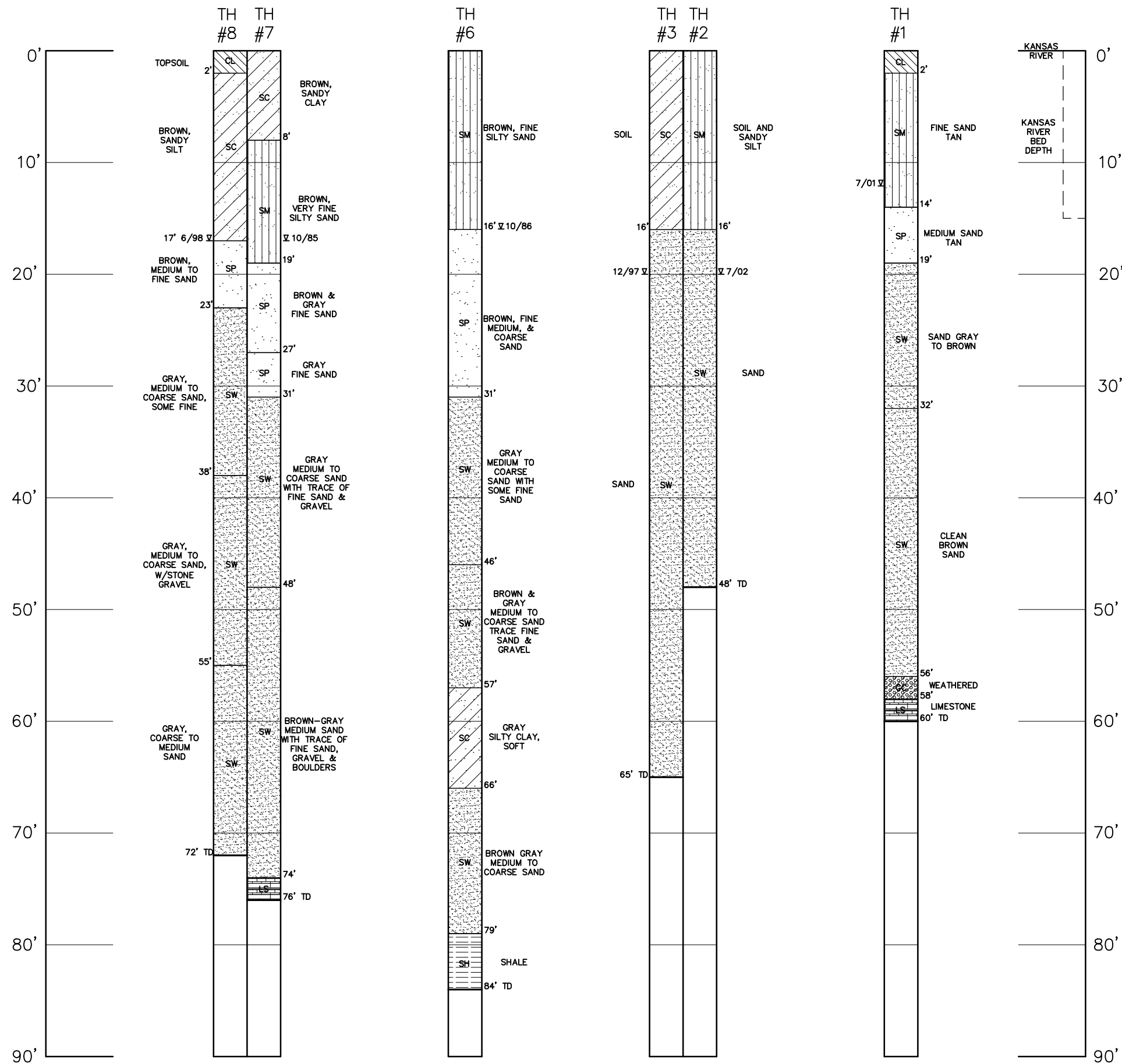


EXHIBIT C
WEST TO EAST CROSS SECTION
ALONG N 1500 ROAD

PREPARED 1/20/11

SCALE: 1" = 10'



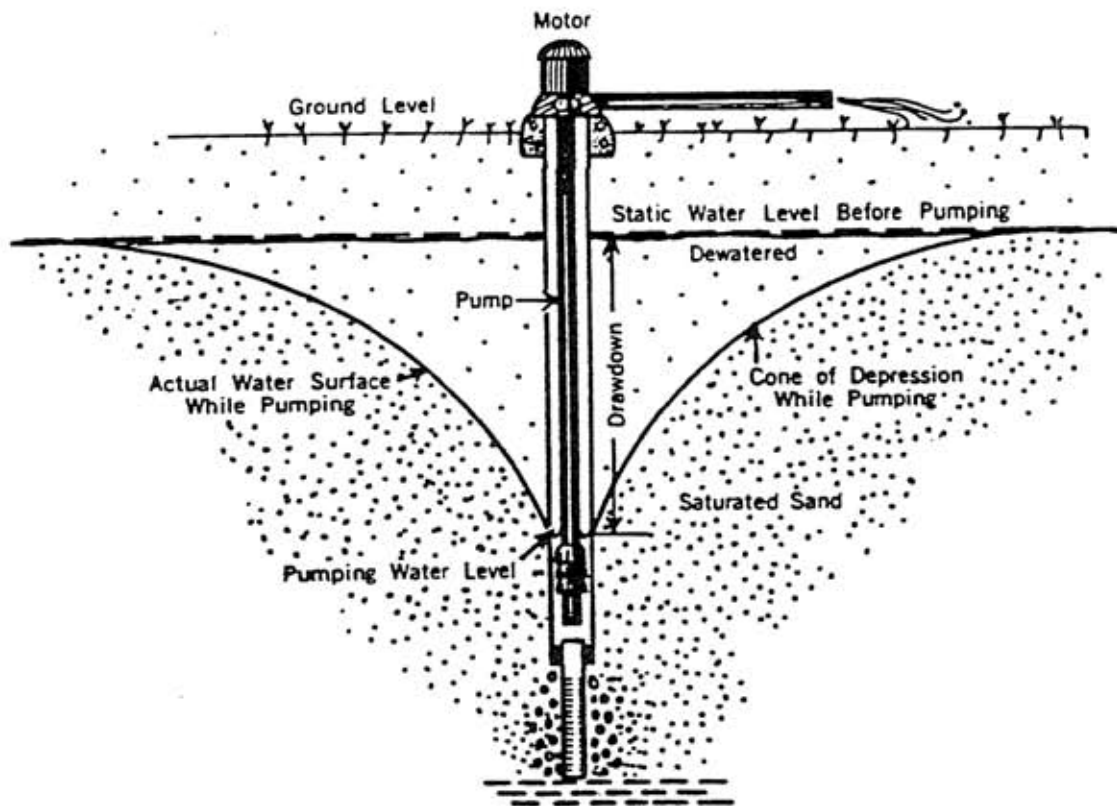
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**Civil Engineering
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fax (785)843-2410
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Web: www.landplan-pa.com

WATER WELL RECORD Form WWC-5 KSA 82a-1212

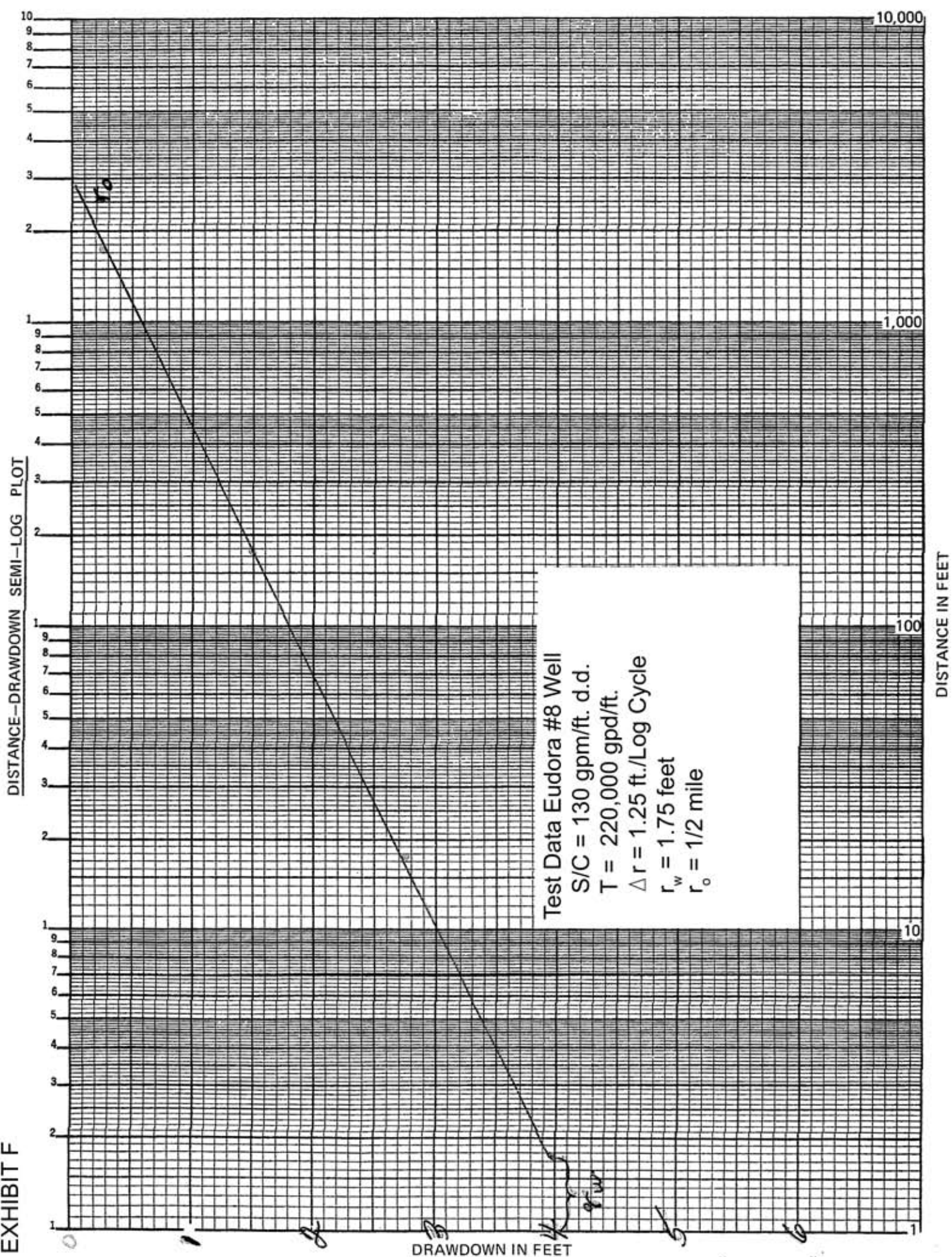
INSTRUCTIONS: Use typewriter or ball point pen. PLEASE PRESS FIRMLY and PRINT clearly. Please fill in blanks, underline or circle the correct answers. Send top three copies to Kansas Department of Health and Environment, Bureau of Water, Topeka, Kansas 66620-0001. Telephone: 913-296-5545. Send one to WATER WELL OWNER and retain one for your records.

Cone of Depression Around a Pumping Well

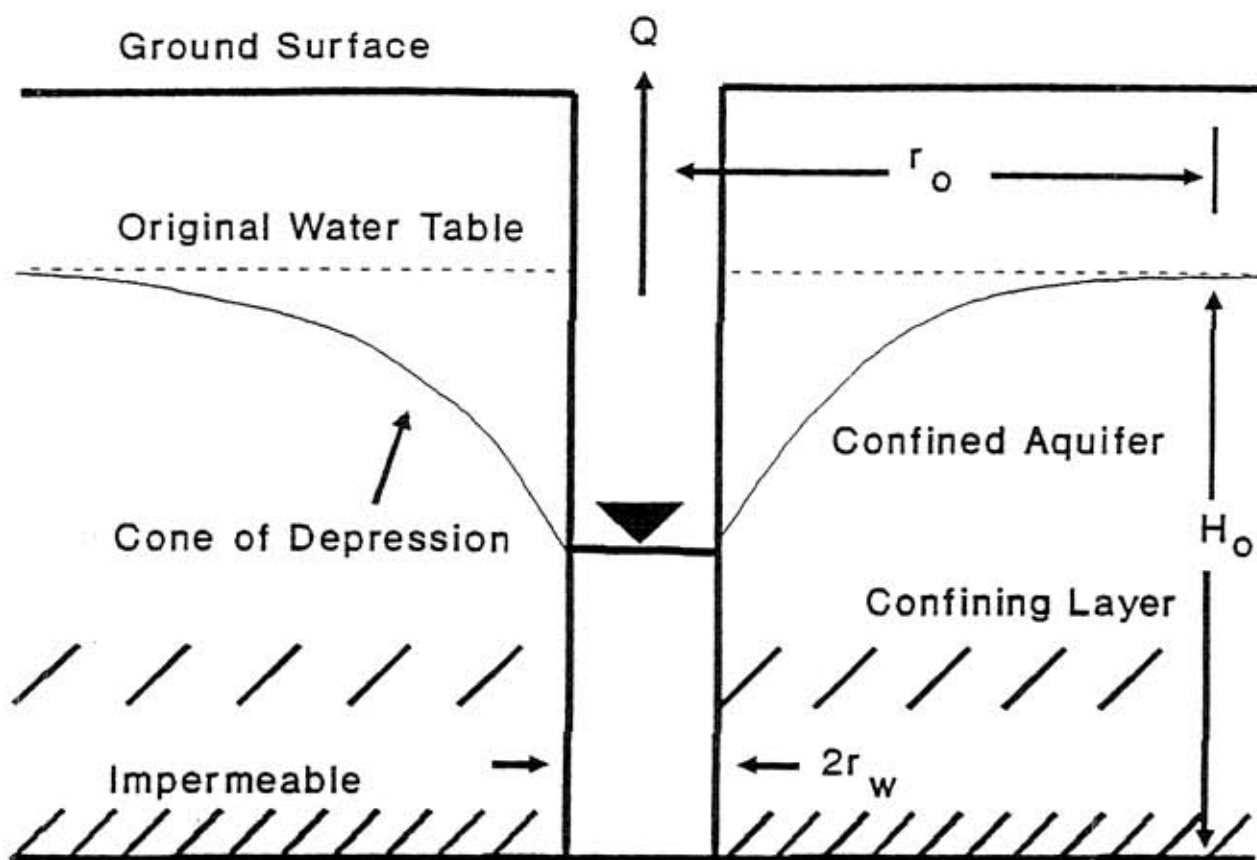


The Pump Energy creates a partial vacuum that causes a Drawdown or Cone of Depression that is controlled by the Permeability of the surrounding Geologic Formation.

EXHIBIT F



Radius of Influence



r_o ▪ Radius of Influence

r_w ▪ Radius of Well

H_o ▪ Static Water Level

APPENDICES

- I WC-5 Water Well Logs Sections 5 & 6, T-13S, R21E, & Sections 31 & 32, T-2S, R-21E, in Douglas County, KS**
- II. KDA, Division of Water Resources, Safe Yield Analysis Data**
- III Carl E. Nuzman, Resume' and Personal Information**



WWC5 Well viewer

Section Any Township 1 Range 1 Range Direction E show

Overview Map



Legend

- Single well
- ☆ Multiple wells
- Yield (in gpm)
 - between 0.00 and 5.00
 - between 5.00 and 10.00
 - between 10.00 and 950.00
 - unknown Yield
- Township Boundary
- PLSS
- Roads
- Railroads
- Rivers and Streams
- City Boundary
- County Boundary

Remove monitoring/engineering wells ☐

Color wells based on ☒ Estimated yield ☐ Well Depth ☐ Static water level

Choose Labelling on zoom-in ☒ Owner Name ☐ Well Depth/Estimated yield ☐ Static water level

Zoom Level: 1.5 ☒ Zoom In ☐ Zoom Out ☐ Pan ☐ Identify

Show Entire State

Table of Contents ?

Visible

- ☒ Township Boundary
- ☒ PLSS
- ☒ Roads
- ☒ Railroads
- ☐ Zip Code
- ☒ Rivers and Streams
- ☒ Major Streams
- ☒ City Boundary
- ☒ County Boundary
- ☒ View Aerials 2002
- ☐ View Aerials 1991
- ☒ View Topo

update map

print map



Well #2

WATER WELL PLUGGING RECORD

Form WWC-5P

KSA 82a-1212

ID NO.

1	LOCATION OF WATER WELL:	Fraction	Section Number	Township Number	Range Number																								
	County: <u>Douglas</u>	<u>1/4 NW 1/4 SE 1/4</u>	<u>5</u>	<u>13</u>	<u>21</u> E/W																								
Distance and direction from nearest town or city street address of well if located within city? <u>NEAR City WATER PLANT - Well is in Well House AT The Gate WATER Jockey Building</u>																													
2	WATER WELL OWNER: <u>City of Eudora</u>																												
	RR #, St. Address, Box #: <u>101 W. 5</u>		Board of Agriculture, Division of Water Resources																										
	City, State, ZIP Code: <u>Eudora, KS 66025</u>		Application Number: <u>N/E</u>																										
3	MARK WELL'S LOCATION WITH AN "X" IN SECTION BOX:																												
	<div style="display: flex; align-items: center;"> <div style="text-align: center; margin-right: 10px;"> N <table border="1" style="border-collapse: collapse; text-align: center;"> <tr><td></td><td></td><td></td></tr> <tr><td>NW</td><td></td><td>NE</td></tr> <tr><td></td><td>X</td><td></td></tr> <tr><td>SW</td><td></td><td>SE</td></tr> <tr><td></td><td></td><td></td></tr> </table> S </div> <div style="text-align: center;"> W E </div> </div>								NW		NE		X		SW		SE												
NW		NE																											
	X																												
SW		SE																											
4	DEPTH OF WELL <u>68.7</u> ft. WELL'S STATIC WATER LEVEL <u>29</u> ft. WELL WAS USED AS: <div style="display: flex; justify-content: space-between;"> <div> 1 Domestic 2 Irrigation 3 Feedlot 4 Industrial </div> <div> <u>5 Public Water Supply</u> 6 Oil Field Water Supply 7 Domestic (Lawn & Garden) 8 Air Conditioning </div> <div> 9 Dewatering 10 Monitoring Well 11 Injection Well 12 Other </div> </div>																												
Was a chemical / bacteriological sample submitted to Department? Yes No <u>X</u> If yes, mo/day/yr sample was submitted Water Well Disinfected: Yes <u>X</u> No																													
5	TYPE OF BLANK CASING USED:																												
	<div style="display: flex; justify-content: space-between;"> <div> <u>1 Steel</u> 2 PVC </div> <div> 3 RMP (SR) 4 ABS </div> <div> 5 Wrought 6 Asbestos-Cement </div> <div> 7 Fiberglass 8 Concrete Tile </div> <div> 9 Other (Specify below) </div> </div>																												
Blank casing diameter <u>12</u> in. Was casing pulled? Yes <u>No</u> If yes, how much Casing height above or below land surface <u>4 Ft.</u> in.																													
6	GROUT PLUG MATERIAL: <u>1 Neat cement</u> 2 Cement grout 3 Bentonite 4 Other																												
	Grout Plug Intervals: From <u>69</u> ft. to <u>GL</u> ft., From <u>GL</u> ft. to <u>4' AGL</u> ft., From to ft.																												
What is the nearest source of possible contamination:																													
<div style="display: flex; justify-content: space-between;"> <div> 1 Septic tank 2 Sewer lines 3 Watertight sewer lines 4 Lateral lines 5 Cess pool </div> <div> 6 Seepage pit 7 Pit privy 8 Sewage lagoon 9 Feedyard 10 Livestock pens </div> <div> 11 Fuel storage 12 Fertilizer storage 13 Insecticide storage 14 Abandoned water well 15 Oil well/Gas well </div> <div> <u>16 Other (specify below)</u> <u>City WATER PLANT</u> </div> </div>																													
Direction from well? <u>WEST</u> How many feet? <u>400'</u>																													
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:15%;">FROM</th> <th style="width:15%;">TO</th> <th style="width:70%;">PLUGGING MATERIALS</th> </tr> </thead> <tbody> <tr> <td><u>69'</u></td> <td><u>GROUND Level</u></td> <td><u>NEAT CEMENT</u></td> </tr> <tr> <td><u>GL</u></td> <td><u>TO top of casing in well house</u></td> <td><u>NEAT CEMENT</u></td> </tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>						FROM	TO	PLUGGING MATERIALS	<u>69'</u>	<u>GROUND Level</u>	<u>NEAT CEMENT</u>	<u>GL</u>	<u>TO top of casing in well house</u>	<u>NEAT CEMENT</u>															
FROM	TO	PLUGGING MATERIALS																											
<u>69'</u>	<u>GROUND Level</u>	<u>NEAT CEMENT</u>																											
<u>GL</u>	<u>TO top of casing in well house</u>	<u>NEAT CEMENT</u>																											
7	CONTRACTOR'S OF LANDOWNER'S CERTIFICATION: This water well was plugged under my jurisdiction and was completed on (mo/day/year) <u>8-9-06</u> and this record is true to the best of my knowledge and belief. Kansas Water Well Contractor's License No. <u>102</u> This Water Well Record was completed on (mo/day/year) <u>3-1-07</u> under the business name of <u>LAYNE WESTERN CO.</u> by (signature) <u>Joe Harrington, DRC</u>																												
INSTRUCTIONS: Use typewriter or ball point pen. Please press firmly and print clearly. Please fill in blanks, underline or circle the correct answers. Send top three copies to Kansas Department of Health and Environment, Bureau of Water, Geology Section, 1000 SW Jackson St., Ste. 420, Topeka, Kansas 66612-1367. Telephone: 785/296-5522. Send one to Water Well Owner and retain one for your records.																													

