

#### **Updated:**

5/24/10 @ 11:15am

Added communications for the following items:

Item 4 - Comprehensive Plan Amendment to H2020; Chp 14 - Northeast Sector Plan

**Item 6 - Text Amendment for IBP District** 

Item 10 - Conditional Use Permit for Pinwheel Farm, 1478 N 1700 Rd

**Item 12 - Text Amendment for Boarding House** 

#### 5/21/10 @ 6:00pm

Added communications for Item 5 - Text Amendment for MU District Added communications for Item 6 - Text Amendment for IBP District Added Draft April Planning Commission Minutes

#### 5/20/10 @ 3:30pm

Added Item 10 - Conditional Use Permit for Pinwheel Farm, 1478 N 1700 Rd DEFERRED Item 2 - Rezoning of 2000 & 2040 W 31<sup>st</sup> St WITHDRAWN Item 3 - Preliminary Development Plan for Crossgate Drive Casitas

#### 5/18/10 @ 4:15pm

The following items will be added when available: Item 2 - Rezoning of 2000 & 2040 W 31<sup>st</sup> St Item 10 - Conditional Use Permit for Pinwheel Farm, 1478 N 1700 Rd Draft April Planning Commission Minutes

LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION CITY HALL, 6 EAST 6<sup>TH</sup> STREET, CITY COMMISSION MEETING ROOM AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS MAY 24 & 26, 2010 6:30 - 10:30 PM

#### **GENERAL BUSINESS:**

#### PLANNING COMMISSION MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of April 26 and 28, 2010.

### **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.

# REGULAR AGENDA (MAY 24, 2010) MEETING PUBLIC HEARING ITEMS:

# ITEM NO. 1 SPECIAL USE PERMIT FOR NORTH BOWERSOCK MILLS & POWERHOUSE; 1000 POWERHOUSE NORTH RD (AMB)

**SUP-3-4-10**: Consider a Special Use Permit for the construction of the North Bowersock Mills & Powerhouse, Utility and Service, Major, located at 1000 Powerhouse North Road. Submitted by Bowersock Mills & Power Company and the City of Lawrence, property owners of record.

#### \*\*DEFERRED\*\*

### ITEM NO. 2 PCD-2 TO PCD-2; 2.61 ACRES; 2000 & 2040 W 31<sup>ST</sup> ST (SLD)

**Z-3-4-10**: Consider a request to rezone approximately 2.61 acres from PD-[Home Improvement Center- PCD-2 with use restrictions] to PD-[Home Improvements Center- PCD-2 with use restrictions amended to include office uses], located at-2000 & 2040 W 31<sup>st</sup> St. Submitted by Landplan Engineering, for Broadway Plaza II Lawrence Inc., property owners of record.

#### \*\*WITHDRAWN\*\*

# 1TEM NO. 3 PRELIMINARY DEVELOPMENT PLAN FOR CROSSGATE DRIVE CASITAS; 4.6 ACRES; 2451 CROSSGATE DR (SLD)

**PDP-3-2-10**: Consider a Preliminary Development Plan for Crossgate Drive Casitas, 46 one bedroom units on approximately-4.6 acres, located at 2451 Crossgate Drive. Submitted by BC Consultants, Inc., for Inverness Park LP, property owner of record. Waivers for reduced parking, building setback and peripheral setback are included in this request.

# ITEM NO. 4 COMPREHENSIVE PLAN AMENDMENT TO H2020; CHAPTER 14 – NORTHEAST SECTOR PLAN (DDW)

**CPA-6-5-09**: Consider Comprehensive Plan Amendment to Horizon 2020 – Chapter 14 to include the Northeast Sector Plan.

#### ITEM NO. 5 TEXT AMENDMENT; LAND DEVELOPMENT CODE; MU DISTRICT (MJL)

**TA-1-10**: Consider Text Amendments to the City of Lawrence Land Development Code, various sections of Chapter 20, to permit Bars or Lounges and to consider changes to development standards for various Eating & Drinking Establishments in the MU (Mixed Use) District and to consider a new Mixed Use Entertainment District. *Initiated by City Commission on 2/2/10.* 

#### ITEM NO. 6 TEXT AMENDMENT; LAND DEVELOPMENT CODE; IBP DISTRICT (MJL)

**TA-4-4-10**: Consider Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Section 20-403 of the Code of the City of Lawrence, KS to permit the Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District. *Initiated by Planning Commission on 4/26/10.* 

#### **NON-PUBLIC HEARING ITEM:**

#### ITEM NO. 7 CITY & COUNTY PUBLIC NOTIFICATION

Receive staff memo regarding City and County public notification of Planning items.

# MISCELLANEOUS NEW OR OLD BUSINESS

**MISC NO. 1** Provide comment on Lawrence Wastewater Master Plan boundaries and growth assumptions. (SDM)

MISC NO. 2 Letter received regarding Woody Park

Consideration of any other business to come before the Commission.

Recess until 6:30 P.M. on May 26, 2010.

#### **BEGIN PUBLIC HEARING (MAY 26, 2010):**

#### COMMUNICATIONS

- a) Receive written communications from staff, Planning Commissioners, or other commissioners.
- b) Disclosure of ex parte communications.
- c) Declaration of abstentions from specific agenda items by commissioners.

#### **PUBLIC HEARING ITEM:**

#### **Recess LDCMPC**

**Convene Joint Meeting with Eudora Planning Commission** 

# ITEM NO. 8 CONDITIONAL USE PERMIT FOR BLUEJACKET CROSSING WINERY; 1969 N 1250 RD (MKM)

**CUP-3-2-10**: Consider a Conditional Use Permit for accessory uses such as outdoor weddings, picnicking, and outdoor music, with the Bluejacket Crossing Winery, approximately 20 acres, located at 1969 N 1250 Rd, Eudora. Submitted by Kandaya Selvan, property owner of record. *A joint Planning Commission meeting will be held with the Eudora Planning Commission.* 

Adjourn Joint Meeting Reconvene LDCMPC

#### **NON-PUBLIC HEARING ITEM:**

**Public Comment on Variance Only** 

# ITEM NO. 9 PRELIMINARY PLAT FOR JOHNSON & ELLIS INVESTMENTS ADDITION; .538 ACRES; 1804 W 6<sup>TH</sup> ST (MKM)

**PP-3-3-10**: Consider a Preliminary Plat for Johnson & Ellis Investments Addition, with one lot, approximately 0.538 acres, located at 1804 W  $6^{th}$  St. and a variance from the right-of-way requirements in Section 20-810(d)(4)(i). Submitted by Bartlett & West, Inc., for Johnson & Ellis Investments, property owner of record.

### **RESUME PUBLIC HEARING ITEMS:**

# ITEM NO. 10 CONDITIONAL USE PERMIT FOR PINWHEEL FARM; 1478 N 1700 RD (MKM)

**CUP-2-1-10**: Consider a Conditional Use Permit for camping, sale of farm products, and events at Pinwheel Farm, approximately 11.79 acres, located at 1478 North 1700 Road. Submitted by Natalya Lowther, property owner of record. *Deferred by Planning Commission on 4/26/10.* 

# ITEM NO. 11 TEXT AMENDMENT; LAND DEVELOPMENT CODE; ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY (SDM)

**TA-7-20-09**: Consider Text Amendments to various sections of the City of Lawrence Land Development Code to (1) correct language regarding Adaptive Reuse of Designated Historic Property in section 20-501, and (2) revise language in sections 20-1310 and 20-1311.

# ITEM NO. 12 TEXT AMENDMENT; LAND DEVELOPMENT CODE; BOARDING HOUSE (SDM)

**TA-6-17-09**: Reconsider Text Amendments to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House." *This item was originally heard by Planning Commission on 12/16/09. City Commission returned this item on 2/2/10 for additional consideration.* 

#### \*\*DEFERRED\*\*

# ITEM NO. 13 TEXT AMENDMENT; LAND DEVELOPMENT CODE; CHAPTER 20, ARTICLE 8 (SMS)

**TA-3-10**: Consider Text Amendments to the Land Development Code, Chapter 20, Article 8 – Code of the City of Lawrence, Kansas to revise requirements and standards related to the processing of Minor and Major Subdivisions. *Initiated by City Commission on 2/16/10*.

#### MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

#### **PUBLIC COMMENT SECTION**

#### **CALENDAR**

April 2010					0	
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	

May 2010					10	
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					

June					2010	
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			

**PCCM Meeting:** (4/14, 5/10)

TAC Meeting: (Generally 1<sup>st</sup> Tuesday of each month, 1:30pm–2:30pm)

CPC Meeting: (Generally 1<sup>st</sup> & 3<sup>rd</sup> Wednesday of each month, 4:00pm)

RZC meeting: (Generally every 2 weeks on Thursdays, 3:30pm–5:00pm)

**ADJOURN** 



# PLANNING COMMISSION MEETING April 26 & 28, 2010 Meeting Minutes DRAFT

April 26, 2010 – 6:30 p.m.

Commissioners present: Blaser, Chaney, Finkeldei, Harris, Hird, Moore, Rasmussen, and Singleton

Staff present: McCullough, Stogsdill, J. Miller, M. Miller, Leininger, and Ewert

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#### **MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of March 22 and 24, 2010.

Motioned by Commissioner Harris, seconded by Commissioner Finkeldei, to approve the March 22 and 24, 2010 Planning Commission minutes with revisions suggested by Mr. Bill Mitchell.

Motion carried 7-0-1, with Commissioner Blaser abstaining.

#### **COMMITTEE REPORTS**

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

Commissioner Hird said the Agri-Tourism Committee met around April 12<sup>th</sup> and will meet again the second Thursday in May. He said they are still studying the definition of agri-tourism and what types of activities should be promoted and encouraged.

Commissioner Harris inquired about the upcoming Planning Commission retreat.

Mr. McCullough said the group will be formed soon for the June meeting. He said there may be a new Planning Commission member in May and three others are up for reappointment, which may change what is planned for the retreat.

#### **COMMUNICATIONS**

Mr. Scott McCullough reviewed new attachments/communications that were posted to the online Planning Commission agenda after the initial posting date.

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

#### **EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- Ex parte: Commissioner Rasmussen said he stopped by Pinwheel Farm today and took a tour.
- No abstentions.

PC Minutes 4/26/10 DRAFT

ITEM NO. 1 PUD TO OS; 22.63 ACRES; SE OF W 27<sup>TH</sup> ST & CROSSGATE DR (MKM)

**Z-3-3-10**: Consider a request to rezone approximately 22.63 acres, from PUD (Planned Unit Development) to OS (Open Space), located southeast of W 27<sup>th</sup> St. & Crossgate Dr. *Initiated by Planning Commission on 3/22/10.* 

#### STAFF PRESENTATION

Ms. Mary Miller presented the item.

#### **PUBLIC HEARING**

No public comment.

#### **ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to approve the rezoning request for approximately 22.63 acres from PUD (Planned Unit Development) District to OS (Open Space) District, located southeast of W. 27<sup>th</sup> Street and Crossgate Drive, and forwarding it to the City Commission, based on the findings of fact found in the body of the staff report.

Commissioner Rasmussen asked what the plan was for the open space.

Ms. Miller said the intention was to keep it agriculture.

Unanimously approved 8-0.

PC Minutes 4/26/10 DRAFT

### ITEM NO. 2 CONDITIONAL USE PERMIT; 1478 N 1700 RD (MKM)

**CUP-2-1-10**: Consider a Conditional Use Permit for camping, sale of farm products, and events at Pinwheel Farm, approximately 11.79 acres, located at 1478 North 1700 Road. Submitted by Natalya Lowther, property owner of record.

#### STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird inquired about the total parcel size.

Ms. Miller said 11.29 acres.

Commissioner Hird asked if there could be six camping units at any one time on the property.

Ms. Miller said that was correct. It could be a mixture of RV's and tents.

Commissioner Hird asked if the neighborhood concern was about tents or RV's.

Ms. Miller said she thought the main concern was about unknown people coming into the neighborhood.

Commissioner Hird asked if the camping would be marketed as a camp ground.

Ms. Miller said no, it would only be as an adjunct to the farming operation and the applicant indicated that in her guidelines.

Commissioner Hird asked if there were other examples of this kind of activity in the region or state.

Ms. Miller said she has not seen any.

Commissioner Hird asked why the RV's are limited to 20'.

Ms. Miller said some RV's can be very large. She said she contacted Development Services and they said a class B RV is typically less than 20'. She said she though the applicants intent is to have RV's near the front of the property where the gravel drive would be.

Commissioner Harris asked if the staff report included the other conditions provided by the applicant today.

Ms. Miller said no, it does not.

Commissioner Harris asked if staff has had a chance to look at the applicant conditions.

Ms. Miller said the applicant would like the RV length to be up to 30' rather than 20' and staffs position is that it is a judgment call. The applicant would also like a 100 year Conditional Use Permit but staff feels the 10 year time limit is appropriate. She asked that the long term goals be included so that they would be grandfathered uses in case the land is annexed into the city or the zoning ever changed. If the zoning was changed then those uses would be grandfathered and seen as non-conforming uses. The applicant would like four RV's in the area located near North Street and staff

recommended two. The applicant does not have a problem with providing an annual report, but would like to include the square footage and location of the farm stand use and the number of parking spaces. Staff feels that should be on the Conditional Use Permit, not the yearly report. The applicant would like to change condition 15 from no sound amplification to no electronic sound amplification is permitted that is readily audible from neighboring properties except for emergency hazard warning devices. Staff would not have objection if the sound was not audible from neighboring properties. Staff would accept her revisions to condition 18 regarding the bottled water and chemical toilets needed for events of more than 25 people. The applicant is requesting that camping be permitted in floodplain. FEMA may permit that with some limitations, as long as that reduced the amount of camping that would be along North Street. Staff recommended 15' setbacks and the applicant is recommending 10' setbacks. Staff feels like the 15' setback would help buffer the outdoor activities. Staff has no objection to alternative paving for parts of the drive and if it doesn't work then gravel can be put in.

Commissioner Harris asked if the two things staff does not agree with are the number of years for the Conditional Use Permit and the setback.

Ms. Miller said that was correct, as well as the inclusion of the applicant's goals with the Conditional Use Permit.

Commissioner Rasmussen inquired about the availability of sanitary facilities for camping areas.

Ms. Miller said a grandfathered privy could be used.

Commissioner Rasmussen asked about condition 12 (*camping area shall be kept in a neat, safe and sanitary manner*) and why it is limited to the camping area and not the farmers market.

Ms. Miller said that it could apply to the farmers market as well.

Commissioner Rasmussen inquired about a time limit on camping.

Ms. Miller said she discussed it with the applicant and the applicant did not see the difference on intensity. The applicant felt that if someone camps for a longer period of time they could become familiar with the neighbors instead of being seen as a stranger.

Commissioner Rasmussen said that Clinton Lake has camping time limits.

Commissioner Finkeldei asked if there is a definition of camping in the Code.

Ms. Miller said no.

Commissioner Finkeldei said the County has had other difficulties with people living on property in RV's rather than camping in a tent. He inquired about the possibility of someone camping for three years.

Ms. Miller said it was possible but that it might be considered living there at that point, not just camping.

Commissioner Finkeldei asked if the owner is planning on using her own RV's to house people.

Ms. Miller said yes.

Commissioner Finkeldei asked if there was a requirement to move the RV's periodically.

Ms. Miller said no but that there could be a requirement that RV's be moved after a certain amount of time.

Commissioner Finkeldei said they need to come up with a way to differentiate between camping and residing so that these are not permanent residences.

Ms. Miller suggested if people were staying longer they could maybe register with county office so it could be tracked.

Commissioner Finkeldei inquired about the condition related to what can be sold there.

Ms. Miller said with a farm stand things can be sold that are grown there, a farmers market would sell things grown there and grown by other farmers. She said she did not believe the applicant wanted to sell retail products.

#### **APPLICANT PRESENTATION**

Ms. Natalya Lowther, Pinwheel Farm, went over history of Pinwheel Farm and the long term goals. She discussed uses permitted by right and that she cannot implement some of her long term goals immediately. She inquired about how she can "register" the long term plan. She expressed concern about not being able to use the property as planned if the regulations change in the future. She would like all four RV spots at the southern end so that they are on the driveway.

Commissioner Blaser inquired about an agri-tourism liability waiver. He asked if she signs it then would she not have liability for anyone getting hurt on the farm.

Ms. Lowther said that was correct, but that it does not remove her liability in making a safe environment for people.

Commissioner Blaser asked if she still had to carry liability insurance.

Ms. Lowther said yes.

Commissioner Blaser inquired about Kansas fence laws.

Ms. Lowther said it sets forth rules for agricultural fencing that says property owners on both lines need to maintain the fence in order to contain livestock.

Commissioner Finkeldei asked if she expects to put her two campers in one place and leave them there.

Ms. Lowther said the campers would be moved as needed. She said she did not want to have to shuffle the campers around each month but that she thought they would naturally be moved around based on the needs of the farm.

Commissioner Finkeldei asked if she would expect or want someone to camp in one spot for a long time.

Ms. Lowther said she would encourage people doing an internship to stay on her farm for a year if they want to start their own farm. She said realistically people would camp during the more pleasant times of year.

Commissioner Rasmussen asked about the plans for the structure located at 1478 N 1700 Rd.

Ms. Lowther said it has structural problems and does not have running water or a legal source for running water. She said at this point it is a tabled issue. She said they want to clean up the lot and make it look better from the street but that there are no immediate plans of doing anything with it other than using it for storage. She said it has a limited shelf life and eventually will be torn down.

Commissioner Rasmussen discussed the alternative surfacing for the driveway and said he liked the idea of woodchips. He said woodchips would require more upkeep than gravel to replenish it. He asked if she would have any problem with a maintenance requirement on that.

Ms. Lowther said that because it is experimental it would be hard to predict maintenance. She said it would be a while before she knows where the driveways will go. She said if the maintenance requirement was general in nature then she would not have a problem with it.

Commissioner Hird said condition 10 in the staff report prohibits engines and generators for campers. He said most larger campers have engines or generators and wondered if she was satisfied that they would not be able to use generators.

Ms. Lowther said yes. She also felt it would encourage smaller RV's.

Commissioner Hird asked if there was any other alternative than using bottled water for crowds of more than 25 people.

Ms. Lowther said from a public health point of view the only other alternative would be a small scale public water system.

#### **PUBLIC HEARING**

Mr. Ted Boyle, President of North Lawrence Improvement Association, said they had no problem with Pinwheel Farm or the farmers market. He said the problem is with the issue of camping. He said Pinwheel Farm abuts a residential area and they are not comfortable with strangers being brought into the neighborhood. He also expressed concerns about sanitation and the number of people camping on the site. He did not feel it would be an appropriate use 10-15 years from now when the area is annexed into the city. He said KOA is less than a mile from the location. He suggested having day classes or sessions for learning purposes instead of having people stay the night. He said in a real life situation on a farm there isn't a camper next to the barn; a real farmer lives in a house and goes to the barn or pasture no matter what the weather. Mr. Boyle mentioned there have been problems in the past with homeless people camping.

Commissioner Finkeldei asked if the North Lawrence Improvement Association is okay with the events.

Mr. Boyle said it depends on how big the event is. He said if it is a huge crowd, regardless of the amplified noise, there will be more traffic to the neighborhood.

Commissioner Harris asked Mr. Boyle to comment about problems he has experience in the past with homeless people that he mentioned earlier.

Mr. Boyle said that some time ago transient campers near the river were removed and started living on Pinwheel Farm. He said there were a few living in a type of shed on the property.

Commissioner Harris asked if there had been any problems associated with the campers.

Mr. Boyle said the neighbors were concerned for their safety.

Commissioner Harris asked if his objection was to the use or the behavior.

Mr. Boyle said the residents were concerned about safety and did have a few problems of things going missing on their property.

Mr. Bryce Campbell, 868 Oak Street, said he owns the adjacent property to Pinwheel Farm and used to live there. He said one of the main reasons he moved was because Pinwheel Farm was run down and not kept up. He expressed concern about camping in the area and said the safety and integrity of the neighborhood was at stake. He said Clinton Lake and KOA are nearby for camping. He said he intends to let his son live on his property adjacent to Pinwheel Farm in the future but felt the safety of his son may be compromised. He also expressed concern about coyotes digging up carcasses of animals Ms. Lowther might slaughter.

Ms. Camile Cody said she is traveling around the United States thru a farm program to gain hands on farm experience. She said when she did a yearlong internship on a farm she stayed in campers and yurts for housing. She said she hopes to have her own farm someday. She said places like Pinwheel Farm are directly accessible to neighbors and are an excellent source of fresh local food. She felt the Conditional Use Permit invites opportunity to review operations and compliance. She said Ms. Lowther focuses on education and safety and that educational opportunities would be lost if volunteers were not allowed to stay on the property. She indicated there were several other places like this around the country.

Mr. Dean Elliott, owns property east of Pinwheel Farm, said a future water line will be across Ms. Lowther's land, approximately where the campers will be. He wondered what impact it would have. He said soil samples were taken on his property but Ms. Lowther would not allow samples to be taken from her property.

Mr. McCullough said an infrastructure project is in the works with the intention to provide the North Lawrence area another means of water supply. He said he was not sure if it would cross Ms. Lowther's property but that it very well could.

Ms. Kirsten Bosnak, 646 Walnut St, said she has lived in Lawrence for more than 20 years. She said she works at the Kansas Biological Survey doing outreach. She moved to North Lawrence in 2004 and has known Ms. Lowther for about 10 years. She said the location of Pinwheel Farm at the very edge of the city puts it in an excellent position to provide both food and education. She said she has been personally acquainted with some of the volunteers there and has known them to be idealistic, hardworking and goal-oriented. They speak of how much they learn from Ms. Lowther, and the farm depends on their contributions of knowledge and energy. She was in favor of the Conditional Use Permit for Pinwheel Farm with camping and would like to see the farm continue even if they city grows around it.

Mr. Brady Karlin said he has traveled around working on organic farms and said it was commonplace for workers to camp on the property.

Commissioner Hird asked if he could give a geographically close example.

Mr. Karlin said there are a few in Missouri but he was not aware of any close by. He said he thought there was a place out by Baldwin City that does the same type of program through World Wide Opportunities on Organic Farms (WWOOF), but he wasn't sure about their living arrangements.

Commissioner Rasmussen inquired about other WWOOFing facilities.

Mr. Karlin said in California there was an intern camp facility with common bathing and kitchen areas.

<u>Ms. Barbara Higgins-Dover</u> said her parents live next door to Pinwheel Farm and she felt the area hasn't grown around the farm, the farm has grown within the area. She was concerned about the camping and said that was the only thing she was opposed to.

Commissioner Harris asked there were any conditions or circumstances in which camping would be okay.

Ms. Higgins said no, she was not okay with a campground being on the property. She said the KOA campground is close and has nice facilities.

Commissioner Hird said with limitations there would be no more than 12 adults.

Ms. Higgins said it is the passing thru of strangers that bothers her.

Commissioner Hird asked if it made a difference to her that the campers have to be associated with the agricultural work and if she would be okay with the same number of people living in mobile homes instead of tents.

Ms. Higgins said she might not have a problem with it if the mobile homes had running water.

Commissioner Singleton said it sounds like these are official internships through organizations or agencies. She asked if the applicant works with an affiliated institution for volunteers, would that make her more comfortable.

Ms. Higgins said no, it would not make her more comfortable. She was concerned about property value.

Ms. Katelyn McGill, volunteering at Pinwheel Farm through the Lawrence Sustainability Network, said she is doing it so she can get experience to go into the Peace Corps. She said the only way Pinwheel Farm can operate is through volunteers. She said before any volunteers can work they go through extensive training and safety and that Ms. Lowther does not just let anyone work on her farm.

Commissioner Rasmussen asked when she went through the orientation process were the rules written out or were they verbal.

Ms. McGill said Ms. Lowther has written general rules of the farm and then verbal rules for specific tasks.

<u>Ms. Melissa Warren</u>, retired firefighter and volunteer at Pinwheel Farm, said she would like to keep her camper at the farm so she can use it to rest. She felt the neighbors had unfounded fear and that Ms. Lowther does not want harmful people on her property any more than the neighbors.

Mr. Stephen Figgins said he values the farm and felt the volunteers needed a place to stay. He was in favor of the Conditional Use Permit.

Ms. Emily Fisher, participated in the WWOOFing program and volunteered on farms. She felt the immersion in culture was important. She was in favor of the Conditional Use Permit and allowing volunteers to camp on the property.

#### APPLICANT CLOSING COMMENTS

Ms. Lowther said she was not aware of ongoing plans for the future water line that would be built across her property until a speaker mentioned it this evening. She said she was present at meetings almost two years ago and that was the last she heard of it. She said the Conditional Use Permit is a request, not a demand and that the farm will go on even if the camping is not allowed. She hoped Planning Commission would consider approving the amended conditions she submitted in the packet. She asked for a 100 year Conditional Use Permit, with a review every 5 years or however often needed.

Commissioner Harris asked how the ability to shower will be addressed.

Ms. Lowther said there are multiple places in town where people can legally shower. She said Clinton Lake charges \$4.25 to shower and dump septic.

Commissioner Harris asked if people working at your farm would have to shower somewhere else.

Ms. Lowther said she also offers showers in her home as well as her laundry room.

Commissioner Finkeldei said Ms. Lowther is allowed to have a mobile home but would need to provide water and sanitary sewer facilities. He asked if that is why she is not interested in that.

Ms. Lowther said that is a part of it. As the farm grows they may look into more permanent options.

#### COMMISSION DISCUSSION

Commissioner Finkeldei asked staff if they agreed with the interpretation of someone not being allowed to camp on their own property.

Mr. McCullough said he'd have to research that with Mr. Keith Dabney, Director of County Zoning & Codes. He said he also wanted to clarify that RS40 district does allow agricultural uses, so there is one district in the city that does permit those types of uses.

Commissioner Finkeldei said neighbors mentioned the neighborhood houses being there first versus the farm being there first.

Ms. Lowther said when she moved there the north side of the property was crop agricultural and in front of the house there is a foundation of a barn that was once associated with a farm. She said the farm has a long term history, although not a continuous history. She said one of the concerns with the city zoning district would that she would not be able to sell milk if in the city.

Commissioner Rasmussen said the WWOOF properties in Missouri have conditions of no firearms or stun guns.

Ms. Lowther said Pinwheel Farm has general policies and it prohibits any kind of firearm, fireworks, or weapon of any kind. She said she would like to reserve the right to use a 22 caliber or shotgun to be used against predators such as a coyote. She said the farm policies is very restrictive and does not even allow television or chewing gum.

Commissioner Harris asked if the Conditional Use Permit goes with the land or the owner.

Ms. Miller said as a rule the Conditional Use Permit goes with the land.

Commissioner Harris asked if the land is annexed by the city would it have to comply with noise and aesthetics codes of the city.

Ms. Miller said it would have to comply with blight and noise codes. If the property is annexed into the city it would probably be zoned UR (Urban Reserve) and that district is allowed to have crop agricultural and any uses that were lawfully in existence at the time of annexation.

Commissioner Harris asked the applicant if there was any attempt to meet with surrounding neighbors to discuss concerns and resolve issues before it came to the Planning Commission.

Ms. Lowther said she tried to call neighbors or talk about it over the fence and the response she got was 'we'll talk about it at the Planning Commission meeting.' She said she appreciated the time Mr. Ted Boyle spent talking to her on the phone and that he was the only one that talked to her.

Commissioner Blaser inquired about the annexation issue and if it is rezoned to something other than UR.

Mr. McCullough said it would be a non-conforming use so long as the use is valid. He said development policy does not necessarily encourage unilateral annexation, but that it could occur. If it did occur the use would be non-conforming but would be allowed to continue. He said a more viable situation, in his opinion, would be services (sewer & water) would be desired at the site and annexation would be requested and the property would then need to comply the Development Code of the City of Lawrence.

Commissioner Rasmussen inquired about the staff report conditions referring to 1478 1700 Road when that parcel is just one of several parcels in the application.

Mr. McCullough said the full legal description is kept on record in the file. The legal ad includes that the full legal description is available in the file. When a resolution or ordinance is created the legal description is included.

Commissioner Rasmussen asked if the condition of six camping units was for the entire area.

Mr. McCullough said that was correct.

Commissioner Finkeldei asked if the County Board of Zoning Appeals could grant an exception to the non-resident employee provision requiring the sanitary sewer and water supply.

Mr. McCullough said staff would have to investigate that and that Mr. Keith Dabney, Director of the Douglas County Zoning and Codes Department, would have to be consulted.

Commissioner Finkeldei said he did not think there was much dispute about the events and farmers market. He said he was struggling with the camping issue for several reasons. He wondered how it could be conditioned so there would not be a KOA type facility in the middle of the neighborhood. He was concerned about sanitary issues if all six guests are there all year. He inquired about the proposed amended conditions the applicant submitted today and asked if staff had looked at them yet.

Ms. Miller said she had not had time to review them in depth yet.

Commissioner Moore said he was struggling on the camping issue as well because there seems to be a provision in the Code to handle perhaps what Ms. Lowther is wishing to do that would allow some temporary housing.