WFLL HD

Form WWC-5

KSA 82a-1212

Plugging Report ✓

[illegible]

Well #4

WATER WELL PLUGGING RECORD

Form WWC-5P

KSA 82a-1212

ID NO.

1	LOCATION OF WATER WELL:	Fraction	Section	Number	Township	Number	Range	Number
County:	Douglas	$\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$	5		13		21	E/W

Distance and direction from nearest town or city street address of well if located within city?

NEAR City water plant from City BARN 172' N. 36' WEST

2	WATER WELL OWNER: City of Eudora 101 W. 5	Board of Agriculture, Division of Water Resources Application Number: N/C
	RR #, St. Address, Box #: City, State, ZIP Code : Eudora, KS 66025	

3	MARK WELL'S LOCATION WITH AN "X" IN SECTION BOX:	4	DEPTH OF WELL 73 ft. WELL'S STATIC WATER LEVEL 24.5 ft. WELL WAS USED AS: 1 Domestic 2 Irrigation 3 Feedlot 4 Industrial 5 Public Water Supply 6 Oil Field Water Supply 7 Domestic (Lawn & Garden) 8 Air Conditioning 9 Dewatering 10 Monitoring Well 11 Injection Well 12 Other
---	--	---	--

Was a chemical / bacteriological sample submitted to Department? Yes No
If yes, mo/day/yr sample was submitted

Water Well Disinfected: Yes No

5	TYPE OF BLANK CASING USED:
	1 Steel 3 RMP (SR) 5 Wrought 7 Fiberglass 9 Other (Specify below) 2 PVC 4 ABS 6 Asbestos-Cement 8 Concrete Tile
	Blank casing diameter 12" in. Was casing pulled? Yes No If yes, how much
	Casing height above or below land surface in.

6	GROUT PLUG MATERIAL: 1 Neat cement 2 Cement grout 3 Bentonite 4 Other
	GROUT PLUG INTERVALS: From ft. to ft., From ft. to ft., From to ft.
	What is the nearest source of possible contamination: 1 Septic tank 6 Seepage pit 11 Fuel storage 2 Sewer lines 7 Pit privy 12 Fertilizer storage 3 Watertight sewer lines 8 Sewage lagoon 13 Insecticide storage 4 Lateral lines 9 Feedyard 14 Abandoned water well 5 Cess pool 10 Livestock pens 15 Oil well/Gas well 16 Other (specify below) City water plant
	Direction from well? EAST How many feet? 200

FROM	TO	PLUGGING MATERIALS
73'	20'	Chlorinated Sand
20'	3'	NEAT CEMENT
3'	0'	SURFACE MATERIAL

7	CONTRACTOR'S OF LANDOWNER'S CERTIFICATION: This water well was plugged under my jurisdiction and was completed on (mo/day/year) 8-9-06 and this record is true to the best of my knowledge and belief. Kansas Water Well Contractor's License No. 102 This Water Well Record was completed on (mo/day/year) 8-1-07 under the business name of LAYNE WESTERN CO. KANSAS CITY, KS 66106 by (signature) J. H. HARRIS/DRC
---	--

INSTRUCTIONS: Use typewriter or ball point pen. Please press firmly and print clearly. Please fill in blanks, underline or circle the correct answers. Send top three copies to Kansas Department of Health and Environment, Bureau of Water, Geology Section, 1000 SW Jackson St., Ste. 420, Topeka, Kansas 66612-1367. Telephone: 785/296-5522. Send one to Water Well Owner and retain one for your records.

1 LOCATION OF WATER WELL: Fraction		Section Number		Township Number		Range Number	
County: <u>Douglas</u> SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$		5		T 13 S		R 21E E/W	
Distance and direction from nearest town or city street address of well if located within city? <u>1/8 mile west of Eudora</u>							
2 WATER WELL OWNER: <u>Larry Dalrymple</u>							
RR#, St. Address, Box # : <u>2102 N. 1400 Rd</u>				Board of Agriculture, Division of Water Resources			
City, State, ZIP Code : <u>Eudora, Ks. 66025</u>				Application Number:			
3 LOCATE WELL'S LOCATION WITH		4 DEPTH OF COMPLETED WELL <u>140</u> ft. ELEVATION:					
AN "X" IN SECTION BOX:		Depth(s) Groundwater Encountered 1 ft. 2 ft. 3 ft. WELL'S STATIC WATER LEVEL <u>2.1</u> ft. below land surface measured on mo/day/yr <u>5-13-08</u> Pump test data: Well water was ft. after hours pumping gpm Est. Yield <u>2</u> gpm: Well water was ft. after hours pumping gpm WELL WATER TO BE USED AS: 5 Public water supply 8 Air conditioning 11 Injection well 1 Domestic 3 Feedlot 6 Oil field water supply 9 Dewatering 12 Other (Specify below) 2 Irrigation 4 Industrial 7 Domestic (lawn & garden) 10 Monitoring well					
		Was a chemical/bacteriological sample submitted to Department? Yes No <u>X</u> If yes, mo/day/yr sample was submitted Water Well Disinfected? Yes <u>X</u> No					
5 TYPE OF BLANK CASING USED:							
1 Steel		3 RMP (SR)		5 Wrought iron		8 Concrete tile	
2 PVC		4 ABS		6 Asbestos-Cement		9 Other (specify below)	
				7 Fiberglass		CASING JOINTS: Glued <u>X</u> Clamped	
Blank casing diameter <u>5</u> in. to		ft. Dia		in. to		ft. Dia	
Casing height above land surface <u>24</u> in.		weight <u>2.82</u> lbs./ft.		Wall thickness or gauge No. <u>.258</u>			
TYPE OF SCREEN OR PERFORATION MATERIAL:							
1 Steel		3 Stainless Steel		5 Fiberglass		7 PVC	
2 Brass		4 Galvanized Steel		6 Concrete tile		8 RMP (SR)	
						9 ABS	
						10 Asbestos-Cement	
						11 Other (Specify)	
						12 None used (open hole)	
SCREEN OR PERFORATION OPENINGS ARE:							
1 Continuous slot		3 Mill slot		5 Gauzed wrapped		8 Saw cut	
2 Louvered shutter		4 Key punched		6 Wire wrapped		9 Drilled holes	
				7 Torch cut		10 Other (specify) ft.	
						11 None (open hole)	
SCREEN-PERFORATED INTERVALS: From <u>40</u> ft. to <u>60</u> ft. From ft. to ft.							
GRAVEL PACK INTERVALS: From <u>24</u> ft. to <u>140</u> ft. From ft. to ft.							
From ft. to ft. From ft. to ft.							
6 GROUT MATERIAL: 1 Neat cement 2 Cement grout 3 <u>Bentonite</u> 4 Other							
Grout intervals: From <u>2</u> ft. to <u>24</u> ft. From ft. to ft. From ft. to ft.							
What is the nearest source of possible contamination:							
1 Septic tank		4 Lateral lines		7 Pit privy		10 Livestock pens	
2 Sewer lines		5 Cess pool		8 Sewage lagoon		11 Fuel storage	
3 Water tight sewer lines		6 Seepage pit		9 Feedyard		12 Fertilizer storage	
						13 Insecticide storage	
						14 Abandoned water well	
						15 Oil well/Gas well	
						16 Other (specify below)	
						well	
Direction from well?				How many feet?			
FROM	TO	LITHOLOGIC LOG	FROM	TO	PLUGGING INTERVALS		
0	3	top soil					
3	11	brown clay					
11	21	grey limestone					
21	23	yellow limestone					
23	26	yellow shale					
26	29	grey shale					
29	33	grey limestone					
33	44	grey shale					
44	47	limestone brown brow in h2o					
47	52	grey shale					
52	76	grey limestone					
76	95	grey shale					
95	128	grey limestone					
128	140	grey shale					
7 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was (1) constructed, (2) reconstructed, or (3) plugged under my jurisdiction and was completed on (mo/day/year) <u>5-13-08</u> and this record is true to the best of my knowledge and belief. Kansas							
Water Well Contractor's Licence No <u>182</u>				This Water Well Record was completed on (mo/day/yr) <u>5-29-08</u>			
under the business name of <u>Strader Drilling Co., Inc.</u>				by (signature) <u>Butt Strader</u>			
INSTRUCTIONS: Use typewriter or ball point pen. PLEASE PRESS FIRMLY and PRINT clearly. Please fill in blanks, underline or circle the correct answers. Send top three copies to Kansas Department of Health and Environment, Bureau of Water, Geology Section, 1000 SW Jackson St., Suite 420, Topeka, Kansas 66612-1367. Telephone 785-296-5522. Send one to WATER WELL OWNER and retain one for your records. Fee of \$5.00 for each constructed well.							



WWC5 Well viewer

Section Any Township 1 Range 1 Range Direction E

Overview Map



Legend

- Single well
- Multiple wells
- Yield (in gpm)
 - between 0.00 and 5.00
 - between 5.00 and 10.00
 - between 10.00 and 950.00
 - unknown Yield
- Township Boundary
- PLSS
- Roads
- Railroads
- Rivers and Streams
- City Boundary
- County Boundary

Remove monitoring/engineering wells ☐

Color wells based on ☒ Estimated yield ☐ Well Depth ☐ Static water level

Choose Labelling on zoom-in ☒ Owner Name ☐ Well Depth/Estimated yield ☐ Static water level

Zoom Level: 1.5 ☒ Zoom In ☐ Zoom Out ☐ Pan ☐ Identify

Table of Contents

Visible

- ☒ Township Boundary
- ☒ PLSS
- ☒ Roads
- ☒ Railroads
- ☐ Zip Code
- ☒ Rivers and Streams
- ☒ Major Streams
- ☒ City Boundary
- ☒ County Boundary
- ☒ View Aerials 2002
- ☐ View Aerials 1991
- ☒ View Topo



KGS**Water Well
Database
Query**

Scan of WWC5 Form

Hydrology

WATER WELL RECORD Form WWC-5 KSA 82a-1212 ID No.				
1 LOCATION OF WATER WELL:		Fraction	Section Number	Township Number
County: Douglas		near center-E $\frac{1}{2}$ -NE $\frac{1}{4}$	6	T 13 S R 21E EW
Distance and direction from nearest town or city street address of well if located within city?				
1 mile northwest of Lecompton				
2 WATER WELL OWNER: Mark Neis				
RR#, St. Address, Box # : 12775 County Line Rd.			Board of Agriculture, Division of Water Resources	
City, State, ZIP Code : Eudora, Ks. 66025			Application Number:	
3 LOCATE WELL'S LOCATION WITH AN "X" IN SECTION BOX:		4 DEPTH OF COMPLETED WELL: 63 ft. ELEVATION:		
		Depth(s) Groundwater Encountered 1. ft. 2. ft. 3. ft. WELL'S STATIC WATER LEVEL 19 1/2 ft. below land surface measured on mo/day/yr 12-14-2001 Pump test data: Well water was ft. after hours pumping gpm Est. Yield 9.50 gpm: Well water was ft. after hours pumping gpm Bore Hole Diameter 2 1/4 in. to ft. and in. to ft. WELL WATER TO BE USED AS: 5 Public water supply 8 Air conditioning 11 Injection well 1 Domestic 3 Feedlot 6 Oil field water supply 9 Dewatering 12 Other (Specify below) 2 Irrigation 4 Industrial 7 Domestic (lawn & garden) 10 Monitoring well Was a chemical/bacteriological sample submitted to Department? Yes. No. X : If yes, mo/day/yr sample was submitted Water Well Disinfected? Yes X No		
5 TYPE OF BLANK CASING USED:				
1 Steel 3 RMP (SR)		5 Wrought iron 8 Concrete tile		
2 PVC 4 ABS		6 Asbestos-Cement 9 Other (specify below)		
Blank casing diameter 1 1/2 in. to ft. Dia. in. to ft. Dia. in. to ft.		Casing Joints: Glued X Clamped		
Casing height above land surface 24 in. weight 1.5 lbs./ft. Wall thickness or gauge No. 500		Welded		
TYPE OF SCREEN OR PERFORATION MATERIAL:				
1 Steel 3 Stainless steel 5 Fiberglass 7 PVC		10 Asbestos-cement		
2 Brass 4 Galvanized steel 6 Concrete tile 9 ABS		11 Other (specify)		
SCREEN OR PERFORATION OPENINGS ARE:		12 None used (open hole)		
1 Continuous slot 3 Mill slot 5 Gauzed wrapped 8 Saw cut 11 None (open hole)				
2 Louvered shutter 4 Key punched 6 Wire wrapped 9 Drilled holes				
SCREEN-PERFORATED INTERVALS: From 50 ft. to 63 ft. From ft. to ft.				
GRAVEL PACK INTERVALS: From 25 ft. to 63 ft. From ft. to ft.				
6 GROUT MATERIAL: 1 Neat cement 2 Cement grout 3 Bentonite 4 Other				
Grout intervals: From 0 ft. to 25 ft. From ft. to ft.				
What is the nearest source of possible contamination:				
1 Septic tank 4 Lateral lines 7 Pit privy 10 Livestock pens 14 Abandoned water well				
2 Sewer lines 5 Cess pool 8 Sewage lagoon 12 Fertilizer storage 15 Oil well/Gas well				
3 Watertight sewer lines 6 Seepage pit 9 Feedyard 13 Insecticide storage 16 Other (specify below)				
Direction from well?		How many feet?		
FROM	TO	LITHOLOGIC LOG	FROM	TO
0	11	brown silty clay		
11	18	brown silt		
18	22	brown fs-cs		
22	27	brown fs-cs-med-pea		
27	33	grey fine sand		
33	35	blue clay		
35	38	grey fs-cs-med gravel		
38	42	blue clay		
42	49	fs-cs-med-some pea		
49	54	fs-cs-med-pea		
54	55	blue clay		
55	58	fs-cs-med-pea		
58	63	fs-cs-med-pea 1/2x3/4		
63		grey limestone		
7 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was (1) constructed, (2) reconstructed, or (3) plugged under my jurisdiction and was completed on (mo/day/year) 12-14-2001 and this record is true to the best of my knowledge and belief. Kansas Water Well Contractor's License No. 182 This Water Well Record was completed on (mo/day/yr) 1-2-2002				
Under the business name of Strader Drilling Co., Inc. by (signature) <i>DeLukken</i>				
INSTRUCTIONS: Use typewriter or ball point pen. PLEASE PRESS FIRMLY and PRINT clearly. Please fill in blanks, underline or circle the correct answer. Send two true copies to Kansas Department of Health and Environment, Bureau of Water, Topeka, Kansas 66603-0001. Telephone 785-296-5524. Send one to WATERWELL OWNER and retain one for your records. Fee of \$5.00 for each constructed well.				

Kansas Geological Survey

Comments to webadmin@kgs.ku.edu

URL=http://www.kgs.ku.edu/Magellan/WaterWell/index.html

Display Programs Updated July 29, 2004

Data added continuously.

http://abyss.kgs.ku.edu/pls/abyss/wwc5.wwc5d2.scanpage?well_id=325838

1/13/2011

(785)



TEST HOLE REPORT

Layne-Western Company, Inc.

Contract Name <u>City of Eudora</u>		TEST HOLE No. <u>8-85</u>
Job No. <u>A-245 F</u>	Date <u>10/28/85</u>	
City <u>Eudora</u>	State <u>Kansas</u>	
Driller <u>J. C. Von Holt</u>		
Test Hole Location <u>Static water level 17' from ground level</u>		
Distance and Direction from Permanent Landmark or Previous Test Hole		

TEST LOG

FROM	TO	MARSH FUNNEL VISCOSITY SECONDS	MUD PIT LOSS INCHES	Static Water Level <u>17.0'</u> Measured
				Hours After Completion
FORMATION				
0.0'	5.0'			Brown very silty clay
5.0'	16.0'			Brown fine to very fine silty sand
16.0'	26.0'			Brown medium to fine sand, trace coarse sand
26.0'	31.0'			Brown & gray medium to coarse sand, trace fine sand
31.0'	34.0'			Gray medium to coarse sand, trace fine sand
34.0'	39.0'			Gray medium to fine sand, trace clay
39.0'	42.0'	35	1"	Gray medium to coarse sand, trace fine sand & clay
42.0'	46.5'		c8	Gray medium to fine sand, trace clay
46.5'	47.5'		c2	Gray silty sandy clay
47.5'	57.0'	43	c8 2"	Brown gray medium to coarse sand, trace fine sand & gravel
57.0'	66.0'		c3	Gray very silty clay, soft
66.0'	69.0'	43	1"	Brown gray medium to coarse sand, trace fine sand & gravel
69.0'	79.2'	43	1" c8	Brown gray medium sand w/coarse & fine sand, trace gravel
79.2'	81.2'			Olive brown clayey shale
81.2'	84.0'		19	Light gray shale

84.0' Total depth
 NOTES: Size of Pit Portable X X DEEP

Set 82' of 2" PVC, left 4' above ground, bottom 20' slotted, gravel packed to 15' bentonite slurry to 5', clay to surface. Blew w/air & obtained water

(783)



TEST HOLE REPORT

Layne-Western Company, Inc.

Page 1 of 2

Contract Name City of EudoraJob No. A-245 F Date 10/24/85City Eudora State KansasDriller J. C. Von Holt

TEST HOLE

No. 6-85

Test Hole Location _____

Distance and Direction from Permanent Landmark or Previous Test Hole

TEST LOG

FROM	TO	MARSH FUNNEL VISCOSITY SECONDS	MUD PIT LOSS INCHES	Static Water Level <u>16.1'</u> Measured
				<u> </u> Hours After Completion
FORMATION				
0.0'	7.0'			Brown very silty clay
7.0'	13.0'			Brown very fine silty sand
13.0'	19.0'			Brown fine to very fine sand
19.0'	23.0'			Brown medium to fine sand
23.0'	27.0'			Brown & gray medium to fine sand, trace coarse sand
27.0'	31.0'			Gray & trace brown fine to very fine sand
31.0'	36.0'			Gray medium to fine sand, trace clay
36.0'	48.0'	40	2"	Gray medium to coarse sand, trace gravel, fine sand & clay
48.0'	50.0'	40	1"	Brown gray medium to coarse sand, trace fine sand, gravel
50.0'	51.5'	SS1	REC 0.9	Same
51.5'	58.0'	40	1"	Brown gray medium to coarse sand, trace fine sand w/gravel
58.0'	65.0'	40	2"	Brown gray medium to coarse sand, trace fine sand w/gravel, boulders
65.0'	70.0'	40	2"	Same
70.0'	74.5'	40	1"	Brown gray coarse to medium sand, w/boulders, trace gravel & fine sand
74.5'	76.2'			Brown broken limestone

NOTES: Size of Pit _____ X _____ X _____

DEEP

Layne-Western Company, Inc.

Contract Name City of Eudora

Job No. A-245 F Date 10/24/85

City Eudora, State Kansas

TEST HOLE

No. 6-85

Driller J. C. Von Holt

Test Hole Location.

Distance and Direction from Permanent Landmark or Previous Test Hole

TEST LOG

[illegible]

NOTES: Size of Pit Portable X _____ X _____

DEEP

Set 80' of 2" PVC, left 3' above ground, bottom 30' slotted, gravel packed
to 15' bentonite slurry to 5', clay to surface, developed w/air, obtained
water sample.