Commissioner Hird said the first question they should think about is if this is the kind of activity they want to promote or discourage. And if so, are the limitations reasonable or unreasonable. He said agri-tourism is a priority in Kansas and the State has spent a lot of effort promoting it. He said the Planning Commission has spent countless hours talking about protecting high quality soils. He said the alternative for the area were things such as a housing development, mobile homes, or warehouse. He said it was hard to believe a property owner in Douglas County cannot camp on their own land. He understood the neighborhood concerns about transients camping and said he would be concerned too but that he was not as concerned with this case because there are limitations. It has to be an accessory to farm operations and is not a stand alone camping operation. The people camping there are associated with the farming. He said from what he saw tonight his fear about that has been greatly reduced. He expressed concern about sanitation issues. He said knowing they can go to Clinton Lake to take a shower does not give him peace of mind on that issue. He said he was not bothered by the setback and screening requirements for camping and the limited number of camping units. He said it gives him peace of mind that the Conditional Use Permit would be reviewed annually and will allow the neighbors the opportunity to talk about the issues if it becomes a problem. He felt that if more time was needed to review the new conditions presented today by the applicant then the item could be deferred.

Commissioner Rasmussen said this type of activity is neat and that it is a good activity in an area with high quality soils. He said he pulled up and read the Pinwheel Farm description on the WWOOF website and that it was pretty accurate and didn't make it sound glorious. He expressed concerns about the aesthetics of the property. He said it was not inviting and does not reflect well on the community. He said he would like to see conditions a little stronger to improve the appearance of the entry way of the farm. He said he would feel more comfortable seeing revised recommendations for the proposed conditions by the applicant.

Commissioner Hird said he lives in the country south of town and passes a junkyard every day that irritates him. He agreed that addressing how the property is kept is a great concern and could be a step forward in patching things up with the neighbors.

Mr. McCullough said the item could be deferred to Wednesday depending on the scope of direction.

Commissioner Blaser said he drove past the property during the past week and the physical appearance was not something to be proud of. He felt they should defer the item one month to do

more research. He said he was not as concerned about the camping as he was about the physical appearance of the property.

Commissioner Harris said it seems there are two issues from the neighbors; property appearance and who's living there. The appearance could be somewhat addressed by having permanent structures rather than camping structures, but the appearance could be let go and could be left with a similar situation. As far as who's living in structures it could be the same people. She said she was encouraged by the fact that Ms. Lowther has standards and rules that people staying there have to sign. She also said she supported the camping but agreed some language should be added about the property being presentable to the neighborhood, especially sides that face other neighbors.

Commissioner Singleton agreed with Commissioner Hird about it being an excellent business opportunity for the community. She said she initially had concerns about transients camping, but now that she has heard from the applicant and volunteers she wasn't as concerned. She said these are people that Ms. Lowther has invited into her home and she has to think about her own safety so she is confident in Ms. Lowther's screening process. She was concerned about not having enough time to review the applicants new proposed amendments to the conditions. She said the appearance of the property does speak to the relationship with neighbors and has to be addressed. If neighbors don't trust the decisions about what the applicant does with the land then they may not be confident in who is invited to stay there.

Commissioner Finkeldei expressed concerns about the sanitary conditions for the people staying there. He asked if Richard Ziesenis, Director of Environmental Health, had been consulted.

Ms. Miller said Mr. Ziesenis recommended chemical toilets but that the privy would be allowed. Kansas EPA says if there are fewer than 25 people well water can be used. He recommended using bottled water and suggested she could use large jugs rather than individual bottles.

Commissioner Finkeldei suggested lumping the camping conditions together and the other related conditions together. He was still concerned about camping in the neighborhood but felt this was a great use that should be encouraged.

Mr. McCullough said the by-laws allow them to defer the item even with the public hearing being closed.

Commissioner Hird asked if the neighbors would get a chance to see the revisions.

Mr. McCullough said they could see it in the Planning Commission packet that is posted.

Commissioner Harris asked that staff research the progress of the water line that was mentioned in earlier comment as being possibly put across Ms. Lowther's property.

Commissioner Rasmussen suggested staff look into the following:

- A condition on firearms for guests
- Alternative surfacing materials with an approved maintenance program
- The term of camping and what might be appropriate during growing season
- Fire rings for campfires
- Improvements to the north side of the property and have applicant come up with a schedule or plan to identify areas where work is needed and a time period in which to complete it
- He did not feel the 100 year Conditional Use Permit was appropriate but thought 20 years might be acceptable

Commissioner Finkeldei asked staff to look into the legality of camping on your own property and whether the Board of Zoning Appeals can grant variance from 12-303. He also said he could become more comfortable with the camping if it was more defined, such as two spots for WWOOF people, two spots for long term people, and two spots for people who would come in occasionally.

#### **ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Blaser, to defer to May Planning Commission.

Commissioner Singleton asked the applicant about the impacts of the item being deferred to May.

Ms. Lowther said it would not create a conflict.

Motion carried 8-0.

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### ITEM NO. 3 COMPREHENSIVE PLAN ANNUAL REVIEW (MJL)

Receive the Comprehensive Plan Annual Review and initiate recommended comprehensive plan amendments to be considered at future meetings.

#### STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Harris said it seems a little awkward to approve a plan that is not supported by the comprehensive plan. She felt it seemed better to approve changes to the comprehensive plan at the same time the specific plan is approved. She asked if there was a way in the future to do that.

Ms. Leininger said the way it lines up in the hierarchy of plans is that the comprehensive plan is overarching and specific plans, which include sector plans, are more specific for the planning area and something needs to be approved to base the comprehensive plan on. Typically the approved policy for the more specific area supersedes the policy in the general comprehensive plan and any necessary changes are made to the comprehensive plan as part of the implementation of the sector plan.

Commissioner Harris said it seems the comprehensive plan should be amended first so that the base plan is used to base the specific plan on.

Mr. McCullough said staff uses the comprehensive plan as a starting point. For example, if a commercial designation changes then one of the action steps is to change the overarching goals to mimic that.

Commissioner Rasmussen inquired about revising chapters to conform with or refer to chapter 16.

Mr. McCullough said staff is looking at recently approved documents and checking alignment in Horizon 2020, either as specific actions steps in a sector plan for example, or because a new chapter has been created and approved, and see what implications that has on the rest of Horizon 2020.

#### **PUBLIC HEARING**

No public comment.

#### **ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to close public comment.

Motion carried 8-0.

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to initiate four Comprehensive Plan Amendments for the identified amendments for future public hearings:

- Update Chapter 14 Specific Plans. There are references are made to the previous Chapter 13 – Implementation regarding the adoption process for plans. The reference needs to be updated to refer to Chapter 17 – Implementation. This was an oversight when the chapter was renumbered.
- Amend Chapter 7 Industrial and Employment Related Land Uses to be consistent with the approved K-10 & Farmer's Turnpike Plan to include the plan expanded Santa Fe Industrial Area and I-70 and K-10 industrial area.

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- Update Chapter 11 Historic Resources. This chapter has been in process since 2005. We have different numbering system and would like to update the file to the current system (currently CPA-2005-3).
- Update to Chapter 10 Community Facilities. An update to this chapter is needed.

Motion carried 8-0.

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# ITEM NO. 4 TEXT AMENDMENT FOR USES IN IBP DISTRICT (MJL)

Consider initiating a Text Amendment to add Hotel, Motel, Extended stay uses in the IBP (Industrial Business Park) District for discussion at a future public hearing.

#### STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

#### **ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to close public comment.

Motion carried 8-0.

Motioned by Commissioner Singleton, seconded by Commissioner Chaney, to initiate a text amendment to Chapter 20, Article 4 of the Code of the City of Lawrence, Kansas to add the Hotel, Motel, Extended Stay use as a permitted use in the IBP District.

Unanimously approved 8-0.

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### ITEM NO. 5 INDUSTRIAL DESIGN GUIDELINES (MJL)

Receive the draft Industrial Design Guidelines.

Consider initiation of an amendment to the Community Design Manual to incorporate the Industrial Design Guidelines and initiation of a Text Amendment to the Land Development Code, Chapter 20 of the Code of the City of Lawrence, Kansas referencing the Industrial Design Guidelines for discussion at a future public hearing.

#### STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Harris inquired about language in the document that says 'It is recognized that design professionals including architects, landscape architects, engineers, and land planners are trained to strive for creative excellence. The standards and guidelines established herein are not intended to restrict creative solutions.'

Mr. McCullough said the purpose of the statement is to say that the document is not meant to design a project. It is meant to provide guidance on what the values are in terms of the elements of such things as site, architecture, fencing, and grading.

#### **PUBLIC HEARING**

Ms. Marguerite Ermeling inquired about the stakeholders and felt that not very many people knew about the document. She hoped that more stakeholders are involved.

Commissioner Harris asked staff how the stakeholder list was compiled.

Ms. Leininger said it was compiled in-house by the committee. Staff drafted a base list and took to the committee for additional stakeholders to be added. She said Ms. Beth Johnson from the Chamber of Commerce was also used as a resource to forward to other stakeholders, specifically in the manufactures group, that may be interested.

Commissioner Rasmussen asked who she represented.

Ms. Ermeling said the Scenic Riverway Association.

#### **ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to close public comment.

Motion carried 8-0.

Commissioner Rasmussen said he did not anticipate this document being made public at this time and asked what the plan was for the project.

Mr. McCullough said there was some miscommunication in the subcommittee in terms of what to do with the document. He said he felt like staff was charged with providing this to stakeholders for review. He said the plan was to initiate tonight, receive public comment from now till next month, and hold a hearing on the document to get public comment. If the Planning Commission chooses, the draft can go back to the committee for additional work and then receive a recommendation to the Planning Commission body. He stated that if the Planning Commission does not think it is ready

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for public hearing then comment could be taken and the document continued to be worked on. He said there are several ways to work on it.

Commissioner Rasmussen said there were several comments from the meeting last week and concerns about the subjective nature of some of the standards. He asked how those comments would be taken into consideration and incorporated.

Mr. McCullough said staff was hoping tonight to get it initiated and then at a future meeting bring back the staff report which would outline any comments received, which would include the manufacturers group meeting from last week.

Commissioner Finkeldei wondered if the Planning Commission should wait to hear it until the working group committee has approved it.

Mr. McCullough said that is an option. He suggested initiating it tonight, taking public comments for the next 30 days, keeping it before the committee, and then sending it back to Planning Commission.

Motioned by Commissioner Singleton, seconded by Commissioner Chaney, to initiate the Industrial Design Standards and initiate a text amendment to the Land Development Code referencing the Industrial Design Standards.

Motion carried 8-0.

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# ITEM NO. 6 AMENDMENTS TO DEVELOPMENT CODE; ENVIRONMENTALLY SENSITIVE AREAS (MKM)

**TA-12-27-07**: Consider Text Amendments to various sections of the Land Development Code, Chapter 20 – Code of the City of Lawrence, Kansas to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. *Planning Commission requested more information on the proposed Density Bonus Incentive at their 2/22/10 meeting.* 

#### STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Rasmussen inquired about density caps.

Ms. Miller said density caps are necessary in the RM districts. She said the RS7 district is right at the density cap now so she did not believe the cap would need to be changed for RS7.

Commissioner Rasmussen asked how the 20% requirement was established.

Ms. Miller said before there were Text Amendments the Code said there were environmentally sensitive lands if it was over 500 square feet and the property wasn't platted. Then a planned development needed to be done and planned developments said there had to be 20% of common open space. Staff took that to mean that is where the environmentally sensitive area would go.

Commissioner Moore inquired about the tracking of density bonuses in GIS.

Ms. Miller said there is a layer called conditional zoning so another layer could be added called density bonus.

Commissioner Harris said she appreciated the time staff took putting this together with examples.

#### **PUBLIC HEARING**

No public comment.

#### **ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to close public comment.

Motion carried 8-0.

Motioned by Commissioner Harris, seconded by Commissioner Chaney, to:

- Initiate a Text Amendment to Article 6 of the Development Code to revise the Density and Dimensional Standards to accommodate the increased density.
- Initiate a Comprehensive Plan Amendment to Chapter 5 of *Horizon 2020* to note that the Density Caps may be exceeded when density bonuses are applied.
- Direct staff to revise Text Amendment [TA-12-27-07] for Protection Standards for Environmentally Sensitive Lands to incorporate the incentive language and place it on the May Planning Commission agenda for action.

Motion carried 8-0.

# **MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

Recess at 10:48pm until 6:30pm on April 28, 2010.

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Reconvene April 28, 2010 – 6:30 p.m.

Commissioners present: Blaser, Finkeldei, Harris, Hird, Moore, Rasmussen, and Singleton

Staff present: McCullough, Brown, J. Miller, M. Miller, and Ewert

# **BEGIN PUBLIC HEARING (APRIL 28, 2010):**

#### **COMMUNICATIONS**

No communications received.

# **EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- No ex parte.
- No abstentions.

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Presentation only, no action being taken on Item 7

ITEM NO. 7 COMPREHENSIVE PLAN AMENDMENT TO H2020; CHAPTER 16 - ENVIRONMENT (AMB/MKM)

**CPA-2008-7**: Consider Comprehensive Plan Amendment to Horizon 2020 to include Chapter 16 – Environment.

#### STAFF PRESENTATION

Ms. Amy Brown presented the item.

#### **PUBLIC HEARING**

Mr. Tom Huntzinger, Upper Wakarusa WRAPS Coordinator, said there are two watersheds under this program, Upper Wakarusa and the lower part of Kansas River basin. He said he did submit written comments and was satisfied that the chapter was well done and the document sufficiently met the WRAPS program needs.

Mr. Alan Black said he was speaking for himself not on behalf of the League of Women Voters. He said there were two topics that were not covered by the chapter. The first is power production, general electricity. He said most of the electricity in the area comes from Westar Energy's coal-fired plant and a small amount comes from the Bowersock Dam, with a few farmers having windmills. He said coal-fired plants contribute to global warming and air pollution. A comprehensive plan doesn't usually deal with this subject. The community is dependent on the Westar plant, and it will be operating for a long time, but the plan could encourage generation of electricity from the wind and sun. The second topic: In an urban area such as the City of Lawrence, a high percentage of the land is covered – some of it by buildings, but much of it by pavement, mostly in the form of concrete or asphalt. This increases the run-off of water, which spreads pollutants to adjacent ground and may contribute to flooding. This also decreases the amount of ground where plants and flowers can grow, and it may have adverse effects on some animals. A high percentage of this pavement is intended for parking. To a large extent, the amount of parking is determined by minima specified in the Land Development Code. If the Code were revised to reduce the amount of required parking, it would be very beneficial for the environment. This goal could be stated in the comprehensive plan. Reducing the use of private motor vehicles and increasing travel by public transit and bicycles would also help by lowering the demand for parking. He did not have any specific language to propose for the chapter at this time.

Commissioner Rasmussen asked if Mr. Black understood that electricity used in homes doesn't necessarily come from the Lawrence power plant. He said the electricity on the grid in the Southwest Power Pool is provided by the Lawrence Power Plant, Tecumseh Power Plant, La Cygne Power Plant, Jeffrey Energy Center, Wolf Creek Power Plant, and the wind turbines in the western part of the state. He said the electrons generated in one power plant cannot be traced to the end user.

Mr. Black said he was not an expert on the subject. He felt the problem was from the use of coal. Natural gas may be slightly more desirable but may have problems as well. He said power plants will not be eliminated any time soon but that the plan could try to encourage the use of wind and sun. He said this is a national problem. He said he just watched a news broadcast today that stated the US Secretary of Interior just approving the building of wind towers in the ocean off of Cape Code, which had been controversial for many years. He said in the past Senator Ted Kennedy had opposed it and stopped it because the Kennedy family has a summer home in Hyannis Port and he said it would hurt the view they had from their home and hurt the tourist industry. Mr. Black said that today the US Secretary of Interior approved the building of those.

Commissioner Rasmussen said they should revisit language regarding the encouragement of wind generation and solar power in the city.

Mr. Brian Sifton said he serves on the Sustainability Advisory board but was speaking for himself, and is also an employee of JW Prairie Wind Power. He felt it was a very good document and the main environmental interests are represented for the most part. He said the Sustainability Advisory board would be more than happy to work further on this issue with staff and the Planning Commission.

Commissioner Hird had a question for Mr. Sifton regarding wind generation. He asked why there were wind generators/wind farms north of Interstate 70 but prohibited south of Interstate 70. He said there seems to be a disagreement between environmental groups, as well as those who are more interested in the scenic value, as to whether or not these are a good idea. He said it was hard for him to imagine that wind generators could be worse than a coal mine. He said there are people who are deeply vested in environmental concerns that are sharply divided on the issue. He wondered how the Planning Commission should approach that.

Mr. Sifton said wind turbines produce megawatt hours that aren't potential produced by a goal generating power plant, however view sheds are damaged. He said some people think wind turbines are high-tech and cool looking, while others think they don't look good and kill bats. He suggested that the board spend time finding out what their constituents interests are. He recommended doing a significant amount of outreach. He said he didn't know if wind studies have been done for the county.

Commissioner Hird wondered how they should approach this from a policy perspective if there is no data. He said his instinct is to encourage alternative fuels, including wind production, but that just because he is sold on the idea doesn't mean it's the right decision.

Mr. Sifton said it could be looked at from a ground up perspective or a top down perspective. He said a ground up perspective would be similar to what was done for this plan where drafts are created, they are vetted by the public, vetted through interest groups, and then they can look at what bubbles up to the top as far as reasonable policy and what can be supported. He said the alternative could be looking into whether it is even possible and feasible for Douglas County and would wind developers be interested if the ordinances and tax incentives were in place. He said feasibility could be started with a wind energy analysis to see if it would even be possible.

Commissioner Rasmussen said on page 16-30 under Policy 6.6 g. it says 'Develop regulations and incentives for the use of renewable energy sources,' but didn't single out any particular energy sources to select such as wind over solar over geothermal over bio fuel production. He said in his opinion Planning Commission does not have the expertise to be making that call so they only included a general statement in the document. He said wind turbines can affect weather radars, they can impact and disrupt defense radar, they can interfere with flight training routes for the Department of Defense, large wind turbines kill bats, and wind turbines are interfering with the nesting habits of the prairie chicken. Although, wind turbines don't omit air pollutants.

Mr. McCullough said he appreciated the discussion.

Commissioner Rasmussen asked if there were any ordinances or building codes that deal with the issue.

Mr. McCullough said the building code does and have strengthened considerably in terms of its energy efficiency mandates. There are impacts in an urban setting that need to be looked at. The energy issue is a big issue.

Ms. Barbara Clark went over her suggested changes that she submitted to staff and were included in the Planning Commission packet. She also said she likes that there is language included in the document about local food source.

Commissioner Harris asked how long the alluvium study would take that she referenced in her letter.

Ms. Clark said she didn't know.

Commissioner Rasmussen said his personal opinion was that the local food program belongs in Chapter 12 and doesn't have much to do with the Environmental Chapter. He asked her to persuade him why it should stay in this chapter.

Ms. Clark said the local food system is integrated with land resources and preservation of capability class 1 and 2 soils is one of the ways of establishing and expanding a local/regional food system.

Commissioner Hird said there is separate language for class 1 and 2 soils. He felt that the language on the local food program sounded more like economic development type stuff rather than preservation of class 1 and 2 soils.

Ms. Clark said just an urban setting would not be sufficient to do a local food system.

Mr. Daniel Pool, serves on the Sustainability Advisory Board, felt the language should be in both chapters. He said it was important for preserving the human and built environment. Local food has and could have a greater health outcome for citizens of Douglas County. He said as far as the energy discussion goes he agreed and said there are tradeoffs with anything. He said overall the chapter was well written but he would like to see actual benchmarks included.

Mr. Sifton agreed the language should be included in the economic development section.

Commissioner Hird said local food was also something he was interested in also. He referenced an article he read about large scale production being less damaging to the environment than local food production because the pickup trucks driving to the farmers market produce more CO2 emissions than the train or ship that transports the food in.

Mr. Clint Hornberger serves on the Douglas County Farm Bureau Board and Douglas County Food Council. He said his comments were his own personal comments. He likes the document. His only concern is that language not be added that will hinder or deter modern production agricultural as it stands today in Douglas County. He felt the language should be in both economic and environmental chapters. He would like to see a more in depth portion in the economic chapter.

Commissioner Harris had a question for Mr. Hornberger about the modern agricultural method that he mentioned. She said Planning Commission received a comment from the League of Women Voters about encouraging organic methods of gardening and farming. She asked if he had any objections about that language being in there as long as it didn't say to prohibit other types.

Mr. Hornberger said he personally wouldn't have a problem with it but that the board would have to discuss it.

#### COMMISSION DISCUSSION

Commissioner Harris suggested having the Comprehensive Plans Committee meet once to come up with new language based on the comments.

Motioned by Commissioner Blaser, seconded by Commissioner Harris, to close the public comment.

Motion carried 7-0

Commissioner Harris reviewed written comments that were received. She said there was a comment about bike paths along Heritage corridors and staff member Ms. Amy Brown said she talked to Ms. Judy Billings about that and Ms. Billings is interested in having signage when the historic and environmental areas intersect. Another comment was received regarding green spaces for children to play and safe routes to school. Commissioner Harris said it seemed to her that green spaces would be more addressed with parks. She said there was a request for cost benefits for active transportation and she did not have a problem with that. She would like to talk more about Ms. Barbara Clarks comments about the new study for aggregate mapping and whether they want to add some language or a map for an overlay. She said the League of Women Voters had a lot of comments and asked if she should go through her thoughts on all of them.

Commissioner Finkeldei said he would rather see the committee come back with a document that they agree with and then the Planning Commission can take the time to wordsmith.

Commissioner Rasmussen asked staff to comment on the approval process.

Mr. McCullough said that Planning Commission will pass a version and then it will go to City and County Commission. In the end all three boards need to agree.

Mr. John Miller said Planning Commission will adopt the plan but it is ultimately up to the governing bodies to also do so. So all three parties don't have to agree as long as the City and County governing bodies both agree.

Commissioner Rasmussen asked if Planning Commission and County Commission approve it and City Commission did not would it be part of Horizon 2020.

Mr. McCullough said no.

Commissioner Harris said she was interested in more general comments that might help the committee.

Commissioner Hird said some of the best science in the nation is available at KU and he wondered if they had tried to include professional expertise in the drafting of this.

Commissioner Harris said yes.

Commissioner Hird said he loves the fact that he gets high quality food from him neighbors but was concerned about language that talks about reducing automobile miles driven. He said if the goal is to encourage people to drive out to a farm and pick their own strawberries is that contrary to the goal of reducing automobile miles driven.

Commissioner Finkeldei said the document is a very overarching policy document.

Commissioner Rasmussen felt there should be a better definition of local food program. He said there are some things in the document that come with a high price tag, such as inventorying wetlands, mapping the woodlands, identify and map critical habitat area. He said he was uncomfortable with the strong 'shall' language because he didn't think they had the authority to do that.

Commissioner Harris felt they should beef up the food policy section and consult the food policy committee for a definition. She said they should also increase the language on the benefits from a local food system, and add language on creating or encouraging a local food distribution system that could create transportation efficiencies.

Commissioner Hird said this is important policy and he appreciated the work that had been put into the draft. He felt the policy statement should be an affirmative statement.

Commissioner Harris asked Mr. Hank Booth, who was sitting in the audience, if the Chamber of Commerce was going to comment on the chapter.

Mr. Hank Booth, Chamber of Commerce, said the Chamber wanted to listen to public comment first because they knew there would be revisions. He said overall the chapter was a good beginning.

#### NO ACTION TAKEN

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# ITEM NO. 8 TEXT AMENDMENT TO DEVELOPMENT CODE, CITY CODE, COUNTY CODE; FLOODPLAIN OVERLAY DISTRICT (AMB)

Consider initiation of Text Amendments to the Land Development Code, Chapter 20, Article 12 of the Code of The City of Lawrence, KS and to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas to reference 2010 effective dates for new Floodplain Overlay District Maps and related regulation changes for discussion at a future public hearing.

#### **STAFF PRESENTATION**

Ms. Amy Brown presented the item. The item will be heard by Planning Commission again in June.

#### **PUBLIC HEARING**

No public comment.

#### **ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to close public comment.

Motion carried 7-0.

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to initiate a Text Amendment to the Land Development Code, Chapter 20, Article 12 of the Code of The City of Lawrence, KS.

Motion carried 7-0.

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to initiate a Text Amendment to the Zoning Regulations, Chapter 12, Section 12-328 of the Code of the County of Douglas, Kansas.

Motion carried 7-0.

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### ITEM NO. 9 TEXT AMENDMENT; LAND DEVELOPMENT CODE; MU DISTRICT (MJL)

**TA-1-10**: Consider Text Amendments to the Land Development Code, Chapter 20, Sections 20-403, 20-509(3), and 20-524 of the Code of the City of Lawrence, KS to permit Bars or Lounges and to consider changes to development standards for various Eating & Drinking Establishments in the MU (Mixed Use) District. *Initiated by City Commission on 2/2/10*.

Item 9 was deferred prior to the meeting.

#### MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

# **PUBLIC COMMENT SECTION**

ADJOURN 8:08pm

# 2010 LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION MID-MONTH & REGULAR MEETING DATES

Mid-Month Meetings, Wednesdays 7:30 – 9:00 AM	Mid-Mont	Planning Commission Meetings 6:30 PM, Mon & Wed		
Jan 13	Midland Junction Sand Facility		Jan 25	Jan 27
Feb 10	KU Endowment	Kansas Biological Survey	Feb 22	Feb 24
Mar 10	Industrial Desig	Mar 22	Mar 24	
Apr 14	Environmental Cha	Apr 26	Apr 28	
May 12	APA Conference Report	Northeast Sector Plan Presentation	May 24	May 26
<del>Jun 09</del>	Cancelled due to Frida		_	
June 11	PC Orier	Jun 21	Jun 23	
All day Friday	[including Joint City/Coun			
Jul 14	Air Quality/Ozone Issues Tom Gross & Richard Ziesenis – Health Dept		Jul 26	Jul 28
Aug 11			Aug 23	Aug 25
Sep 08			Sep 20	Sep 22
Oct 13			Oct 25	Oct 27
Nov 03			Nov 15	Nov 17
Dec 01			Dec 13	Dec 15

# Suggested topics for future meetings:

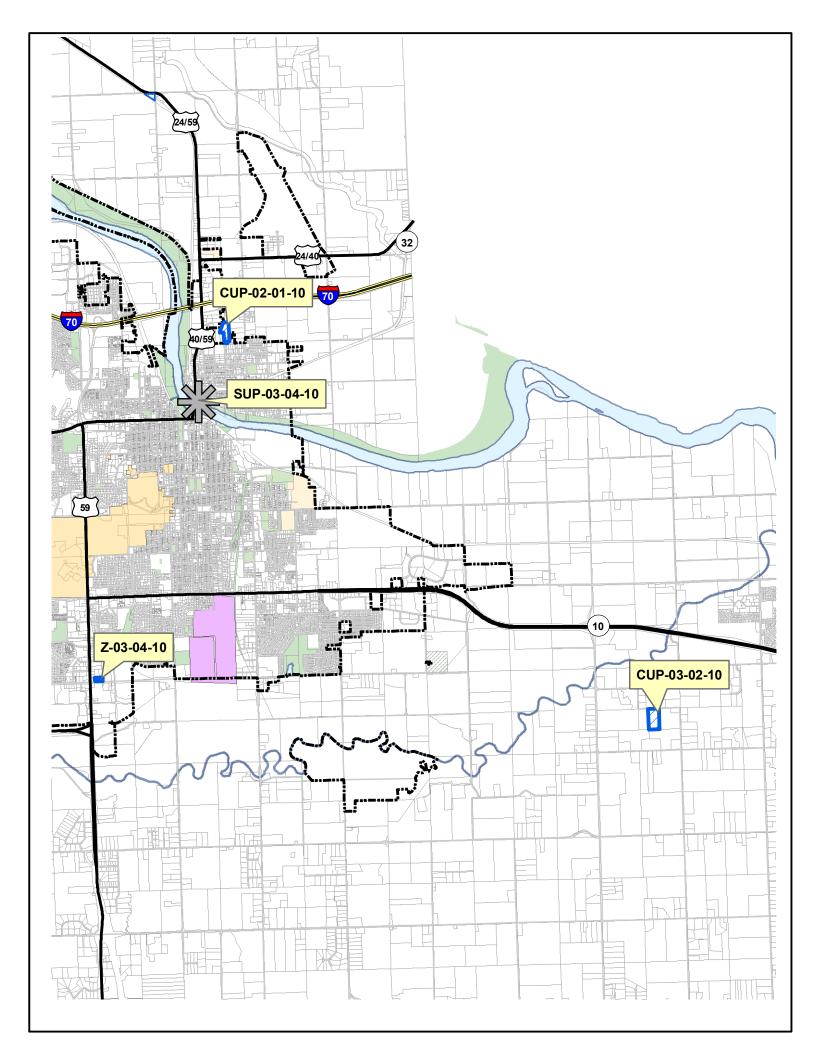
Joint meeting with other Cities' Planning Commissions
Joint meeting with other Cities and Townships – UGA potential revisions
Presentation from KC-metro Planning Directors
Tour Bowersock Dam

Tour Bowersock Dam
Tour City/County Facilities

# **Meeting Locations**

The Planning Commission meetings are held in the City Commission meeting room on the 1<sup>st</sup> floor of City Hall, 6<sup>th</sup> & Massachusetts Streets, unless otherwise noticed.

Planning & Development Services | Lawrence-Douglas County Planning Division | 785-832-3150 | www.lawrenceks.org/pds



# PLANNING COMMISSION REPORT Regular Agenda — Public Hearing Item:

PC Staff Report 05/24/10

# ITEM NO. 1 SPECIAL USE PERMIT FOR NORTH BOWERSOCK MILLS & POWERHOUSE; 1000 POWERHOUSE NORTH RD (AMB)

**SUP-3-4-10**: Consider a Special Use Permit for the construction of the North Bowersock Mills & Powerhouse, Utility and Service, Major, located at 1000 Powerhouse North Road. Submitted by Bowersock Mills & Power Company and the City of Lawrence, property owners of record.