[illegible]



WWC5 Well viewer

Section Any Township 1 Range 1 Range Direction E [show](#)

Overview Map



Legend

- Single well
- ☆ Multiple wells
- Yield (in gpm)
 - between 0.00 and 5.00
 - between 5.00 and 10.00
 - between 10.00 and 950.00
 - unknown Yield
- Township Boundary
- PLSS
- Roads
- Railroads
- Rivers and Streams
- City Boundary
- County Boundary

Remove monitoring/engineering wells ☐

Color wells based on ☒ Estimated yield ☐ Well Depth ☐ Static water level

Choose Labelling on zoom-In ☒ Owner Name ☐ Well Depth/Estimated yield ☐ Static water level

Zoom Level: 1.5 ☒ Zoom In ☐ Zoom Out ☐ Pan ☐ Identify

[Show Entire State](#)

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- ☒ Township Boundary
- ☒ PLSS
- ☒ Roads
- ☒ Railroads
- ☐ Zip Code
- ☒ Rivers and Streams
- ☒ Major Streams
- ☒ City Boundary
- ☒ County Boundary
- ☒ View Aerials 2002
- ☐ View Aerials 1991
- ☒ View Topo

[update map](#)

[print map](#)



1 LOCATION OF WATER WELL:		Fraction	Section Number	Township Number	Range Number
County: <u>Douglas</u>		<u>NW 1/4 SE 1/4 SE 1/4</u>	<u>31</u>	<u>T 12 S</u>	<u>R 21 EW</u>
Distance and direction from nearest town or city street address of well if located within city? <u>3 1/4 miles N. from NW Eudora</u>					
2 WATER WELL OWNER:		Board of Agriculture, Division of Water Resources			
RR#, St. Address, Box # : <u>Eudora Riverview Golf 2504 Alabama</u>		Application Number:			
City, State, ZIP Code : <u>Lawrence, KS 66046</u>					
3 LOCATE WELL'S LOCATION WITH AN "X" IN SECTION BOX:		4 DEPTH OF COMPLETED WELL: <u>53</u> ft. ELEVATION: <u>19-53</u> ft.			
		Depth(s) Groundwater Encountered <u>19-53</u> ft. 2. <u>19-53</u> ft. 3. <u>19-53</u> ft.			
		WELL'S STATIC WATER LEVEL <u>19</u> ft. below land surface measured on mo/day/yr <u>3-29-95</u>			
		Pump test data: Well water was <u>250</u> gpm. Well water was <u>12 1/4</u> in. to <u>53</u> ft. after <u>53</u> hours pumping <u>53</u> gpm.			
		Bore Hole Diameter: <u>12 1/4</u> in. to <u>53</u> ft. and <u>53</u> in. to <u>53</u> ft.			
WELL WATER TO BE USED AS:		5 Public water supply 8 Air conditioning 11 Injection well 1 Domestic 3 Feedlot 6 Oil field water supply 9 Dewatering 12 Other (Specify below) <u>2 Irrigation</u> 4 Industrial 7 Lawn and garden only 10 Monitoring well			
Was a chemical/bacteriological sample submitted to Department? Yes.....No.....; If yes, mo/day/yr sample was submitted		Water Well Disinfected? Yes <u>X</u> No			
5 TYPE OF BLANK CASING USED:		CASING JOINTS: Glued <u>X</u> Clamped			
1 Steel 3 RMP (SR)		Welded			
<u>2 PVC</u> 4 ABS		Threaded			
Blank casing diameter <u>8</u> in. to <u>33</u> ft. Dia		in. to <u>33</u> ft. Dia			
Casing height above land surface <u>30</u> in. weight <u>200#</u> lbs./ft. Wall thickness or gauge No.					
TYPE OF SCREEN OR PERFORATION MATERIAL:		7 PVC 10 Asbestos-cement			
1 Steel 3 Stainless steel 5 Fiberglass 8 RMP (SR) 11 Other (specify)		12 None used (open hole)			
2 Brass 4 Galvanized steel 6 Concrete tile 9 ABS					
SCREEN OR PERFORATION OPENINGS ARE:		5 Gauzed wrapped 8 Saw cut 11 None (open hole)			
1 Continuous slot <u>3 Mill slot</u> 6 Wire wrapped 9 Drilled holes		10 Other (specify)			
2 Louvered shutter 4 Key punched					
SCREEN-PERFORATED INTERVALS: From <u>33</u> ft. to <u>53</u> ft. From <u>33</u> ft. to <u>53</u> ft.		From <u>33</u> ft. to <u>53</u> ft. From <u>33</u> ft. to <u>53</u> ft.			
GRAVEL PACK INTERVALS: From <u>53</u> ft. to <u>20</u> ft. From <u>53</u> ft. to <u>20</u> ft.		From <u>53</u> ft. to <u>20</u> ft. From <u>53</u> ft. to <u>20</u> ft.			
6 GROUT MATERIAL:		3 Bentonite 4 Other			
Grout Intervals: From <u>20</u> ft. to <u>0</u> ft. From <u>20</u> ft. to <u>0</u> ft.		From <u>20</u> ft. to <u>0</u> ft. From <u>20</u> ft. to <u>0</u> ft.			
What is the nearest source of possible contamination: <u>NONE At the Time</u>		10 Livestock pens 14 Abandoned water well			
1 Septic tank 4 Lateral lines 7 Pit privy 11 Fuel storage 15 Oil well/Gas well		12 Fertilizer storage 16 Other (specify below)			
2 Sewer lines 5 Cess pool 8 Sewage lagoon 13 Insecticide storage					
3 Watertight sewer lines 6 Seepage pit 9 Feedyard					
Direction from well?		How many feet?			
FROM	TO	LITHOLOGIC LOG	FROM	TO	PLUGGING INTERVALS
<u>0</u>	<u>15</u>	<u>Soil, Clay, Silt</u>			
<u>15</u>	<u>52</u>	<u>Sand</u>			
<u>52</u>	<u>53</u>	<u>Gravel + Limestone</u>			
7 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was (1) constructed, (2) reconstructed, or (3) plugged under my jurisdiction and was completed on (mo/day/year) <u>3-29-95</u> and this record is true to the best of my knowledge and belief. Kansas Water Well Contractor's License No. <u>561</u> This Water Well Record was completed on (mo/day/yr) <u>4-3-95</u> under the business name of <u>EVANS ENERGY Dev. Inc.</u> by (signature) <u>SAUL E. CO</u>					

[illegible]

1 LOCATION OF WATER WELL:		Fraction	Section Number	Township Number	Range Number
County: Douglas	$\frac{1}{4}$ S $\frac{1}{2}$ SW $\frac{1}{4}$	31	T 12 S	R 21	EW
Distance and direction from nearest town or city street address of well if located within city?					
REF: Don Westheffer					
2 WATER WELL OWNER: Nunemaker-Ross Inc.					
RR#, St. Address, Box # : 1616 North 1700 Road			Board of Agriculture, Division of Water Resources		
City, State, ZIP Code : Lawrence, Ks 66044			Application Number: 46589		
3 LOCATE WELL'S LOCATION WITH AN "X" IN SECTION BOX:		4 DEPTH OF COMPLETED WELL 50 ft. ELEVATION:			
		Depth(s) Groundwater Encountered 1 _____ ft. 2 _____ ft. 3 _____ ft.			
		WELL'S STATIC WATER LEVEL na ft. below land surface measured on mo/day/yr			
		Pump test data: Well water was _____ ft. after _____ hours pumping _____ gpm			
		Est. Yield _____ gpm: Well water was _____ ft. after _____ hours pumping _____ gpm			
		Bore Hole Diameter 28 in. to 51 ft. and _____ in. to _____ ft.			
WELL WATER TO BE USED AS:		5 Public water supply 8 Air conditioning 11 Injection well 1 Domestic 3 Feed lot 6 Oil field water supply 9 Dewatering 12 Other (Specify below) <input checked="" type="checkbox"/> 2 Irrigation 4 Industrial 7 Lawn and garden (domestic) 10 Monitoring well			
Was a chemical/bacteriological sample submitted to Department? Yes _____ No <input checked="" type="checkbox"/> If yes, mo/day/yr sample was submitted _____					
Water Well Disinfected? Yes <input checked="" type="checkbox"/> No _____					
5 TYPE OF BLANK CASING USED:					
1 Steel 3 RMP (SR) 5 Wrought Iron 8 Concrete tile CASING JOINTS: Glued <input checked="" type="checkbox"/> Clamped _____ <input checked="" type="checkbox"/> 2 PVC 4 ABS 6 Asbestos-Cement 9 Other (specify below) Welded _____ 7 Fiberglass Threaded _____					
Blank casing diameter 28 in. to 30 ft., Dia _____ in. to _____ ft., Dia _____ in. to _____ ft.					
Casing height above land surface 24 in., weight 16.15 lbs./ft. Wall thickness or gauge No. 500					
TYPE OF SCREEN OR PERFORATION MATERIAL:					
1 Steel 3 Stainless steel 5 Fiberglass 8 RMP (SR) 10 Asbestos-cement 2 Brass 4 Galvanized steel 6 Concrete tile 9 ABS 11 Other (specify) _____ 12 None used (open hole)					
SCREEN OR PERFORATION OPENINGS ARE:					
1 Continuous slot 3 Mill slot 5 Gauzed wrapped <input checked="" type="checkbox"/> 8 Saw cut 11 None (open hole) 2 Louvered shutter 4 Key punched 6 Wire wrapped 9 Drilled holes 7 Torch cut 10 Other (specify) _____					
SCREEN-PERFORATED INTERVALS: From 30 ft. to 50 ft. From _____ ft. to _____ ft.					
GRAVEL PACK INTERVALS: From 20 ft. to 50 ft. From _____ ft. to _____ ft.					
6 GROUT MATERIAL:					
1 Neat cement 2 Cement grout 3 Bentonite 4 Other _____ Grout Intervals From 0 ft. to 20 ft. From _____ ft. to _____ ft. From _____ ft. to _____ ft.					
What is the nearest source of possible contamination:					
1 Septic tank 4 Lateral lines 7 Pit privy 10 Livestock pens 14 Abandoned water well 2 Sewer lines 5 Cess pool 8 Sewage lagoon 11 Fuel storage 15 Oil well/ Gas well 3 Watertight sewer lines 6 Seepage pit 9 Feedyard 12 Fertilizer storage 16 Other (specify below) none 13 Insecticide storage					
Direction from well? _____ How many feet? _____					
FROM	TO	CODE	LITHOLOGIC LOG	FROM	TO
0	3		Surface		
3	24		Clay		
24	35		Sand & gravel		
35	50		Large gravel		
50	51		shale		
7 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was (1) constructed, (2) reconstructed, or (3) plugged under my jurisdiction and was completed on (mo/day/yr) 5-13-07 and this record is true to the best of my knowledge and belief. Kansas					
Water Well Contractor's License No. 554			This Water Well Record was completed on (mo/day/yr) 3-30-07		
under the business name of Woofert Pump & Well Inc.			by (signature) <i>Don C. Woofert</i>		
INSTRUCTIONS: Please fill in blanks and circle the correct answers. Send three copies to Kansas Department of Health and Environment, Bureau of Water, 1000 S.W. Jackson St., Ste. 420, Topeka, Kansas 66612-1367. Telephone: 913-296-5545. Send one to WATER WELL OWNER and retain one for your records.					



WWCS Well viewer

Section Any Township 1 Range 1 Range Direction E show

Overview Map



Legend

- Single well
- Multiple wells
- Yield (in gpm)
 - between 0.00 and 5.00
 - between 5.00 and 10.00
 - between 10.00 and 1200.00
 - unknown Yield
- Township Boundary
- PLSS
- Roads
- Railroads
- Rivers and Streams
- City Boundary
- County Boundary

Remove monitoring/engineering wells ☐

Color wells based on ☒ Estimated yield ☐ Well Depth ☐ Static water level

Choose Labelling on zoom-in ☒ Owner Name ☐ Well Depth/Estimated yield ☐ Static water level

Zoom Level: 1.5 ☒ Zoom In ☐ Zoom Out ☐ Pan ☐ Identify

Show Entire State

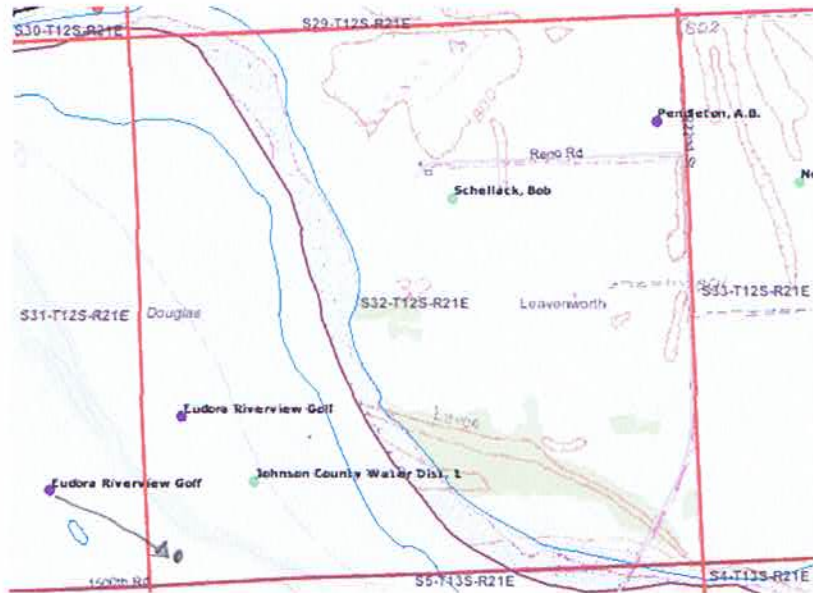
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- ☒ City Boundary
- ☒ County Boundary
- ☒ View Aerials 2002
- ☐ View Aerials 1991
- ☒ View Topo

update map

print map



1 LOCATION OF WATER WELL:		Fraction	Section Number	Township Number	Range Number
County: <u>Douglas</u>		<u>NE 1/4 SW 1/4 SW 1/4</u>	<u>32</u>	<u>T 12 S</u>	<u>R 21 E</u>
Distance and direction from nearest town or city street address of well if located within city?					
2 WATER WELL OWNER: <u>Johnson County Water Dist. 1</u>					
RR#, St. Address, Box # : <u>7601 Holliday Drive</u>			Board of Agriculture, Division of Water Resources		
City, State, ZIP Code : <u>Kansas City, Kansas 66666</u>			Application Number:		
3 LOCATE WELL'S LOCATION WITH AN "X" IN SECTION BOX:		4 DEPTH OF COMPLETED WELL <u>35</u> ft. ELEVATION: <u>(60) Boring</u>			
		Depth(s) Groundwater Encountered <u>1</u> ft. <u>12.5</u> ft. <u>12.5</u> ft. 3 ft. <u>7/18/01</u> ft. WELL'S STATIC WATER LEVEL <u>12.5</u> ft. below land surface measured on mo/day/yr Pump test data: Well water was _____ ft. after _____ hours pumping _____ gpm Est. Yield _____ gpm: Well water was _____ ft. after _____ hours pumping _____ gpm WELL WATER TO BE USED AS: 5 Public water supply 8 Air conditioning 11 Injection well 1 Domestic 3 Feedlot 6 Oil field water supply 9 Dewatering 12 Other (Specify below) 2 Irrigation 4 Industrial 7 Domestic (lawn & garden) 10 Monitoring well <u>765 Boring</u>			
		Was a chemical/bacteriological sample submitted to Department? Yes _____ No <u>✓</u> ; If yes, mo/day/yr sample was submitted			
		Water Well Disinfected? Yes _____ No <u>✓</u>			
5 TYPE OF BLANK CASING USED:					
1 Steel		3 RMP (SR)	5 Wrought iron	8 Concrete tile	CASING JOINTS: Glued _____ Clamped _____
2 PVC		4 ABS	6 Asbestos-Cement	9 Other (specify below)	Welded _____
			7 Fiberglass		Threaded <u>✓</u>
Blank casing diameter <u>2</u> in. to <u>45</u> ft. Dia _____ in. to _____ ft. Dia _____ in. to _____ ft.					
Casing height above land surface <u>30</u> in. weight _____ lbs./ft. Wall thickness or gauge No. <u>Sch 40</u>					
TYPE OF SCREEN OR PERFORATION MATERIAL:					
1 Steel		3 Stainless Steel	5 Fiberglass	8 RMP (SR)	10 Asbestos-Cement
2 Brass		4 Galvanized Steel	6 Concrete tile	9 ABS	11 Other (Specify)
					12 None used (open hole)
SCREEN OR PERFORATION OPENINGS ARE:					
1 Continuous slot		3 Mill slot	5 Gauzed wrapped	8 Saw cut	11 None (open hole)
2 Louvered shutter		4 Key punched	6 Wire wrapped	9 Drilled holes	
			7 Torch cut	10 Other (specify)	_____ ft.
SCREEN-PERFORATED INTERVALS: From <u>45</u> ft. to <u>55</u> ft. From _____ ft. to _____ ft.					
GRAVEL PACK INTERVALS: From <u>3.5</u> ft. to <u>4.3</u> ft. From _____ ft. to _____ ft.					
6 GROUT MATERIAL: 1 Neat cement 2 Cement grout 3 Bentonite 4 Other _____					
Grout Intervals: From <u>0</u> ft. to <u>25</u> ft. From _____ ft. to _____ ft. From _____ ft. to _____ ft.					
What is the nearest source of possible contamination:					
1 Septic tank		4 Lateral lines	7 Pit privy	10 Livestock pens	14 Abandoned water well
2 Sewer lines		5 Cess pool	8 Sewage lagoon	11 Fuel storage	15 Oil well/Gas well
3 Watertight sewer lines		6 Seepage pit	9 Feedyard	12 Fertilizer storage	16 Other (specify below)
				13 Insecticide storage	
Direction from well? _____ How many feet? _____					
FROM	TO	LITHOLOGIC LOG	FROM	TO	PLUGGING INTERVALS
0	2	Topsoil	0	25	Bentonite chips
2	14	Fine Sand - V. Fine Sand; Tan			
14	19	Med. Sand loose; Brown			
19	32.5	Med. to Coarse Sand; gray to brown			
32.5		Coarse Sand w/ stringers			
		of fine to med. sand, numerous			
		chert pebbles subroundal;			
	56	clean Brown			
56	58	weathered rock; yellow/brown			
58	60	limestone; gray			
		End of Boring			
7 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was (1) constructed, (2) reconstructed, or (3) plugged under my jurisdiction and was completed on (mo/day/year) <u>7/18/01</u> and this record is true to the best of my knowledge and belief. Kansas Water Well Contractor's Licence No <u>592</u> This Water Well Record was completed on (mo/day/yr) _____ under the business name of <u>PROSONIC CORPORATION</u> by (signature) <u>[Signature]</u>					
INSTRUCTIONS: Use typewriter or ball point pen. PLEASE PRESS FIRMLY and PRINT clearly. Please fill in blanks, underline or circle the correct answers. Send top three copies to Kansas Department of Health and Environment, Bureau of Water, Geology Section, 1000 SW Jackson St., Suite 420, Topeka, Kansas 66612-1367. Telephone 785-296-5522. Send one to WATER WELL OWNER and retain one for your records. Fee of \$5.00 for each constructed well.					

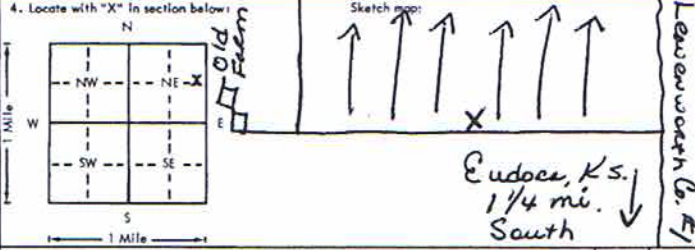
INSTRUCTIONS: Use typewriter or ball point pen. PLEASE PRESS FIRMLY and PRINT clearly. Please fill in blanks, underline or circle the correct answers. Send top three copies to Kansas Department of Health and Environment, Bureau of Water, Topeka, Kansas 66620-0001. Telephone 785-296-5524. Send one to WATER WELL OWNER and retain one for your records. Fee of \$5.00 for each constructed well.

INSTRUCTIONS: Use typewriter or ball point pen. PLEASE PRESS FIRMLY and PRINT clearly. Please fill in blanks, underline or circle the correct answers. Send top three copies to Kansas Department of Health and Environment, Bureau of Water, Topeka, Kansas 66620-0001. Telephone: 913-296-5545. Send one to WATER WELL OWNER and retain one for your records.

USE TYPEWRITER OR BALL
POINT PEN-PRESS FIRMLY,
PRINT CLEARLY.