**STAFF RECOMMENDATION:** Staff recommends approval of SUP-3-4-10, a Special Use Permit for the construction of the North Bowersock Mills & Powerhouse, Utility and Service, Major, 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. Approval of a Floodplain Development Permit, including submission of a no-rise certificate and HEC-RAS or equivalent hydraulic model as requested by the Stormwater Engineer, prior to release of Special Use Permit for building permits.
- 3. Approval of a lease agreement with the City of Lawrence for the use of city-owned property.
- 4. Submission of a photometric plan showing the location, size and wattage of fixtures.
- 5. Applicant shall provide a revised site plan with the following changes:
  - a. Correctly show the location of the access road on the southernmost edge of the levee under the Kansas River bridge.
  - b. Move the stand pipe on the south wall as close as possible to the stair door.
  - c. Show location of fire hydrant that meets 2006 IFC C105.1.
  - d. Show location of Fire Department Connection (FDC) on west wall of building next to main door.
  - e. Revision of the surface summary to add square footage amounts for building and pavement.
  - f. Add material notation for canoe portages and fishing deck.
  - g. Add the following notes:

Proposed Use: "Utility and Service, Major"

h. Add City of Lawrence as property owner:

City of Lawrence, KS

PO Box 708

Lawrence, Kansas 66044

785.832.3000

#### **Applicant's Reason for Request:**

"The Bowersock Mills and Power Company (BMPC) requests a Special Use Permit to construct a hydroelectric powerhouse at the north end of the Bowersock Dam. The area is currently zoned open space. The use of the building is for the production of electricity and would qualify for Open Space under 'Utility and Service, Major'. BMPC anticipates operating this plant in this area into the next century and beyond. The company wants to be assured through the Special Use Permit that operation of

the plant under the requirements of a granted Special Use Permit would continue unchanged through the life of the operation."

#### **KEY POINTS**

 The BMPC North Powerhouse is a "Utility and Service, Major" which requires a special use permit in the OS zoning district.

#### **FACTORS TO CONSIDER**

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

#### **ASSOCIATED CASES/OTHER ACTION REQUIRED**

#### **Previous Action**

• Variance [B-2-2-10] from Article 12, Section 20-1204(e)(3)(i) of the City Code as it pertains to standards for non-residential development within the floodplain overlay district. Approved by the Board of Zoning Appeals March 4, 2010.

#### **Future Action**

- Approval of a lease agreement with the City of use of city-owned land.
- City Commission approval of Special Use Permit and publication of ordinance.
- Administrative review and approval of floodplain development permit.

#### PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

None have been received.

#### GENERAL INFORMATION

Current Zoning and Land Use: OS (Open Space) and Floodplain Overlay Districts;

property is located in the Kansas River and also

contains a dam.

Surrounding Zoning and Land Use: To the north, east, and west: OS (Open Space) and

Floodplain Overlay Districts; property contains the

Kansas River, a dam, a levee, and park land.

To the south: CD (Commercial Downtown), CS (Commercial Strip), and Floodplain Overlay Districts; City parkland, existing hydroelectric plant, existing

development.

#### **Summary of Special Use**

Currently, Bowersock Mills and Power Company (BMPC) operates a hydroelectric plant on the south side of the Kansas River, just east of the Kansas River bridge. This proposal is for the construction of a new hydroelectric plant on the north side of the river.

The hydroelectric plant is defined as a *utility and services, major* in Section 20-1764 of the Development Code:

UTILITIES AND SERVICES, MAJOR. Services and utilities that have substantial impacts. Such uses may be permitted when the public interest supersedes the usual limitations placed on land use and transcends the usual restraints of the district for reason of necessary location and community-wide interest. Typical uses include: water and wastewater treatment facilities, major water storage facilities, airports, power generation plants and detention and correction institutions.

#### **SITE SUMMARY**

	Existing	Proposed	Change
Property Area (sq ft):	174,983	174,983	-
Total Impervious Area (sq ft):	26,232	24,988	-1,244
Total Pervious Area (sq ft):	148,752	149,996	+1,244

#### **Site Plan Review**

The site plan shows the proposed location of the hydroelectric plant on the north side of the Kansas River, east of the Kansas River bridge. The plan also shows the access road, and necessary improvements to the existing dam.

The applicant is also proposing to construct a canoe take-out west of the Kansas River Bridge, a canoe put-in east of the proposed hydroelectric plant, and the construction of a new fishing deck. The applicant will place a sign at the canoe take-out warning boaters of the downstream hazard.

Off-street parking for "utility and service, major" is required at a ratio of 1 parking space per 1.5 employees. This hydroelectric plant will only be manned during the day, but the majority of activities will take place at the south powerhouse facility. The site will be accessed by BMPC trucks for routine maintenance and these will park on the access road or in the garage area.

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

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

Applicant's Response: "The hydroelectric plant is a 'Utility and Service, Major' which is an allowed use in the OS zoning district with a special use permit according to Section 20-401 of the 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 OS (Open Space) District subject to Special Use Permit approval. A Floodplain Development Permit is required per Section 20-1203 and must be approved prior to the release of building permits. In addition, the applicant will need to enter into a lease agreement with the City for the use of city-owned property.

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: "BMPC has worked with a local architect and the North Lawrence Improvement Association to design a plant such that is keeping with the character of the neighborhood. The Bowersock Dam and the associated BMPC South Powerhouse have been fixtures in Lawrence, Kansas since 1874 and 1905 respectively. Both the dam and BMPC South Powerhouse ae eligible for the state historic register and their industrial purpose and nature are characteristic of both downtown and North Lawrence. In particular, North Lawrence has historically been an industrial and agricultural center for the community. Key features in the area include large grain elevators, significant industry such as a chemical plant, and a major rail line with heavy railroad traffic, alongside large residential lots, many of which have productive truck gardens. With the purpose of reflecting the character of the area, the proposed BMPC North Powerhouse will have simple, industrial lines. The architect for the project chose not to mimic the exact historic style of the BMPC South Powerhouse, but rather use a more modern style with key elements of the existing powerhouse such as the clerestory and exposed concrete. Because of the structure's near constant exposure to moisture, durable precast concrete was selected to serve as exterior wall cladding instead of brick masonry which is also a material characteristic of the area, given the difficulty BMPC has had maintaining the South Powerhouse brick masonry walls. A large glass clerestory will provide daylight illumination of the interior, and operable glass openings placed adjacent to the generators will provide BMPC's staff with the ability to ventilate the interior passively, provide views up and down river for BMPC staff, and provide vehicular travelers, bike travelers and walkers with glimpses of the operating generators from the bridge and levee. BMPC has provided amenities for the public in the project, including a canoe portage from upstream to the downstream side of the dam, a fishing deck on the downstream side of the powerhouse, and improved and safer access to the fishing deck and the river. Scale: the building will be tall. Due to federal, state, and local regulations, the top floor of the powerhouse must be above Base Flood Elevation (BEF), which is ELEV. 826.5. The top story has to be tall enough to house a 50-ton crane and allow for the placement and removal of powerhouse turbines and generators. The tallest point of the powerhouse will be above the Massachusetts and Vermont Street Bridges, well below the toe of City Hall, and significantly below the grain elevators in the background. BMPC has worked to bring the height of the building down as much as possible. Operating Characteristics: The BMPC North Powerhouse will operate 24/7. The proposed building will be located in the Kansas River on the north end of the Bowersock Dam. The building will house four hydroelectric turbine/generator sets. The energy produced on the site will be transmitted via buried transmission to the Massachusetts Street Bridge. It will run in conduit under the bridge to join existing BMPC transmission on the south side of the Kansas River. The Powerhouse is designed to operate unmanned, with periodic staff checks. With the exception of the construction period, there will be limited additional traffic. The operation of the plant will not impede recreation on the river or on the levee. Periodically, operations of the plant will require heavy equipment such as backhoes in order to keep the site maintained and debris-free. Operations on the Bowersock Dam will continue much as they have over the last 100 years, as BMPC staff will access the Bowersock Dam to repair and raise flashboards on a continual basis. **Lighting:** The lighting plan for the project is designed to make the project safe and attractive. BMPC worked with the North Lawrence Improvement Association, and their requests including limiting overhead lighting that could reach the North Lawrence Neighborhood into account. The North Lawrence Improvement Association will review the lighting design. Noise: The noise of the plant is not anticipated to be an issue. All generators in the South Plant will be either brand new or newly-rewound. Hydroelectric power plants do produce noise, but it is well within the range of the ambient traffic noise of North Lawrence. Warranties on the equipment will ensure that the generators will not make excessive noise. Odor: None. Dust: None additional. BMPC feels that the replacement of the existing spillway with the proposed BMPC Powerhouse will improve the aesthetic

aspects of the project and the surrounding area, as well as make the area surrounding the project a safer, more appealing place to recreate. "

The proposed hydroelectric plant is similar in operation to the existing one that is located on the south side of the river. Interior lights will only operate when the structure is occupied. Exterior lighting will consist of cut-off lights to minimize light pollution. Wall-mounted LED lights will be installed on the east and west facades to illuminate the building facade and be controlled with photocell sensors so that they may be automatically turned on at dusk and off at dawn. Also, there will be wall mounted fixtures on the north and west of the structure for safety. In total, there will be 14 exterior light fixtures. BMPC has indicated that there will be no additional amounts of odor, dust or other external impacts associated with this project.

**Staff Finding** – The proposed hydroelectric plant 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: "BMPC believes that the construction of the North Powerhouse will be an improvement on the current aesthetic appeal of the site. Historically, the north end of the Bowersock dam has been the least aesthetically-pleasing area of the project. BMPC has been required by FERC to block access to the existing spillway with barbed wire and other fencing. The spillway itself is not particularly attractive, and BMPC has had to work diligently to keep graffiti covered, both on the spillway itself and on any other concrete surface in the area. The area has posed a safety hazard, as members of the community ignore the multitude of posted signs and fencing, access the dam, and place themselves in danger. The proposed North Powerhouse will be an single monolithic structure, and serve as an attractive impediment to the dangerous areas of the dam. Plans for the project include improved and safer access to areas downstream of the powerhouse which will be appropriate for fishing and other river activities. BMPC feels confident that the project will make the north end of the Bowersock Dam a safer and more attractive area. It is our hope that the addition of this modern facility will improve property values in the area."

**Staff Finding** — The addition of a hydroelectric plant in this location is not anticipated to result in any diminution of value of other property in the neighborhood.

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

The proposed hydroelectric plant will not be serviced by any public utilities, except for electric. The applicant is proposing to use alternative means of servicing the building including bringing in potable water, off-site disposal of grey water, and the use of an incinerating or composting toilet. For fire protection, the applicant will be using water pumped out of the Kansas River. Access to the site will generally be limited to BMPC workers, city workers needing to access the dam, and public safety officials.

**Staff Finding** – The proposed use, a 'Utility and Service, Major', is a service which serves the community. Sufficient safety, transportation and utility facilities will be available to serve the subject property.

## 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. In addition, BMPC will need to enter into a lease agreement with the City for the use of city-owned property.

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

Applicant's Response: "No. The project is replacing an existing development, and will actually have a smaller concrete footprint than the existing structure. Two separate studies have been conducted to confirm that the project will not increase any chance of flooding upstream of the project. The project has received approval from the U.S. Fish and Wildlife Service and the Kansas Department of Wildlife and Parks."

**Staff Finding** – The proposed use, with the protection measures required by Federal, State and Local governments, should not cause significant adverse impacts on the natural environment. In addition, the applicant will need to successfully complete a floodplain development permit, including submission of a "No-rise Certificate".

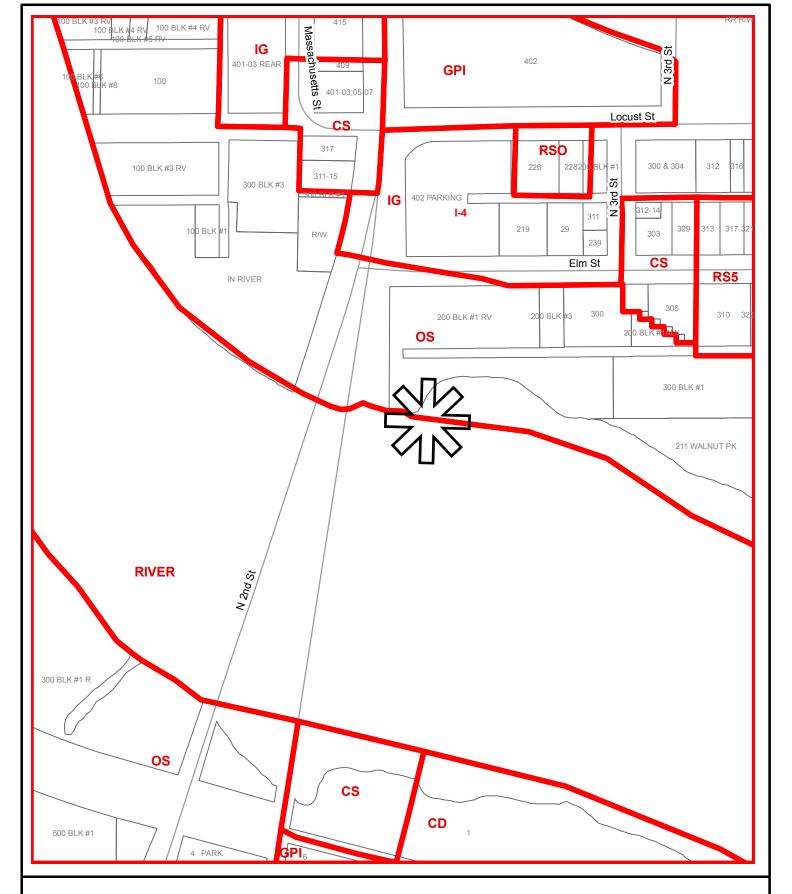
# 7. WHETHER IT IS APPROPPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO WHAT THAT TIME PERIOD SHOULD BE.

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. However, time limits have not typically been imposed on utility services through the special use permit process. The Special Use Permit process allows for review at any time by the City Commission according to Section 20-1306 (I), which provides for protection for the public.

**Staff Finding** – The project provides infrastructure for the community; therefore, it would not be appropriate to place a time limit on this use.

#### **Conclusion**

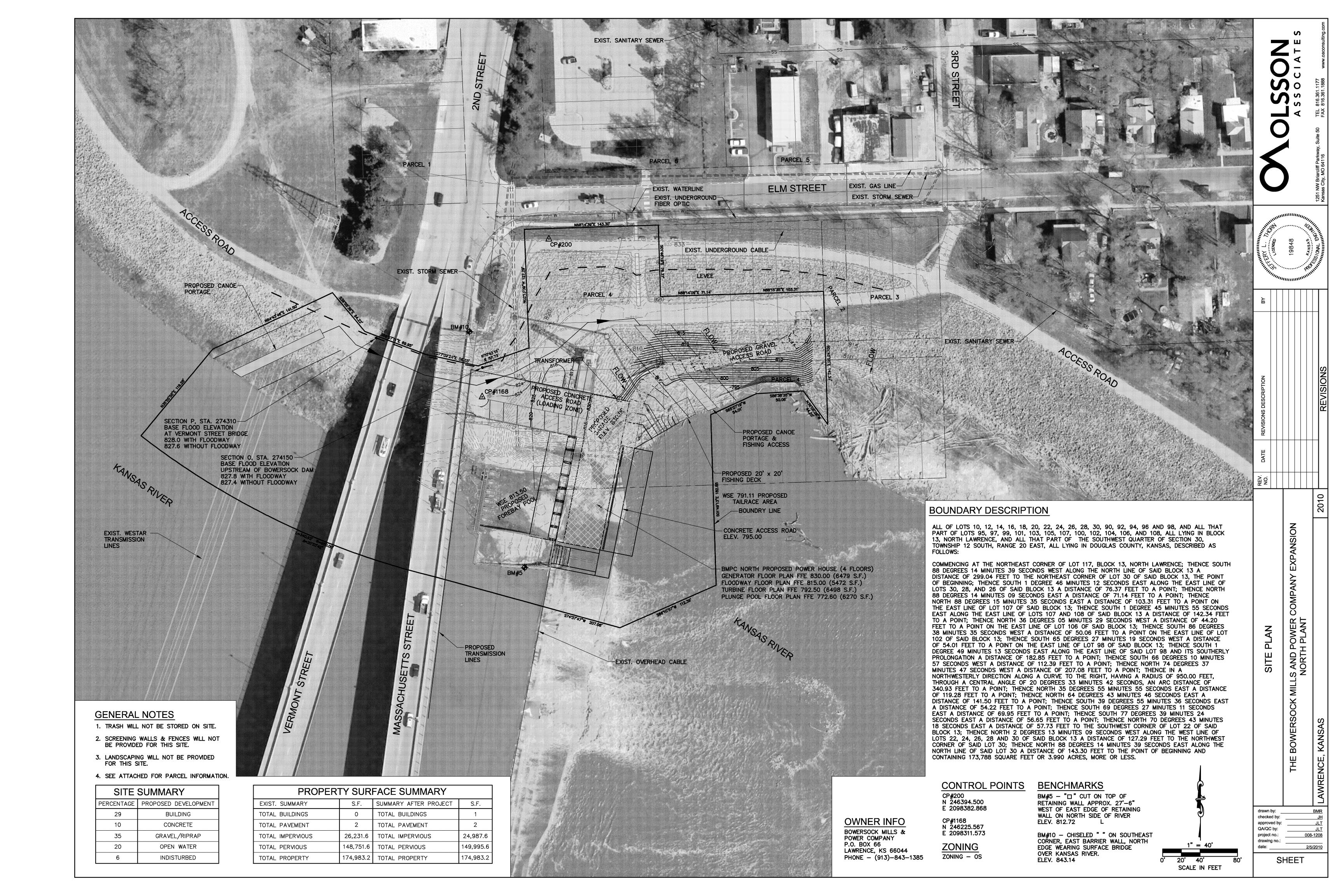
The proposed hydroelectric plant will have a positive impact on the community by providing alternative energy production. The use is compatible with, and appropriate for, this location and staff recommends approval of the Special Use Permit with the conditions noted.

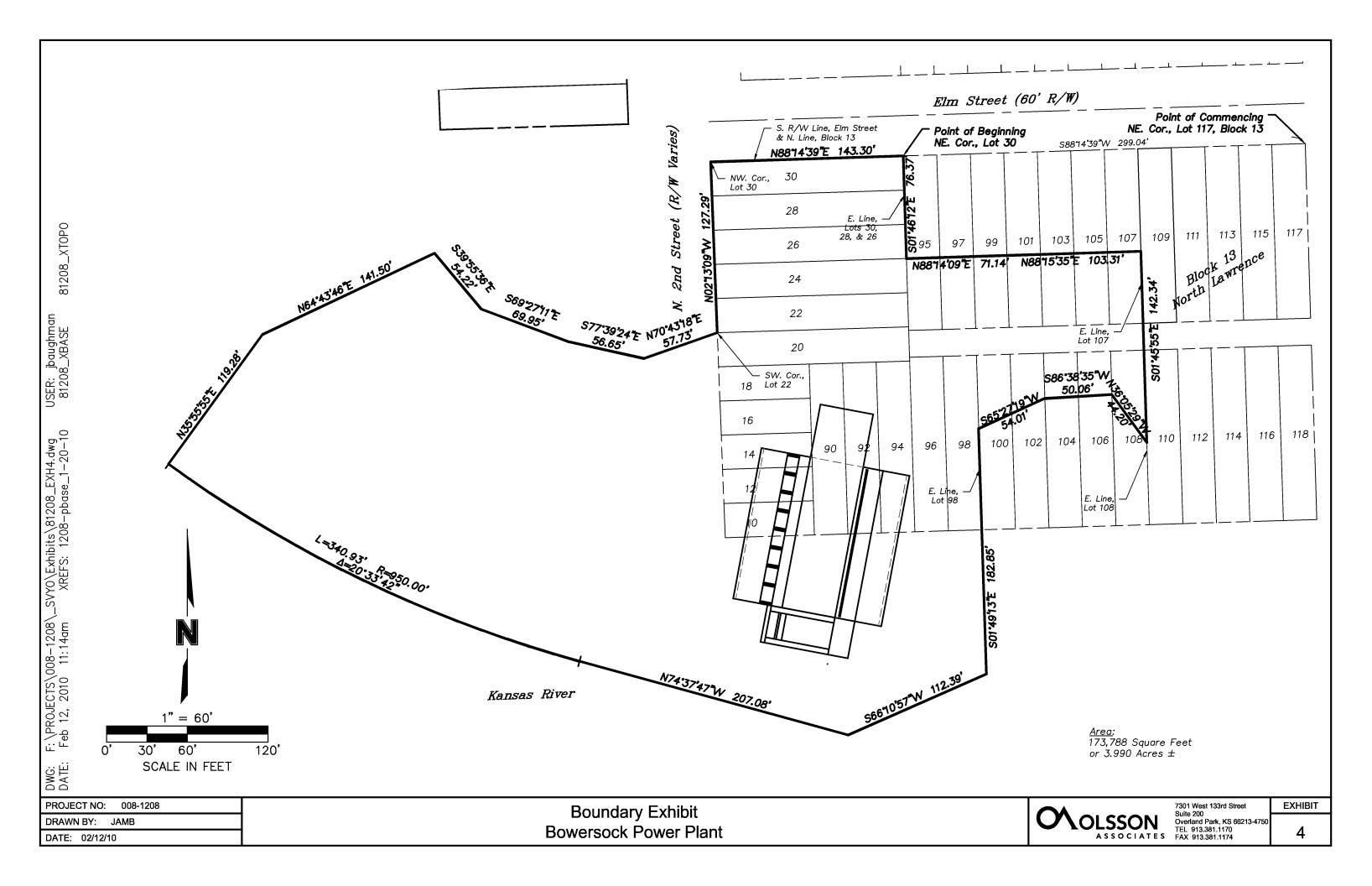


SUP-3-4-10: Special Use Permit for Construction of North Bowersock Mills & Powerhouse; 1000 Powerhouse North Road

Lawrence Planning & Development Services Dept April 30, 2010

Scale: 1 Inch = 200 Feet





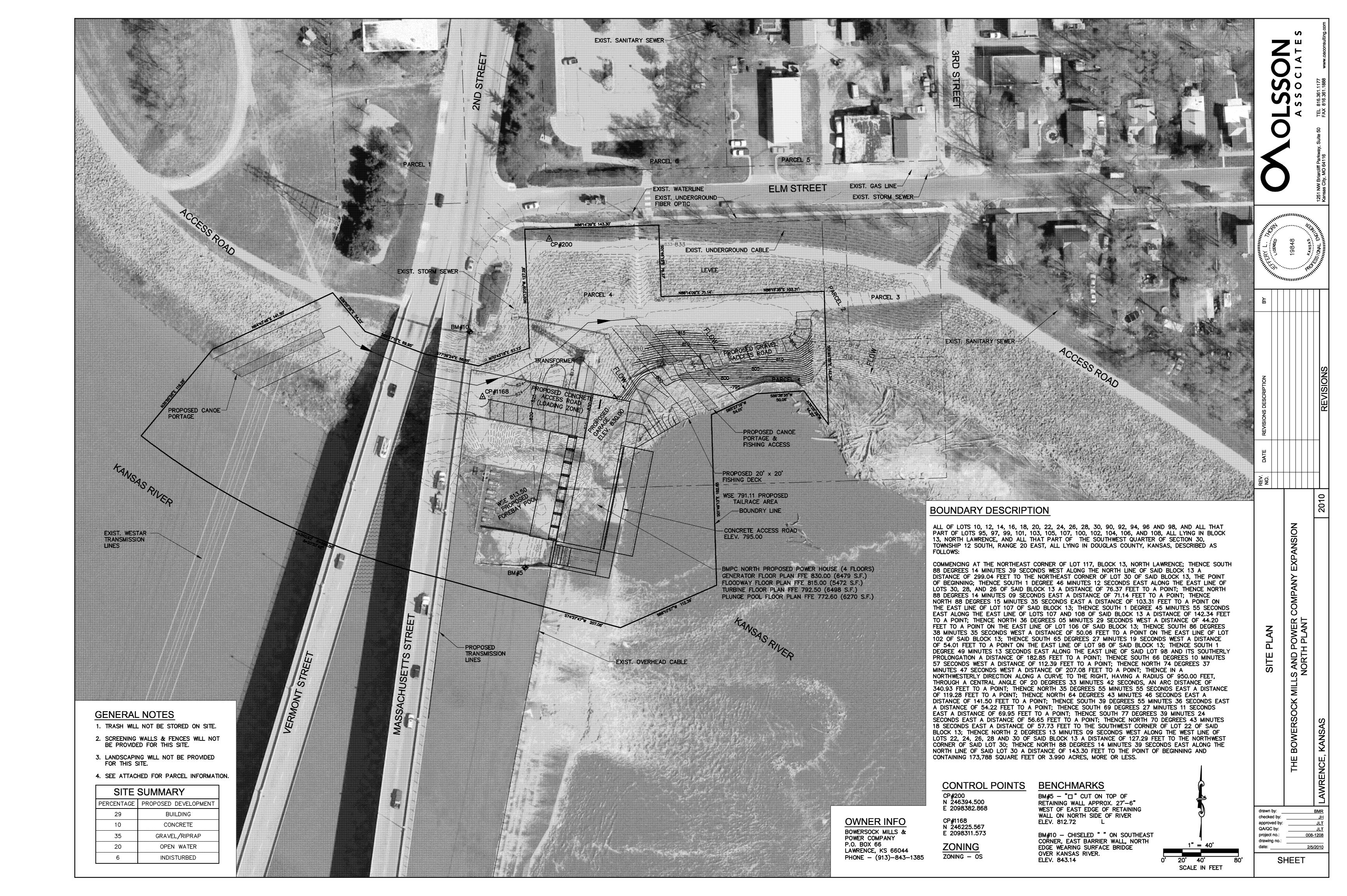
Bowersock Mill and Power Company Schematic Lighting Design Narrative 03.15.2010

Interior lighting will include induction lamp high-bay style lighting fixtures mounted above the bridge crane system at approximately 30'-6" above the generator floor slab. Induction lamp life is rated at 100,000 hours. The interior lighting system will incorporate photocell and occupancy sensors to automatically turn light fixtures off when there is sufficient daylight for illumination, or the space is unoccupied. Preliminary lighting calculations indicate 16 to 18 fixtures will be required; providing an average of 30 foot-candles on the generator floor and requiring 0.8 watts / square foot of power.

Industrial "Bug-Eye" style battery powered fixtures will be provided for emergency lighting.

In general, exterior light fixtures will have full-cut off housings to minimize light pollution. Wall mounted LED light fixtures will be installed on the east and west facades to illuminate the forebay deck and east access road, and provide subtle accent illumination of the building façade. The fixtures will be automatically controlled with photocell sensors, so that fixtures are turned on for dusk to dawn operation. Additionally, a controller will allow adjustments in façade accent illumination. Color changing LED fixtures will be mounted to the interior window jambs of 4 of the larger windows on the east and west facades to illuminate the frosted glass. A controller will allow automated and real time adjustments to the color changing LED's.

Wall mounted fixtures will be placed to illuminate the grounds north of the plant, the drive west of the plant, the gate area south of the plant, and other locations to be identified where vandalism is a concern. Approximately 14 site light fixtures will be required. Compact fluorescent wall mounted fixtures with emergency ballasts will be provided above the exterior egress doors at the northwest and south plant locations. A separate wall mounted fixture will be mounted above the overhead door.



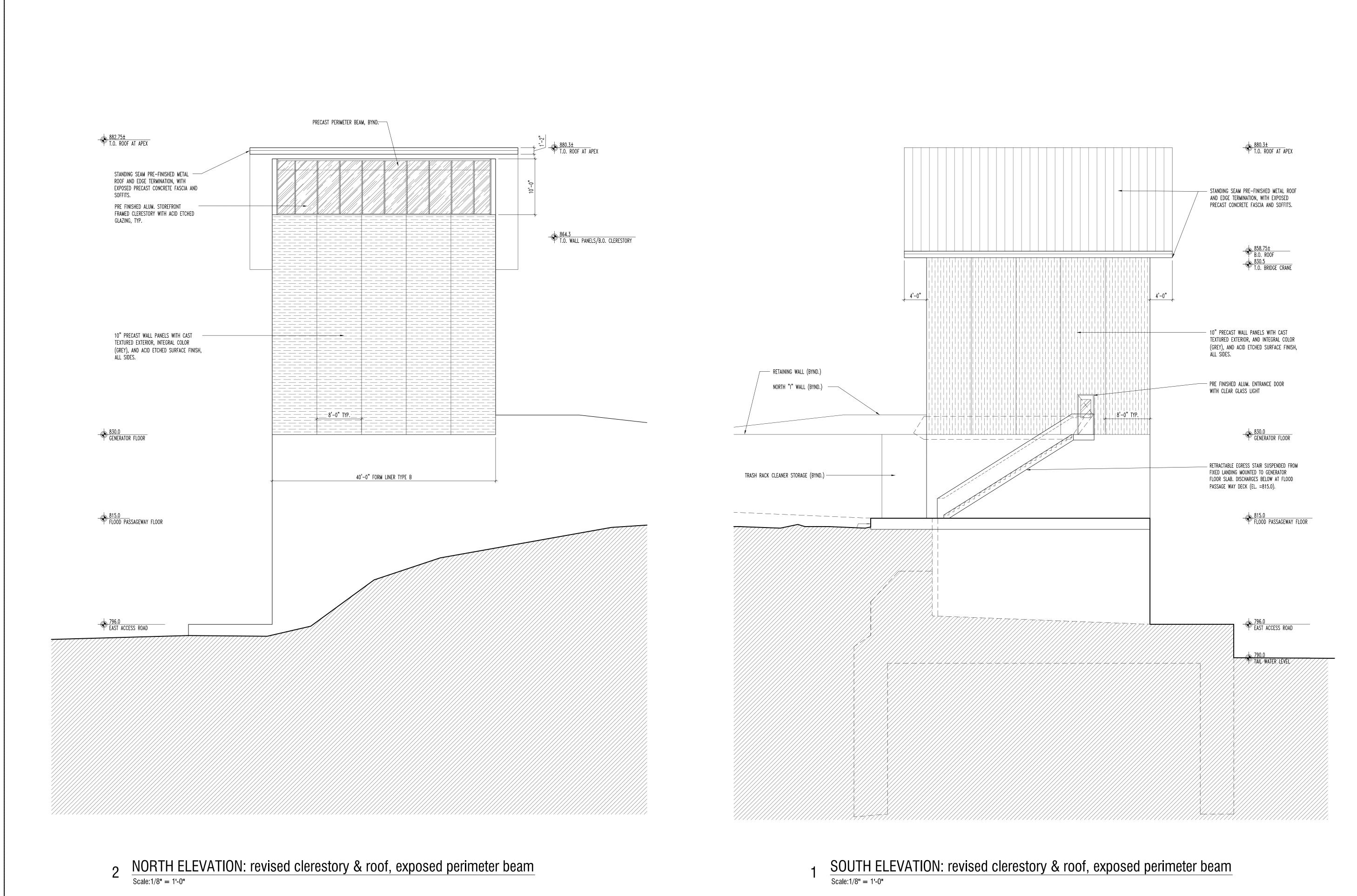
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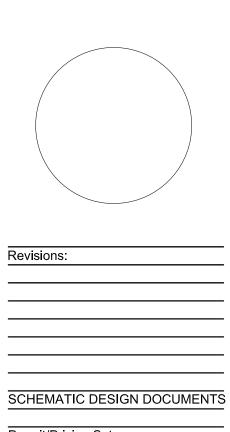
SCHEMATIC DESIGN DOCUMENTS

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Checked By: DMS
Title: BUILDING ELEVATIONS

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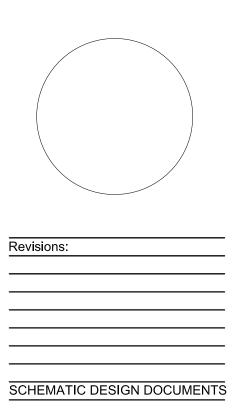


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A301

BOWERSOCK POWER PLANT EXPANSION

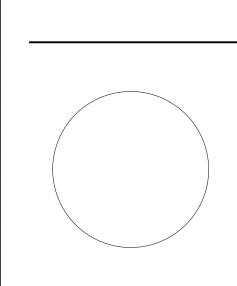
> sabatini architects



SCHEMATIC DESIGN DOCUMENTS

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SCHEMATIC DESIGN DOCUMENTS

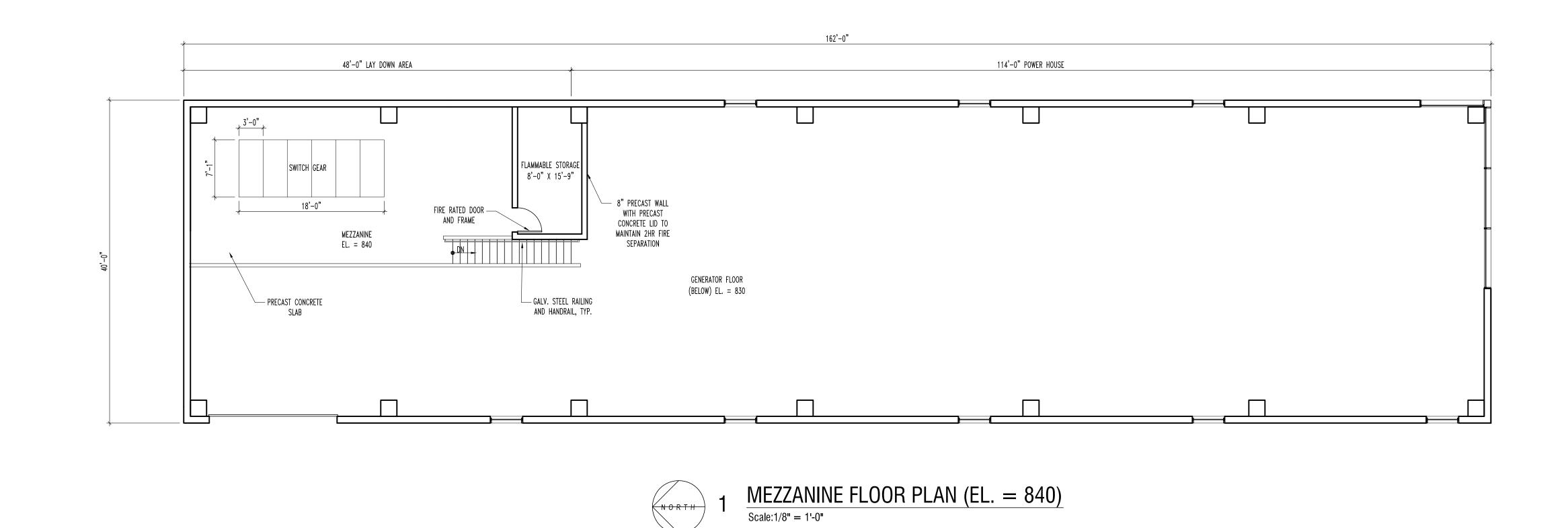
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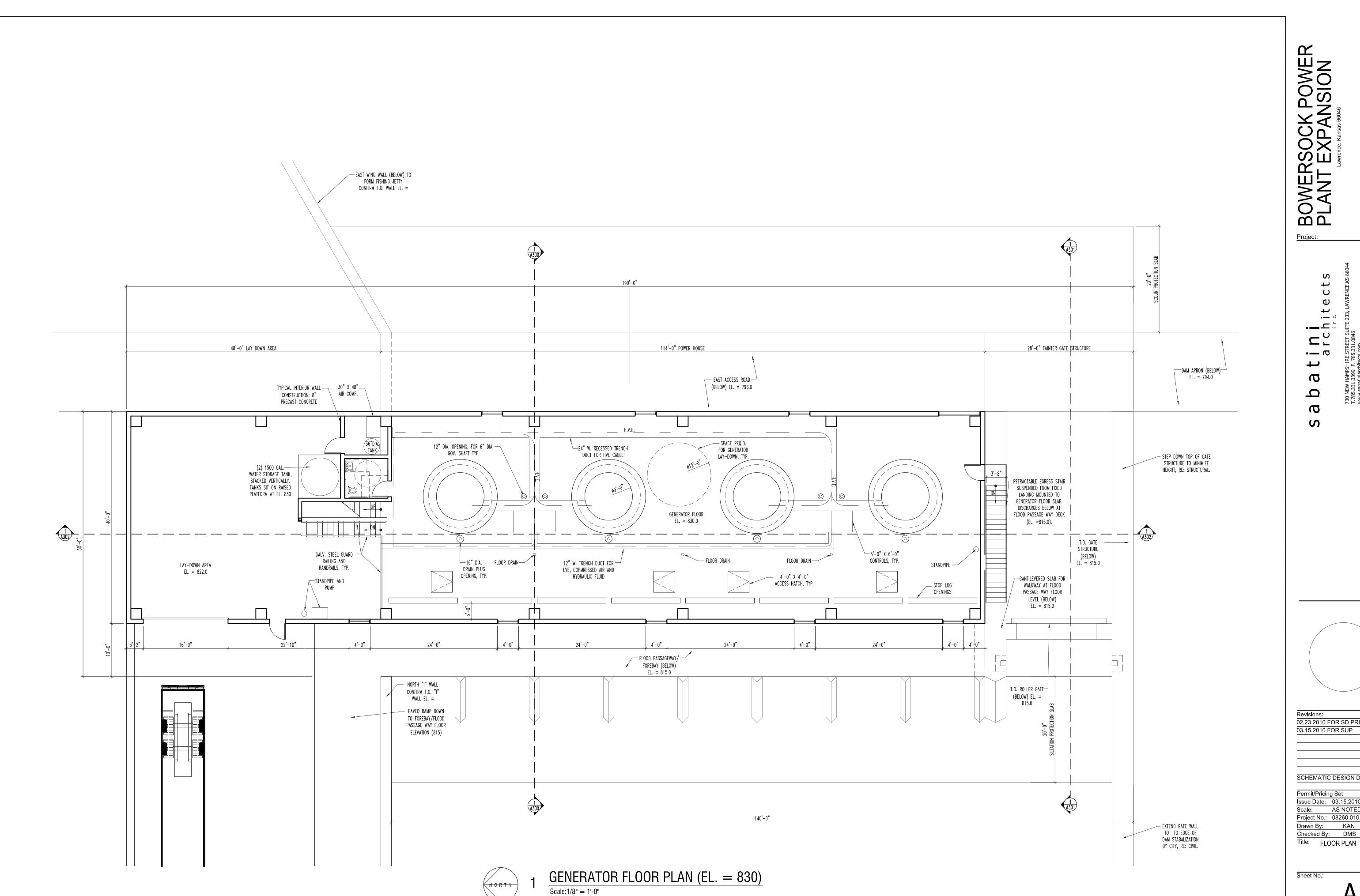
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Title: FLOOR PLAN

ENLARGED PLANS

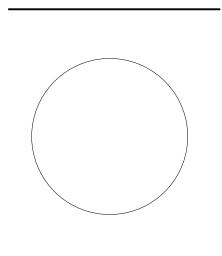


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BOWERSOCK POWER PLANT EXPANSION

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Revisions: 02.23.2010 FOR SD PRICING 03.15.2010 FOR SUP SCHEMATIC DESIGN DOCUMENTS Permit/Pricing Set Issue Date: 03.15.2010 Scale: AS NOTED Project No.: 08260.010 Drawn By: KAN
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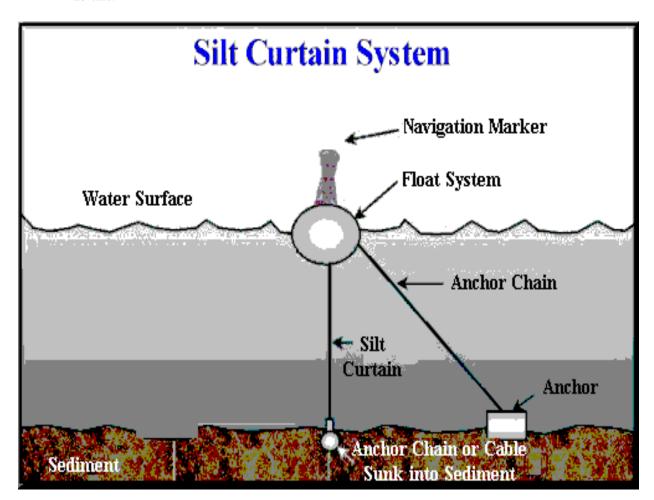
Kissick Construction Co. will construct the cofferdam's upstream and downstream of the new Bowersock power facility, and dewater as necessary, this diverts the river around the project.

The silt curtain system described herein will be designed to mitigate wildlife concerns in the event the aforementioned cofferdam's become damaged or need repair during the period of time permits require protection to certain wildlife species.

Design will require Kissick Construction Co. to retain the services of an appropriately qualified professional, to assist with the following criteria.

Design considerations during the construction and maintenance of the wildlife protection barrier should consider considers the following factors:

- Wildlife protection barrier will possibly need to be installed and removed during high water events.
- Temporary anchors with navigation markers will need to be installed in at least two locations to accommodate quick mobilization and demobilization.
- Design loops in the system to enable the wildlife protection barrier to be demobilized in a very short period of time.
- Eliminate direct and indirect impacts to fish and wildlife individuals, populations, species and habitats.



RECEIVED

MAY 17 2010

City County Planning Office Lawrence, Kansas

Lawrence and Douglas County Planning Department In Care Of: City Hall 6E6 Street Lawrence, KS 66044 May 17, 2010

Dear Planning Department:

Please accept and evaluate the 4 part, 7 page technological assessment that is enclosed for you. It is relevant to the proposed development, SUP-3-4-10... and to several other things more crucial to the City of Lawrence.

The subjects of this assessment are, 1. the dam at Lawrence, 2. the levee along Lawrence, 3. flood-related concerns in Lawrence, and 4. the Northeast Douglas County Sector Plan. Everything in the assessment concerns things important to the safety and liveability of the Lawrence community.

I've resided at my current address since 2000.

Would you please return a card or letter to let me know what can be done about these things? Thank you.

Sincerely, Juvience Jugare Smith

LES: les

Lawrence Eugene Smith
Utility Invention
826 Oak Street
Lawrence, KS 66044-5524 USA

Observations Relevant to the Northeast Sector Plan for
Lawrence and Douglas County: A Technological Assessment
Four Parts

To whomever it may concern:

### A. Insufficiencies of the North Lawrence Levee

Here are 5 reasons that show the levee in North Lawrence isn't as good as it should be, at least east of the bridges at U.S. Hwy 40/59. 1. The levee conduit stream and ditch drain valves and boxes are installed backwards! The concrete valve boxes are made to face upstream, to capture debris. A top steel grate is to be removed to manually access the box, to extricate debris. In backwards, and debris extrication is slowed and difficult, because debris must be grappled and pulled through the valve seat opening. The gate valve and seat are unidirectional to some extent. In backwards, and small debris more easily accumulates in the bottom of the seat, which can prevent complete closing. In backwards, and the valve and seat can leak, even though completely closed. That allows flood water to flow from the river into those streams and ditches. That increases the rate of overflow flooding behind the levee, unless pumped at a faster rate into the river. The entire innards of the valve boxes must be reversed. That might require new boxes. I don't recognize any shortcut. Perhaps the expense of correction wasn't figured to be worthwhile, because the difference in performance between the opposite directions was evaluated as marginal or slight. 2. The riprap rock surface on the river side of the levee is defective! A durable riprap surface protects the levee itself from large floating debris, which might gouge the surface and expose it to rapid erosion by waves or winddriven rain. In general and in numerous locations to a greater degree, the limestone riprap has delaminated and shattered into approx. inch thick slabs, and then gravels. That must be consequent to excess absorbsion of moisture along lamination planes, followed by freeze and expansion, and cracking. The gravels that form can't protect the levee, even in deep piles, because gravels are too easily gouged by large floating debris. Durable riprap should overlay the levee surface, but the defective riprap must either be removed or completely shattered into gravels, so as to completely underlay the durable riprap rock. 3. The riprap surface ends at N. 7th Street. From there east, at least a mile or so, the river side of the levee is unprotected. Should the levee fail along there, floodwater will slow and flow back into North Lawrence, depending upon how much flood occurs. The entire river side of the entire levee should have the protective durable riprap rock surface, because the potential for flood damage along the Kansas River is now greater than ever, both urban and rural. Most 10-50 year climate and weather extrapolations probably include equal or somewhat greater, both annual precipitation and potential precipitation

extremes. 4. The river side of the levee is now also too exposed to potential large flood debris, which is mostly tree trunks, which can gouge the levee and allow rain or river turbulence to erode into and through the levee. Wind driven precipitation and waves can aggravate levee erosion, with failure in less than an hour, because the levee core is a waterproof but not very structural bentonite clay. The levee is now too exposed to floating debris, because trees were pushed over along the river side several years ago. Those trees served to slow and trap debris, such as floating tree trunks. Recently, trees were pushed over near N.4th Street. That has completely exposed the levee to flood debris that might drift in along the levee because of the upstream curvature of the river and the levee to that location. A durable riprap rock surfaced, substancial groin is desireable there, to deflect floating debris out into the river proper, even if the levee surface is restored by durable riprap, because repeated or simultaneous impacts by groups of large debris might gouge the levee right through the durable riprap surface. 5. The levee road is routinely damaged, especially while muddy. The levee top road isn't crowned, so rain water doesn't run off to each side. Rainwater saturates the upper layer of clay and gravel road surface, and its non-bentonite roadbed, and it becomes mud, in some places inches deep. Is the buried top of the bentonite clay core also routinely saturated? That depends upon how much it is crowned. If the bentonite saturates and freezes, it expands upward. As it later thaws, it might shift and mix with overlying non-bentonite clay, and lose waterproofing capacity, perhaps to several inches deep. If so, that means that the levee has deteriorated in that measure in its capacity to prevent weepage leak-through by highest flood waters. The road atop the levee should be surfaced with a durable mix of interlocking aggregate of multiple sharp sand and pea gravel sizes with a heavy clay matrix, and tamped into the best crown curvature, perhaps steepest. Vehicular traffic atop the levee should be restricted to emergency or levee maintenance only. Heavy equiptment shouldn't be permitted on the levee unless structural planking is laid first, to spread the weight over a large area, because the top of the bentonite core can deform somewhat like modeling clay, especially if saturated by water. However, I haven't observed any exposed levee core deformation, from the bridges east to N.8th Street. One location that might be suspect of core deformation is the access road over the levee at N. 3rd Street. Heavy equiptment was recently utilized to rebuild the dam at Lawrence, which must've accessed by that road. Because of all these things, is it suspect that the bentonite core itself is installed incorrectly? And, the levee should have a frontage road for heavy equiptment along its non-river side.

It should be recognized that the tree work along the levee wasn't and still isn't environmentally responsible. Animals evidently aren't live trapped and safely transported to other ecologically acceptable natural habitat prior to tree work. Trees are mostly pushed over by heavy equiptment. Some trees that remain show scars evidently caused by impacts with trees that were pushed over. Tree trunk, branch and brush piles are left behind, which become potential flood debris, and attract animals to excess numbers.

Most trees that remain show trunk bottom scars probably caused by impacts with power mowers. That upset of animal habitat exposes the adjacent North Lawrence community to excess numbers of animals as pests. That includes roadkill and garden damage. The injuries to the trees that remain are susceptible to fungal/bacteral infection, which can spread by airborne spores into the adjacent community. Those might infect similar injuries to desireable landscape trees. That tree work, then, violates the truer sense of 'Tree City' principles, which the City of Lawrence has promoted for years.

North Lawrence residents should have a process to access the handwheels necessary to close the levee valves should it be required but the usual government organization procedure fails. Also, they should have similar emergency access to the motor/pumps, fittings and generators necessary to pump the valve box streams and ditches over the levee, to prevent stream and ditch overflow flooding. It would be best to have a small, automatic motor/pump installed at each valve box. Mile to multi-mile stretches might be interconnected by waterproof underground conduit to a central control and electricity distribution connection. That should have auxiliary connections for a diesel/generator truck, in event of power failure. Those pumps would reduce interconnected ditch flow drainage by already functioning installed pumps, and increase total capacity.

### B. Some North and South Lawrence Flood-Related Susceptibilities

There are several North Lawrence ditch locations which have shown several days of stagnant water following periods of ground-saturating precipitation. Those persistent large puddles can develop and mature mosquitos, for example. Those puddles should be located and the ditches there recut to drain completely. All protruding concrete or steel culvert fittings in ditches should be located and reworked so as to be flush, to reduce damage to a vehicle and its occupants if it slides off a road and over or into such a protrusion. That includes motorcyclists and bicyclists. Culvert junction boxes that have settled in excess hold stagnant water. Those should be located, and the water completely displaced by concrete, or by sand and gravel mix. Gravel prevents sand washout, and sand fills the pores between.

Low areas, such as southeastern portions of Lyon Park, should have topsoil fill spread to several more feet elevation, and planted to restore lawn and landscape, so as to completely drain after saturation by precipitation. Adjacent ditches there should be recut to drain completely. A line of drains and underlying culverts might be required in those two adjacent ditches, because both show deep stagnant water almost from end to end. An automatic motor/pump with self-cleaning inlet, might be installed underground at the southwest corner of Lyon Park, to rapidly drain that area, with outflow piped underground to the river. Adjacent low-lying structures might be jacked and raised, and set higher upon improved foundations. Low

lots might have topsoil fill spread to a height sufficient to drain completely, and planted to restore lawn and landscape. Low interest loans might be facilitated to those lot owners, since it is to everyone's gain to prevent stagnant water there.

It should be recognized that the dam at Lawrence actually increases upstream river height even during maximum pre-flooding height, because it absolutely stops lower river current. That obstructs the entire river flow rate per time, proportional to river height. It functions much like a very short section of smaller diameter pipe in a length of larger diameter pipe. As pressure increases, the proportion of reduction of total pipe flow decreases. But there is always some reduction. In the river, the dam-induced

obstruction of river current increases river surface height upstream. As river total height increases, the proportion of reduction of river flow, to total river flow, decreases. But, even at maximum pre-flood height, it still is a quantity, and that quantity increases the river surface height upstream of the dam. A quarter-foot might be added. Once past the dam, unobstructed bottom to top river current rapidly reduces dam-induced extra upstream river height. The 1993 high water mark location near N.3rd Street was the downstream lower of the two different heights, perhaps by a third-foot or so. At that mark, approx. 8 feet above, actual flooding begins, depending upon how much weepage through the top of the levee occurs, and whether it worsens or not. Some weepages self-seal, because of silts in the flood water. The upstream higher height is the more-crucial measurement, even though merely inches greater. So, the dam at Lawrence causes higher water to linger longer, and pile slightly higher. That can be crucial during river flood height, if the flood crest is itself but inches near the maximum pre-flooding height capacity of the levee. However, permanent removal of the formerly defunct deep north side dam control gates would reduce that dam-induced obstruction somewhat, and might not reduce the adjacent hydroelectric production by much, on average. Removal of those gates would improve the river ecosystem, to pass fish and marine organisms down and upstream, even though during higher water only. It should also be recognized that the recent rebuild of that dam appears to hazard the piers of the adjacent, upstream, U.S. Hwy 40/59 bridges, by gouging and erosion by floating flood debris mats, which might accumulate atop the broader top of the rebuilt dam, even though it is submerged.

It should also be recognized that the dam, and the North Lawrence levee, confine Kansas River water height sufficient to flood low-lying areas of South Lawrence. That includes the railway, residences adjacent lower Constant and Burcham Parks, and perhaps the old municipal water treatment facility. The 1993 high water did flood up to the railway tracks. That saturated and softened the railroad roadbed, and that halted railway operation. A South Lawrence levee, with stream valves and automatic pump installations, might parallel the railway, to prevent potential flood damage. Lower Constant and Burcham Parks should be allowed to flood, because their surface area has considerable capacity to laterally spread river

flood volume, and reduce total flood height.

It might be extended upriver, to protect
the railway, perhaps even partway to
Lecompton. It might extend downriver some, too. Is the new structure
in Burcham Park constructed to endure flood and flood borne debris
without damage? It should also be recognized that high river water
and its debris might gouge, erode and damage the old turbine/generator
facility structure adjacent the dam at Lawrence. It should be
comprehended, that northeast Kansas would've gained better, if the
resources that were recently utilized to rebuild the dam at Lawrence,
were instead utilized toward purchase of a modern, efficient turbine/
generator and installation into an 'invisible,' automated facility
at Lake Perry Reservoir outflow structure. Although the 4 largest
Kansas reservoirs might each be so converted to small hydroelectric,
would those remain comparatively self-economical for decades to come?

# C. A Potential Prototypical Flood Crest Reduction Arrangement for the Kansas River

An installation might be evaluated which would reduce flood crest height. It centers around a pair of large, high capacity motor/ pumps located near the junction of the Kansas and Delaware Rivers. Excess flood crest would be pumped through smooth interior, streamlined curvatures pipelines, into either or both Perry and Clinton Reservoirs. A pipeline would be laid to drain into the best of the two northwestern streams into Lake Clinton, but sufficiently downstream from headwaters, to prevent any erosive or disruptive volume, or potential pollution, even if the stream itself is flooded. This arrangement requires almost automatic, synchronized comprehensive flood prevention sequence operation of Perry, Clinton, Tuttle Creek, Milford, and perhaps the other smaller Kansas River watershed reservoirs. During flood susceptible periods, reservoirs are usually kept lower, to increase flood prevention capacity. Prior to anticipated near-flood conditions anywhere downstream, Perry and Clinton Reservoirs might drain at the maximum rates, until near-flood conditions will actually occur. That requires very careful timing, and depends upon all of the watershed precipitation measurements, the current and flow rates of all the watershed rivers and streams, and all other variables at that time. Then, the reservoirs would reduce drainage to the minimum rates. Then, those pumps would reduce the Kansas River flood crest height, A quarter-foot might be reduced out of a sudden flood crest. The same might be reduced out of a stretched flood crest. While a sudden flood crest mightn't last long, and lack much actual flooding volume, a stretched flood crest which persists for a day or more, which might not be but inches over a levee, might accumulate considerable actual flooding and potential damage. To help control the reservoir gates and the crest reduction pumps, a number of automatic, accurate, stream and river height sensors would be installed along and upstream of each area prone to flood, both urban and rural, with wire and auxiliary radio connections to a central control facility. Similar pump installations might be located upstream and downstream. A set of pumps might be installed near Topeka, which pump into streams that

drain into Lake Perry, and into the Wakarusa River and Lake Clinton, again sufficiently downstream of headwaters to prevent any erosive or disruptive volume, or potential pollution, even if a stream is itself flooded. A set of pumps might be installed near Kansas City, Kansas, to pump Kansas River flood pre-crest and crest water into the Missouri River downstream of Kansas City, Missouri, if the Missouri River itself isn't simultaneously flooded there. This pumped flood crest reduction arrangement is generally better than 2 alternatives. 1. Flood crest water might be pumped underground into porous strata. Western Douglas County has an underground, ancient former river bed strata, north to south, at approx. 500 feet, a suitable geology of porous gravels and sands. But the maximum rate of geologically safe, non-erosion injection might be comparatively much less, and prevention or remediation of potential flood borne pollution might be too difficult. 2. Flood crest water might be pumped upward through extra large mist and fog forming nozzles, so as to form low altitude clouds. But it is difficult to prevent clogging of nozzles by flood borne silt and minerals, and some wind in a direction perpendicular to the flood watershed is required. And, fog rapidly precipitates along with other precipitations.

D. Potentially Beneficial Rearrangements for Grant Township

#### Business Park Plans

Two things should be recognized relevant to the Northeast Sector Plan. 1. The railway should eventually bypass North Lawrence. That can be laid out into a protected, noise attenuation fenced corridor, with 4 automatic warning and barrier road crossings. Both tracks would curve and angle through the railway underpass of I 70 east of Lawrence, but the adjacent road would be dead ended each side. Several structures might have to be jacked and fitted for transport to new locations. The railway bypass should be laid out to allow the railway to recover some of its construction costs, by fuel and time savings as trains bypass at full velocity. To do that, there might be only one best route. 2. Highways U.S. 40/59, U.S. 24/40 to K32, and K32, should eventually be improved into a non-stop, 4 lane North Lawrence Bypass. To do so, the intersection at 40/59 and 24/40should be replaced by a structure of adjacent overpasses, which allows the railway bypass to underpass on the level. That location allows a single railway underpass/highways overpass structure, which is most distant from central North Lawrence. Other layouts require two railway/highway underpass/overpass structures, and perhaps greater time loss. That intersection be made non-stop from and to each direction, but the adjacent county road intersection should be separated northward by a least. Local access frontage roads would parallel ramps to the overpass, along each side. To allow turnaround, the frontage roads should connect parallel to the railway, under the southern part of the overpass structure, and might connect also to that same

county road to the west. Access to K32 as a North Lawrence Bypass would be from K10, at I435 and K7, and by constructing a bridge access highway around Eudora, and not through it. Except for that,

a North Lawrence Bypass might fit within established highway right of ways only. It would save through traffic time and fuel, and it would access 4 lane U.S. 24 to and through North Topeka. That has shown development toward a non-stop, 4 lane North Topeka Bypass, by overpasses combined with parallel pairs of local access

frontage roads, and adjacent dead ends of lesser traffic streets. A North Lawrence Bypass might serve most interests better than the South Lawrence Bypass. A four-lane combined bridge and ramped overpass for Hwys. 24/40 and K32 would be required at Mud Creek.

The Lawrence Municipal Airport, and the other prospective business park, are each adjacent to both potential railway and highway bypasses. Therefore, it should be recognized that any further actual development of the real estate of either the airport or the other business park, should wait until the railway and highway bypasses are laid out, when and if that occurs, especially if railway access is possibly ever desired. Consequently, those two groups might initiate cooperating planning arrangements together with the relevant railway and highway authorities. If that isn't done, uncomfortable traffic conditions might eventually develop, at the least. With a railway bypass, the railway overpass at N.2nd Street would be removed. U.S. Highways 40/59 would be made level through it. That would benefit highway users and North Lawrence. The railway would continue to access the tracks of each side of the closed and removed railway bridge. Almost all North Lawrence railway commerce is already switched in from Topeka. As it is, I've observed that some if not most trains through North Lawrence are excess velocity for an unfenced urban corridor. On each of a number of occasions through recent years, including Monday, March 22, 2010, I've observed several dead animal corpses, mostly rabbits and opossums, along the tracks of the railway through North Lawrence, from the visitor's center to N. 9th Street: evidently all railroad kill.