WATER WELL RECORD
KSA 82a-1201-1215

Kansas Department of Health and
Environment-Division of Environment
(Water well Contractors)
Topeka, Kansas 66620

1. Location of well:	County Leavenworth	Fraction SE 1/4 NE 1/4 NE 1/4	Section number 32	Township number T 12	Range number S R 21
2. Distance and direction from nearest town or city: 1 1/4 mi. North of Eudora on Leavenworth County Rd. #1 Street address of well location if in city:			3. Owner of well: A. B. Pendleton R.R. or street: R. R. #2 City, state, zip code: Lawrence, Kansas		
4. Locate with "X" in section below: 			6. Bore hole dia. 30 in. Completion date 5-28-77 Well depth 50 ft.		
5. Type and color of material			7. Cable tool <input type="checkbox"/> Rotary <input type="checkbox"/> Driven <input type="checkbox"/> Dug <input type="checkbox"/> <input type="checkbox"/> Hollow rod <input type="checkbox"/> Jetted <input checked="" type="checkbox"/> Bored <input checked="" type="checkbox"/> Reverse rotary		
8. Use: Domestic <input type="checkbox"/> Public supply <input type="checkbox"/> Industry <input type="checkbox"/> <input checked="" type="checkbox"/> Irrigation <input type="checkbox"/> Air conditioning <input type="checkbox"/> Stock <input type="checkbox"/> <input type="checkbox"/> Lawn <input type="checkbox"/> Oil field water <input type="checkbox"/> Other			9. Casings: Material Transite (above or below) Threaded <input type="checkbox"/> Welded <input type="checkbox"/> Surface 12 in. RMP <input type="checkbox"/> PVC <input type="checkbox"/> Weight 12 lbs./ft. Dia. 16 in. to 24 ft. depth Wall Thickness: inches or Dia. 16 in. to 24 ft. depth: page No. 25		
Med. brown soil			10. Screen: Manufacturer's name Johnson Well Co. Type Transite Dia. 16 " Slot/gauge 1/8 x 8 Length 26 " Set between 24 ft. and 50 ft. Gravel pack? Yes Size range of material 1/8-1/4		
Fine brown IM blow sand			11. Static water level: 22 ft. below land surface Date 5-23-77		
Small brown gravel			12. Pumping level below land surface: 32 ft. after 1 hrs. pumping 800 g.p.m. 35 ft. after 3 hrs. pumping 1000 g.p.m. Estimated maximum yield 1200 g.p.m.		
Med. to large brown gravel			13. Water sample submitted: ma./day/yr. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date		
Med. to large gray gravel			14. Well head completion: <input type="checkbox"/> Pitless adapter <input type="checkbox"/> inches above grade		
Stopped.			15. Well grouted? yes With: <input type="checkbox"/> Neat cement <input type="checkbox"/> Bentonite <input checked="" type="checkbox"/> Concrete Depth: From 0 ft. to 10 ft.		
(Use a second sheet if needed)			16. Nearest source of possible contamination: ft. 800 Direction west Type old farm Well disinfected upon completion? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
			17. Pump: <input checked="" type="checkbox"/> Not installed Manufacturer's name _____ Model number _____ HP _____ Volts _____ Length of drop pipe _____ ft. capacity _____ g.p.m. Type: <input type="checkbox"/> Submersible <input type="checkbox"/> Turbine <input type="checkbox"/> Jet <input type="checkbox"/> Reciprocating <input type="checkbox"/> Centrifugal <input type="checkbox"/> Other		
18. Elevation: 794' Topography: <input type="checkbox"/> Hill <input type="checkbox"/> Slope <input type="checkbox"/> Upland <input checked="" type="checkbox"/> Valley	19. Remarks: Leveled for flood irrigation. We do not install pumps. 800' from map		20. Water well contractor's certification: This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief. Hoobler Drilling Co. 323 Business name License No. Address St. Marys, Ks. 66536 Signed Allen Hoobler Date 6-10-77 Authorized representative		

Forward the white, blue and pink copies to the Department of Health and Environment

Form WWC-5

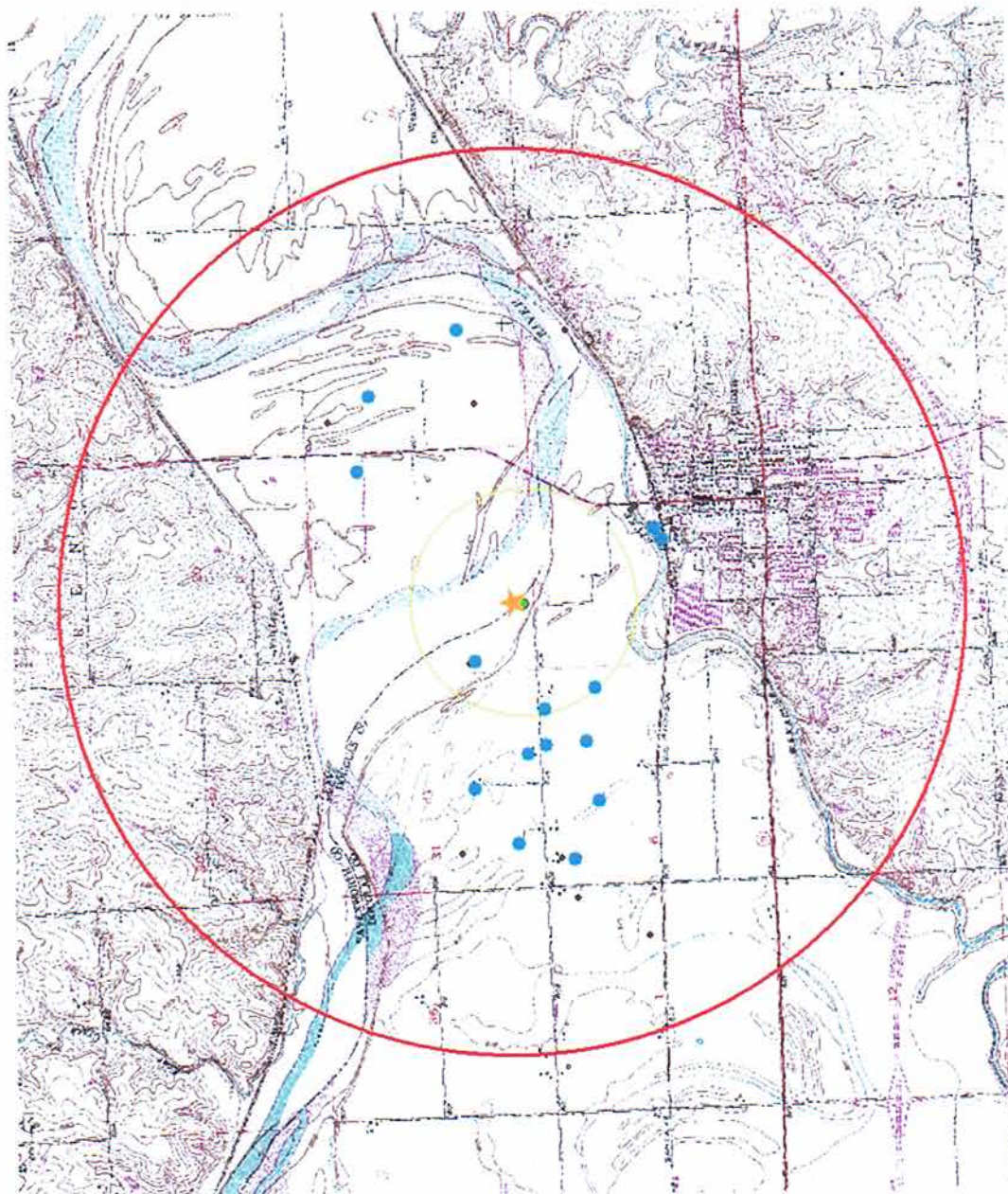
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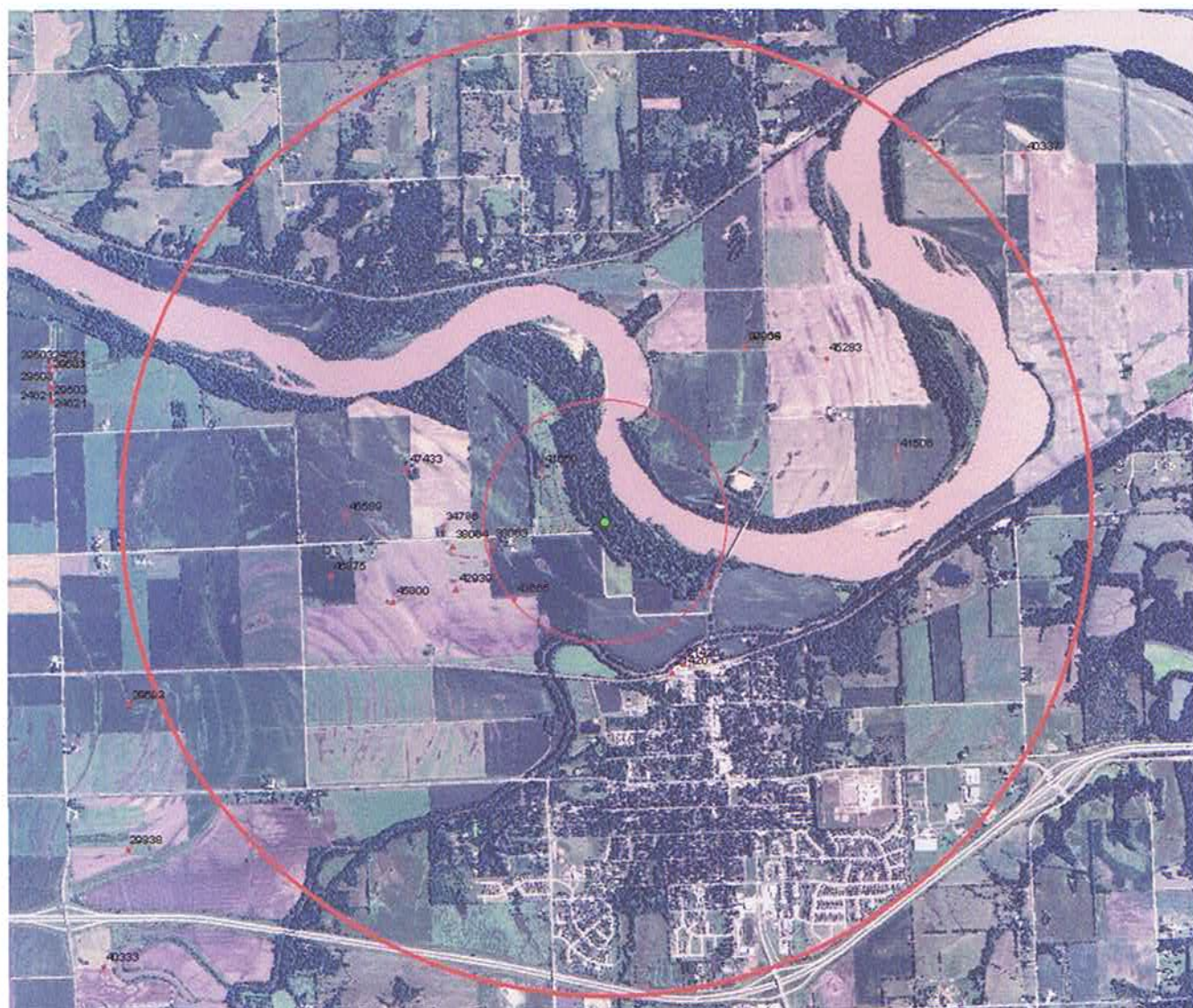
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W1-1023

12 2 10 3 2 SE NE NE
1/4 1/4 1/4

Safe Yield Report Sheet
Proposed Water Right Application
Point of Diversion in NWSWSEW 32-12S-21E





Analysis Results

The selected PD is in an area OPEN to new appropriations.

The safe yield, based on the variables listed below is 2,749.76 AF.

Total prior appropriation in the circle is 1,629.50 AF.

Total quantity of water available for appropriation is 1,120.26 AF.

Safe Yield Variables

The area used for the analysis is set at 4777 acres.

Potential annual recharge of the area is estimated to be 9.21 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 13-JAN-2011 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 15 water right(s) and 15 point(s) of diversion within the circle.

=====

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth_Quant	Add_Quant	Tacres	Nacres
A	21420	00	MUN	NK	G	NW	NW	SE	2464	2112	05	13	21E	4	PD	53.03	53.03	

James E. Ronda Bigger
727 S White Sands BLVD
Alamogordo NM 88310-7247

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE

Adrian J. Polansky, Secretary of Agriculture

DIVISION OF WATER RESOURCES

David W. Barfield, Chief Engineer

CERTIFICATE OF APPROPRIATION FOR BENEFICIAL USE OF WATER

WATER RIGHT, File No. 41,650

PRIORITY DATE March 1, 1995

WHEREAS, It has been determined by the undersigned that construction of the appropriation diversion works has been completed, that water has been used for beneficial purposes and that the appropriation right has been perfected, all in conformity with the conditions of approval of the application pursuant to the water right referred to above and in conformity with the laws of the State of Kansas.

NOW, THEREFORE, Be It Known that DAVID W. BARFIELD, the duly appointed, qualified and acting Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture, by authority of the laws of the State of Kansas, and particularly K.S.A. 82a-714, does hereby certify that, subject to vested rights and prior appropriation rights, the appropriator is entitled to make use of groundwater to be withdrawn by means of a well located in Lot 2 of Section 32, more particularly described as being near a point 1,449 feet North and 4,996 feet West of the Southeast corner of said section, in Township 12 South, Range 21 East, Douglas County, Kansas, at a diversion rate not in excess of **200 gallons per minute (0.45 c.f.s.)** and a quantity not to exceed **37 acre-feet** of water per calendar year for irrigation use on the following described property:

1 acre in the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$),
11 acres in Lot 3,
14 acres in the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$),
34 acres in Lot 2,

a total of 60 acres in Section 32, Township 12 South, Range 21 East, Douglas County, Kansas.

The maximum authorized acres that were lawfully irrigated in any one calendar year during the perfection period were 20 acres.

RECEIVED

APR 08 2008

TOPEKA FIELD OFFICE
DIVISION OF WATER RESOURCES

SCANNED

CERTIFIED MAIL

December 30, 2009

LOIS M WINDETT-HAMILTON TRUST
LOIS WINDETT-HAMILTON TTE
52 MALAGA WAY
HOT SPRINGS VILLAGE AR 71909

Re: Notice Given Under K.S.A. 82a-718(b)
File No(s). 43,665

According to the Division of Water Resources' records you are the owner of or water use correspondent for the above referenced water right(s) or permit(s) to appropriate water.

The law requires the Division of Water Resources to notify you that:

The records show there has been no use of water as authorized by the referenced file(s) for a minimum of 3 successive years.

This file may be terminated if no lawful, beneficial use is made for a total of 5 successive years unless the beneficial use of the water was prevented or made unnecessary by circumstances that are considered due and sufficient cause for the non-use.

The circumstances considered to be due and sufficient cause for the non-use of water are listed on the back and also can be found in Kansas Administrative Regulation K.A.R. 5-7-1.

The reasons for non-use of water should always be noted on the annual water use report. If you have not reported reasons for non-use, you can provide this information to Division of Water Resources, in writing, at any time.

If you believe the Division of Water Resources' records are incorrect and there has been use of water within the past three years, provide documentation to that effect. It is to your benefit to provide this information as soon as you can.

This notice provides you the opportunity to remedy any abandonment situation that may exist with your project before a total of five years of non-use takes place.

If you have questions concerning this matter, please contact the Division of Water Resources at 785-296-3717. If you would prefer, please call the Topeka field office at 785-862-6300 to arrange for an appointment.

Sincerely,



Lane P. Letourneau, L.G.
Program Manager
Water Appropriation Program

LPL:ccd

cc: Topeka Field Office

RECEIVED

FEB 10 2010

CHIEF ENGINEER

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE

Alice A. Devine, Secretary of Agriculture

DIVISION OF WATER RESOURCES

David L. Pope, Chief Engineer

APPROVAL OF APPLICATION

and

PERMIT TO PROCEED

(This is not a Certificate of Appropriation)

This is to certify that I have examined Application File No. 43,665 of the applicant

Mark Neis
40395 West 119th Street
Eudora, Kansas 66025

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is February 4, 1999.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
5	13S	21E						30	21										51
6	13S	21E	37	20	20	40													117

3. That the authorized source from which the appropriation shall be made is groundwater from the alluvial aquifer, in the drainage basin of the Kansas River to be withdrawn by means of one (1) well located near the center of the East Half of the Northeast Quarter (E½ NE¼) of Section 6, more particularly described as being near a point 3,950 feet North and 550 feet West of the Southeast corner of said section, in Township 13 South, Range 21 East, Douglas County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of 1,200 gallons per minute (2.67 c.f.s.) and to a quantity not to exceed 168 acre-feet of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before December 31, 2000 or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$200.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$50.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before December 31, 2004 or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$50.00.

RECEIVED

MAR 17 1999

TOPEKA FIELD OFFICE
DIVISION OF WATER RESOURCES

DUPLICATE COPY

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That an acceptable water flow meter shall be installed on the diversion works authorized by this permit in accordance with specifications adopted by the Chief Engineer on February 27, 1985, and shall be maintained in an operating condition satisfactory to the Chief Engineer, and shall be used to provide information required on the annual water use report (including the meter reading at the beginning and ending of the report year).

13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

14. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

15. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

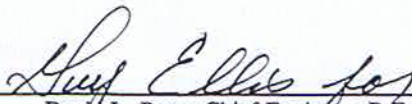
16. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

17. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

18. That the applicant shall submit to the Chief Engineer a copy of the well log required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, within 30 days following the drilling of the well at the location authorized herein.

19. That the Chief Engineer specifically retains jurisdiction in this matter with authority to make such reasonable reductions in the approved rate of diversion and quantity authorized to be perfected, and such changes in other terms, conditions, and limitations set forth in this approval and permit to proceed as may be deemed to be in the public interest.

Dated this 12th day of March, 1999.


David L. Pope, Chief Engineer, P.E.
Division of Water Resources
Kansas Department of Agriculture

WATER METER REQUIRED

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE

Jamie Clover-Adams Secretary of Agriculture

DIVISION OF WATER RESOURCES

David L. Pope, Chief Engineer

**CERTIFICATE OF APPROPRIATION
FOR BENEFICIAL USE OF WATER**

WATER RIGHT, File No. 38,063

PRIORITY DATE December 9, 1985

RECEIVED

DEC 03 1999

TOPEKA FIELD OFFICE
DIVISION OF WATER RESOURCES

WHEREAS, It has been determined by the undersigned that construction of the appropriation diversion works has been completed, that water has been used for beneficial purposes and that the appropriation right has been perfected, all in conformity with the conditions of approval of the application pursuant to the water right referred to above and in conformity with the laws of the State of Kansas.

NOW, THEREFORE, Be It Known that DAVID L. POPE, the duly appointed, qualified and acting Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture, by authority of the laws of the State of Kansas, and particularly K.S.A. 82a-714, does hereby certify that, subject to vested rights and prior appropriation rights, the appropriator is entitled to make use of groundwater to be withdrawn by means of a well located in the Northwest Quarter of the Northeast Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 6, more particularly described as being near a point 5,180 feet North and 1,003 feet West of the Southeast corner of said section, in Township 13 South, Range 21 East, Douglas County, Kansas, at a diversion rate not in excess of 325 gallons per minute (0.72 c.f.s.) and a quantity not to exceed 69.777 million gallons (214.14 acre-feet) of water per calendar year for municipal use in the City of Eudora Kansas and the immediate vicinity.

This appropriation right is further limited to a quantity of water which when combined with the water right set forth in the Certificate of Appropriation issued pursuant to File No. 21,420, will provide a total quantity not to exceed 69.777 million gallons (214.14 acre-feet) of water per calendar year for municipal use at the location described herein.

(over)


DUPLICATE COPY

MICROFILMED

IN WITNESS WHEREOF, I have hereunto set my hand at my office at Topeka, Kansas, this 23rd day of November, 1999.

State of Kansas)
) SS
County of Shawnee)

Norothy M Halloran
Notary Public

 DOROTHY M. HALLORAN
Notary Public - State of Kansas
My Appt. Expires June 27, 2001

CERTIFICATE OF APPROPRIATION
FOR BENEFICIAL USE OF WATER

STATE OF KANSAS

COUNTY, ss.

Filed for record this _____ day _____

at _____ o'clock _____ m.

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Register of Deeds

Same		MUN NK G	NW NW SE	2288	2376	05	13	21E	5	PD	79.48	79.48
A	29914 00	IRR NK G	SE NE NE	4000	450	32	12	21E	1	WR	13.00	100.00 100.00
A	34786 00	IRR NK G	SE SW SE	300	1950	31	12	21E	1	WR	25.00	39.00 39.00
A	38063 00	MUN NK G	NW NE NE	5180	1003	06	13	21E	2	WR	214.14	113.00
A	38064 00	MUN NK G	NE NW NE	5180	1855	06	13	21E	3	WR	190.70	141.97
A	41506 00	IRR NK G		1515	2527	33	12	21E	1	WR	156.00	156.00 160.00
A	41650 00	IRR NK G		1449	4996	32	12	21E	3	WR	37.00	60.00 60.00
A	42939 00	MUN LO G	SE NW NE	4230	1820	06	13	21E	5	WR	245.51	245.51
A	43665 00	IRR KK G	NC E2 NE	3950	550	06	13	21E	6	WR	168.00	178.00 178.00
A	45283 00	IRR LO G	NE SW NW	3719	3974	33	12	21E	4	WR	171.00	180.00 180.00
A	45800 00	MUN LO G	SE SE NW	3870	3110	06	13	21E	7	WR	245.51	66.01
A	46589 00	IRR LO G	NC S2 SW	575	3960	31	12	21E	2	WR	150.00	150.00 150.00
A	46875 00	IRR HK G	SE NW NW	4613	4547	06	13	21E	9	WR	32.00	32.00 32.00
A	47008 00	IRR GY G	SE NE NE	4000	450	32	12	21E	1	WR	100.00	87.00 100.00 0.00
A	47433 00	IRR GY G	SE NE SW	1584	2706	31	12	21E	5	WR	91.50	91.50 91.50 51.50

=====

RESUME'
AND
PERSONAL INFORMATION

Name: Carl E. Nuzman, P.E., P.Hg. Phone: (785) 582-4054
3314 NW Huxman Road Fax: (785) 582-4155
Silver Lake, KS 66539 Cell: (785) 224 9929
Email: cyjnzmn@swbell.net

Position: Consulting Engineer/Hydrogeologist

Academic/Professional Certifications:

Master of Science in Water Resources Engineering, Department of Civil Engineering,
University of Kansas, 1966

Bachelor of Science in Agricultural Engineering, Kansas State University, 1953

Professional Engineer, first licensed in 1962-Kansas No. 4482, and in the following states:
MO-E12525, IA-6334, SC-4099, FL-15102, AL-16858, AZ-23209, IL-062-043392, IN-
PE60880547, LA-23209, MS-10041, MI-33050, NE-E-12525, NC-15121, NM-10625,
OH-E-51179, OK-15653, TN-018707, VA-0402-018380, and WI-E-25841.

Professional Hydrogeologist, Certified in 1986 by the American Institute of Hydrology,
PHg-No. 385

Professional Positions:

- Consultant(1997-Present)
- Layne GeoSciences, Inc. Mission Woods, KS Vice President and Principal Hydrologist (1988-1997)
- Groundwater Management, Inc., Kansas City, KS Vice President and Chief Hydrologist(1985-1988)
- Layne Western Company, Inc., Kansas City, KS Hydrology Division Manager and Chief Hydrologist (1970-1985)
- Layne Western Company, Inc., Kansas City, MO Sales Engineer (1967-1970)
- Kansas Water Resources Board, Topeka, KS Hydrologist III (1966)
- Kansas State Board of Agriculture, Division of Water Resources, Topeka, KS Assistant Engineer (1957-1965)

Specialized Competence:

- Surface and groundwater hydrology
- Project management and supervision
- Well treatment and rehabilitation/groundwater quality
- Well and well field design and construction
- Modeling of groundwater systems
- Water treatment and distribution piping
- Injection well design and operation
- Water pumps and associated equipment including suction flow control devices

Applicable Experience:

Mr. Nuzman has extensive experience in the areas of groundwater modeling, water well and well field design and construction, water well treatment and rehabilitation, and soil and groundwater remediation. In the groundwater resource area, he has performed hydrological investigations and modeling studies of several large regional groundwater aquifers. He served as technical advisor to the Attorney General and the USGS Analog Model laboratory on the first model work of the Equus Beds in 1961. He was the first to model the Ogallala Aquifer in SW Kansas using the passive element electric analog model technique in 1966.

After joining Layne Western in 1967, he conducted the testing program, aquifer modeling and well field design and construction for the City of Manhattan wells to infiltrate water from the Blue River, the City of Columbia, MO to change water supply source from the deep Ordovician aquifer to the Missouri river alluvium, and develop the ground water supply for the KP&L Hutchinson II power plant.

He has consulted on deep disposal wells and designed a groundwater recharge facility.

He has been involved in the design of dewatering systems for underground construction and has provided expert testimony on a variety of hydrologic related issues. He has served as a principal engineer on several major environmental projects such as underground storage tank and contaminated soil removal in central Illinois, a remedial investigation and feasibility study at an engine manufacturing facility in Indiana, remediation of a municipal well field of TCE, and the closure of an RCRA storage facility.

He has prepared specifications and bidding documents for both municipal and industrial well construction, pumps and controls, and water treatment facilities with connecting piping.

Publications:

- Nuzman, Carl E. (1989) "Well Hydraulic Flow Concept", Published in *Recent Advances in Ground-Water Hydrology*, by the American Institute of Hydrology, pgs. 72-77.
- Nuzman, Carl E., (1978, revised 1985) "Ground-Water and Well Efficiency", Published by Doerr Metal Products, Larned, KS Pgs. 67.
- Winslow, John D. and C. E. Nuzman, (1966) "Electric Analog Model of the Kansas River Alluvium in the vicinity of Topeka, Kansas" Kans. Geo. Survey, Lawrence, KS.
- Contributor to the "Handbook of Ground-Water Development", by the Roscoe Moss Company, Los Angeles, CA, on well rehabilitation, 1990.
- Contributing author "Ground-Water Development Handbook M-21" and contributor to the new revised edition of Manual M-21 by the American Water Works Association, Denver, CO.
- Other technical papers have been published and numerous Client reports of study have been made.

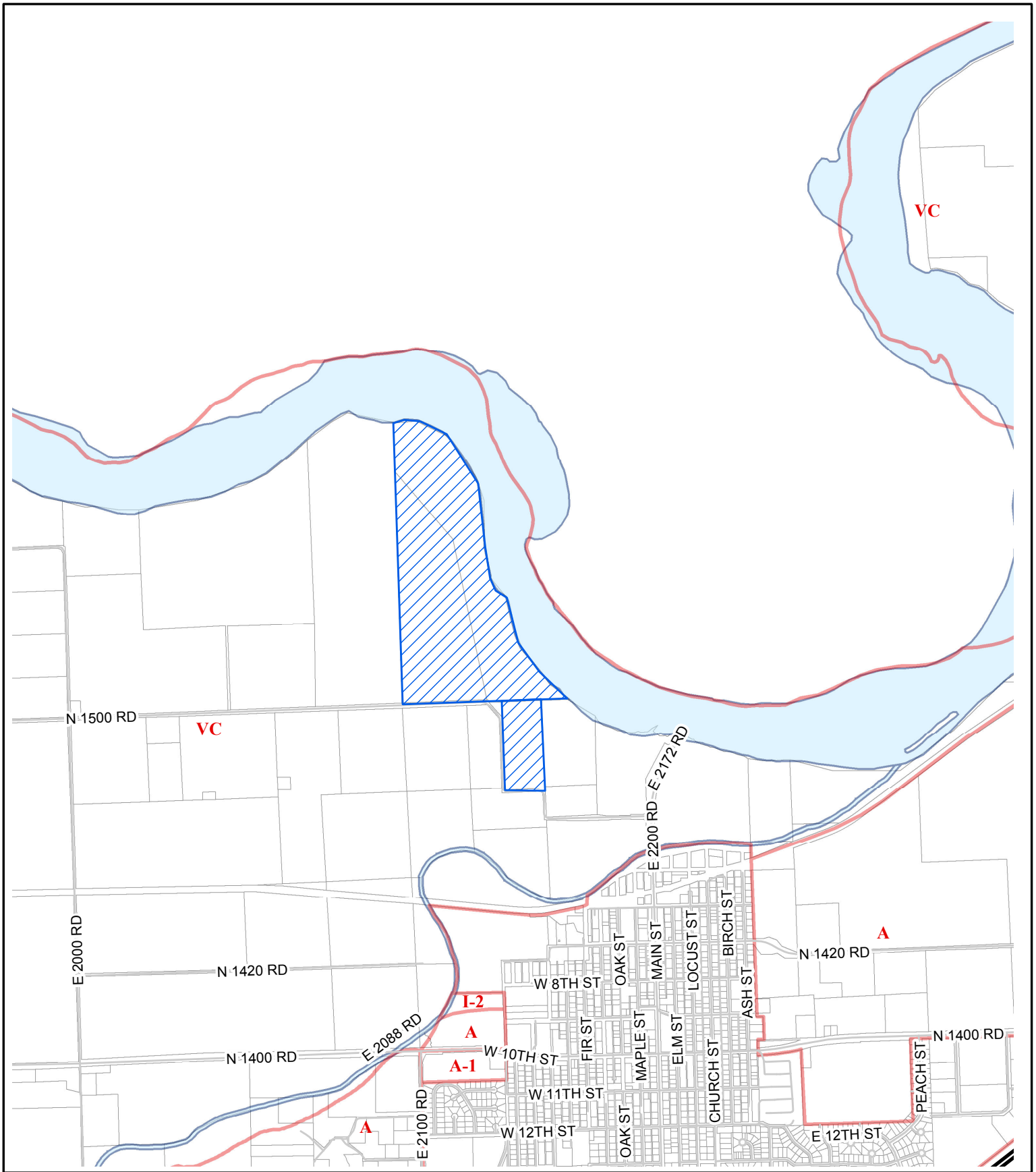
Mr. Nuzman has conducted numerous studies and managed projects on the development, management and remediation of groundwater resources and water supply wells.

Inventions:

- Co-inventor on a filament wound fiber glass well screen;
- Inventor of an In-Situ Groundwater Treatment System assigned to Layne Western Company, Inc.;
- Co-inventor on a patent of a non-vortexing passive pump strainer for boiling water reactor nuclear power plants and water resources applications.

Professional Societies:

- American Society of Agricultural Engineers
- American Society of Civil Engineers
- American Geophysical Union
- American Institute of Hydrology
- American Water Resources Association
- American Water Works Association
- National Ground Water Association
- National Society of Professional Engineers
- Kansas Society of Professional Engineers



CUP-10-6-10: Conditional Use Permit for Kaw Valley Eudora Sand Facility 2102 N 1500 Road

Lawrence-Douglas County Planning Office
February 2011



 Area Requested

Scale: 1 Inch = 2000 Feet

February 17, 2011

Douglas County Planning
and Development Services
6 East 6th St. Lawrence, KS

Dear Planning Commission Members,

as a property owner of farm ground south and east of the proposed sand pit, and between the Kaw and the Wakarusa rivers on both the East and West side of E. 2172 road (County road 1061). I am strongly opposed to the location of the sand facility for the following reasons:

1) The proposed site is subject to flooding from the Kaw R. on the north and on to the south and east as it has been for many years. Excavation of a sand pit of such huge size would not only facilitate the flow of the flooding Kaw through and east of the location, but would also narrow and weaken the worked natural barrier to the direct east of the pit, and threaten the south abutment of the bridge on 1061 crossing the Kaw. The land south and east of the proposed site has been flooded many times over the last 20 years, all the way to the point between the Kaw and Wakarusa rivers!

2) The fragile county roads leading south and east to 1061, and both north over the bridge and south thru Eudora would be destroyed by the weight of these huge, heavy trucks, and the bridge would also be in danger, as well as the danger to the heavy ~~North~~ and south bound traffic on county road 1061.

Thank you for your careful consideration of this matter.

Respectfully yours,

Kyle P. Cordry
Robert Cordry

RECEIVED

FEB 22 2011

City County Planning Office
Lawrence, Kansas

From: smason@kcp.com [mailto:smason@kcp.com]
Sent: Monday, February 14, 2011 10:26 AM
To: ZO - Davis-Englebert, Kanitha
Subject: Feedback for Zoning & Codes of Douglas County, Kansas

The following feedback was submitted to you through the Douglas County, Kansas feedback form:

Category: Zoning & Codes
Full Name: Shawn Mason
Address: 1202 W 13th Terrace
City: Eudora
State: KS
Zip Code: 66025
Email Address: smason@kcp.com
Phone: 785-542-3219

Comments: In Regards to Up Coming Decision for Permit to Kaw Valley Companies to Build a Sand Pit at Old Eudora Golf Course: After reading the Article in the Journal World and on that information provided only, I do not see any benefit to the City of Eudora, I believe more surveys need to be done (Not by Developer) to determine effect on City Wells. No info was stated about number of Jobs and Revenue to County and City of Eudora. I imagine it is not a significant number. The plan does not fit into the planning policies for industrial business's for the City of Eudora. Please do not recommend/approve this permit to Kaw Valley Companies

Terrane Resources Co.

P.O. Box 173 Stafford, KS 67578 (620) 234-5200

14 February, 2011

Mr. John Harrenstein, City Manager
City of Eudora
Eudora, KS

Re: Kaw Valley, Eudora Sand Facility

Mr. Harrenstein,

This letter and enclosed exhibits are compiled in response to the City of Eudora's request we review and evaluate a report titled "*Evaluation of Kaw Valley Companies, Inc., Proposed Sand Pit Operation on Ground Water in the Vicinity of Eudora*". We have reviewed the data presented in this report, questions answered by the City Staff, and some of the published data for the area. Our findings are based on the presented data and our understanding of how the City operates its well field.

It is our understanding the wells are operated approximately 12 hours per day during the winter, 15 to 18 hours per day during the summer and up to 20 hours a day during drought conditions. Additionally, we understand the wells operate at the same time.

Our comments are as follows:

Section 1 responses

We believe Mr. Nuzman has made a valid attempt to estimate the potential impact of the proposed sand operation on the City's well field. We are still not sure if this is a preliminary report or a final report, as neither the report, the plans or cross section are stamped by either an professional engineer or geologist.

Section 2 responses

The Kansas Geological Survey (KGS) has studied this area; however there is no reference to any specific report by the KGS. KGS Bull. 206, part 2 does show a west to east ground water flow through a portion of this area. Typically, we see the water table surface mimic land surface though more subdued. This regional study would be a good guide re: regional ground water flows. However, a detail

survey would have to be done to better define the area of influence to the City wells.

TRC 1 is a copy of the cross section submitted by Mr. Nuzman. The drawing shows well logs and the text indicates it runs along North 1500 Road. None of the maps we have rec'd shows the transect line for this cross section. Additionally, it is not clear which logs were used for the cross section as none of them are labeled to match the TH id's along the top of the cross section. The scale shown on the cross section is apparently the vertical scale as it would not be a reasonable horizontal scale for the area depicted by the cross section.

We have modified this graphic to show the estimated water level associated with the river compared to the test-hole data. It is important to understand the TH logs are not adjusted for elevation. Therefore, the water table, as depicted, is probably not representative of actual conditions. Elevation adjusted cross-sections for the area could better define the relationship of the City's well field to the sand pit site and Kansas River.

Section 3 responses

Based on our brief data review we do agree the Wakarusa River is an important component to your well field viability. It would take further investigations to better define the impact of the Wakarusa River on the overall ground water aquifer system.

Section 4 responses

Mr. Nuzman has identified the City's wells as being NW of town but appears to misquote the actual number as "three" in the text. One of the maps shows 4 wells and a potential fifth one. Exhibit B does show well #9 as a proposed well. The info we rec'd from your staff indicates Well#9 is online.

It is important to note some of the wells are situated in an east to west configuration. This arrangement puts Well #8 down-gradient of Well #9 and the proposed new well down-gradient of Well #8. Like wise Well #6 is down-gradient of Well #7. Fundamentally we see down-gradient wells being affected by up-gradient wells especially when they are pumped at the same time.

Typically we see an elongation of the cone of depressions in the direction of ground water flow when wells are situated as the City's are. This is important when you look at potential changes to the effective saturated thickness of the aquifer, and additional developments.

Section 5 responses

Mr. Nuzman makes some good comments re: aquifers, well influences on the aquifer and saturated thickness.

He references the 1998 data for City Well #8 (Exhibit D) and has prepared a distance-drawdown graph based upon that data. Mr. Nuzman indicates the data shows there to be little if any negative impact to nearby wells due to distance. We have modified that graph to show what two additional feet of drawdown does for the area of influence. See TRC 2

We have no data that shows that the additional drawdown will happen. Also we have no data which shows it is not occurring already.

The modified graph now shows the one foot draw-down point to be out to approximately 800 feet instead of 450 feet.

The current Kansas River bank is approximately 3,500 feet east of Well #6. The SW corner of the proposed gravel pit (along North 1500 Road) will be approximately 1,250 feet away from Well #6. This is a significant encroachment on the well field.

As discussed in the previous section there are some fundamentals regarding aquifers and the effects of pumping wells we can discuss. Elongation of areas of influence is the most critical with regards to the City's well field. If the wells were situated in a north-south configuration the interference effects would be mitigated. The reason the effects would be limited is due to the ground water flow direction being from west to east. Since some of the wells are situated down-gradient, from each other, the potential for interference is greater. The interference is caused because the up-gradient well partially dewateres the aquifer between the wells. This partial dewatering of the aquifer reduces the saturated thickness which limits the recharge to the down-gradient well. See TRC #3 and #4

In order to maintain the same area of influence for each well, if the overlapping cones of depression do cause interference, the pumping rates have to be reduced.

Mr. Nuzman's statement is correct regarding the sand pit lakes being a source of recharge to the aquifer when they are within the area of influence of water wells. Unfortunately, that is not what the City needs. If this sand pit becomes a recharge source for the City Wells then they may get reclassified as ground water wells under the influence of surface waters.

TRC 5 is a copy of Exhibit B from Mr. Nuzman's report. We have modified it to show 500 foot and 1000 foot circles around each of the City wells. It is our

understanding the irrigation well is proposed as a new City well and are showing it with dashed circles.

Mr. Nuzman also states the static water level in the sandpit will be about the same as the water surface elevation of the Kansas River. We believe this to be an accurate representation of what will happen to the water level in the sand pit.

When the pit is dug the water level of the pit will be lower than what is static for the aquifer. This will be a permanent lowering of the water table and will impact the up-gradient aquifer. At this time we would estimate the lowering of the static water level to be 4 to 6 feet at the sand pit site. The lower water level in the pit will result in a permanent lowering of the water level immediately up-gradient of the pit and will migrate towards the well field.

How far the lowering of the static water level will extend up-gradient, from the sandpit would have to be determined.

As we discussed above, any lowering of the water level in the aquifer will increase the area of influence for the pumping wells. This will happen because the saturated thickness of the aquifer will be less. Unless the City reduces its pumping rates the drawdown in the wells will increase.

It will take field studies to verify the actual changes to the static water level.

Again, it is important to understand that surface water will be approximately 2000 feet closed to the well field. If lowering of the water levels in the aquifer result in increases in areas of influence for the well field, the sandpit becomes a recharge boundary and will provide surface water to the aquifer. The reclassification to ground water under the influence of surface water may become a reality.

Section 6 responses

Mr. Nuzman makes some good and relative comments in this section. The Wichita area sandpit studies are relevant in that they are a good guide. However, it is important to understand the only way to understand what will happen in the Kansas River alluvial aquifer will be to study it.

Based upon the information we have there are no housing developments planned for the area immediately around the sandpit. Urban runoff does typically cause more problems than rural runoff.

Mr. Nuzman is correct that natural grass filter strips are important and must be utilized to mitigate ag-chemical runoff from nearby fields.

We do not have enough details for the proposed sandpit runoff controls and structures to comment whether they appear to be sufficient or not.

Mr. Nuzman is correct regarding the effects of sunlight and biological activity degrading and utilizing the contaminants associated with runoff. However, it is the biological activity that may impact the City's classification regarding ground water under the influence of surface water.

As Mr. Nuzman has commented some of the sandpits tend to silt over with time and limit recharge to the aquifer. This can be a benefit as well as a detraction. The increase in silt can minimize the potential for contamination (chemical or biological) from entering the aquifer by reducing the recharge potential of the site. Conversely, the reduced recharge may limit the recovery of the well field resulting in increased drawdown in the wells.

Section 7 responses

We simply can not come to the same conclusions as Mr. Nuzman. If the proposed sandpit was a ½ mile down-gradient, from the wells, or across the river we would be much less concerned. The proposed sandpit will bring surface water approximately 2000 feet closer to the well field and potentially dewater a portion of the aquifer up-gradient and towards the City wells.

The sandpit studies in the Wichita area are simply that, they are in the Wichita area! The study can be a good guide as how this sandpit might be monitored.

Utilizing Best management Practices (BMP's) around this sandpit will be important. We have no information regarding the processes Kaw Valley has proposed for surface runoff control.

Recommendations

We strongly suggest the City ask Kaw Valley to postpone their meeting with Planning and Zoning until the City can obtain clarification of some of the data and present their concerns directly to Kaw Valley and their consultants. It has been our experience that direct negotiations will be more beneficial and less expensive than trying to negotiate through the Planning and Zoning Process. If a mutual agreement can be reached between the City and Kaw Valley, then the City simply recommends the modified plan be approved by Planning and Zoning.

Historically, it was thought the public should have complete and unrestricted access to a city's data and well field operations. We do not believe going into great detail as to how the City's wells function and the areas which directly impact the viability of the well field need be publicized.

We recommend the City monitor water levels in and around their well field. Either by utilizing existing wells if available or by installing a series of observation wells. From this network a detailed ground water flow regime map can be prepared. Additionally, seasonal variations in ground water flow can be monitored.

Once the City has a detailed Source Water Protection Area (SWPA) delineated then it can be referenced in future planning and zoning determinations.

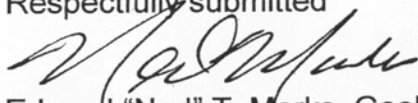
We suggest requesting Kaw Valley install, monitor and analyze samples and data from no less than three observation wells along the west and southwest portion of the proposed sand pit. It would be beneficial if these wells could be installed before excavation begins. Samples should be collected in the spring and late fall to establish a baseline on quality and water levels should be measured monthly.

The main component as to whether this proposed sandpit will be an issue will depend how much impact the City's well field has on the aquifer. It is possible the data to make that determination already exists. Much of the data gathered during the construction of the wells should be available. It is important the wells be evaluated as they are operated, not as a single event or pumping well.

John, this is a complex issue, which may be exactly as Mr. Nuzman has described it. It has been our experience it takes detailed analysis of the data to establish areas of influence and develop a meaningful SWPA delineation.

As Always if you or any of your colleagues have any questions do not hesitate to contact us.

Respectfully submitted

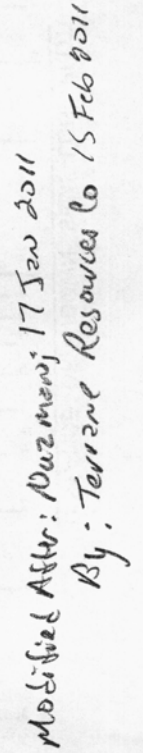


Edward "Ned" T. Marks, Geologist
Terrane Resources Co.

Encl.