### Conclusion

These observations were accumulated during several years, since I undertook study of these things beginning 2002. You are welcome to utilize this letter as a technological assessment. My work serves as my qualification.

I regret I haven't any further time to devote to these subjects. However, if you have any questions, you might send them. I'm writing a 20 section book to describe my utility invention discoveries, which I've accumulated since my self-financed, Christ-inspired private studies began, 1998. I'm grateful I found the report, 'Local Dirt,' in BLUE SKY, GREEN EARTH, Issue 3, and that I recalled these observations. I was directly inspired to compose this technological assessment. I've written several less developed letters about these same subjects, dating to 2003, which were evidently ignored. You might have the grasp on these things sufficient to gain the corrections that are most beneficial, all things considered. God help you.

Sincerely, Januare Cugen Smith
page 7 of 7

March 19-22, 2010 LES:1es 4/12/2010

## Memorandum City of Lawrence – Douglas County Planning & Development Services

To: Lawrence-Douglas County Planning Commission

From: Dan Warner, AICP, Long Range Planner

Date: For May 24, 2010 Planning Commission Meeting

**RE:** Item #4: CPA-6-5-09: Consider Comprehensive Plan Amendment to

Horizon 2020 Chapter 14 to include the Northeast Sector Plan.

#### **Introduction:**

Planning and Development Services, with the assistance of property owners and other stakeholders, has been planning for the future of an area north of Lawrence that is part of Grant Township. At this point a 2<sup>nd</sup> draft plan has been developed and released for public comment. Staff has asked for written comments on the 2<sup>nd</sup> draft to be submitted by 10am, Monday May 24<sup>th</sup> for inclusion in the Planning Commission packet. Staff will give a brief presentation on the chapter at the May 24, 2010 Planning Commission meeting and asking for oral comments from both the public and the Planning Commissioners.

#### History/Background:

This chapter was initiated in June, 2009 by the Planning Commission and staff started researching and gathering information for the planning area throughout the summer of 2009. Additional work regarding the timeline and process was also completed. The kick-off meeting for the plan was held on September 17, 2009. Participants were asked to provide strengths, weaknesses, opportunities and threats for the area, as well as complete a visioning exercise. The 2<sup>nd</sup> public meeting was held on October 8, 2009 and participants were asked to review and prioritize the results of the kick-off meeting. The 3<sup>rd</sup> public meeting was held on November 5, 2009. Those in attendance were asked to review and comment on draft goals and policies and also take part in a future land use exercise.

The  $1^{st}$  draft of the plan was released on March 12, 2010. A public meeting to discuss the  $1^{st}$  draft was held on April 7, 2010. The  $2^{nd}$  draft of the plan was released on May 5, 2010. The  $2^{nd}$  draft is being presented to the Planning Commission. Changes made between the  $1^{st}$  and  $2^{nd}$  drafts are presented at the end of this memo.

A website has been setup to act as a central hub for information regarding the drafting of this plan (http://www.lawrenceks.org/pds/draft\_plans) and the "Northeast Plan 2<sup>nd</sup>

Draft" is posted to this site. In addition, an email distribution list has been created to keep people informed about the plan as it moves through the process. Members of the public can sign up to be a part of this email distribution list by visiting the City's subscription page (<a href="http://www.lawrenceks.org/subscriptions">http://www.lawrenceks.org/subscriptions</a>) and signing up for the "Northeast Sector Plan" list under the Public Meetings heading.

#### Action:

Staff will give a presentation at the May 24<sup>th</sup>, 2010 Planning Commission meeting and be available to answer questions. Oral comments will also be received from the public and from the Commissioners. Staff is asking for Planning Commission feedback and direction regarding next steps based on the comments that are received, but is not asking for any formal action.

#### 2<sup>nd</sup> Draft Changes:

#### 1.2 Description of Planning Area (pg. 1-2)

The *Northeast Sector Plan* planning area is located north of the city of Lawrence (see Map 1-1) and within Grant Township, in northeastern Douglas County, Kansas. The planning area contains approximately 10,640 gross acres and encompasses most of Grant Township north of the Kansas River.

#### 2.4 Environmental Conditions (pg. 2-17)

The planning area also contains Class 1 and 2 soils as determined by the Natural Resources Conservation Service, a division of the United States Department of Agriculture. These soils are considered to be high quality agricultural land. Horizon 2020, Chapter 7 Industrial and Employment Related Land Use states "The preservation of high-quality agricultural land, which has been recognized as a finite resource that is important to the regional economy, is of important value to the community. High-quality agricultural land is generally defined as available land that has good soil quality and produces high yields of crops. Within Douglas County these are capability class (non-irrigated) 1 and 2, as identified by the National Resources Conservation Service." These soils are highly permeable and assist in stormwater management. See Map 2-13.

It is also generally believed that these soils also are more permeable and assist in stormwater management.

#### 2.5 Community Facilities (pg. 2-23)

Community facilities are services provided either by government or non-government agencies for the benefit of, and use by, the community. Within the planning area there are a few community facilities. Grant Township owns and maintains a community building east of the airport on E 1600 Rd. That building is also currently being used by Prairie Moon Waldorf School, a private kindergarten and grade school. The Township also maintains a facility near Midland Junction where it stores and services equipment needed for road maintenance. KDOT also has a maintenance facility in the planning area at the northeast corner of Highway 24/40 and Highway 24/59.

Kansas University owns and maintains the Kansas University Field Station (KSRKUFS) in the northeast corner of the planning area. The KSR was established in 1947 and is the biological field station of Kansas University. Numerous research and teaching activities take place at the KSRKUFS. Much of the KSRKUFS is also located in neighboring Jefferson and Leavenworth counties and is not accessible to the public. However, the KSRKUFS also maintains ecological reserves in the planning area that are accessible to the public. For example, the Fitch Preserve Natural History Reservation and McColl Nature Reserve, located in the very northeast corner of the planning area, hashave 24 miles of self-guided nature trails within Douglas County that allow users to explore forest, grassland, stream, wetland, and pond areas.

#### **Section 3 – Recommendations (pg. 3-1)**

The Northeast Sector Plan planning area is anticipated to develop with a range of uses and intensities that extend from agriculture to industrial uses. The more intensive industrial and commercial use areas are recommended where they are in close proximity to US 24/40 Highway and the airport. Agriculture uses are located in the majority of the planning area which is not anticipated to urbanize within the foreseeable future.

Compared to other areas of the fringe area of Lawrence, this area is not anticipated to be significantly urbanized.

Due to the unique challenges to development, including:

- o Costly stormwater infrastructure needs as urbanization occurs
- o Significant amounts of regulatory floodplain
- Significant amounts of Class 1 and 2 soils
- FAA Regulations and Lawrence Municipal Airport Protection Zones

#### 3.1.1.a General (pg. 3-2)

 Consider allowing alternate development standards for urbanized development that promote sustainable development
 – swales, no curb and gutter, impervious surfaces, etc. – that will limit the downstream impact of development.

#### 3.1.1.1.d Commercial Use (pg. 3-2)

 Allow future commercial uses, in addition to industrial/employment uses, at Midland Junction to provide a greater mix of uses to support highway travelers after Nodal Plan is adopted. <u>Consider improvements to Highway</u> 24/59 that address the safety of the curves as part of a future Nodal Plan.

#### **3.1.1.1.e** Residential Use (pg. 3-3)

1. Rural residential (rural estate) uses are <u>permitted in most of the planning</u> <u>area and are encouraged if supporting agriculture uses</u>. <del>for the majority of the planning area, in areas that do not contain Class 1 and 2 soils and regulatory floodplain</del>

#### 3.1.1.1.f Open Space (pg. 3-3)

1. Protect the existing and future <del>KU</del> <u>Kansas University</u> Field Station and protect it from <u>future</u> development <u>projects</u> with tools such as appropriate buffers and land uses that will minimize the impact of neighboring development.

#### 3.1.2.1.b Floodplain (pg. 3-4)

1. The City and County should consider developing and implementing higher regulatory standards that promote no adverse impact in <u>regulatory</u> flood hazard areas <u>as shown on the Flood Insurance Rate Maps for Douglas County</u> and within the Floodplain Overlay District for the City of Lawrence.

#### 3.1.2.1.d ₩ Kansas University Field Station (pg. 3-4)

- 1. Encourage <u>future</u> development that is compatible with the <del>KU</del> <u>Kansas University</u> Field Station. Buffers and other methods may be necessary to mitigate the impacts of the buil<u>et</u> environment <u>of future development projects</u> in close proximity to the Field Station.
- 2. Promote the research and educational aspects of the KU Kansas University Field Station.

#### 3.1.2.1.f Sand, gravel, topsoil, etc. (pg. .3-5)

 Support the extraction of natural resources such as sand, gravel, topsoil, etc. if compatible with existing land uses, especially the Lawrence Municipal Airport and KU Kansas University Field Station, and if infrastructure can support the process of extraction.

#### 3.2 Land Use (pg. 3-9)

This section outlines the recommended land uses for the planning area. The future land use maps (Map 3-1) and land use descriptions are explained on the subsequent pages. The map is an illustration to help visually identify the recommended land uses in the Northeast Sector Plan planning area. The land use descriptions are more detailed information regarding the different land use categories. The official definitions and the permitted uses within each zoning district are outlined in the use tables that are located in the Zoning Regulations for the Unincorporated Territory of Douglas County and the Land Development Code for the City of Lawrence. The map and text descriptions must be used in conjunction with one another in order to obtain the complete recommendation for each particular area. The map is not intended to provide a scaleable map for determining specific land use/zoning boundaries within this area.

This plan encompasses a large area that for the most part is not intended to urbanize, and as such, a large area is designated Agriculture on the future land use map. There are a number of properties in the planning area that have existing county zoning designations other than Agricultural zoning. Some of those properties are shown on the future land use map to have a different future land use through possible future urbanization. There are also properties that have county industrial and business zoning, and that are currently developed, that are shown on the future land use map as industrial or commercial, reflecting their existing developed use.

There are other properties that have County industrial or business zoning, but that are not presently developed and that are outside the anticipated urbanization area of this

plan, that are shown as Agriculture on the future land use map. It is important to note that this plan does not take away those properties' rights to develop under the current county zoning regulations. Properties with zoning other than Agricultural that seek to develop for a permitted use may do so without oversight of the future land use map of this plan as long as they receive the appropriate approvals to do so.

#### 3.2.1.1 Agriculture (**pg. 3-9**)

The Agriculture designation classification is intended for those parts of the planning area not anticipated to urbanize over the course of the planning horizon. The dominate existing use of this designation classification is agriculture uses. The intent of the Agriculture designation classification is to allow for agriculture activities along with rural residential uses and other uses permitted by the Zoning Regulations of Douglas County. Rural residential uses should be limited to those areas without regulatory floodplain or Class 1 and 2 soils. Existing uses that are not agriculture or residential, and that have the appropriate existing zoning for the use, are not affected because this policy designation classification is not changing the zoning on the property. The Agriculture classification contains regulatory flood hazard areas. Development on properties containing flood hazard area must comply with the flood plain regulations of Douglas County.

#### 3.2.1.2 Very Low-Density Residential (pg. 3-10)

The intent of the Very Low-Density Residential Use classification is to allow for large lot, single-dwelling type uses. The very low-density use classification is expected to urbanize within the city of Lawrence.

#### 3.2.1.3 Neighborhood Commercial Center (pg. 3-10)

A Neighborhood Commercial Center provides for the sale of goods and services at the neighborhood level. This commercial center is intended to serve the surrounding employment center area in addition to the commuters using Highway 24/40. *Horizon 2020*, Chapter 6 – Commercial Land Use offers more specific language regarding Neighborhood Commercial Centers. The Neighborhood Commercial Center designation classification is intended to urbanize around Highway 24/40 and E 1500 Rd. Other areas designated are rural and are not anticipated to urbanize.

#### 3.2.1.4 Soil Conserving Agri-Industry (pg. 3-10)

The intent of the <u>Soil Conserving</u> Agri-Industry <del>Use</del> <u>Category</u> is to allow for <u>soil conserving</u> agriculture-related <u>industrial uses</u> <u>businesses</u> that conserve and use the Class 1 and 2 Soils in the area and that take advantage of Highway 24/40 and I-70 for materials transportation. <u>Soil conserving agri-industry business is a term with its basis found in Horizon 2020 Chapter 7 – Industrial and Employment-Related Land Use. This Plan seeks to better describe the intent of this classification. The distinction between the Soil Conserving Agri-Industry classification and Industrial/Employment classifications is the component of protecting and/or using existing high-quality agricultural land either through agricultural use or preservation for future agricultural use.</u>

Protection of the soils through agriculture use or preservation can be implemented in different ways and the community should be open to creative ways that development projects could utilize this classification. Projects that could meet the value of this classification include, but are not limited to, the following: crop research, local food production, or small amounts of conventional industrial with large percentages of the soil protected or used for agriculture. The Agri-Industry Use may or may not urbanize. This use is identified south of Highway 24/40 and also should be included at Midland Junction when a nodal plan is developed for that area.

#### 3.2.1.8 Industrial (pg. 3-11)

The intent of the Industrial Use <u>category</u> is to allow for moderate to high-impact uses including large scale or specialized industrial uses that utilize Highway 24/40 and I-70 for materials transportation. This category includes existing industrial developments in the area. This category also includes land at the airport dedicated to aviation related development. Land west of the airport and north of Highway 24/40 is also <u>designated</u> <u>classified</u> as industrial. The industrial <u>use</u> <u>classification</u> is expected to urbanize.

#### 3.2.1.9 Airport (**pg. 3-11**)

The intent of the Airport use category is to designate the existing City-owned Lawrence Municipal Airport land and allow for aviation-related development.

#### 3.2.1.11 KU Kansas University Field Station (pg. 3-11)

The intent of the KU Field Station Use is to designate classify the existing KU Kansas University property.

#### 3.2.1.10 Open Space (pg. 3-12)

The intent of the Open Space Use category is to provide space for public recreational facilities and natural area preservation. This category primarily includes regulatory floodway areas as well as regulatory floodplain areas that are not in the Agriculture Land Use designation classification.

#### 3.2.1.11 Future Industrial/Employment (pg. 3-12)

This classification recognizes the Midland Junction area as a future employment center. Although the area may or may not urbanize and support a larger employment base and possibly expanded commercial uses, this likely won't happen for at least 30 years (Per Horizon 2020 Chapter 7 Industrial and Employment Related Land Use).

A Nodal Plan will be required prior to the area substantially developing. A Nodal Plan will provide a detailed land use examination of the Midland Junction intersection. The Nodal Plan should determine future land use, including a consideration for some commercial land use. In addition to future land use, among the other issues the Nodal Plan should examine are: traffic safety issues with Highway 24/59, stormwater, and Class 1 and 2 soils.

## Northeast Sector Plan

**DRAFT** 

May 5, 2010

Changes from the  $\mathbf{1}^{\text{st}}$  Draft are shown in blue. New language is <u>underlined</u>. Deleted language is <del>struckthrough</del>.

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#### Section 1: Introduction

#### 1.1 Purpose

The purpose of the *Northeast Sector Plan* is to outline specific land use goals, policies and recommendations for the planning area shown on Map 1-1, while being consistent with the overall adopted comprehensive plan for the community. Portions of the planning area are adjacent to the city of Lawrence and because of their proximity to the city and highways, they are likely to be areas of rural and urban development pressure. However, this plan recognizes that this area is unique in its development potential and the community may benefit most by limited development.

The plan outlines future land uses for the planning area to be used as a guide for rural and urban development. This plan does not annex property nor does it rezone property upon adoption. These types of proposals are typically requested by the property owners and/or developers that have a stake in such property and wish to develop within Douglas County and within the city of Lawrence.

The plan should fit like a puzzle piece into the larger context of the surrounding street, utility, and land use network of the entire community. Logical connections between the planning area and adjacent neighborhoods are a key factor in the development of the plan. The recommendations contained within this plan are intended to guide the area's future growth patterns.

It is expected that development in the planning area will occur within the span of decades as the market demands and as urban services are able to be provided. It is anticipated that rural and agricultural uses will continue to be present and maintained as the planning area urbanizes. Because of the long timeframe of the plan, it should be reviewed on a regular basis.

#### 1.2 Description of Planning Area

The *Northeast Sector Plan* planning area is located north of the city of Lawrence (see Map 1-1) and within Grant Township, in northeastern Douglas County, Kansas. The planning area contains approximately 10,640 gross acres and encompasses most of Grant Township north of the Kansas River.

The planning area boundaries are: E 1700 Road on the east, N 2100 Road on the north, the riverfront park on the west, and the Lawrence city limits and the Kansas River on the south. See Map 1-1. The planning area encompasses the Lawrence Urban Growth Area (UGA) in northeast Douglas County, as currently identified in *Horizon 2020*. A majority of the planning area is located in Service Area 4 which is the outer most service area in *Horizon 2020*. For Service Area 4 *Horizon 2020* states: "The land uses north of US-24/40 shall be primarily non-residential uses such as industrial, warehouse and office" and "Urban development in Service Area 4 north of the Kansas River shall not occur until after an extensive drainage study for the area north of the Kansas River has been completed." The North Lawrence Drainage Study was completed in 2005.

A portion of the planning area, south of Highway 24/40 is located in Service Area 2. *Horizon 2020* states: "Until these areas, are served by the extension of municipal services, residential urban densities of development or non-residential urban development will not be permitted. Divisions of land for rural residential development shall be permitted only when the following criteria exist: access to paved roads, conformance with minimum road frontage requirements, and availability of rural water meters. Development shall not be permitted on steep slopes (15% or greater), regulatory floodplains or other environmentally sensitive areas, and state or federally designated historic sites or landmarks. The pattern and lot layout of rural residential developments shall provide, through early planning, dedications or reservations for the logical extension of public roads and infrastructure" and "Development of these areas to urban densities should be allowed only after coordination with the phasing of municipal services and public infrastructure improvements to serve these new urban densities."

As mentioned earlier, the entire planning area is within the Lawrence UGA. The UGA was expanded to the Douglas County line in this area in 2004. This action was largely in response to concerns that the Douglas County Subdivision Regulations did not regulate rural residential growth, i.e., the 5 and 10 acre exemptions allowed the creation of residential lots without platting. The UGA was expanded into this area to help regulate rural residential growth.

The subdivision regulations for Douglas County were amended and adopted in 2007 and put in



place standards to regulate rural residential growth. These standards regulate rural residential growth in the Rural Area, as well as the UGA. Since there are now standards for the division of property in the Rural Area, one of the reasons for expanding the UGA to the county line in this area is no longer necessary.

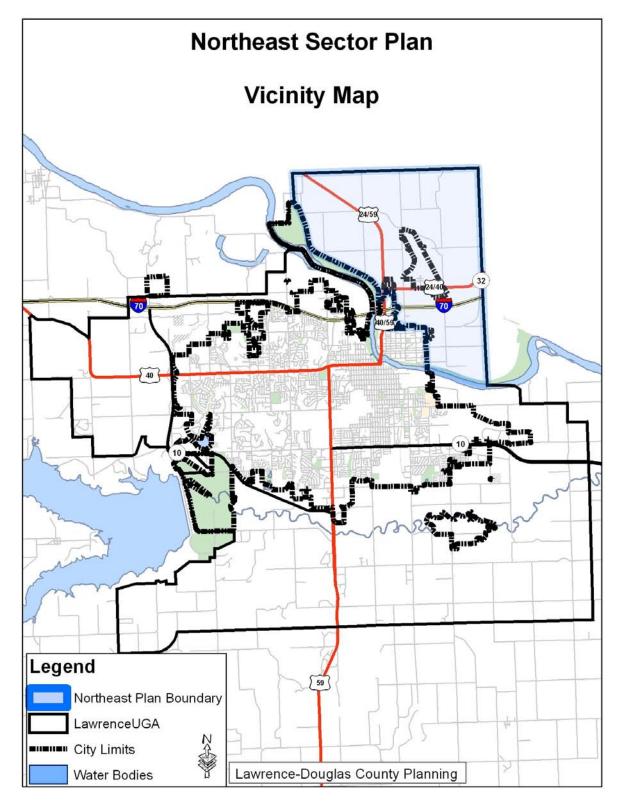
The dominant character of the area is rural in nature although there are a variety of uses within the planning area. The main rural use in the flat, lower parts of the planning area is agriculture crop uses. Rural residential uses are found in the higher

northern parts of the planning area. Rural uses dominate those portions of Jefferson County that are north of the planning area and also those parts of Leavenworth County east of the planning area. The KU Field Station is located in the northeast corner of the planning area and also within Jefferson and Leavenworth counties.

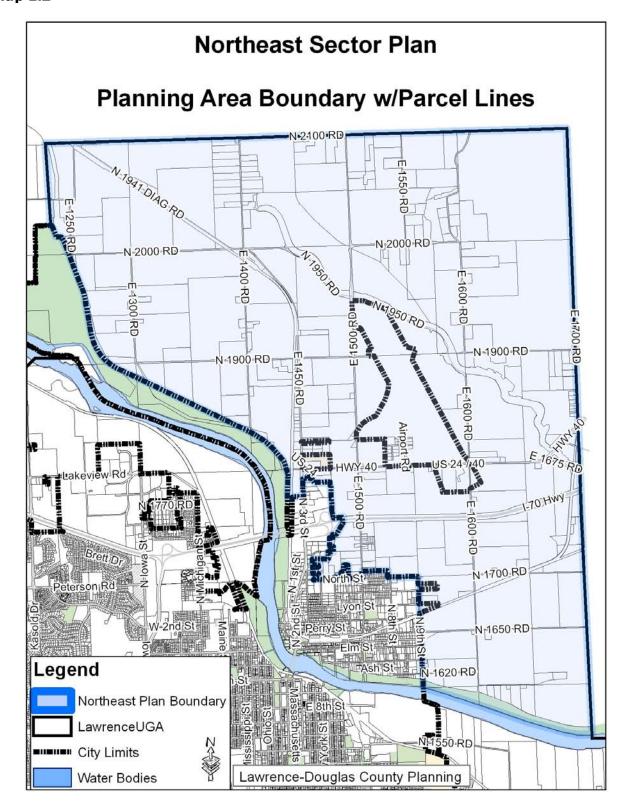
I-70 and a toll plaza, along with Highways 24/40/59 are major elements within the area. Industrial and commercial uses are located along Highway 24/59 and Highway 24/40. The Lawrence Municipal Airport is another major element within the planning area. The airport is annexed into the city, but is an island not contiguous with the corporate boundary of Lawrence. The Kansas River is generally west and south of the planning area. Urban uses within Lawrence are generally south of the planning area.

The planning area boundaries and parcel composition are illustrated in Map 1-2.

Map 1.1 - Vicinity Map



Map 1.2



# 1.3 Policy Framework

Horizon 2020 serves as the overall planning guide and policy document for this plan. In addition to Horizon 2020, guiding policy is also obtained in other adopted physical element plans. Together, these plans provide the general "umbrella" policies under which this plan is developed. Listed, these plans are:

- *Horizon 2020*, the Comprehensive Plan for Lawrence and Unincorporated Douglas County. Lawrence-Douglas County Metropolitan Planning Office. 1998 as a mended.
- *Transportation 2030*, Lawrence/Douglas County Long Range Transportation Plan. Lawrence/ Douglas County Metropolitan Planning Office and Parsons Brinkerhoff. March 26, 2008.
- Lawrence-Douglas County Bicycle Plan, Lawrence/Douglas County Metropolitan Planning Office. May 2004.
- Lawrence Parks & Recreation Department A Comprehensive Master Plan. Leon Younger & PROS. 2000.
- City of Lawrence, Kansas Water Master Plan. Black & Veatch. December 2003.
- City of Lawrence, Kansas Wastewater Master Plan. Black & Veatch. December 2003.
- 2008-2013 Capital Improvement Plan. City of Lawrence. June 26, 2007.
- North Lawrence Drainage Study. 2005

# **Section 2 - Existing Conditions**

The inventory and analysis of existing conditions in this plan are intended to serve as a resource and background for the recommendations included in Section 3 of this plan.

### 2.1 Land Uses

### 2.1.1 Existing Land Uses

There are currently a variety of land uses within the planning area. The planning area has approximately 10,116 acres of land dedicated to uses other than public rights-of-way. The source information for the existing land use summary and map are based on the County Appraisers' land use code and updated by planning staff.

Agricultural uses, in the form of row crops, pasturelands, and farms are the dominant land uses and encompass approximately 7,330 acres of land, which accounts for 72% of the planning area. There are farms of varying sizes (less than 5 acres up to hundreds of acres) within the planning area. Production includes row crops, local market production and animal production. Farms are owner operated or leased to larger operations. The City leases land around the airport for agriculture use.

The second largest land use category is parks/rec/open space use with approximately 956 acres. The parks/rec/open space use category includes the KU Field Station properties in the northeast portion of the planning area.

The third largest land use category is transport/communication/utility. This land use category includes the Lawrence Municipal Airport.

The next largest category is single family residential use. This category includes property with one dwelling unit located on it. The *Douglas County Zoning Regulations* define a dwelling as, "Any building or portion thereof designed or used for residential purposes. This shall include structures designed as underground structures but shall not include trailers or mobile homes". The single-family residential use is seen within the planning area primarily in the rural form – typically a house on 1 to 10 acres (although some larger single family properties in the area range between 10-40 acres).

The remaining land is designated a variety of uses ranging from industrial/warehouse/distribution to public/institutional uses. These uses are located primarily along Highway 24/59. The existing land uses are shown on Map 2-1 and the planning area breakdown is described in Table 2-1.

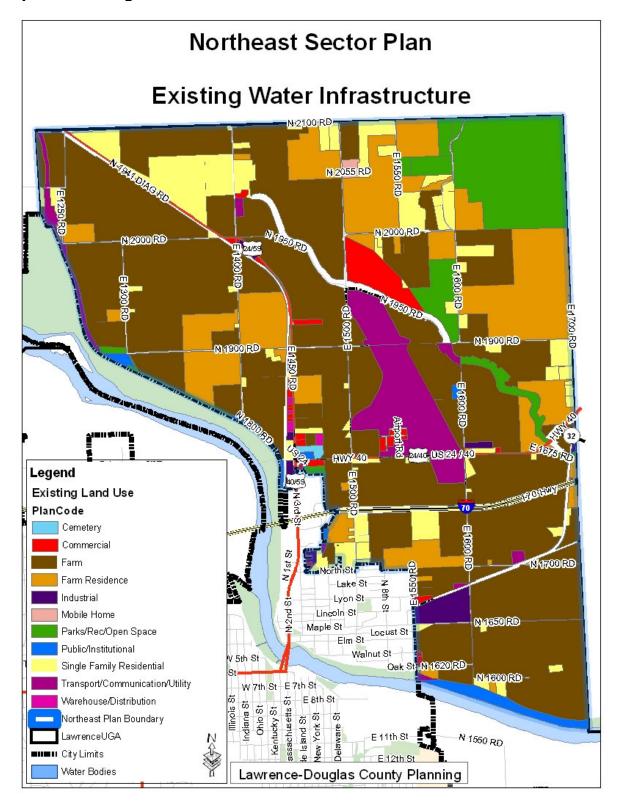
Table 2-1: Existing Land Use Summary

Land use	Acres	Percent
Agricultural	7,330	72%
Single Family Residential	550	5%
Vacant Residential	232	2%
Residential - Other	72	1%
Commercial	186	2%
Industrial/Warehouse/Distribution	125	1%
Public/Institutional	110	1%
Parks/Rec/Open Space	956	10%
Transport/Communication/Utility	555	6%
TOTAL	10,116	100%

# 2.1.1 Historic Resources

Currently, there is one structure listed on the National Register of Historic Places within the planning area. The Vermilya Boener House is located at the northwest corner of N 1900 Rd. and E 1400 Rd and was listed in 1992.

Map 2.1 - Existing Land Use



# 2.2 Zoning Patterns

The planning area encompasses approximately 10,640 acres of land including public rights-of-ways. Approximately 520 acres are located within the city of Lawrence and the rest is located within the unincorporated area of Douglas County. The majority of the planning area that is located within unincorporated Douglas County is zoned A (Agriculture District). This is mainly used for row crops, pasture land and farm purposes. Industrial zoning is found in the planning area with specific areas zoned I-1, I-2, I-3 and I-4 Districts. There is also some B-2 (General Business District) zoning along Hwy. 24/40. See Map 2-2.

The main portion of the planning area located within the city of Lawrence is the Lawrence Municipal Airport, which is zoned IG (General Industrial). The Maple Grove Cemetery is also within the city of Lawrence and is zoned OS (Open Space District). Both of these properties are islands that are not contiguous to the corporate limits of Lawrence. See Map 2-2.