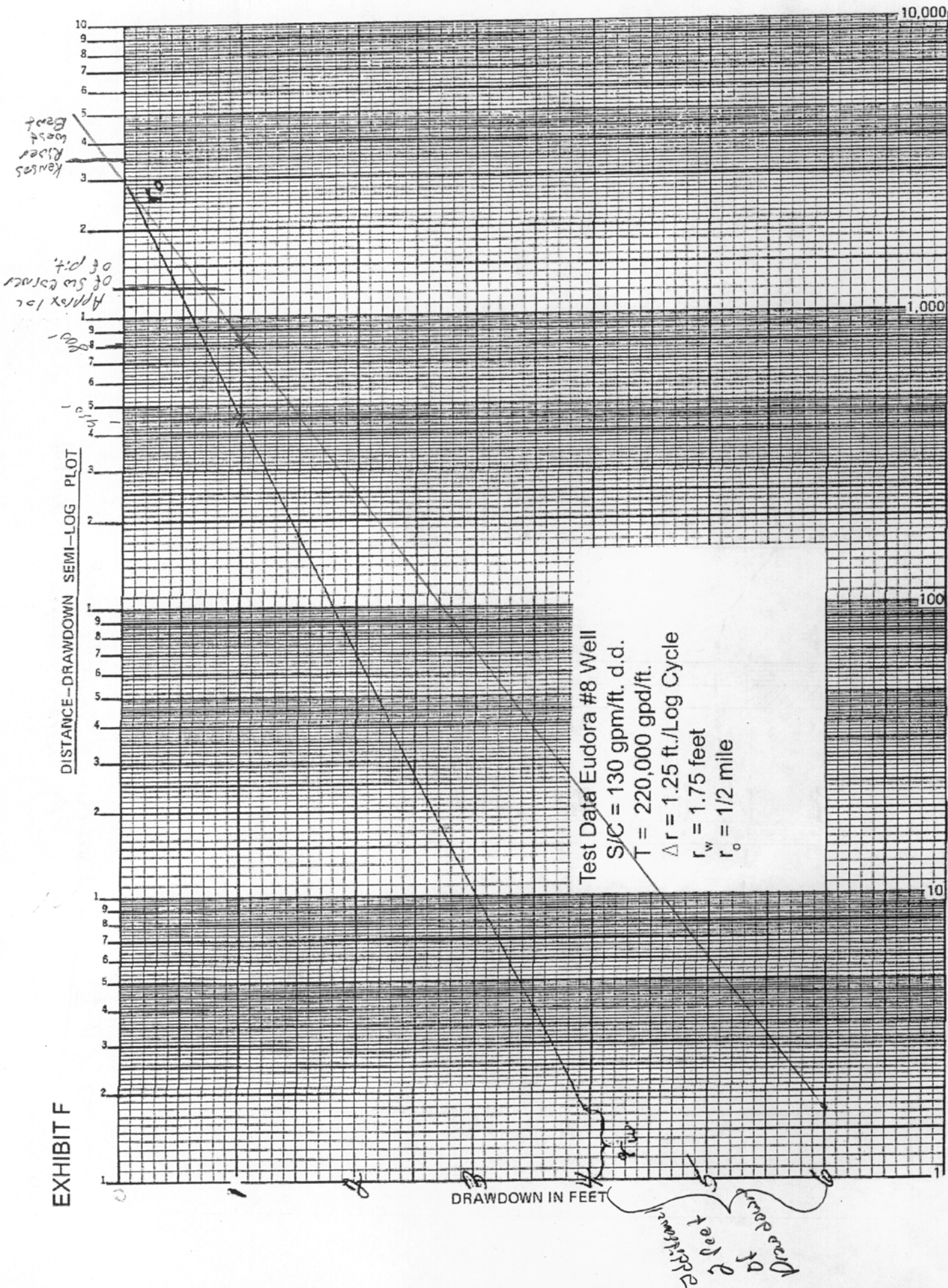
Edward T. Marks
15 Feb 2011

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 e-mail: info@edp-on.com
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TRC1

EXHIBIT F



DISTANCE IN FEET

Modified After: Nuzman, 17 Jan 2011
 By: Terrence Resoultas Co 15 Feb 2011

TRC2

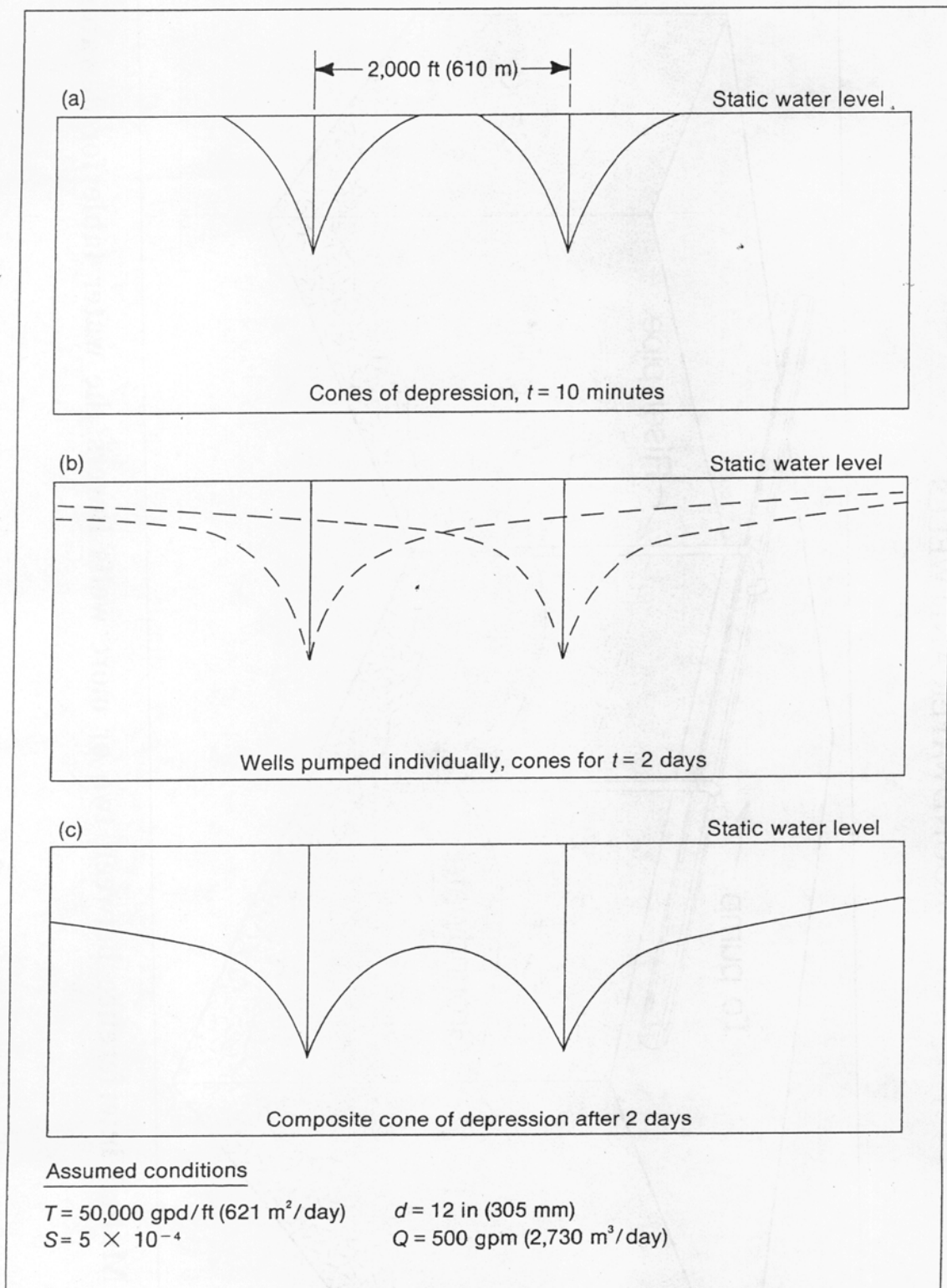


Figure 9.29. Interference between adjacent wells tapping the same confined aquifer. Composite cone is for both wells pumping simultaneously under the assumed conditions.

through this point a straight line having a Δs , or slope, of the calculated value.

WELL INTERFERENCE

The interference or drawdown in another well 300 ft (91.5 m) from the pumped well

TRC #3

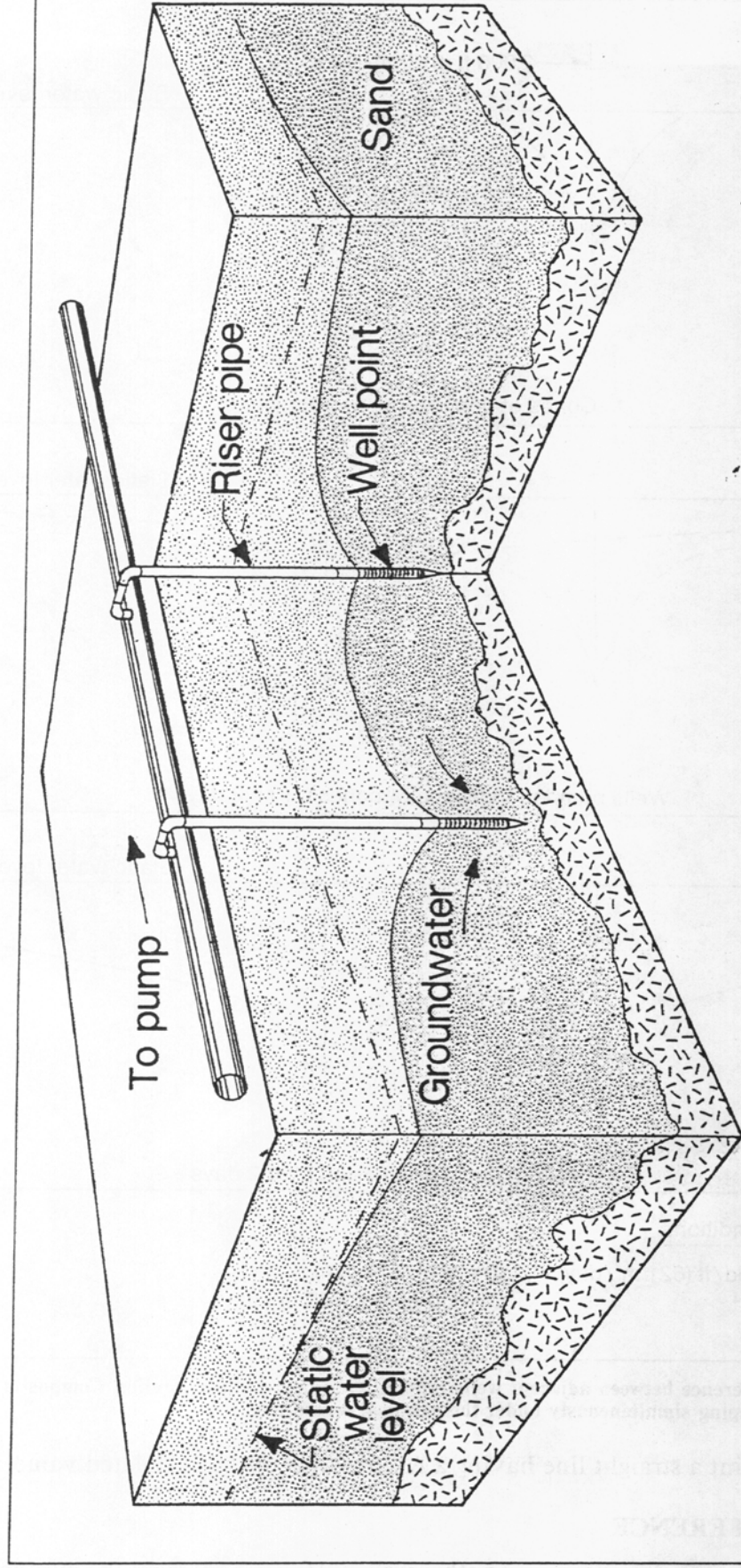


Figure 22.5. Mutual interference between two or more wells lowers the water table for dewatering operations.

vertical drainage of all the water from the saturated zone. In practice, this time lag makes it necessary to start pumping from the well-point system a day or more before excavation begins.



EXHIBIT B
KAW VALLEY EUDORA SAND FACILITY
EUDORA CITY WELL EXHIBIT

PREPARED 1/20/11

NOTES:

1. CITY WELL LOCATIONS ARE PER "WELL LOCATIONS AND PLACE OF USE, CITY OF EUDORA, KANSAS WATER APPROPRIATION PERMIT APPLICATION," DATED 12-17-2003, PREPARED BY BURNS & MCDONNELL.
2. THE DIMENSIONS SHOWN ARE BASED ON APPROXIMATE WELL LOCATIONS AND HAVE NOT BEEN VERIFIED BY FIELD SURVEY.



Civil Engineering
 Landscape Architecture
 Community Planning
 Surveying

Landplan Engineering, P.A.
 1115 Main Street
 Eudora, KS 66520
 The Woodlands, TX • Fort Lauderdale, FL • St. Louis, MO

TRC 5 Modified After: Puzanovich 17 Jan 2011
By: Terrance Reservoir Co 15 Feb 2011

Memorandum

City of Lawrence

Douglas County

Planning & Development Services

TO: Planning Commission

FROM: Sheila M. Stogsdill, Assistant Director

CC: Scott McCullough, Director

Date: For February 23, 2011 Commission Meeting

RE: Item No. 6 - TA-3-3-10: Text Amendment to City/County Subdivision Regulations Update

Staff continues to work on revisions to the City/County Subdivision Regulations to address issues with the Minor & Major Subdivision processes outlined in the code. Draft revisions to Sections 20-808 and 20-809 to address the Chamber of Commerce's concerns regarding changes between Preliminary and Final Plats are attached to begin the review process.

The amendments include proposed changes to process regarding dedications of easements and rights-of-way to move this step from the Preliminary Plat phase to the Final Plat stage by placing administratively approved plats on the governing body's agenda for acceptance prior to filing the plat at the Register of Deeds office. In staff's opinion, this will simplify the dedications process while maintaining the timing efficiencies gained with administrative approval of final plats and replats.

Staff continues to work on technical revisions to the remainder of Article 8 of the Development Code for consistency issues. A draft with housekeeping and formatting revisions throughout the article, including definitions, should be posted within the next few weeks. Staff anticipates scheduling the public hearing for the text amendments to the entire article later this spring.

Attachments:
DRAFT Sections 20-808 and 20-809
Chamber of Commerce letter

20-808 Minor Subdivisions/Replats

Comment [sms1]: Add Replat to title OR change to Replats – probably need to move the section to follow Major Subs after Final Plats

(a) Purpose

The purpose of this administrative process is to provide an ~~more~~ economical and efficient procedure for the adjustment of platted lot lines in developed areas through a ~~Resubdivision~~ or ~~Replat~~ procedure, where an adjustment involves little or no expansion of the public infrastructure. The ~~Minor Subdivision/Replat~~ process allows for a one-step Resubdivision approval process with final action by the ~~Planning Director~~.

Comment [sms2]: Insert replat since this is the local term and it is in the definitions – allows us to use it interchangeably with Minor Sub?

(b) Authority

The ~~Planning Director~~ is hereby authorized to review and approve ~~Minor Subdivisions/Replats~~ in accordance with the procedures of this Section.

(c) Applicability

(1) Within the City of Lawrence, a platted Lot may be ~~split~~ ~~divided~~ into 4 or fewer Platted Lots by using the ~~Minor Subdivision/Replat~~ procedures of this section; provided, that:

- (i) No new ~~Street~~ or extension of an existing ~~Street~~ is created, or
- (ii) A vacation of ~~Streets, Alleys, Setback Lines, Access Control~~ or ~~Easements~~ is required or proposed ~~without placement of the Minor Subdivision/Replat on the Governing Body's agenda for vacation or acceptance.~~

Comment [sms3]: Propose adding the ability to replat with changes to easements/r-o-w by placing minor sub on CC agenda before final administrative approval.

(2) Within the ~~Unincorporated Area~~ of the County, a platted Lot may be ~~split~~ ~~divided~~ into 2 Platted Lots by using the ~~Minor Subdivision/Replat~~ procedures of this section, provided that:

- (i) Each resulting ~~Lot~~ has a minimum lot area that conforms to the County Sanitation Requirements for minimum lot area;
- (ii) The platted lot takes access from a ~~Hard Surfaced Road~~ or from a road that meets or exceeds the ~~County's Rock Road Standard~~;
- (iii) No new ~~Road~~ or extension of an existing improved ~~Road~~ is created, ~~nor~~
- (iv) ~~is~~ a vacation of ~~Roads, Setback Lines, Access Control~~ or ~~Easements~~ required or proposed ~~without placement of the Minor Subdivision/Replat on the Governing Body's agenda for vacation or acceptance;~~ and,
- (v) The ~~lot-split~~ ~~Minor Subdivision/Replat~~ is not prohibited by any other Section of this Article.

Comment [sms4]: Propose adding the ability to replat with changes to easements/r-o-w by placing minor sub on BCC agenda before final administrative approval.

(3) The merger or consolidation of full ~~Lots~~ or full ~~Lots~~ with portions of platted ~~Lots~~ into a fewer number of ~~Lots~~ shall be processed as a ~~Minor Subdivision/Replat~~;

- (4) For the purpose of interpreting the Minor Subdivision/Replat eligibility criteria of this sub-section, any proposed Subdivision that the Planning Director determines is designed, intended, or by proximity to a previous Minor Subdivision or Replat would evade the Major Subdivision procedures of this section by resulting in a *de facto* Major Subdivision, shall not be eligible for the Minor Subdivision/Replat process;
- (5) Lots are eligible only one time for approval of a ~~lot-split~~ division or consolidation through the Minor Subdivision/Replat process and any further divisions or consolidations of the originally platted or newly created Lots shall be processed as Major Subdivisions; however, lot line adjustments or mergers that do not increase the total number of lots may be accomplished through the Replat process even if the property had previously been part of a Minor Subdivision or Replat; and,

(6) The Minor Subdivision/Replat shall contain a general note on the face of it stating: "Further division or consolidation of any Lots contained in this Minor Subdivisions/Replat is prohibited, and shall be processed as Major Subdivisions".

Comment [sms5]: Should this However statement be a separate sub-section?

Comment [sms6]: Do we want to modify this standard to allow for subsequent replats? If so, change (6) too

Comment [sms7]: Does this take care of multiple replats allowed for lot line adjustments and mergers?

Comment [sms8]: Move this section to Application Requirements

(d) Criteria for Review

A Lot or group of Lots submitted as a Minor Subdivision/Replat shall be approved if all of the following criteria are met:

- (1) The proposed division(s) or consolidation(s) meets the criteria of one of the types of divisions or consolidations eligible for review through the Minor Subdivision/ Replat process under Section 20-808(c);
- (2) All lots created through the Minor Subdivision/Replat process conform to the lot size requirements of the underlying zoning district;
- (3) (2)Each Lot resulting from the ~~split~~ division or consolidation will have direct access to an existing public Street/Road that meets current adopted access and improvement standards or will meet such standards as a result of improvements required as a condition of approval of the Minor Subdivision/ Replat;
- (4) (3)If the property is located adjacent to a public Street/Road right-of-way that does not meet the minimum right-of way standard of Section 20-810(d)(4e), approval of the Minor Subdivision/Replat will be subject to the condition that the Subdivider dedicate to the City or County, as applicable, one-half the additional land necessary to bring the road(s) adjoining the land to be divided to the required minimum right-of-way standards.
- (i) All necessary off-site Deductions shall be filed by separate instrument with the Register of Deeds and proof of these dedications shall be provided to the Planning Director. No final action shall be taken on the Minor Subdivision/Replat until this additional right-of-way dedication has been recorded; or
- (ii) The Replat is placed on the Governing Body's agenda for acceptance of the additional right-of-way prior to final approval of the Minor Subdivision/Replat.

Comment [sms9]: Check reference

Comment [sms10]: Reformatted to outline form and added option to place on GB agenda for acceptance.

- (5) ~~(4)~~If any portion of the property within the **Minor Subdivision/ Replat** lies in a FEMA designated regulatory floodplain, or if drainage Channels or Swales exist on the property that carry runoff from adjacent property or public **Street/Roads**, the FEMA designated regulatory floodplain or drainage Channel or Swale shall be protected by grant of **Easement, Dedication** or other similar devise as may be required by the **Planning Director**. No final action shall be taken on the **Minor Subdivision/Replat** until this dedication has been recorded, either by:
- (i) **Dedication by separate instrument, or**
 - (ii) **The Replat is placed on the Governing Body's agenda for acceptance of the additional right-of-way prior to final approval of the Minor Subdivision/Replat**
- (6) ~~(5)~~The **Owner** shall provide written documentation for **splits divisions** or combination of lots in the Unincorporated Area of the County to the **Planning Director** providing proof that the proposed **Lots** will have:
- (i) Access to **Publicly Treated Water** delivered through a water meter; and,
 - (ii) Test holes for an **On-site Sewage Management System** have been reviewed and approved by the Director of Lawrence/Douglas County Health Department.
- (7) ~~(6)~~The proposed **Lots** and all other aspects of the proposed **Minor Subdivision Replat** conforms with the current **Comprehensive Land Use Plan** of Lawrence and Douglas County;
- (8) ~~(7)~~The **Minor Subdivision/Replat** conforms with the adopted **Major Thoroughfares Map** in the **Comprehensive Land Use Plan** and does not preclude or interfere with the subsequent logical continuation of any **Street/Roads** shown thereon affecting the land included in the proposed **Minor Subdivision/Replat** or the original platted subdivision;
- (9) ~~(8)~~The proposed **Minor Subdivision/Replat** is consistent with any conditions imposed on the original platted **Subdivision** from which the lots being **split divided** or consolidated were originally platted; and,
- (10) ~~(9)~~The **Minor Subdivision /Replat** conforms to the Kansas Minimum Standards for Boundary Surveys.

(e) Application

- (1) Requests for **Minor Subdivision/Replat** approval shall be submitted to the Planning Director.
- (2) Each application shall be submitted on a form provided by the Planning Director and shall be accompanied by:
- (i) The applicable review and recording fees;
 - (ii) ~~Ten~~ **Five** Copies of **scaled drawings** of a **Minor Subdivision/Replat as required by the Planning Director**, certified by a licensed **Land Surveyor**, ~~at a scale of one inch equals 30 feet or less~~; and

Comment [sms12]: Remove specific number from code and let that be determined by application packet (may change over time as workflow changes)

Comment [sms13]: Do we need to specify scale?

- (iii) A certificate that all taxes and special assessments due and payable have been paid.
 - a. Any unpaid special assessments shall be noted with the application submittal and a proposed redistribution plan for these unpaid special assessments, which meets the City Clerk and City Engineer requirements for lots within the City of Lawrence or with the County Clerk and County Engineer requirements for lots within the unincorporated area of Douglas County, also shall be submitted with the application.