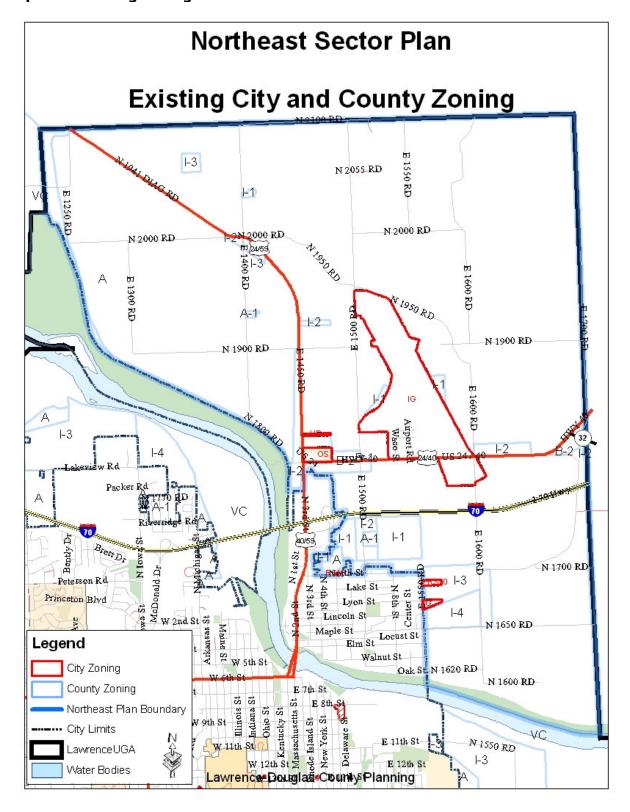
Table 2-2 County Zoning Classifications

County Zoning	District Name	Comprehensive Plan Designation	
Α	Agricultural	Agriculture	
A-1	Suburban Homes	Very Low-Density Residential	
I-1	Limited Industrial	Industrial	
I-2	Light Industrial	Industrial	
I-3	Heavy Industrial	Industrial	
I-4	Heavy Industrial	Industrial	
VC	Valley Channel	N/A	

Table 2-3 City Zoning Classifications

City Zoning	District Name	Comprehensive Plan Designation
RS20	Single-Dwelling Residential (20,000 sq. feet per dwelling unit)	Low-Density Residential
IG	General Industrial	Warehouse and Distribution or Industrial
OS	Open Space	N/A

Map 2.2 - Existing Zoning



#### 2.3 Infrastructure

#### 2.3.1 Water and Wastewater Infrastructure

A summary of the existing water utilities is shown on Map 2-3 and wastewater utilities (sanitary sewer) is shown on Map 2-4. Municipal water and wastewater is provided to the majority of those properties that are within the current city limits. Properties that are within the planning area, but outside the city limits, are served by Jefferson County Rural Water District #13, or private wells, and private septic systems.

The city of Lawrence sanitary sewer infrastructure does not extend outside the current city limits. The City, however, recently approved extending water and sewer infrastructure to serve the municipal airport. The flat topography of the area poses a challenge to providing urban wastewater infrastructure to the planning area. The flatness of the area makes it difficult to gravity flow wastewater and thus drives up the the relative cost of providing those services.

A portion of the planning area will be included in the City's Wastewater Master Plan update, underway in 2010. That update will provide a better idea of the actual cost of extending wastewater infrastructure. It is important to note that prior to any wastewater infrustruture extensions to the planning area, impacts to the downstream wastewater system will also have to be evaluated. Improvements to that system may also be part of the cost to extend infrastructure to the area.

### 2.3.2 Stormwater Infrastructure

A summary of the existing stormwater utilities, channels, and natural streams are shown on Map 2-4. The majority of the stormwater is handled by open channels and streams. The stormwater drains to the south, by way of the tributaries, to the Kansas River.

#### 2.3.3 Gas Infrastructure

The planning area includes three natural gas lines. One pipeline owned by Southern Star Gas enters the planning area from the north and crosses to the east through the center of the planning area. A second Southern Star Gas pipeline enters the planning area in the southeast corner, proceeds northeast and exits the planning area near Highway 24/40 and Highway 32. Another pipeline is owned by Williams Natural Gas and it enters the planning area on the west center portion and crosses northeast through the planning area. See Map 2-5.

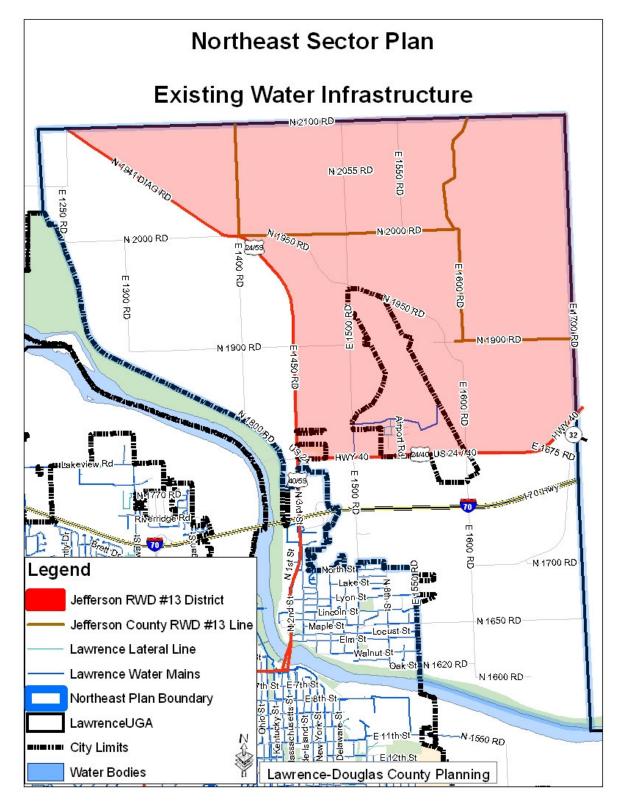
#### 2.3.4 Electric Infrastructure

Westar serves the planning area. Large electric transmission lines also traverse the planning area. See Map 2-5.

### 2.3.5 Drainage Districts

The Douglas County KAW Drainage District is the only drainage district in the planning area, but it does not cover the entire planning area. See Map 2-6.

Map 2-3 - Water Infrastructure

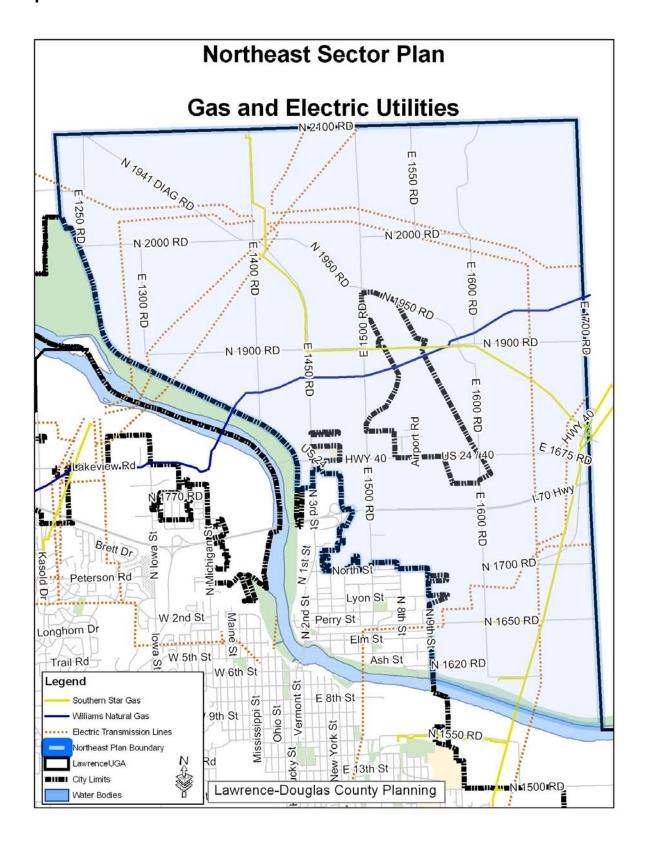


2-7

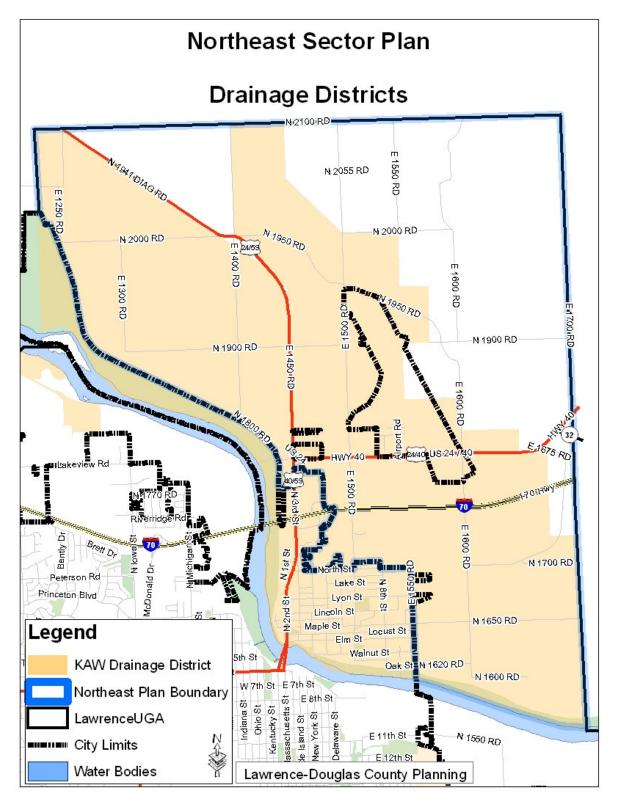
**Northeast Sector Plan Existing Wastewater and Stormwater Infrastructure** NIBAT DIAGRO 1550 RD N 2000 RD N 2000 RD E 1400 RD E 1600 RD N 1900 RD N 1900 RD E 1675 RE 1600 RD Legend N 1700 RD Wastewater Gravity Pipe N 1650 RD Lateral Line Stormwater Storm Pipe ·· Channel N 1600 RD Stream Northeast Plan Boundary LawrenceUGA ■II■III City Limits Lawrence-Douglas County Planning Water Bodies

Map 2-4 – Wastewater and Stormwater Infrastructure

Map 2-5 – Gas and Electric Utilities



**Map 2-6 Drainage Districts** 



## 2.3.5 Transportation

### 2.3.5.1 Road and Streets

The majority of the roads in the planning area are rural township roads, most of which are gravel. Grant Township maintains the majority of the roads in Grant Township. However, Douglas County has maintenance responsibility over Douglas County Route 9 (E 1500 Rd from city limits north to Highway 24/40) and Wellman Road north of Midland Junction to the Jefferson County line. KDOT has responsibility over Highways 24/59 and 24/40.

Douglas County has adopted access management standards that spell out minimum frontage and access standards for rural roads based upon road classifications.

Transportation 2030 (T2030) is the comprehensive, long-range transportation plan for the metropolitan area. T2030 designates streets according to their functional classification or their primary purpose. These functional classifications are shown on Map 2-7. The classification system can be described as a hierarchy from the lowest order, (local roads and streets) that serve to provide direct access to adjacent property, to (collector streets) that carry traffic from local roads and streets, to major thoroughfares (arterial streets) that carry traffic across the entire city and county. Freeways and



expressways are the highest order of streets and are designed with limited access to provide the highest degree of mobility to serve large traffic volumes with long trip lengths.

T2030 was adopted in 2008 and is updated at least every 5 years. This area should be fully studied during the next update to address the future street network.

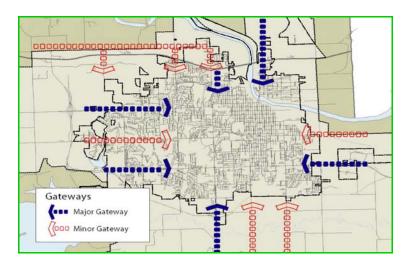
### 2.3.5.2 Gateways

Chapter 2 of T2030 discusses and identifies minor and major gateway into and out of Lawrence. T2030 states, "Gateways are locations on transportation corridors that define the entrances to cities. These provide visitors with a first impression of the city and often indicate the transition from rural to urban land uses. As such, cities desire to make these locations as attractive and informative as possible. As noted in T2030 in Figure 2.4, there are several roadways that represent gateways into the city of Lawrence or into smaller communities within the region that should be reviewed for aesthetic and informational enhancements when they are improved."

T2030 identifies Highway 24/59 as a major gateway into Lawrence based on the corporate boundaries shown in Figure 2.4 of T2030.

T2030 Figure 2.4

Lawrence Gateways



#### 2.3.5.3 Rail

There are also rail lines that weave through the planning area. All lines are currently active and make a number of trips through the area of the course of a typical day. These rail lines pose issues at the various crossings in the area. See Map 2-7 for the location of the rail lines.

#### 2.3.5.4 Transit



Lawrence has a public transportation system (The T) which operates throughout the city. This system allows people to travel to other areas of the city without relying on a personal automobile. There are currently no transit routes that travel into the planning area. However, paratransit service is available to all of Douglas County. Paratransit service is a demand response

service available to seniors and people with disabilities.

### 2.3.5.5 Bicycle Facilities

Lawrence and Douglas County have a joint bicycle plan for the community, the *Lawrence-Douglas County Bicycle Plan*. This plan identifies existing and future bicycle routes, lanes, and multi-use paths. A bicycle route is a network of streets to enable direct, convenient and safe access for bicyclists. A bicycle lane is a separate space designated with striping, signage or pavement markings for exclusive use by bicycles within a street. A multi-use path is a separate path adjacent to and independent of the street and is intended solely for non-motorized travel.

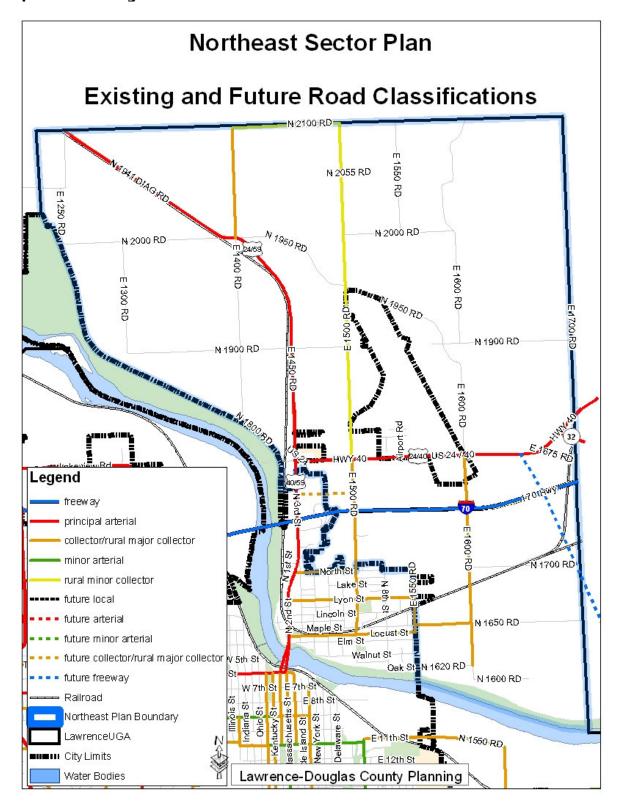


Map 2-8 identifies existing and future bicycle facilities that include:

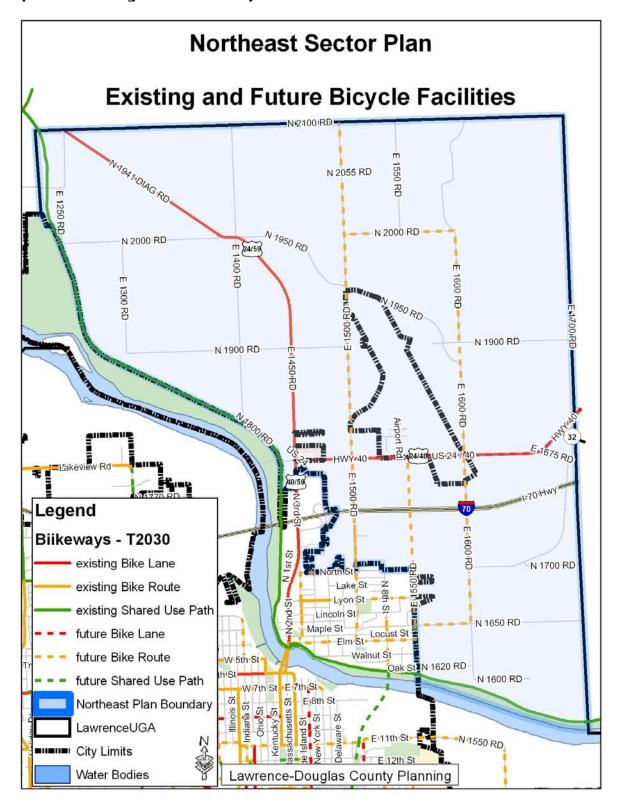
- o An existing multi-use path along the north side of the Kansas River Levee.
- A future bike lane identified along Highway 24/40.
- A future bike route is identified along E 1600 Road, via N 1650 Road east from Lawrence, north to N 2000 Road.

- $\circ\,\,$  A future bike route is identified along E 1500 Road from Lawrence north to the county line.
- o Another future bike route is identified along E 1550 Road from Lawrence to Highway 24/40.
- A future bike route identified along North Street in Lawrence.

Map 2-7 – Existing and Future Road Classifications



Map 2-8 – Existing and Future Bicycle Facilities



#### 2.4 Environmental Conditions

The planning area is made up of several drainage basins which drain to the Kansas River. There is Federal Emergency Management Agency (FEMA) designated floodplain and floodway located within the planning area. These are areas around Mud Creek and its tributaries, Maple Grove Creek, and the Kansas River. See Map 2-9. The floodplain is any land area susceptible to being inundated by flood waters from any source. The floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Developing in the floodplain is allowed both in the city and in the county based on the corresponding regulations. No development is allowed in the floodway except for flood control structures, road improvements, easements and rights-of-way, or structures for bridging the floodway.

Mud Creek and its tributaries flow through portions of the planning area. The Kansas River is immediately outside of the west and south parts of the planning area.

The North Lawrence Drainage Study was commissioned by the City in 2005 to develop a stormwater plan for the North Lawrence watershed. Several alternatives were investigated in the overall North Lawrence Drainage Study watershed to reduce flood elevations, lessen impacts on the "Internal Drainage System" facilities, provide drainage in the event of high flows on the Kansas River, and assess the effects of development in the floodplain. The investigations led to the four major recommendations below. The first bullet item is the key to reducing the burden on the Internal System from areas beyond the existing city limits.

- Drainage from north of 24/40 Highway should be cutoff by the highway embankment and the water should be pumped over the levee at a point just east of the 24/40 intersection to reduce the burden on the 2<sup>nd</sup> Street Pump Station
- Future development in the watershed should maintain the current conveyance levels in the 100-year floodplain development should not reduce the capacity for floodplain storage
- The City should purchase parcels of land as necessary for use as dedicated ponding areas
- Major roads and hydraulic structures should be improved to meet the current APWA criteria with regard to overtopping during the 100-year event, in order to provide adequate emergency services to the area

Tens of millions of dollars of cost were identified to accomplish the recommendations of the study for dealing with existing stormwater issues and future ones that will be created with development.

The majority of the land coverage within the planning area is agricultural land used for crop production. The planning area also contains areas of prairie, grazing land and reserved areas of land that are a part of the KU Field Station. There are some water bodies and woodlands are also present in the northwest and northeast parts of the planning area. See Map 2-10 for a land coverage summary.

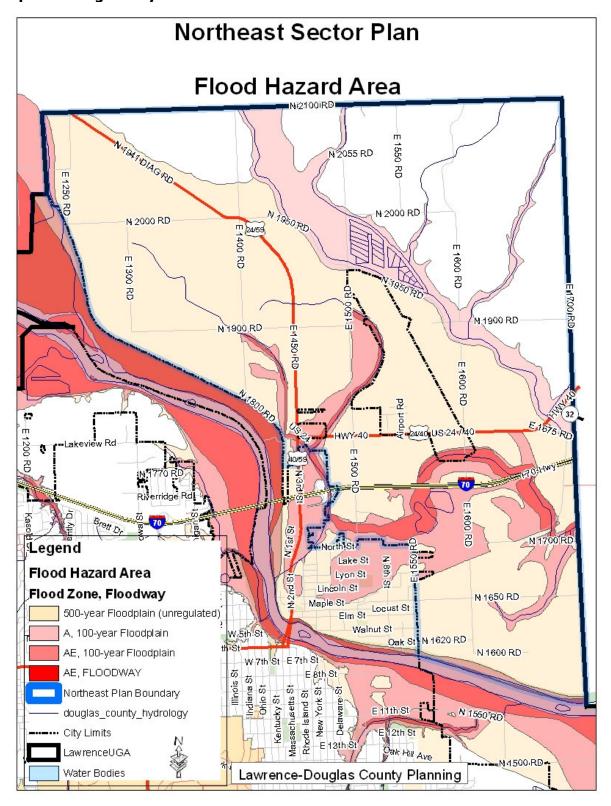
There is a range of topography within the planning area. The high points are along the northern and northeastern portions of the planning area north of the airport and Highway 24/59. The low points are essentially the rest of the planning area. This area is notable for the fact that it is so flat. As such, it is this area that has portions encumbered by floodplain. See

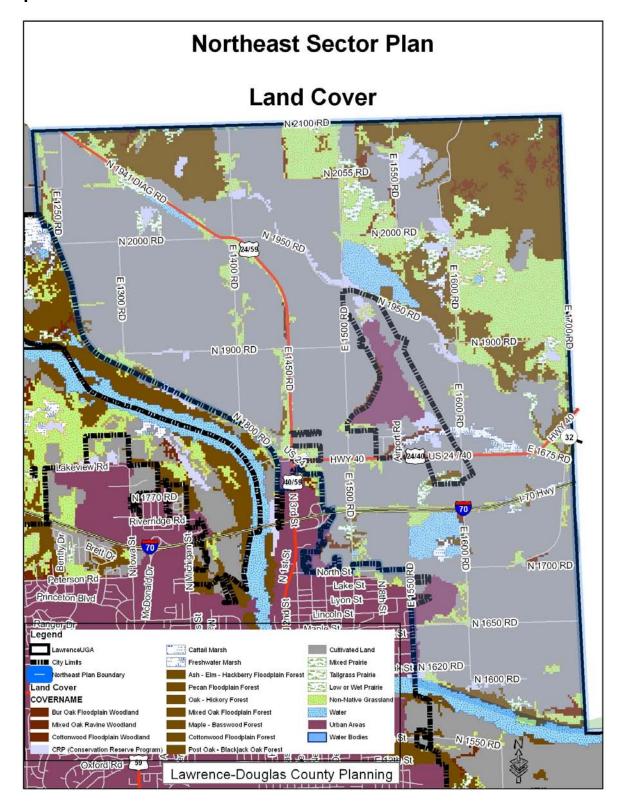
Map 2-11 and Map 2-12. Detailed topographic surveys will be required as individual properties are developed.

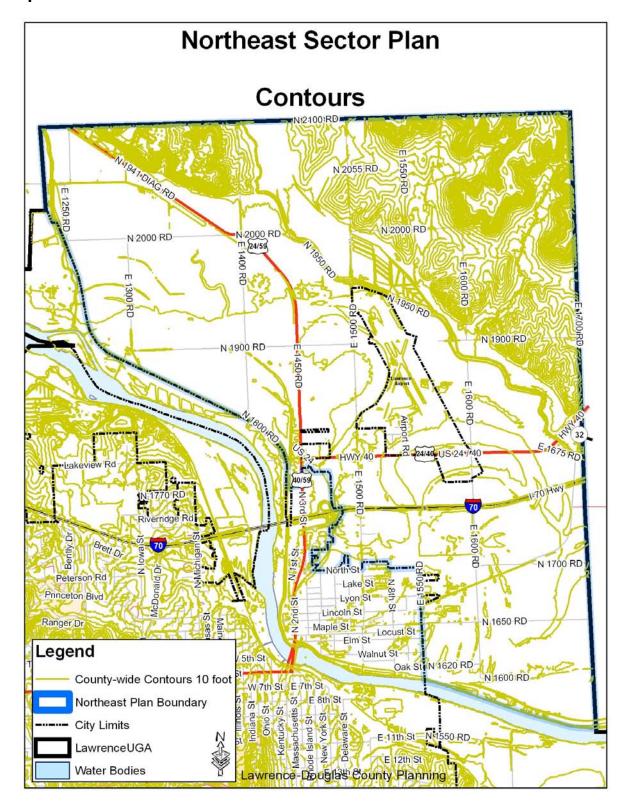
The planning area also contains Class 1 and 2 soils as determined by the Natural Resources Conservation Service, a division of the United States Department of Agriculture. These soils are considered to be high quality agricultural land. Horizon 2020, Chapter 7 Industrial and Employment Related Land Use states "The preservation of high-quality agricultural land, which has been recognized as a finite resource that is important to the regional economy, is of important value to the community. High-quality agricultural land is generally defined as available land that has good soil quality and produces high yields of crops. Within Douglas County these are capability class (non-irrigated) 1 and 2, as identified by the National Resources Conservation Service." These soils are highly permeable and assist in stormwater management. See Map 2-13.

<del>It is also generally believed that these soils also are more permeable and assist in stormwater management.</del>

Map 2-9 – Regulatory Hazard Area and Streams

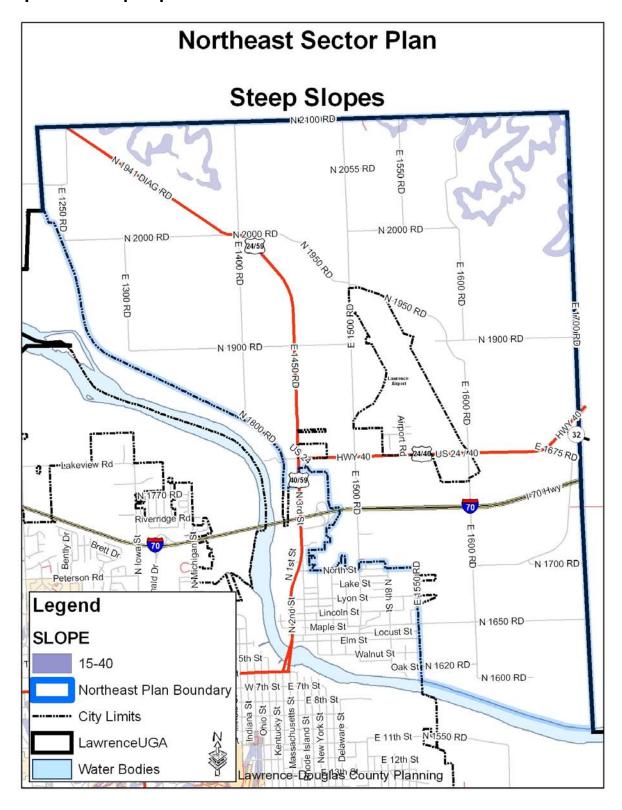




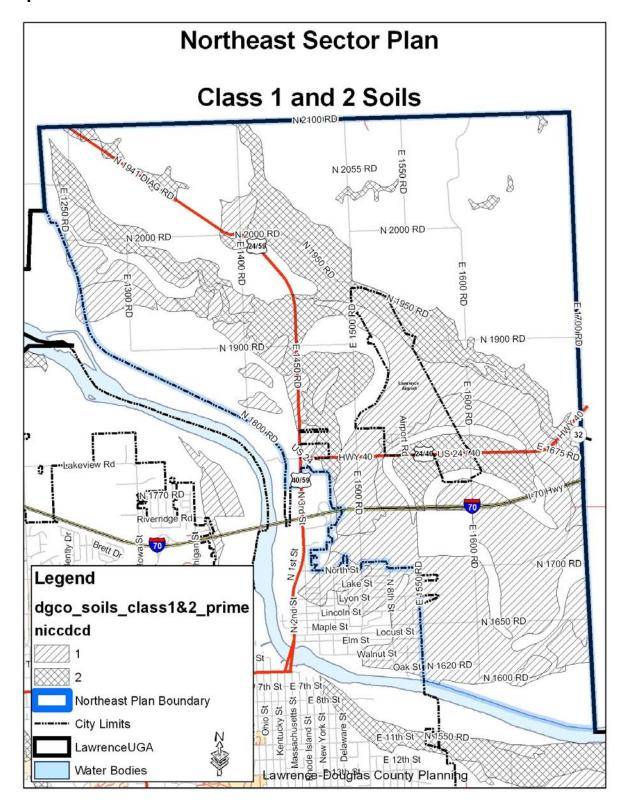


2-20

Map 2-12 - Steep Slopes



Map 2-13 - Class 1 and 2 Soils



# 2.5 Community Facilities

Community facilities are services provided either by government or non-government agencies for the benefit of, and use by, the community. Within the planning area there are a few community facilities. Grant Township owns and maintains a community building east of the airport on E 1600 Rd. That building is also currently being used by Prairie Moon Waldorf School, a private kindergarten and grade school. The Township also maintains a facility near Midland Junction where it stores and services equipment needed for road maintenance. KDOT also has a maintenance facility in the planning area at the northeast corner of Highway 24/40 and Highway 24/59.

Kansas University owns and maintains the Kansas University Field Station (KSRKUFS) in the northeast corner of the planning area. The KSR was established in 1947 and is the biological field station of Kansas University. Numerous research and teaching activities take place at the KSRKUFS. Much of the KSRKUFS is also located in neighboring Jefferson and Leavenworth counties and is not accessible to the public. However, the KSRKUFS also maintains ecological reserves in the planning area that are accessible to the public. For example, the Fitch Preserve Natural History Reservation and McColl Nature Reserve, located in the very northeast corner of the planning area, hashave ≱4 miles of self-guided nature trails within Douglas County that allow users to explore forest, grassland, stream, wetland, and pond areas.

The planning area is located within the Lawrence Public School District (USD 497). The students in the planning area attend Woodlawn Elementary for elementary school; Central Junior High for junior high; and Free State High for high school. Students in the area can also attend the aforementioned private Prairie Moon Waldorf School for kindergarten and grade school.

Most of the community facilities including urban public services, schools, fire/medical, law enforcement, developed parks, etc., are located to the south of the planning area within the city of Lawrence. See Map 2-14

The rural portions of the planning area are served by Lawrence-Douglas County Fire & Medical through an agreement with Grant Township. The Lawrence-Douglas County Health Department is also serves the planning area.

Law enforcement is shared between the City of Lawrence Police Department and the Douglas County Sheriff's Department, depending on whether the property is within the city or in the county. Both are located in the Law Enforcement Center in downtown Lawrence.

The city-owned Lawrence Municipal Airport is located in the planning area north of Highway 24/40 and east of E 1500 Road. The city has owned and operated the airport at this site since 1929. The airport is a general aviation facility that is an all weather facility for business and recreation flyers. A portion of the airport is dedicated to aviation-related employment activities and the city is actively marketing the airport for new businesses while recently approving water and sewer extensions to serve the airport.

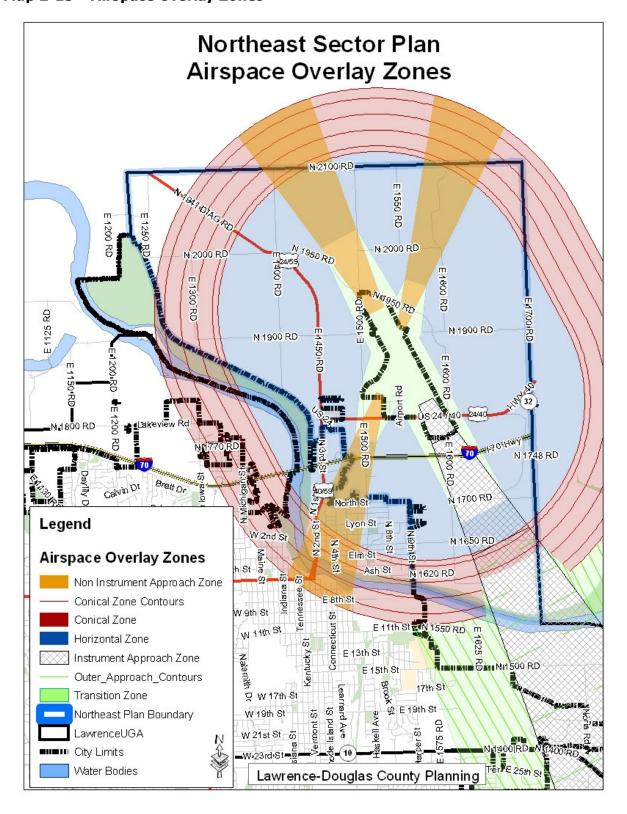
The Federal Aviation Administration (FAA) regulates certain aspects of the operation of the airport and the activity around the airport. There are restrictions in place that manage structure heights around the airport to help maintain the integrity of runway approaches. See Map 2-15. The FAA also mandates a 10,000 foot Wildlife Mitigation Buffer around the runway and taxiway improvements at the airport. The buffer extends 10,000 feet beyond the runway

and taxiways. The buffer is meant to keep water bodies and other wildlife attractants to a minimum. Proposed developments within the 10,000 foot buffer require FAA review. See Map 2-16.

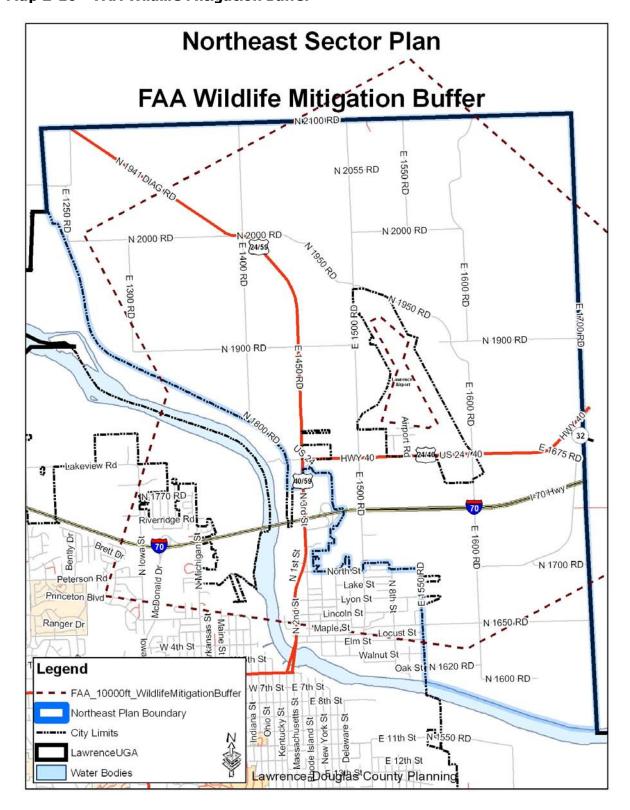
Map 2-14 - Community Facilities



Map 2-15 - Airspace Overlay Zones



Map 2-16 - FAA Wildlife Mitigation Buffer



### Section 3 – Recommendations

The Northeast Sector Plan planning area is anticipated to develop with a range of uses and intensities that extend from agriculture to industrial uses. The more intensive industrial and commercial use areas are recommended where they are in close proximity to US 24/40 Highway and the airport. Agriculture uses are located in the majority of the planning area which is not anticipated to urbanize within the foreseeable future.

Compared to other areas of the fringe area of Lawrence, this area is not anticipated to be significantly urbanized.

Due to the unique challenges to development, including:

- o Costly stormwater infrastructure needs as urbanization occurs
- o Significant amounts of regulatory floodplain
- o Significant amounts of Class 1 and 2 soils
- o FAA Regulations and Lawrence Municipal Airport Protection Zones

Yet the planning area also benefits from the Lawrence Municipal Airport, nearby urban services, and access to I-70.

This plan recognizes these unique elements and proposes only limited urban development in the planning area.

### 3.1 Goals and Policies

Goals are broad statements of ideal future conditions that are desired by the community. Policies are guiding principles that provide direction for decisions to be made regarding the planning area in order to meet the goals. These policies are in addition to the policies in *Horizon 2020* and are only applicable to the property within the *Northeast Sector Plan* planning area.

### **3.1.1 Land Use**

**Goal**: Establish future land uses appropriate for the following unique characteristics of the area:

The interaction of urban and rural lifestyles and development patterns Multi-modal transportation system

- Airport
- Highway 24/40/59
- o Interstate 70
- Railroad

Predominate agriculture use with existing industrial and commercial uses along the highways
Relatively flat terrain
Floodplain/stormwater challenges
KU Field Station and ecological reserves
Kansas River/Levee

# **3.1.1.1 Policies**

#### 3.1.1.1.a General

- 1. Establish an urban growth area boundary that considers the costs of urban development and that recognizes that the majority of the planning area will not develop in an urban manner during the time horizon of this plan.
- 2. Recognize that infrastructure challenges will limit urban growth in the planning area. Stormwater management costs identified by the North Lawrence Drainage Study are significant for urban development. The lack of slope of the area presents challenges for urban wastewater infrastructure and management.
- 3. Consider allowing alternate development standards for urbanized development that promote sustainable development—swales, no curb and gutter, impervious surfaces, etc. that will limit the downstream impact of development.
- 4. Annex property in an orderly manner as urbanization of new development occurs. Further, consider annexing existing county industrial developments as utility issues in the area are better understood and as properties redevelop.

# 3.1.1.1.b Agriculture Use

- 1. Encourage continued agriculture use for the majority of the planning area, especially in areas with Class 1 and 2 soils and in the regulatory floodplain areas.
- 2. Encourage incentives/partnerships that assist the ongoing agriculture uses in the area.
- 3. Recognize that the impacts of farming truck traffic, noises, etc. are necessary and are not nuisances in the community.
- 4. Identify and create programs that promote continued agriculture use by supporting existing and new agriculture ventures.

# 3.1.1.1.c Industrial/Employment Use

- 1. Per Horizon 2020 Chapter 7 Industrial and Employment-Related Land Use, designate and support the areas southwest of the Airport and north of I-70 as a future industrial area. Soil conserving agri-industry businesses that will protect the quality of existing high-quality agricultural land either through agricultural use or preservation for future agricultural use should be encouraged to locate in these areas.
- 2. Designate and support industrial/employment uses north of Highway 24/40 and west of the airport.
- 3. Per Horizon 2020 Chapter 7 Industrial and Employment-Related Land Use, designate the Midland Junction area as a future industrial/employment area. Soil conserving agri-industry businesses that will protect the quality of existing high-quality agricultural land either through agricultural use or preservation for future agricultural use should be encouraged to locate in these areas. Adoption of Nodal Plan is encouraged prior to urbanizing and/or providing urban services to this site.
- 4. Support continued development of the Airport property for aviation-related businesses.
- 5. Require compatible land uses within FAA guidelines related to runway protection zones and wildlife mitigation.

#### 3.1.1.1.d Commercial Use

- 1. Per Horizon 2020 Chapter 6 Commercial Land Use, designate the intersection of E 1500 Rd. and Highway 24/40 as a future Neighborhood Commercial Center.
- 2. Allow future commercial uses, in addition to industrial/employment uses, at Midland Junction to provide a greater mix of uses to support highway travelers after Nodal Plan is adopted. Consider improvements to Highway 24/59 that address the safety of the curves as part of a future Nodal Plan.

### 3.1.1.1.e Residential Use

- 1. Rural residential (rural estate) uses are <u>permitted in most of the planning area and are</u> encouraged <u>if supporting agriculture uses</u>. <del>for the majority of the planning area, in areas that do not contain Class 1 and 2 soils and regulatory floodplain</del>
- 2. Very low density residential uses are encouraged for the non-regulatory floodplain area between the North Lawrence neighborhood and I-70.

# 3.1.1.1.f Open Space

- 1. Protect the existing and future Kansas University Field Station and protect it from future development projects with tools such as appropriate buffers and land uses that will minimize the impact of neighboring development.
- 2. Encourage continued use of the Kansas River levee as an open space amenity.

## 3.1.1.1.g Lawrence Urban Growth Area (UGA)

1. Consider adjusting Lawrence's Urban Growth Area boundary to those areas of Grant Township feasible for urban-type development through the analysis of this Sector Plan and the analysis of future water and wastewater master plans.

#### 3.1.2 Environmental Resources

<u>Goal</u>: Consider the unique environmental resources of the area when reviewing development applications. Environmental resources include:

Class 1 and 2 soils
Flat terrain
Floodplain
Groundwater/Wells
KU Field Station and ecological reserves
Kansas River/Levee
Sand, gravel, topsoil, etc.

### **3.1.2.1 Policies**

### 3.1.2.1.a Class 1 and 2 Soils

- 1. Recognize Class 1 and 2 soils as valuable to this portion of Douglas County for its permeability (positive attribute for stormwater and flooding) and crop production capabilities.
- 2. Encourage the preservation of high quality agriculture land (Class 1 and 2 soils) through conservation programs, private/public partnerships, and other funding mechanisms.
- 3. Encourage private agriculture easements that will preserve high quality agriculture land in perpetuity.

# 3.1.2.1.b Floodplain

- 1. The City and County should consider developing and implementing higher regulatory standards that promote no adverse impact in <u>regulatory</u> flood hazard areas <u>as shown on the Flood Insurance Rate Maps for Douglas County and within the Floodplain Overlay District for the City of Lawrence.</u>
- 2. Development should not be allowed within the regulatory floodway.
- 3. Promote the natural and beneficial functions of the floodplain.
- 4. Encourage natural stormwater management.
- 5. Crop and animal agriculture uses are appropriate in the regulatory floodplain.

#### 3.1.2.1.c Groundwater

- 1. Promote land management choices that limit the potential for negative groundwater impacts.
- 2. Minimize pollutants percolating into groundwater systems to help ensure the quality of the area's groundwater systems.
- 3. Provide educational opportunities regarding natural stormwater management features, Best Management Practices (BMPs) for stormwater structures and pollutant discharge, erosion and sediment control, and water quality.

# 3.1.2.1.d ₩ Kansas University Field Station

- 1. Encourage <u>future</u> development that is compatible with the <u>KU Kansas University</u> Field Station. Buffers and other methods may be necessary to mitigate the impacts of the builet environment of future development projects in close proximity to the Field Station.
- 2. Promote the research and educational aspects of the Kt Kansas University Field Station.

# 3.1.2.1.e Recreation

1. Maximize recreation opportunities by developing trails that connect to focal points in the area and to the larger interconnected Lawrence and Douglas County network, including the Kansas River levee trail.

# 3.1.2.1.f Sand, gravel, topsoil, etc.

1. Support the extraction of natural resources such as sand, gravel, topsoil, etc. if compatible with existing land uses, especially the Lawrence Municipal Airport and Kansas University Field Station, and if infrastructure can support the process of extraction.

# 3.1.3 Economic Development

<u>Goal</u>: Promote economic development opportunities that take advantage of the unique characteristics of the area, which include:

# A multi-modal transportation system

- Airport
- o Highways 24/40/59
- Interstate 70
- Railroad

Class 1 and 2 soils

Relatively flat terrain

Existing industrial and commercial businesses along the highways KU Endowment land

# **3.1.3.1 Policies**

# 3.1.3.1.a Airport

 Support aviation-based development at the airport, and the necessary road and utility infrastructure, as an economic development generator for Lawrence and Douglas County.

## 3.1.3.1.b Industrial/Employment

1. Support goals and policies of Horizon 2020 Chapter 7 – Industrial & Employment Related Land Use and recognize that certain areas identified in Chapter 7 in the planning area are valuable to the goal of creating jobs for Douglas County.

# **3.1.3.1.c Agriculture Economy**

- 1. Encourage public/private partnerships and programs to establish and support a sustainable local food program.
- 2. Establish incentives as part of a local food program that foster farm to table relationships.
- 3. Support the ag community by creating partnerships and programs that further economic development of an agricultural nature.
- 4. Per Horizon 2020 Chapter 7 Industrial and Employment-Related Land Use, designate and support the areas southwest of the Airport and north of I-70 as a future industrial area. Soil conserving agri-industry businesses that will protect the quality of existing high-quality agricultural land either through agricultural use or preservation for future agricultural use should be encouraged to locate in these areas.
- 5. Designate and support industrial/employment uses north of Highway 24/40 and west of the airport.

## 3.1.3.1.d KU

1. Create partnerships with KU that help build the agricultural, research, aviation, and industrial businesses of the area.

## 3.1.4 Infrastructure

<u>Goal</u>: Improve existing services for the area and recognize the infrastructure challenges posed by the unique characteristics of the area when considering development applications. The unique characteristics include:

Relatively flat terrain Floodplain/stormwater challenges Township roads

## **3.1.4.1 Policies**

# 3.1.4.1.a Existing Services

- Develop partnerships between Douglas County, Grant Township and the City of Lawrence for appropriate road maintenance programs in the planning area as development occurs.
- 2. When conditions warrant, the City should consider locating a fire station near the airport to improve emergency service for the airport, the North Lawrence neighborhood, and the remainder of Grant Township.
- 3. Heavy truck traffic from commercial and industrial development should use highways or improved roads for travel through the area.

## 3.1.4.1.b Floodplain/Stormwater/Flat terrain

- 1. Consider implementing alternate sustainable development standards to help reduce the cost of stormwater improvements needed for existing and future development.
- 2. The flat terrain in some parts of the planning area hinders storm drainage. Stormwater improvements identified in the North Lawrence Drainage Study should be constructed as development occurs in the area.
- 3. Implement appropriate stormwater management practices throughout the planning area.
- 4. Flat terrain poses cost challenges to providing sanitary sewer to the area. Consider alternative sewer solutions when prudent.

# 3.1.5 Transportation

<u>Goal</u>: Continue developing a multi-modal transportation system that supports the designated land uses of the area.

# **3.1.5.1 Policies**

## 3.1.5.1.a Safety

- 1. Work with KDOT to improve the Midland Junction Highway 24/59 curves to make the route safer for travelers.
- 2. Consider improvements to Highway 24/40 that facilitate easier turning movements onto and off of the highway in particular at E 1500 Rd./N 7<sup>th</sup> Street and at the airport entrance.
- 3. Encourage on-going discussion with the railroad companies regarding rail crossing safety.

# 3.1.5.1.b Trails/Pathways

- 1. Develop a trail/bikeway system for the planning area that considers connecting to open space and recreation areas.
- 2. Include the planning area in the county-wide bikeway system map.
- 3. Identify and build pathways throughout the planning area.

## 3.2 Land Use

This section outlines the recommended land uses for the planning area. The future land use maps (Map 3-1) and land use descriptions are explained on the subsequent pages. The map is an illustration to help visually identify the recommended land uses in the Northeast Sector Plan planning area. The land use descriptions are more detailed information regarding the different land use categories. The official definitions and the permitted uses within each zoning district are outlined in the use tables that are located in the Zoning Regulations for the Unincorporated Territory of Douglas County and the *Land Development Code* for the City of Lawrence. The map and text descriptions must be used in conjunction with one another in order to obtain the complete recommendation for each particular area. The map is not intended to provide a scaleable map for determining specific land use/zoning boundaries within this area.

This plan encompasses a large area that for the most part is not intended to urbanize, and as such, a large area is designated Agriculture on the future land use map. There are a number of properties in the planning area that have existing county zoning designations other than Agricultural zoning. Some of those properties are shown on the future land use map to have a different future land use through possible future urbanization. There are also properties that have county industrial and business zoning, and that are currently developed, that are shown on the future land use map as industrial or commercial, reflecting their existing developed use.

There are other properties that have County industrial or business zoning, but that are not presently developed and that are outside the anticipated urbanization area of this plan, that are shown as Agriculture on the future land use map. It is important to note that this plan does not take away those properties' rights to develop under the current county zoning regulations. Properties with zoning other than Agricultural that seek to develop for a permitted use may do so without oversight of the future land use map of this plan as long as they receive the appropriate approvals to do so.

## 3.2.1 Land Use Descriptions

## 3.2.1.1 Agriculture

The Agriculture designation classification is intended for those parts of the planning area not anticipated to urbanize over the course of the planning horizon. The dominate existing use of this designation classification is agriculture uses. The intent of the Agriculture designation classification is to allow for agriculture activities along with rural residential uses and other uses permitted by the Zoning Regulations of Douglas County. Rural residential uses should be limited to those areas without regulatory floodplain or Class 1 and 2 soils. Existing uses that are not agriculture or residential, and that have the appropriate existing zoning for the use, are not affected because this policy designation classification is not changing the zoning on the property. The Agriculture classification contains regulatory flood hazard areas. Development on properties containing flood hazard area must comply with the flood plain regulations of Douglas County.

Density: Per Douglas County Zoning Regulations

Intensity: Very low

Zoning Districts: Douglas County - A (Agriculture District), "A-1" (Suburban Homes

District)

Primary Uses: Agriculture, commercial greenhouse, commercial riding stable, grain storage structures, single-family dwellings, churches, schools, parks and open space and utilities.

# 3.2.1.2 Very Low-Density Residential

The intent of the Very Low-Density Residential Use classification is to allow for large lot, single-dwelling type uses. The very low-density use classification is expected to urbanize within the city of Lawrence.

Density: 1 or fewer dwelling units per acre

Intensity: Very low

Zoning Districts: Lawrence – RS40 (Single-Dwelling Residential), PD (Planned Development Overlay)

Primary Uses: Detached dwellings, cluster dwellings, manufactured home residentialdesign, zero lot line dwellings, group home, public and civic uses

## 3.2.1.3 Neighborhood Commercial Center

A Neighborhood Commercial Center provides for the sale of goods and services at the neighborhood level. This commercial center is intended to serve the surrounding employment center area in addition to the commuters using Highway 24/40. *Horizon 2020,* Chapter 6 – Commercial Land Use offers more specific language regarding Neighborhood Commercial Centers. The Neighborhood Commercial Center designation classification is intended to urbanize around Highway 24/40 and E 1500 Rd. Other areas designated are rural and are not anticipated to urbanize.

Intensity: Medium-High

Zoning Districts: Douglas County – B-1 (Neighborhood Business District) and B-2 (General Business District); Lawrence – MU (Mixed Use), CN1 (Inner Neighborhood Commercial District), CN2 (Neighborhood Commercial Center District), PD (Planned Development Overlay)

Primary Uses: non-ground floor dwellings, civic and public uses, eating and drinking establishments, general office, retail sales and services, hotels, motels, gas and fuel sales, car wash

## 3.2.1.4 <u>Soil Conserving</u> Agri-Industry

The intent of the <u>Soil Conserving</u> Agri-Industry <u>Use</u> <u>category</u> is to allow for <u>soil conserving</u> agriculture-related <u>industrial uses</u> <u>businesses</u> that conserve and use the Class 1 and 2 Soils in the area and that take advantage of Highway 24/40 and I-70 for materials transportation. <u>Soil conserving agri-industry business is a term with its basis found in Horizon 2020 Chapter 7 – Industrial and Employment-Related Land Use. This Plan seeks to better describe the intent of this classification. The distinction between the <u>Soil Conserving Agri-Industry classification and Industrial/Employment classifications is the component of protecting and/or using existing high-quality agricultural land either through agricultural use or preservation for future agricultural use.</u></u>

Protection of the soils through agriculture use or preservation can be implemented in different ways and the community should be open to creative ways that development projects could utilize this classification. Projects that could meet the value of this classification include, but are not limited to, the following: crop research, local food production, or small amounts of conventional industrial with large percentages of the

<u>soil protected or used for agriculture.</u> The Agri-Industry Use may or may not urbanize. This use is identified south of Highway 24/40 and also should be included at Midland Junction when a nodal plan is developed for that area.

Intensity: Medium-High

Zoning Districts: Douglas County — I-1 (Limited Industrial District) and I-2 Light Industrial District; Lawrence — IBP (Industrial and Business Park District) IL (Limited Industrial District), IG (General Industrial District), PD (Planned Development Overlay)

Primary Uses: Soil-conserving agri-businesses

## 3.2.1.8 Industrial

The intent of the Industrial Use category is to allow for moderate to high-impact uses including large scale or specialized industrial uses that utilize Highway 24/40 and I-70 for materials transportation. This category includes existing industrial developments in the area. This category also includes land at the airport dedicated to aviation related development. Land west of the airport and north of Highway 24/40 is also designated classified as industrial. The industrial use classification is expected to urbanize.

Intensity: Medium-High

Zoning Districts: Lawrence – IBP (Industrial and Business Park District) IL (Limited Industrial District), IG (General Industrial District), PD (Planned Development Overlay)

Primary Uses: Aviation-related uses, utility facilities, building maintenance services, fleet storage, business support services, construction sales and service, industrial facilities, wholesale, distribution, and storage, research services, manufacturing and production limited and technology

## 3.2.1.9 Airport

The intent of the Airport use <u>category</u> is to designate the existing City-owned Lawrence Municipal Airport land and allow for aviation-related development.

Intensity: Medium-High

Zoning District: Lawrence – IG (General Industrial District)

Primary Uses: Aviation-related uses

#### 3.2.1.10 Public/Institutional

The intent of the Public/Institutional Use is to allow for public, civic, and utility uses.

Intensity: Variable

Zoning Districts: Douglas County – A (Agriculture District); Lawrence – GPI (General Public and Institutional)

Primary Uses: Cultural center/library, school, utilities, recreational facilities, utility services

## 3.2.1.11 KH Kansas University Field Station

The intent of the KU Field Station Use is to designate classify the existing KU Kansas University property.

Intensity: Low

Zoning Districts: Douglas County – A (Agriculture District)

Primary Uses: crop agricultural, cultural center, teaching, active recreation, passive recreation, nature preserve, research

## 3.2.1.10 Open Space

The intent of the Open Space Use category is to provide space for public recreational facilities and natural area preservation. This category primarily includes regulatory floodway areas as well as regulatory floodplain areas that are not in the Agriculture Land Use designation classification.

Intensity: Low

Zoning Districts: Douglas County – A (Agriculture District), V-C (Valley Channel District); Lawrence – GPI (General Public and Institutional District), OS (Open Space), UR (Urban Reserve),

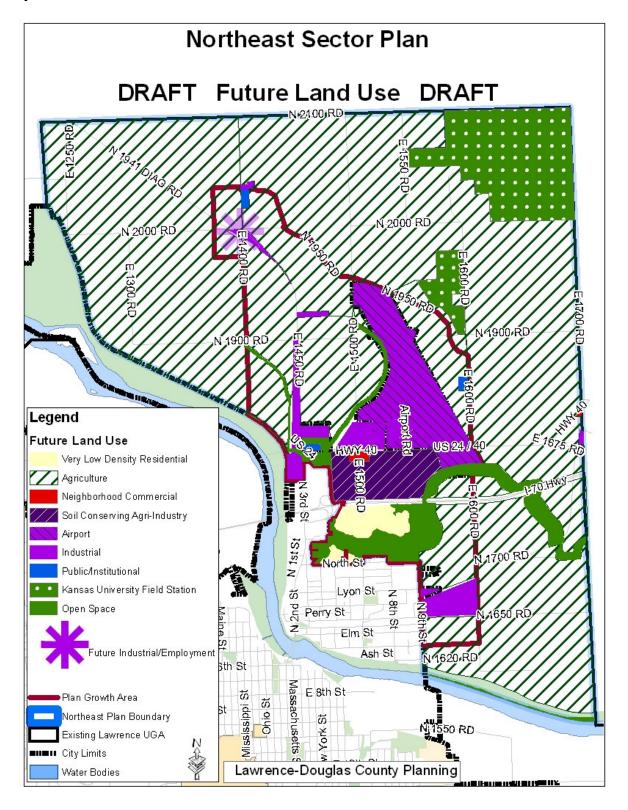
Primary Uses: crop agricultural, cultural center, schools, active recreation, passive recreation, nature preserve, entertainment and spectator sports, participant sports and recreation outdoor, private recreation

## 3.2.1.11 Future Industrial/Employment

This classification recognizes the Midland Junction area as a future employment center. Although the area may or may not urbanize and support a larger employment base and possibly expanded commercial uses, this likely won't happen for at least 30 years (Per Horizon 2020 Chapter 7 Industrial and Employment Related Land Use).

A Nodal Plan will be required prior to the area substantially developing. A Nodal Plan will provide a detailed land use examination of the Midland Junction intersection. The Nodal Plan should determine future land use, including a consideration for some commercial land use. In addition to future land use, among the other issues the Nodal Plan should examine are: traffic safety issues with Highway 24/59, stormwater, and Class 1 and 2 soils.

Map 3-1 — Future Land Use



# 3.3 Implementation

- 1. Amend *Horizon 2020* Chapter 6 Commercial Land Use designate the Neighborhood Commercial Center at the intersection of E 1500 Road and US Highway 24/40 to the southern portion of the intersection of E 1500 Road and US Highway 24/40.
- 2. Reevaluate and update the Lawrence Urban Growth Area (UGA) in Horizon 2020.
- 3. Include the planning area in the future wastewater and water master plan updates.
- 4. Include the planning area in future long-range transportation plan updates.
- 5. Reassess the planning area in a Bikeway Map update to include connecting the open space areas to the greater trail network.
- 6. Consider implementing regulations that promote no adverse impact for floodplain management.

# Northeast Sector Plan

**DRAFT** 

March 12, 2010

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## Section 1: Introduction

# 1.1 Purpose

The purpose of the *Northeast Sector Plan* is to outline specific land use goals, policies and recommendations for the planning area shown on Map 1-1, while being consistent with the overall adopted comprehensive plan for the community. Portions of the planning area are adjacent to the city of Lawrence and because of their proximity to the city and highways, they are likely to be areas of rural and urban development pressure. However, this plan recognizes that this area is unique in its development potential and the community may benefit most by limited development.

The plan outlines future land uses for the planning area to be used as a guide for rural and urban development. This plan does not annex property nor does it rezone property upon adoption. These types of proposals are typically requested by the property owners and/or developers that have a stake in such property and wish to develop within Douglas County and within the city of Lawrence.

The plan should fit like a puzzle piece into the larger context of the surrounding street, utility, and land use network of the entire community. Logical connections between the planning area and adjacent neighborhoods are a key factor in the development of the plan. The recommendations contained within this plan are intended to guide the area's future growth patterns.

It is expected that development in the planning area will occur within the span of decades as the market demands and as urban services are able to be provided. It is anticipated that rural and agricultural uses will continue to be present and maintained as the planning area urbanizes. Because of the long timeframe of the plan, it should be reviewed on a regular basis.

# 1.2 Description of Planning Area

The *Northeast Sector Plan* planning area is located north of the city of Lawrence (see Map 1-1) and within Grant Township, in northeastern Douglas County, Kansas. The planning area contains approximately 10,640 gross acres and encompasses most of Grant Township north of the Kansas River.

The planning area boundaries are: E 1700 Road on the east, N 2100 Road on the north, the riverfront park on the west, and the Lawrence city limits and the Kansas River on the south. See Map 1-1. The planning area encompasses the Lawrence Urban Growth Area (UGA) in northeast Douglas County, as currently identified in *Horizon 2020*. A majority of the planning area is located in Service Area 4 which is the outer most service area in *Horizon 2020*. For Service Area 4 *Horizon 2020* states: "The land uses north of US-24/40 shall be primarily non-residential uses such as industrial, warehouse and office" and "Urban development in Service Area 4 north of the Kansas River shall not occur until after an extensive drainage study for the area north of the Kansas River has been completed." The North Lawrence Drainage Study was completed in 2005.

A portion of the planning area, south of Highway 24/40 is located in Service Area 2. *Horizon 2020* states: "Until these areas, are served by the extension of municipal services, residential urban densities of development or non-residential urban development will not be permitted. Divisions of land for rural residential development shall be permitted only when the following criteria exist: access to paved roads, conformance with minimum road frontage requirements, and availability of rural water meters. Development shall not be permitted on steep slopes (15% or greater), regulatory floodplains or other environmentally sensitive areas, and state or federally designated historic sites or landmarks. The pattern and lot layout of rural residential developments shall provide, through early planning, dedications or reservations for the logical extension of public roads and infrastructure" and "Development of these areas to urban densities should be allowed only after coordination with the phasing of municipal services and public infrastructure improvements to serve these new urban densities."