(f) Contents

- (1) ~~(3)~~ The ~~re~~Replat shall contain the following information:
- (i) A title that includes the original lot numbers and subdivision name and an indication that this is a replat of said lots in the subdivision;
 - (ii) Legal description of the property, including a benchmark or other vertical reference point tied to the United States Geological Survey;
 - (iii) Location map identifying community features and the nearest existing public right(s)-of way within a one mile radius of the site;
 - (iv) Location and dimensions of existing and/or ~~proposed~~ Easements and utilities;
 - (v) Dimensions and locations of the new lots to be created through the division or consolidation;
 - (vi) Location and width of ~~access~~ driveways, existing and proposed;
 - (vii) Dimensions of all existing Structures in relation to existing and proposed Lot Lines;
 - (viii) Signature of the Owner, properly attested;
 - (ix) A signature and date line for approval by the Planning Director, stating "Approved as a Minor Subdivision/Replat under the Subdivision Regulations of the City of Lawrence and the Unincorporated Area of Douglas County";
 - (x) A line on the survey for the review date and signature of the County Surveyor beneath a note stating: "Reviewed in compliance with K.S.A. 58-2005"; ~~and,~~
 - (xi) A signature and seal of the Land Surveyor licensed by the State of Kansas, who performed the survey for the Minor Subdivision/~~re~~Replat~~and~~
 - (xii) A note on the face of the Replat which states: "Further division or consolidation of any lots contained in this Replat is prohibited, and shall be processed as a Major Subdivision, unless the action meets the exception noted in 20-808(c)(5)."

Comment [sms14]: Insert potential for new to be provided through gov body acceptance

Comment [sms15]: Does this correctly capture the intent?

(g) ~~(f)~~ Review and Action by the Planning Director

- (1) Upon receipt of a complete application, the Planning Director shall review the application for conformance with applicable regulations.
- (2) The Planning Director shall conduct the review of the application within 20 days of receipt of the complete application. If the Planning Director finds that the Minor Subdivision/Replat conforms to all of the standards set forth in this Section, the Director shall sign and date an original Mylar copy of the ~~re~~ Replat.
- (3) If the Planning Director finds that the Minor Subdivision/Replat fails in any way to conform to the standards set forth in this Section or that the proposed division or consolidation is not eligible for consideration as a Minor Subdivision/Replat, the Planning Director shall refuse to approve the proposed Minor Subdivision/Replat and shall notify the Applicant by letter of the reason(s) for such refusal. If the deficiency or other reason for denial can be cured through action of the Applicant, the Applicant may submit a revised application and map within 45 days after receipt of such letter and shall not be required to pay an additional fee. If the reason for denial is that the proposed division or consolidation is not eligible for consideration as a Minor Subdivision/Replat, the Subdivider may submit an application for Major Subdivision approval at any time.
- (4) The Planning Director shall forward a signed, original Mylar copy of the Minor Subdivision/ ~~re~~ Replat to the Register of Deeds for recording.
- (5) A copy of the signed original Mylar shall be furnished to the Applicant.
- (6) Appeals of the Planning Director's decision on a Minor Subdivision/ Replat shall be subject to Section 20-813(f)(1).

Comment [sms16]: Add something to this section regarding requirement that each lot resulting from the division must conform to zoning district requirements (810(d)(2))

Comment [sms17]: We do not do this. Is this something that Reg of Deeds office provides?

(h) Review and Action by the Governing Body

- (1) If the Planning Director determines that the Minor Subdivision/Replat includes a proposal to dedicate or vacate easements and/or rights-of-way, the Minor Subdivision/Replat shall be placed on the Governing Body's agenda for acceptance or vacation of easements and/or rights-of-way following the appropriate review process and prior to the Planning Director's approval of the application.

Comment [sms18]: Inserted new step to allow GB action – check w/Legal – can we include vacation?

20-809 Major ~~Residential and Non-Residential~~ Subdivisions

(a) Purpose

The **Major Subdivision** procedures of this Section are intended to provide a standardized review process for Preliminary and Final Plats. The **Major Subdivision** process requires a two-step review process with final approval by the Planning Commission **Director** and acceptance of any **Dedications** by the appropriate Governing Body.

(b) Applicability

(1) The **Major Subdivision** procedures of this section apply to all Major Residential and Non-Residential Subdivisions that are not eligible for review in conformance with the **Certificate of Survey** Administrative **Review** Procedures or the **Minor Subdivision/Replat** process.

(2) Residential Subdivisions are not permitted in the unincorporated area of Douglas County, **except on property zoned A-1 or R-1 prior to January 1, 2007.**

(3) Non-Residential, ~~Commercial and Industrial~~ Subdivisions are permitted in the Unincorporated Area of Douglas County.

(c) Applications and Procedures

- (1) The General Review and Approval Procedures set forth in Section 20-~~802~~ shall apply to all applications under this Section;
- (2) ~~Applications under this Section shall contain the materials required under Section 20-811(j)(4). 20-812.~~
- (2) **Specific application and Preliminary Plat contents are provided in Section 20-809(e) & (f);**
- (3) **Specific application and Final Plat contents are provided in Section 20-809(I) & (m).**

(d) Criteria for Review

Approval or disapproval of **Major Subdivisions** shall be based on the following criteria:

- (1) Each **Lot** resulting from the division will have direct access to a public **Street/Road** that has been accepted by the county or city or a private street that has been approved as part of a Planned Development;
- (2) Each **Lot** resulting from the division will conform with the minimum **Lot** size and other dimensional requirements applicable to the property through the Zoning District regulations;
- (3) The proposed **Major Subdivision** and all **Lots** within it conform fully with the standards set forth in Section 20-810~~(a)(2)~~;

Comment [sms20]: correction

Comment [sms21]: edit

Comment [sms22]: all others are non-res, no need to list out and argue later about some type that isn't listed

Comment [sms23]: Should we add something specific about legal notice and mailed notice for prelim plats? All of the other notice info is in Article 13 and doesn't reference Sub Regs – **Add notice requirements in 802**

Comment [sms24]: correction

Comment [sms25]: All of Sub Design Stds should apply

- (4) The proposed **Lots** and all other aspects of the proposed **Major Subdivision** conforms with the current **Comprehensive Plan** of Lawrence and Douglas County; and watershed/sub-basin plans, sector or neighborhood plans;
- (5) The proposed **Major Subdivision** conforms with any adopted **Major Thoroughfares Plan** and provides for the logical continuation of any **Street/Roads** shown thereon affecting the land included in the proposed **Major Subdivision**;
- (6) The proposed **Major Subdivision** shall provide for a logical connection of streets between adjacent subdivisions taking into consideration constraints from steep topography and other natural features that may limit street connectivity but allow for pedestrian connectivity, shall conform with adopted watershed/sub-basin plans, sector or neighborhood plans for street layout;
- (7) The proposed **Major Subdivision** conforms to the adopted master plans for the water and wastewater systems and conforms to the overall drainage basin master plan; and
- (8) The Major Subdivision plat conforms to the Kansas Minimum Standards for Boundary Surveys.

(e) Preliminary Plat – Application

A **Subdivider** shall apply for Preliminary Plat approval by submitting an application to the **Planning Director**.

- (1) ~~The application shall contain the materials required by Section 20-812(a), as well as any additional materials required as part of the application form provided by the Planning Director.~~
- (2) Each application shall be accompanied **by**:
 - (i) The applicable filing fee;
 - (ii) A completed Major Subdivision-**Preliminary Plat** application form;
 - (iii) The required number of **paper** copies **and an electronic copy of** for a complete submission of a Preliminary Plat, ~~containing all elements set forth in Section 20-812(a); and,~~
 - (iv) A drainage plan for Major Subdivisions if within the City limits, or for Major Non-Residential Subdivisions that are located within an Urban Growth Area.

Comment [sms26]: Is this section redundant of (1) above? Do we need to repeat or should it be consolidated into one listing?

(f) Preliminary Plat Contents

The Preliminary Plat shall be drawn to a scale where all features presented are **readable**.

- (1) **Materials to be Included**
The Preliminary Plat shall:
 - (i) State the name of the proposed Subdivision;
 - (ii) List names and addresses of the Subdivider, the land planner or Subdivision designer (if any) and the licensed land Surveyor;

Comment [sms27]: Add in electronic copy of submission here? Or back with application requirements in 809(c)

Comment [sms28]: Section moved from 812

- (iii) Show date of preparation, north arrow and graphic scale;
- (iv) Identify the Plat as a Preliminary Plat;
- (v) Give a legal description of the proposed Subdivision complete with section, township, range, principal meridian, county, and acreage. Show the location of the nearest section and/or quarter-section corner on the Plat, with a description tying it to the point of beginning for the Subdivision. A replat shall not be required to be referenced to a section and/or quarter-section corner, provided the original Plat for the subject replat is tied to at least one of these corner monuments;
- (vi) Include location, description and elevation of all benchmarks established or source used for vertical control. There must be at least one established vertical control point as the basis for the topographic survey included with the application;
- (vii) Show names of adjoining Subdivisions or, in the case of unplatted land, the names of the Owner or Owners of adjoining property;
- (viii) Show topography (contour interval not greater than 2 (feet) of the site. Topography shall be consistent with City of Lawrence and/or Douglas County aerial topography. Where land disturbance, grading or development has occurred on a site or within 100 feet of the subject site since the date the City of Lawrence and/or Douglas County, whichever is applicable, obtained aerial topography, an actual field survey shall be required;
- (ix) Show on the face of the Plat or on a separate sheet, a general location of the proposed Subdivision. The general location map shall be drawn to an appropriate scale and shall show the relationship of the proposed Subdivision to the following:
 - a. The nearest Intersection of public Streets;
 - b. If not in the City, any state highway located within one-half mile of the property;
 - c. If in the City, any public school or park located within one-quarter mile of the property. If in the County, any public school located within one mile of the property;
 - d. If in the Urban Growth Area, the nearest City Limits, and the nearest boundary of the Urban Growth Area;
 - e. The zoning of the property and any other Zoning Districts located within one-quarter mile (if in the City or within the Urban Growth Area) or within one-half mile (if in the Rural Area).

Comment [sms29]: this could require survey work on someone else's property that the applicant does not have permission to do

(2) Existing Conditions

The Preliminary Plat shall also show the following existing conditions:

- (i) Location of any area designated as Floodplain or Regulatory Floodplain, location and direction of the flow of existing water courses; and the surface elevation of the Regulatory Flood.

- (ii) Location of any area zoned "Floodplain" in the Floodplain Overlay District, location and direction of flow of all water courses; and Base Flood Elevation at water course entrances to and exits from the proposed Subdivision;
- (iii) Location of section lines, private or public Streets, Alleys, Easements, and city boundaries within and immediately adjacent to the proposed Subdivision;
- (iv) Location of natural features such as rock outcroppings, unique topographic features, lakes, individually significant mature trees, and insofar as can reasonably be shown, natural features to be removed;
- (v) Boundaries of significant stands of mature trees, Jurisdictional Wetlands, historic sites and Archaeological Sites on the property proposed for subdivision;
- (vi) Existing use of the property, including the location of all existing buildings, indicating those that will be removed and those that will remain on the property after the Final Plat is recorded;
- (vii) Horizontal location and vertical elevation (if available) of existing sanitary sewers, storm water sewers, and culverts within and adjacent to the proposed Subdivision, and the location of existing water mains, underground wiring, pipelines, and gas lines;
- (viii) Zoning of all land within and adjacent to the tract;
- (ix) Location, description and elevation of all bench marks established or source used for vertical control;
- (x) Types of soil, with the soil types generally indicated on the Preliminary Plat or a supplemental sheet; and,
- (xi) For a Subdivision that will rely on the use of On-Site Sewage Management Systems, a summary of available information on the subsurface Water Table, including the depth of the Water Table at the highest, lowest and typical locations within the Subdivision.
- (xii) Add note from 20-811(f) regarding underground utilities

Comment [sms30]: Delete this text and insert new text from Env Sensitive Lands text amendment

Comment [sms31]: Reqmt for note is listed in 811 Public Improvements, should be included here

(3) **Streets; Sites**

The Preliminary Plat shall further show the following:

- (i) Proposed Streets (including location, width, names, approximate grades), and their relation to Platted Streets or to proposed Streets as shown on any Watershed/Sub-basin Plan, sector or Neighborhood Plan of adjacent property.
- (ii) Easements, showing width and general purpose;
- (iii) Blocks and Lots, showing approximate dimensions and proposed Block and Lot numbers;

- (iv) Sites designated for other than single-family use by the adopted comprehensive or appropriately adopted Watershed/Sub-basin Plan, Sector or Neighborhood Plan. (Such plan shall be referenced on the face of the Plat);
- (v) Sites proposed for Dedication as drainageway, park, school, or other public purposes;
- (vi) Sites proposed by the Applicant for land uses not in conformance with adopted comprehensive or neighborhood plans accompanied by a note on the face of the Plat stating that approval of the Preliminary Plat does not certify approval of these proposed land uses.
- (vii) If requested by Planning Staff, the Building Envelope for proposed Lots.
 - a. Any Lot that is not rectangular or that has a single dimension of less than 55 feet shall show the Building Envelope permitted under the current Zoning District regulations;
 - b. A note referring to such Building Envelope shall be included on the face of the Preliminary and Final Plats regarding filed on a separate document in the Planning Department shall identify the applicable Zoning District and the date of the Zoning provisions on which the preparer has relied in designating the Building Envelope.

Comment [CoL32]: From 810(a) Design of Lots – more applicable here & in Final Plat contents than in Design Standards

(4) **Supplemental Data**

The following supplementary data and information shall be submitted with the Preliminary Plat or be included thereon:

- (i) A table, shown on the face of the Plat, including this data:
 - a. Gross acreage of the Subdivision;
 - b. Acreage within each Zoning District;
 - c. Acreage to be dedicated for Streets or roads, if any;
 - d. Acreage to be dedicated for public uses other than roads, if any;
 - e. Total number of building Lots;
 - f. Maximum, minimum, and average Lot size; and
 - g. Phasing schedule if proposing phasing of final platting.
- (ii) A statement on the face of the Plat, stating the method to be used for financing Public Improvements in the Subdivision and providing references to statutes, covenants or other sources for further information on the details of such financing. Such statement shall contain a heading in at least 24-point type saying "Provision and Financing of Roads, Sewer, Water and Other Public Services." The rest of the statement shall be set out in at least 12-point type. At a minimum such statement shall indicate:

- a. Whether the Subdivision will have public Streets and roads, Private Streets and roads or a combination thereof;
 - b. Whether the Subdivision will provide connections to a Public Water source (naming the source);
 - c. Whether the Subdivision will provide connections to a public system for wastewater treatment (naming the system) or will rely on On-Site Sewage Management Systems or other on-site wastewater treatment systems;
 - d. Whether purchasers of Lots in the Subdivision will be subject to special assessments or other costs or fees specific to the Subdivision to pay for the capital costs of Streets, roads, water lines and treatment, and/or wastewater lines and treatment; and
 - e. Whether the provision of improved roads, water service and/or wastewater service will depend in any way on a vote, petition or other collective action of property Owners in the Subdivision.
- (iii) A separate narrative, explaining in detail the general nature and type of Public Improvements proposed for the Subdivision, and the manner by which the Subdivider intends to provide for their installation, as for example, by Public Improvement Petition, actual construction, escrow deposit, or performance bond. If other than by Public Improvement Petition, the approximate time for completion of such Improvements should be indicated.

(5) Stormwater Drainage – City of Lawrence

(i) Supplemental Data

The Preliminary Plat shall contain data, information and supplemental maps of surrounding property in sufficient detail regarding storm water drainage issues, as determined by the ~~Staff of the Planning Department~~ Planning Director or the Planning Commission. The ~~Staff of the Planning Department~~ Planning Director or the Planning Commission may request additional data, information and supplemental maps from the Applicant regarding storm water drainage, as appropriate.

(ii) Minimum Floor Elevations

On lots adjacent to all Drainage Easements and on drainageways that are designated by the Director of Public Works or his or her designee the Preliminary Plat and Final Plat shall indicate:

- a. The required minimum habitable floor elevations for Structures on Lots; or,
- b. The minimum elevation for a foundation opening(s) which shall be certified by a licensed land Surveyor or Engineer.

- c. [If a Basement is built on a Lot where a minimum elevation has been established, the building design is encouraged to incorporate a sump pump.] |

(g) Review and Action by the Planning Commission

- (1) The Planning Commission shall conduct the review of the application at the meeting at which it is scheduled by the Planning Director, unless the Subdivider shall request deferral to a future meeting. The Planning Commission shall take final action on the Preliminary Plat at a meeting occurring not later than 60 days after the date of receipt of a complete application by which the Planning Director has determined is ready to be placed on an agenda for the Planning Commission's initial receipt of the Preliminary Plat, that the Planning Director has found to be a complete application.
- (2) If the Planning Commission finds that the proposed Major Subdivision Preliminary Plat conforms to all of the criteria set forth in Section 20-804(d), 20-809(d) the Planning Commission shall approve the Preliminary Plat.
- (3) If the Planning Commission finds that the proposed Major Subdivision Preliminary Plat fails in any way to conform to the standards set forth in this paragraph, Section 20-809(d), the Planning Commission shall, by motion, deny approval to the proposed Preliminary Plat and shall state in the motion the reason(s) for that denial.
- (4) The Planning Director shall give written notice to the Subdivider of the action of the Planning Commission. If the Preliminary Plat has been disapproved, or conditionally approved, the notice shall specifically state the ways in which the Major Subdivision or the Preliminary Plat fails to conform to these Subdivision Regulations.
- (5) If the deficiency or other reason for denial can be cured through action of the Applicant, the Applicant may submit a revised application and Preliminary Plat within 60 days after receipt of the written notice and shall not be required to pay a further fee. In case of a resubmission, the Planning Commission shall consider the resubmitted application at the next meeting occurring at least 21 days after receipt of the complete resubmission by the Subdivider.
- (6) If the Planning Commission fails to act on the Preliminary Plat within 60 days of the date of their first meeting occurring after the receipt of a Preliminary Plat on their agenda, determined to be a complete application by the Planning Director, the Subdivider may, by letter, apply to the Planning Director for a "Certificate of Deemed Approval". If the Planning Director finds that a complete application was received at least 60 days before the date of the letter and that no action has been taken by the Planning Commission, the Planning Director shall issue a "Certificate of Deemed Approval" indicating that "this Preliminary Plat shall be deemed approved due to a failure of the Planning Commission to take timely action in accordance with K.S.A. 12-752(b)."

Comment [sms34]: Sentence did not read correctly, trying to state the intention – 60 days starts from when PC first has it before them on an agenda

Comment [sms35]: correction

Comment [sms36]: Awkward text – clarify that the 60 days is from PC receipt rather than submittal to office

(h) Phasing for Final Plats

- (1) A Preliminary Plat may, at the option of the applicant, contain a proposed schedule for submitting Final Plat applications in phases. The Planning Commission may approve the proposed phasing plan if it finds that:
 - (i) The area represented by each proposed phase is of sufficient size to permit the economical installation of Public Improvements;
 - (ii) All parts of the necessary public and private improvements plans to serve the Major Subdivision Preliminary Plat will be provided concurrently with the phase which will first be served by those improvements or part thereof, or with an earlier phase; and
 - (iii) ~~Dedication of All perimeter rights-of-way shall be dedicated for the entire Preliminary Plat occur with the first Final Plat phase of the approved preliminary plat.~~
 - (iv) ~~That the application for the last phase of the Final Plat will be due no later than the end of the fifth year after approval is given for the Preliminary Plat.~~

Comment [sms38]: Reference to vesting. 801(e)(4) refers to KSA 12-764 which was amended in 2009.

Comment [sms39]: Do we really need to track prel plat for future phases? Usually, the later phases have changed circumstances and a revised prelim is required.

(i) Effects of Approval by the Planning Commission

- (1) Approval of the Preliminary Plat by the Planning Commission shall constitute approval of "the Plat" for purposes of K.S.A. 12-752(b), subject only to the following:
 - (i) Submission of a Final Plat, in the form and containing all of the information required by Section 20-812(b). The Final Plat shall be consistent in substantial compliance with the Planning Commission's approval of the Preliminary Plat, including satisfying any conditions imposed on that approval; and
 - (ii) Completion of Street/Roads, roads and Public Improvements required by the terms of the approval of the Preliminary Plat, or provision of satisfactory Guarantees of Completion of Improvements, in accordance with Section 20-811(g)(8)-(h)(2); and
 - (iii) ~~Development of Building Envelopes and drainage plans consistent with these Building Envelopes; and~~
 - (iv) ~~Acceptance (or rejection) of all proposed Dedications by the Governing Body.~~

Comment [sms40]: Correct reference

Comment [sms41]: Is this subsection needed? If Final Plat must comply with approved Prelim, these items are covered.

Comment [sms42]: Eliminate since Prelims won't go to GB, Final will be placed on GB agenda for acceptance prior to admin approval

(j) Preliminary Plat — Review and Action by Governing Body

- (1) ~~A Preliminary Plat that has been approved by the Planning Commission shall be submitted to the Governing Body, as applicable, for its consideration of acceptance of the Dedication of Street/Roads and other public ways, service, and utility Easements and any land dedicated for public purposes.~~
- (2) ~~The Governing Body shall accept or refuse the Dedication of land for public purposes within 30 days after the first meeting of the Governing Body following the date of the Preliminary Plat's submission to the Clerk of the appropriate~~

~~Governing Body. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional review and recording fees shall be assessed during that period.~~

- ~~(3) If the Governing Body defers or refuses these Dedications, it shall advise the Planning Commission of the reasons thereof.~~
- ~~(4) Failure of the Governing Body of the city or of the county to accept affirmatively a Dedication shown on the Preliminary Plat shall be deemed to be a refusal of the proposed Dedication.~~
- ~~(5) The respective Governing Bodies maintain full legislative discretion to reject any proposed Dedication, regardless of the approval of the Preliminary Plat. If the Governing Body rejects part or all of a proposed Dedication, the Subdivider may amend the Preliminary Plat and resubmit it for consideration by the Planning Commission without the rejected Dedication; if the Subdivider takes no action within 60 days of the rejection of any proposed Dedication, it shall constitute failure of a material condition of the approval of the Preliminary Plat and the Preliminary Plat shall be deemed to have been rejected.~~

(j) Preliminary Plat Expiration

- (5) Approval of a Preliminary Plat by the Planning Commission shall expire ~~on the later of the following:~~
 - (i) ~~Eighteen~~ Twenty four months from the date approval was granted, unless a complete application for Final Plat is submitted by that approval date; ~~or~~
 - (ii) ~~Any application due date as shown on an approved phasing schedule, unless a complete application for Final Plat is submitted by that due date.~~
- (6) Upon application by the Subdivider, the Planning Commission may, if the cause of failure of the Subdivider to submit a Final Plat is beyond the Subdivider's control, grant an extension of the time beyond this period, for a 24 month period ~~for good cause shown~~. Such request for extension must be submitted to the Planning Director prior to the expiration of the 24 month approval period. ~~not to exceed one additional year.~~
- (7) ~~If a Preliminary Plat expires under this sub-section after one or more Final Plats for a phased subdivision have been approved, then only that portion of the Preliminary Plat that relates to the phases with respect to which no Final Plat has been approved shall expire. If a Final Plat has not been submitted, approved, and filed within this 18-24-month period, or within an extension period, a Preliminary Plat must be resubmitted to the Planning Commission, reviewed and considered by the Planning Commission in accordance with the procedures set forth herein.~~

Comment [sms43]: This section seems really hard to manage and administer. Easier to lengthen approval process and permit extensions.

Comment [sms44]: Use language we used in site plan section for consistency.

Comment [sms45]: Once a final is filed, the remainder of the prelim should be good until revised or completely finalized out.

(k) Final Plat – Application

The Subdivider may initiate review of the Final Plat at any time after approval of the Preliminary Plat by the Planning Commission, including satisfaction of all conditions of

Comment [sms46]: This section should be written similar to (e) for Prelim Plat application. STILL NEED TO INSERT INFO FROM 812 HERE

Preliminary **Plat** approval. The Final Plat shall be processed in accordance with the provisions of Section 20-809(l):

- (1) The Final Plat shall be submitted with an application form provided by the Planning Director. The application shall contain all of the materials required by Section 20-812(b), as well as any additional materials required by the application form provided by the Planning Director.
- (2) The Final Plat application shall be accompanied by all required fees, including the fees necessary for recording the Final Plat; **and**
- (3) The Final Plat shall be in the format and contain the information required by Section 20-812(b), except that the Subdivider, at the Subdivider's discretion, may **delay submission of the recording and electronic copies** of the Final Plat until final action on the Final Plat by the Planning Director and, if applicable, by the Governing Body; **and**
- (4) **For Final Plats which represent only a phase of an approved Preliminary Plat and include minor revisions from the approved Preliminary Plat, as reflected in 20-809(m)(2)(i), a revised Preliminary Plat that includes the proposed revisions shall be submitted with the Final Plat application for record keeping purposes.**

(l) **Final Plat – Contents**

INSERT SUBMISSION REQUIREMENTS FROM 20-812(b) HERE

(m) **Final Plat – Review and Action by Planning Director**

- (1) After approval or approval with conditions of a Preliminary Plat by the Planning Commission **and prior to approval of public improvement plans**, the Subdivider shall have prepared for recording a Final Plat, which is consistent with the action of the Planning Commission and with the formatting and content requirements of Section 20-812(b). ~~20-809(l). The Planning Director shall review the Final Plat for incorporation of the Planning Commission's recommendations and comments and to insure that the Final Plat is in the required format.~~
- (2) If the Planning Director finds that the submitted Final Plat conforms with the content requirements of Section ~~20-812(b)~~ **20-809(l)** and is **consistent in substantial compliance** with the Preliminary Plat approved by the Planning Commission, including satisfying any conditions incorporated in that approval, the Planning Director shall approve the **Final** Plat and attach to it a formal certification that the submitted Final Plat:
 - (i) ~~Conforms to~~ **Is in substantial compliance with** the Preliminary Plat previously approved by the Planning Commission. **The Final Plat**

Comment [sms48]: This becomes our new base PP for review of future final plats.

Comment [sms49]: Staff suggestion instead of Chamber inclusion in list of 'substantial compliance' criteria

Comment [sms50]: This is a new subsection - should be written similar to (e) for Prelim Plat application. STILL NEED TO INSERT INFO FROM 812 HERE

Comment [sms51]: Subsection with most of Chamber suggestions (shown in red), Staff suggestions shown in green

Comment [sms52]: May need to change this if moving contents to this section

shall be deemed to be in substantial compliance with the previously approved Preliminary Plat if one or more of the following criteria are met, as applicable:

- a) No change.
 - b) Increase or reduction, less than or equal to ten percent, of the number of ~~proposed~~ approved lots, parcels or tracts shown within the equivalent portion(s) of the Preliminary Plat.
 - c) ~~Minor~~ **A** adjustments to rights-of-way lines, easement lines and/or property lines to account for technical changes related to the proposed public improvement plans. ~~in accord with applicable street classification standards, easement width and location criteria, the Subdivision Regulations, dimensional and lot area requirements, density requirements, and with variances and/or waivers which may have been granted with previous approval of the equivalent portion(s) of the Preliminary Plat;~~
 - d) Preservation of the general form of the approved Preliminary Plat with regard to overall layout, public and/or private vehicular and pedestrian connection, area set aside for public space and/or open space, and required utility corridors.
 - e) ~~Determination by the Planning Director as to whether above-described changes, if applicable, are required to be retroactively included in a revised Preliminary Plat for Planning Office records;~~
- (ii) Satisfies any conditions of approval imposed by the Planning Commission;
 - (iii) Includes the same **proposed** Dedications ~~accepted by the Governing Body,~~ subject **only** to minor technical adjustments **as described in (m)(2)(i)(a) through (d), above;**
 - (iv) ~~Satisfies any conditions of acceptance of Dedications imposed by the Governing Body;~~
 - (v) Represents a plat for which all required Public Improvements have been completed, or for which adequate Guarantee of Improvements has been provided; and
 - (vi) Is otherwise consistent with the requirements of this Article for a Final Plat.
- (3) If the Planning Director finds that the submitted Final Plat is deficient as to format or content or otherwise technically deficient, the Planning Director shall notify the Subdivider of the deficiency(ies) within **5** working days.
 - (4) If the Planning Director finds that the submitted Final Plat does not substantially comply with the approved Preliminary Plat, including any conditions incorporated in such approval, and with the Dedications shown on the Preliminary Plat ~~and accepted by the appropriate Governing Body,~~ **subject to 20-809(m)(2)(i)(a) through (d), above,** the Planning Director shall place the Final Plat on the agenda of the next Planning Commission meeting for further consideration in

Comment [sms54]: Included this in 809 (k) (4) above

Comment [sms55]: 802(f) indicates 7 + 2 working days – not consistent with rest of dev code -- Changed to 5 in 802

accordance with the Preliminary Plat review and action provisions of Section ~~20-804(e)(2)~~, 20-809(g).

- (5) The Planning Commission approval of the Preliminary Plat combined with the Planning Director's approval as to form and ~~consistency~~ **substantial compliance** with the approved Preliminary Plat shall constitute Planning Commission approval of the Final Plat. No further action by the Planning Commission shall be necessary or required.
- (6) ~~Add in submittal requirements, Planning Director review and process to take the final plat to the City Commission.~~

Comment [sms57]: Modified the action by GB on prelim plat and moved it to subsection below

(n) Final Plat – Review and Action by Governing Body

- (1) A Final Plat that has been approved by the Planning Director shall be submitted to the Governing Body, as applicable, for its consideration of acceptance of the Dedication of Street/Roads and other public ways, service, and utility Easements and any land dedicated for public purposes.
- (2) The Governing Body shall accept or refuse the Dedication of land for public purposes within 30 days after the first meeting of the Governing Body following the date of the Final Plat's submission to the Clerk of the appropriate Governing Body. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional review and recording fees shall be assessed during that period.
- (3) If the Governing Body defers or refuses these Dedications, it shall advise the Planning ~~Commission~~ Director of the reasons thereof.
- (4) Failure of the Governing Body of the city or of the county to accept affirmatively a Dedication shown on the Final Plat shall be deemed to be a refusal of the proposed Dedication.
- (5) The respective Governing Bodies maintain full legislative discretion to reject any proposed Dedication, regardless of the approval of the Final Plat. If the Governing Body rejects part or all of a proposed Dedication, the Subdivider may amend the Final Plat and resubmit it for consideration by the Planning Director without the rejected Dedication; if the Subdivider takes no action within 60 days of the rejection of any proposed Dedication, it shall constitute failure of a material condition of the approval of the Final Plat and the Final Plat shall be deemed to have been rejected.

Comment [sms58]: Correction

(o) Signatures on Final Plat

If the Planning Director has approved and certified the Final Plat in accordance with Section 20-809~~(4)~~(m), the Planning Director within 5 working days of receipt of the recordable copies of the Final Plat, shall submit the Final Plat to the Chair of the Planning Commission and to the Mayor or Chairperson of the Board of County Commissioners, as applicable, for signatures. Each of these persons shall, if he or she accepts the certification of the Planning Director, sign the Final Plat, including the

"Acceptance of Dedications" certificate; if any of these persons refuse to sign the Final Plat, he or she shall refer the Final Plat to the Planning Commission for consideration at its next meeting in accordance with the requirements of Section ~~20-809(e)~~20-809(g), together with a memorandum explaining the reasons why such person refused to sign it.

(p) **Processing after Approval of Final Plat**

- (1) After all signatures have been obtained **and all other requirements of this Article have been completed**, the **Planning Director** shall forward the recordable copy of the **Final Plat** to the Register of Deeds for recording. The recorded version of the **Plat** shall bear the endorsements herein provided (~~see Section 20-812(b)(2)~~) **20-809(l)** including the endorsement by the **Governing Body** accepting the Dedications.
- (2) Upon approval and acceptance of all **Final Plats** that create new **Street/Roads**, ~~if a Major Non-Residential Subdivision in the Unincorporated Area of Douglas County, Kansas,~~ detailed **Street/Road** plans shall be submitted to **and approved by either the County Engineer or City Engineer, as applicable,** ~~and, if the Major Subdivision is in the City, detailed Street/Road plans shall be submitted to and approved by the City Engineer for approval prior to filing~~ **recording** of the **Final Plat**, and these plans shall include the following:
 - (i) Plan, profile, ditch grades, and cross-sections of all **Street/Roads, Alleys** and other public ways; ~~and,~~
 - (ii) Drainage areas and size and length of cross-road drainage **Structures**.
- (3) Prior to the **Final Plat** being recorded with the Register of Deeds, a digital version of the **Plat** shall be submitted to the **Planning Director** in a format approved by the ~~Director of Planning~~ **Director**. The digital file shall be registered to the State Plane Coordinate Grid System used by the city and county. Any **Final Plat** not submitted in a digital format will be converted by the City or County, and the cost for conversion will be paid by the **Applicant** before the **Plat** can be recorded at the Register of Deeds.
- (4) Errors found in closure shall be corrected prior to ~~filing~~ **recording** the Final Plat.
- (5) ~~Approval of a Final Plat by the Planning Director Commission and acceptance of Dedications by the appropriate Governing Body shall be effective for no more than 18 months from the date of acceptance unless all conditions of approval have been completed. unless an extension has been granted by the Planning Director for good cause. Such request for extension must be submitted prior to the expiration of the original approval.~~

Comment [sms60]: Should we break this into 2 parts since it is County and City — easier to track the specific requirements that way and emphasize the need for PIPs to be approved prior to filing

Comment [sms61]: More specific term than filing

Comment [sms62]: Need to check with Keith B to see if this represents County process or should be modified. YES -- accurate

Comment [sms63]: Do we want to provide the ability to ask for an extension similar to other processes?

Comment [sms64]: Relocate to new section below

(q) **Final Plat Expiration**

- (1) Approval of a Final Plat by the Planning Director ~~Commission~~ and acceptance of Dedications by the appropriate Governing Body shall be effective for no more than ~~18~~ **24** months from the date of acceptance unless all conditions of approval have

been completed, unless an extension has been granted by the Planning Director for good cause.

- (2) Such request for extension must be submitted to the Planning Director prior to the expiration of the original 24 month approval period.



7/01/2009

Scott McCollough, Director
Lawrence-Douglas County Metropolitan Planning Office
City of Lawrence
Lawrence, Kansas 66044

RE: Code Modifications

Dear Scott,

As you are aware, the developer committee of the Chamber has been meeting to discuss zoning code and subdivision regulations that we think directly affect the ability to develop or redevelop land in Lawrence and in Douglas County. You and your staff have taken on a similar effort that has already produced positive results in code modifications that will benefit future development proposals.

To that extent, we have several ideas that we would like to offer for consideration. These ideas all surround the topic of platting property. In general, we realize this is a significant issue to tackle; however, there are several smaller steps that could be addressed in the near term that may make land development easier while we are waiting on the opportunity to examine platting in a broader context.

The following language revisions to the Subdivision Regulations is an idea that would give the Planning Director more latitude in allowing final plats to proceed even though they do not identically mirror the approved preliminary plat. We believe the language also addresses changes to the preliminary plat as a means to "dedicate" easements and rights-of-way even with modifications to the final plat as submitted.

The first idea is the relationship of the preliminary plat to the final plat. As currently written, the Code equips neither the applicant, nor the City Planning Director, with the ability to produce/approve a Final Plat that is not literally identical to the associated, previously

approved Preliminary Plat. Acknowledging the fact that a Preliminary Plat is by definition a “preliminary” document, it is normal and reasonable to expect minor differences between an approved concept (Preliminary Plat) and the legally binding instrument that formally subdivides property (Final Plat).

Per today’s Code, the Planning Director alone has the power to administratively approve a Final Plat. However, today’s Code also implies that any difference between the Preliminary Plat and Final Plat will result in re-submittal and re-hearing of the previously approved Preliminary Plat, prior to approval of the Final Plat. This process is further complicated by the “dedication” of easements and rights-of-way at the Preliminary Plat stage. Also, while the Code uses terms such as “consistent with the Preliminary Plat”, “conforms to the Preliminary Plat” and “substantially comply with the Preliminary Plat” as the basis upon which the Planning Director *shall* approve the Final Plat, no definition of these terms is provided.

We propose to amend Sec. 20-809(l) for the purpose of defining acceptable variations between the Preliminary and Final plats which include reasonable changes to easements and/or rights-of-way. Additionally, this report proposes consistent, defined terminology as a basis for the Planning Director’s approval of a Final Plat. Deleted items are shown with ~~struck~~ text and proposed amendments in **bold red**.

(l) Final Plat – Review by Planning Director

- (1) After approval or approval with conditions of a Preliminary Plat by the Planning Commission **and prior to approval of public improvement plans**, the Subdivider shall have prepared for recording a Final Plat, which is consistent with the action of the Planning Commission and with the formatting and content requirements of Section 20-812(b). The Planning Director shall review the Final Plat for incorporation of the Planning Commission’s recommendations **and comments** and to insure that the Final Plat is in the required format.
- (2) If the Planning Director finds that the submitted Final Plat conforms with the content requirements of Section 20-812(b) and is ~~consistent in substantial compliance~~ **consistent in substantial compliance** with the Preliminary Plat approved by the Planning Commission, including satisfying any conditions incorporated in that approval, the Planning Director shall approve the **Final** Plat and attach to it a formal certification that the submitted Final Plat:
 - (i) ~~Conforms to~~ **Is in substantial compliance with** the Preliminary Plat previously approved by the Planning Commission;
The Final Plat shall be deemed to be in substantial compliance with the previously approved Preliminary Plat if one or more of the following criteria are met, as applicable:

- a) No change.
- b) Increase or reduction, less than or equal to ten percent, of the number of proposed lots, parcels or tracts shown within the equivalent portion(s) of the Preliminary Plat.
- c) Adjustments to rights-of-way lines, easement lines and/or property lines in accord with applicable street classification standards, easement width and location criteria, the Subdivision Regulations, dimensional and lot area requirements, density requirements, and with variances and/or waivers which may have been granted with previous approval of the equivalent portion(s) of the Preliminary Plat.
- d) Preservation of the general form of the approved Preliminary Plat with regard to overall layout, public and/or private vehicular and pedestrian connection, area set aside for public space and/or open space, and required utility corridors.
- e) Determination by the Planning Director as to whether above-described changes, if applicable, are required to be retroactively included in a revised Preliminary Plat for Planning Office records.

- (ii) Satisfies any conditions of approval imposed by the Planning Commission;
 - (iii) Includes the same Dedications accepted by the Governing Body, subject ~~only~~ to minor technical adjustments **as described in (I)(2)(i)(a) through (e), above;**
 - (iv) Satisfies any conditions of acceptance of Dedications imposed by the Governing Body;
 - (v) Represents a plat for which all required Public Improvements have been completed, or for which adequate Guarantee of Improvements has been provided; and
 - (vi) Is otherwise consistent with the requirements of this Article for a Final Plat.
- (3) If the Planning Director finds that the submitted Final Plat is deficient as to format or content or otherwise technically deficient, the Planning Director shall notify the Subdivider of the deficiency(ies) within 5 working days.
- (4) If the Planning Director finds that the submitted Final Plat does not substantially comply with the approved Preliminary Plat, including any conditions incorporated in such approval, and with the Dedications shown on the Preliminary Plat and accepted by the appropriate Governing Body, **subject to (I)(2)(i)(a) through (d), above**, the Planning Director shall place the Final Plat on the agenda of the next Planning Commission meeting for further consideration in accordance with the Preliminary Plat review and action provisions of Section 20-804(e)(2).

- (5) The Planning Commission approval of the Preliminary Plat combined with the Planning Director's approval as to form and ~~consistency~~ **substantial compliance** with the approved Preliminary Plat shall constitute Planning Commission approval of the Final Plat. No further action by the Planning Commission shall be necessary or required.

A second idea is to remove entirely the concept of dedication of easements and rights-of-way in the Preliminary Platting stage and simply have the final plat, upon review and approval of the Planning Director, only go before the City commission as a non-public hearing item. This could be accomplished by removing Section 20-809 (h) (iv) and Section 20-809 (i) from the Subdivision Regulations and modify Section 20-809 (l) (as written above) to simply include the submittal requirements, Planning Director review and the process to take the final plat to the City Commission.

Finally, we request the site plan review process have a defined time schedule. Nearly all parties interested in developing or redeveloping in Lawrence and Douglas County are primarily concerned with time. Article 13 of the Land Development Code clearly states the Planning Director is to promulgate processing cycles for applications to the Planning Office. I believe this is manifested in the Meeting and Submittal Deadlines schedule produced annually by the Planning Office. We suggest this schedule include a comment regarding the time commitment by the City of Lawrence for all site plans. Suggested language could be:

"Site plans can be submitted weekly. Review comments shall be returned within 15 calendar days and final comments/approval within 15 calendar days following submittal of revised plans per original review comments."

Thank you for your consideration.

Sincerely,

Tom Kern
President/CEO
Lawrence Chamber of Commerce

Cc Mayor Rob Chestnut
City Manager Dave Corliss

Memorandum

City of Lawrence

Douglas County

Planning & Development Services

TO: Planning Commission

FROM: Planning Staff

CC: Scott McCullough, Director

Date: For February 23, 2011 Commission Meeting

RE: Misc. Item #1 – Initiate Text Amendment to Section 20-814 of the Joint City/County Subdivision Regulations of the Code of the City of Lawrence, Kansas and Chapter 11, Section 814 of the Douglas County Code, which concerns extraordinary building setbacks along US Highway 40, west of K-10 Highway

The West of K-10 Plan Implementation Section contains a number of items to be completed in the future, one of which regards setbacks along US Highway 40:

- *Amend subdivision regulations to establish a 50' extraordinary setback on US 40/West 6th Street west of K-10 Highway.*
Who: Planning Commission, City Commission, County Commission

The Plan's discussion of the reasoning for the extraordinary setback includes this:

This plan recommends establishing an extraordinary setback on US Highway 40 west of K-10 to Stull Road. Establishing the extraordinary setback of 50 feet before urban development begins will help ensure that the cost of right-of-way acquisition for the eventual widening of 6th Street will not be increased because of the added cost to acquire buildings that could be constructed before the widening of the roadway. The extraordinary setback should be repealed after 6th Street is improved to an urban 5-lane road.

Staff Recommendation:

Initiate Text Amendment to Section 20-814 of the Joint City/County Subdivision Regulations of the Code of the City of Lawrence, Kansas and Chapter 11, Section 814 of the Douglas County Code, to establish a 50' extraordinary setback along US Highway 40 west of K-10 Highway.