As mentioned earlier, the entire planning area is within the Lawrence UGA. The UGA was expanded to the Douglas County line in this area in 2004. This action was largely in response to concerns that the Douglas County Subdivision Regulations did not regulate rural residential growth, i.e., the 5 and 10 acre exemptions allowed the creation of residential lots without platting. The UGA was expanded into this area to help regulate rural residential growth.

The subdivision regulations for Douglas County were amended and adopted in 2007 and put in



place standards to regulate rural residential growth. These standards regulate rural residential growth in the Rural Area, as well as the UGA. Since there are now standards for the division of property in the Rural Area, one of the reasons for expanding the UGA to the county line in this area is no longer necessary.

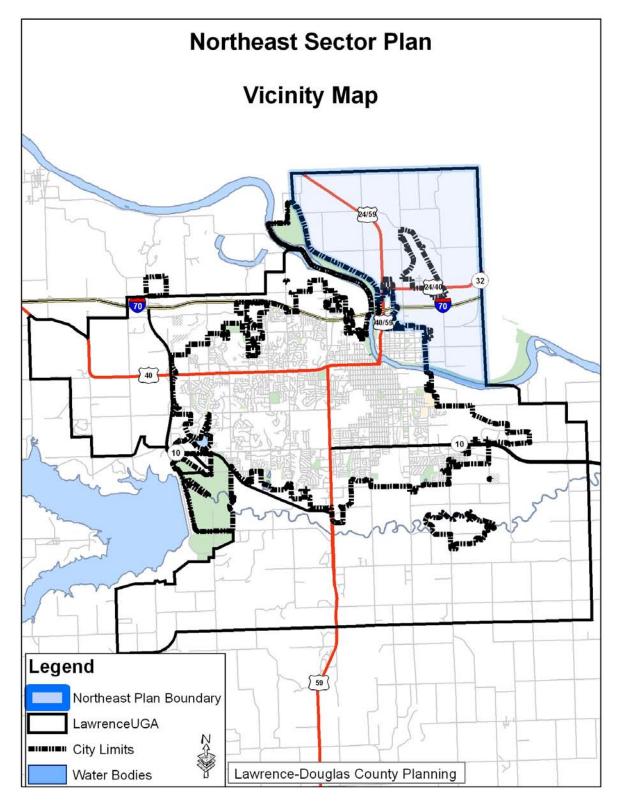
The dominant character of the area is rural in nature although there are a variety of uses within the planning area. The main rural use in the flat, lower parts of the planning area is agriculture crop uses. Rural residential uses are found in the higher

northern parts of the planning area. Rural uses dominate those portions of Jefferson County that are north of the planning area and also those parts of Leavenworth County east of the planning area. The KU Field Station is located in the northeast corner of the planning area and also within Jefferson and Leavenworth counties.

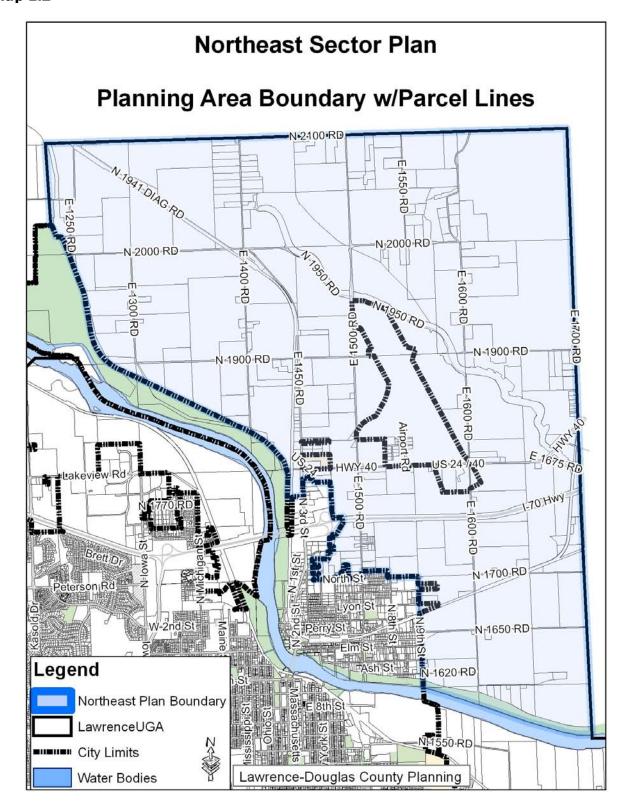
I-70 and a toll plaza, along with Highways 24/40/59 are major elements within the area. Industrial and commercial uses are located along Highway 24/59 and Highway 24/40. The Lawrence Municipal Airport is another major element within the planning area. The airport is annexed into the city, but is an island not contiguous with the corporate boundary of Lawrence. The Kansas River is generally west and south of the planning area. Urban uses within Lawrence are generally south of the planning area.

The planning area boundaries and parcel composition are illustrated in Map 1-2.

Map 1.1 - Vicinity Map



Map 1.2



# 1.3 Policy Framework

Horizon 2020 serves as the overall planning guide and policy document for this plan. In addition to Horizon 2020, guiding policy is also obtained in other adopted physical element plans. Together, these plans provide the general "umbrella" policies under which this plan is developed. Listed, these plans are:

- *Horizon 2020*, the Comprehensive Plan for Lawrence and Unincorporated Douglas County. Lawrence-Douglas County Metropolitan Planning Office. 1998 as a mended.
- *Transportation 2030*, Lawrence/Douglas County Long Range Transportation Plan. Lawrence/ Douglas County Metropolitan Planning Office and Parsons Brinkerhoff. March 26, 2008.
- Lawrence-Douglas County Bicycle Plan, Lawrence/Douglas County Metropolitan Planning Office. May 2004.
- Lawrence Parks & Recreation Department A Comprehensive Master Plan. Leon Younger & PROS. 2000.
- City of Lawrence, Kansas Water Master Plan. Black & Veatch. December 2003.
- City of Lawrence, Kansas Wastewater Master Plan. Black & Veatch. December 2003.
- 2008-2013 Capital Improvement Plan. City of Lawrence. June 26, 2007.
- North Lawrence Drainage Study. 2005

# **Section 2 - Existing Conditions**

The inventory and analysis of existing conditions in this plan are intended to serve as a resource and background for the recommendations included in Section 3 of this plan.

#### 2.1 Land Uses

# 2.1.1 Existing Land Uses

There are currently a variety of land uses within the planning area. The planning are approximately 10,116 acres of land dedicated to uses other than public rights-of-way. The source information for the existing land use summary and map are based on the County Appraisers' land use code and updated by planning staff.

Agricultural uses, in the form of row crops, pasturelands, and farms are the dominant land uses and encompass approximately 7,330 acres of land, which accounts for 72% of the planning area. There are farms of varying sizes (less than 5 acres up to hundreds of acres) within the planning area. Production includes row crops, local market production and animal production. Farms are owner operated or leased to larger operations. The City leases land around the airport for agriculture use.

The second largest land use category is parks/rec/open space use with approximately 956 acres. The parks/rec/open space use category includes the KU Field Station properties in the northeast portion of the planning area.

The third largest land use category is transport/communication/utility. This land use category includes the Lawrence Municipal Airport.

The next largest category is single family residential use. This category includes property with one dwelling unit located on it. The *Douglas County Zoning Regulations* define a dwelling as, "Any building or portion thereof designed or used for residential purposes. This shall include structures designed as underground structures but shall not include trailers or mobile homes". The single-family residential use is seen within the planning area primarily in the rural form – typically a house on 1 to 10 acres (although some larger single family properties in the area range between 10-40 acres).

The remaining land is designated a variety of uses ranging from industrial/warehouse/distribution to public/institutional uses. These uses are located primarily along Highway 24/59. The existing land uses are shown on Map 2-1 and the planning area breakdown is described in Table 2-1.

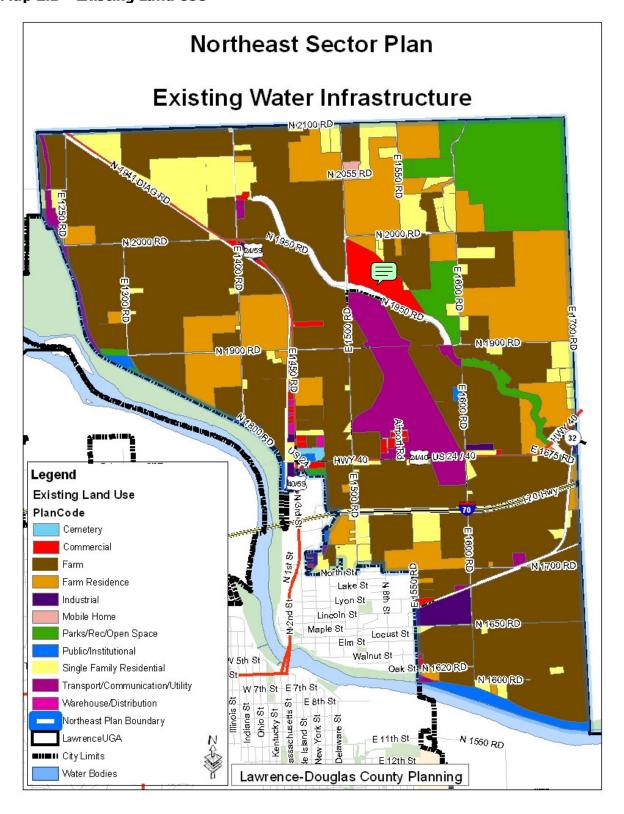
Table 2-1: Existing Land Use Summary

Land use	Acres	Percent
Agricultural	7,330	72%
Single Family Residential	550	5%
Vacant Residential	232	2%
Residential - Other	72	1%
Commercial	186	2%
Industrial/Warehouse/Distribution	125	1%
Public/Institutional	110	1%
Parks/Rec/Open Space	956	10%
Transport/Communication/Utility	555	6%
TOTAL	10,116	100%



Currently, there is one structure listed on the National Register of Historic Places within the planning area. The Vermilya Boener House is located at the northwest corner of N 1900 Rd. and E 1400 Rd and was listed in 1992.

Map 2.1 - Existing Land Use



# 2.2 Zoning Patterns

The planning area encompasses approximately 10,640 acres of land including public rights-of-ways. Approximately 520 acres are located within the city of Lawrence and the rest is located within the unincorporated area of Douglas County. The majority of the planning area that is located within unincorporated Douglas County is zoned A (Agriculture District). This is mainly used for row crops, pasture land and farm purposes. Industrial zoning is found in the planning area with specific areas zoned I-1, I-2, I-3 and I-4 Districts. There is also some B-2 (General Business District) zoning along Hwy. 24/40. See Map 2-2.

The main portion of the planning area located within the city of Lawrence is the Lawrence Municipal Airport, which is zoned IG (General Industrial). The Maple Grove Cemetery is also within the city of Lawrence and is zoned OS (Open Space District). Both of these properties are islands that are not contiguous to the corporate limits of Lawrence. See Map 2-2.

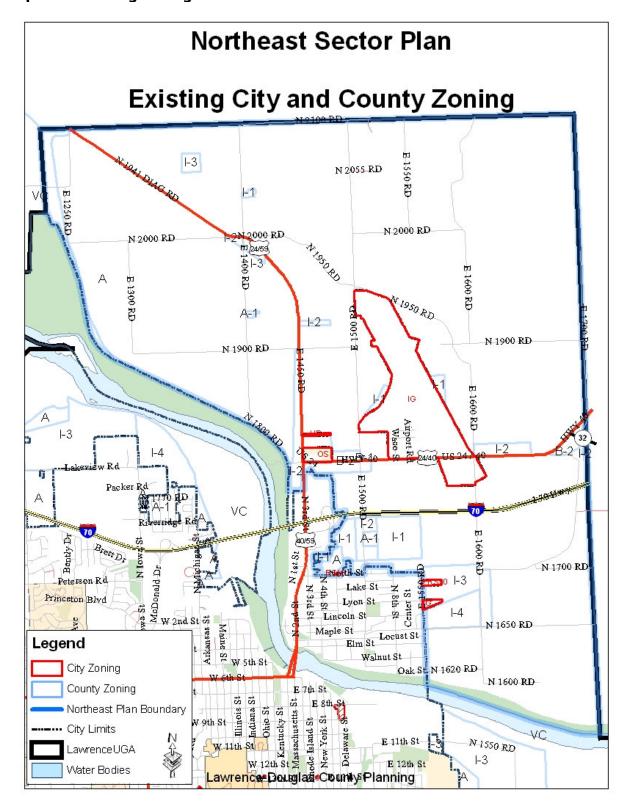
Table 2-2 County Zoning Classifications

County Zoning	District Name	Comprehensive Plan Designation
Α	Agricultural	Agriculture
A-1	Suburban Homes	Very Low-Density Residential
I-1	Limited Industrial	Industrial
I-2	Light Industrial	Industrial
I-3	Heavy Industrial	Industrial
I-4	Heavy Industrial	Industrial
VC	Valley Channel	N/A

Table 2-3 City Zoning Classifications

City Zoning	District Name	Comprehensive Plan Designation	
RS20	Single-Dwelling Residential (20,000 sq. feet per dwelling unit)	Low-Density Residential	
IG	General Industrial	Warehouse and Distribution or Industrial	
OS	Open Space	N/A	

Map 2.2 - Existing Zoning



#### 2.3 Infrastructure

#### 2.3.1 Water and Wastewater Infrastructure

A summary of the existing water utilities is shown on Map 2-3 and wastewater utilities (sanitary sewer) is shown on Map 2-4. Municipal water and wastewater is provided to the majority of those properties that are within the current city limits. Properties that are within the planning area, but outside the city limits, are served by Jefferson County Rural Water District #13, or private wells, and private septic systems.

The city of Lawrence sanitary sewer infrastructure does not extend outside the current city limits. The City, however, recently approved extending water and sewer infrastructure to serve the municipal airport. The flat topography of the area poses a challenge to providing urban wastewater infrastructure to the planning area. The flatness of the area makes it difficult to gravity flow wastewater and thus drives up the the relative cost of providing those services.

A portion of the planning area will be included in the City's Wastewater Master Plan update, underway in 2010. That update will provide a better idea of the actual cost of extending wastewater infrastructure. It is important to note that prior to any wastewater infrustruture extensions to the planning area, impacts to the downstream wastewater system will also have to be evaluated. Improvements to that system may also be part of the cost to extend infrastructure to the area.

## 2.3.2 Stormwater Infrastructure

A summary of the existing stormwater utilities, channels, and natural streams are shown on Map 2-4. The majority of the stormwater is handled by open channels and streams. The stormwater drains to the south, by way of the tributaries, to the Kansas River.

#### 2.3.3 Gas Infrastructure

The planning area includes three natural gas lines. One pipeline owned by Southern Star Gas enters the planning area from the north and crosses to the east through the center of the planning area. A second Southern Star Gas pipeline enters the planning area in the southeast corner, proceeds northeast and exits the planning area near Highway 24/40 and Highway 32. Another pipeline is owned by Williams Natural Gas and it enters the planning area on the west center portion and crosses northeast through the planning area. See Map 2-5.

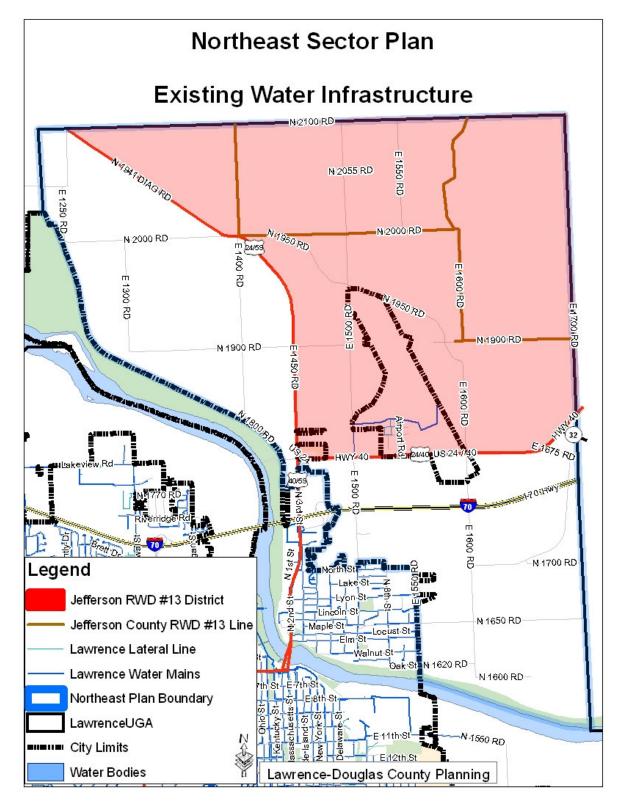
#### 2.3.4 Electric Infrastructure

Westar serves the planning area. Large electric transmission lines also traverse the planning area. See Map 2-5.

## 2.3.5 Drainage Districts

The Douglas County KAW Drainage District is the only drainage district in the planning area, but it does not cover the entire planning area. See Map 2-6.

Map 2-3 - Water Infrastructure

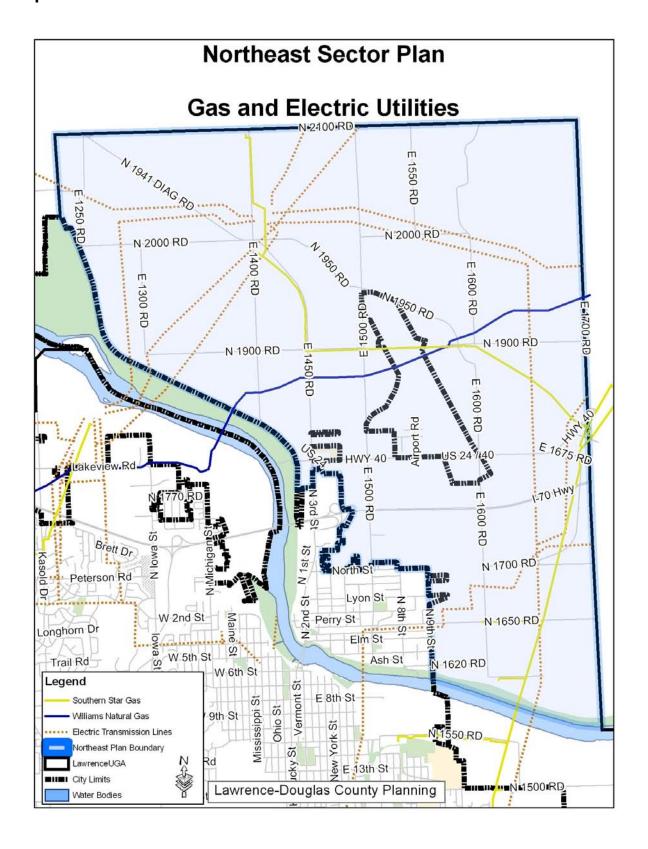


2-7

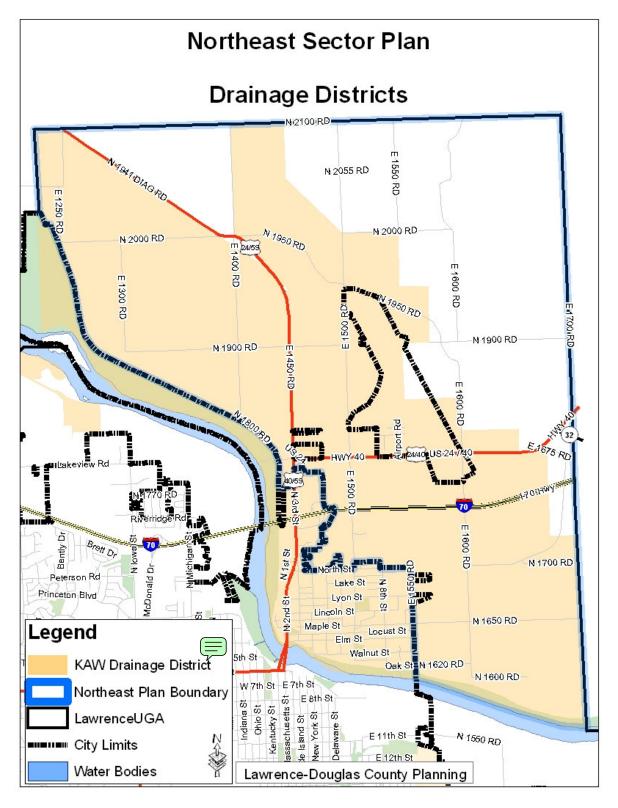
**Northeast Sector Plan Existing Wastewater and Stormwater Infrastructure** NIBAT DIAGRO 1550 RD N 2000 RD N 2000 RD E 1400 RD E 1600 RD N 1900 RD N 1900 RD E 1675 RE 1600 RD Legend N 1700 RD Wastewater Gravity Pipe N 1650 RD Lateral Line Stormwater Storm Pipe ·· Channel N 1600 RD Stream Northeast Plan Boundary LawrenceUGA ■II■III City Limits Lawrence-Douglas County Planning Water Bodies

Map 2-4 – Wastewater and Stormwater Infrastructure

Map 2-5 – Gas and Electric Utilities



**Map 2-6 Drainage Districts** 



## 2.3.5 Transportation

## 2.3.5.1 Road and Streets

The majority of the roads in the planning area are rural township roads, most of which are gravel. Grant Township maintains the majority of the roads in Grant Township. However, Douglas County has maintenance responsibility over Douglas County Route 9 (E 1500 Rd from city limits north to Highway 24/40) and Wellman Road north of Midland Junction to the Jefferson County line. KDOT has responsibility over Highways 24/59 and 24/40.

Douglas County has adopted access management standards that spell out minimum frontage and access standards for rural roads based upon road classifications.

Transportation 2030 (T2030) is the comprehensive, long-range transportation plan for the metropolitan area. T2030 designates streets according to their functional classification or their primary purpose. These functional classifications are shown on Map 2-7. The classification system can be described as a hierarchy from the lowest order, (local roads and streets) that serve to provide direct access to adjacent property, to (collector streets) that carry traffic from local roads and streets, to major thoroughfares (arterial streets) that carry traffic across the entire city and county. Freeways and



expressways are the highest order of streets and are designed with limited access to provide the highest degree of mobility to serve large traffic volumes with long trip lengths.

T2030 was adopted in 2008 and is updated at least every 5 years. This area should be fully studied during the next update to address the future street network.

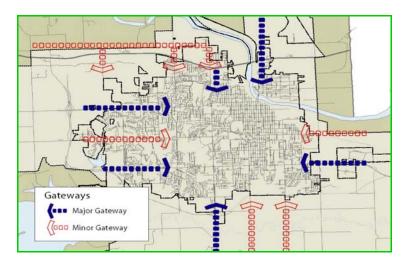
## 2.3.5.2 Gateways

Chapter 2 of T2030 discusses and identifies minor and major gateway into and out of Lawrence. T2030 states, "Gateways are locations on transportation corridors that define the entrances to cities. These provide visitors with a first impression of the city and often indicate the transition from rural to urban land uses. As such, cities desire to make these locations as attractive and informative as possible. As noted in T2030 in Figure 2.4, there are several roadways that represent gateways into the city of Lawrence or into smaller communities within the region that should be reviewed for aesthetic and informational enhancements when they are improved."

T2030 identifies Highway 24/59 as a major gateway into Lawrence based on the corporate boundaries shown in Figure 2.4 of T2030.

T2030 Figure 2.4

Lawrence Gateways



#### 2.3.5.3 Rail

There are also rail lines that weave through planning area. All lines are currently active and make a number of trips through the area of the course of a typical day. These rail lines pose issues at the various crossings in the area. See Map 2-7 for the location of the rail lines.

## 2.3.5.4 Transit



Lawrence has a public transportation system (The T) which operates throughout the city. This system allows people to travel to other areas of the city without relying on a personal automobile. There are currently no transit routes that travel into the planning area. However, paratransit service is available to all of Douglas County. Paratransit service is a demand response

service available to seniors and people with disabilities.

## 2.3.5.5 Bicycle Facilities

Lawrence and Douglas County have a joint bicycle plan for the community, the *Lawrence-Douglas County Bicycle Plan*. This plan identifies existing and future bicycle routes, lanes, and multi-use paths. A bicycle route is a network of streets to enable direct, convenient and safe access for bicyclists. A bicycle lane is a separate space designated with striping, signage or pavement markings for exclusive use by bicycles within a street. A multi-use path is a separate path adjacent to and independent of the street and is intended solely for non-motorized travel.

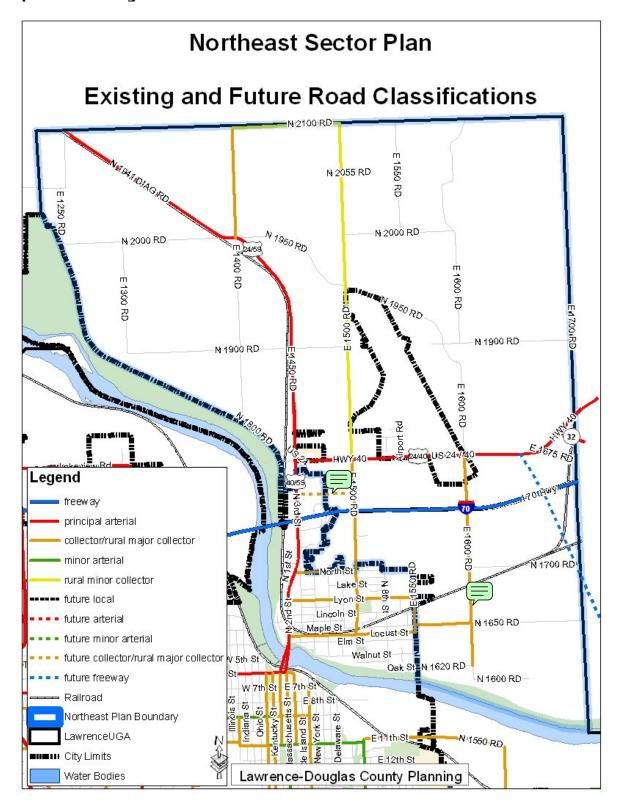


Map 2-8 identifies existing and future bicycle facilities that include:

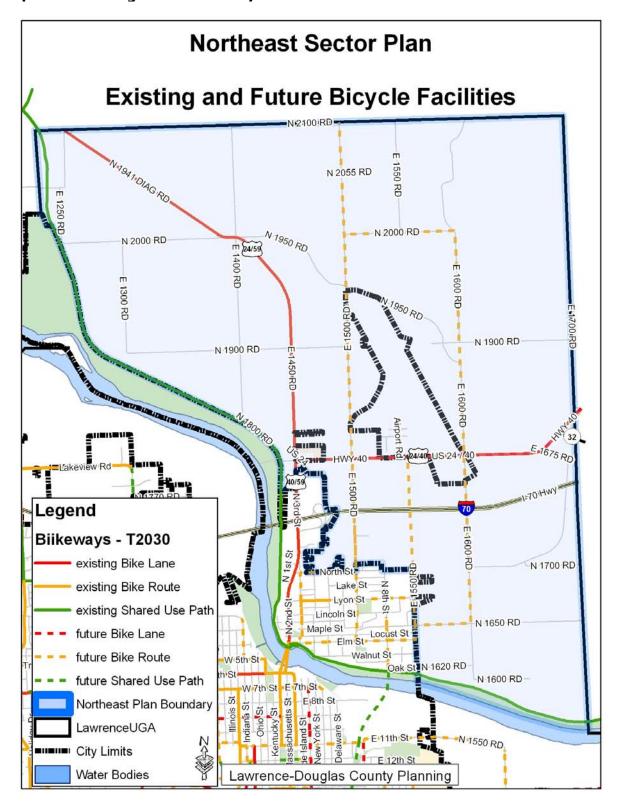
- o An existing multi-use path along the north side of the Kansas River Levee.
- A future bike lane identified along Highway 24/40.
- A future bike route is identified along E 1600 Road, via N 1650 Road east from Lawrence, north to N 2000 Road.

- $\circ\,\,$  A future bike route is identified along E 1500 Road from Lawrence north to the county line.
- o Another future bike route is identified along E 1550 Road from Lawrence to Highway 24/40.
- A future bike route identified along North Street in Lawrence.

Map 2-7 – Existing and Future Road Classifications



Map 2-8 – Existing and Future Bicycle Facilities



## 2.4 Environmental Conditions

The planning area is made up of several drainage basins which drain to the Kansas River. There is Federal Emergency Management Agency (FEMA) designated floodplain and floodway located within the planning area. These are areas around Mud Creek and its tributaries, Maple Grove Creek, and the Kansas River. See Map 2-9. The floodplain is any land area susceptible to being inundated by flood waters from any source. The floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Developing in the floodplain is allowed both in the city and in the county based on the corresponding regulations. No development is allowed in the floodway except for flood control structures, road improvements, easements and rights-of-way, or structures for bridging the floodway.

Mud Creek and its tributaries flow through portions of the planning area. The Kansas River is immediately outside of the west and south parts of the planning area.

The North Lawrence Drainage Study was commissioned by the City in 2005 to develop a stormwater plan for the North Lawrence watershed. Several alternatives were investigated in the overall North Lawrence Drainage Study watershed to reduce flood elevations, lessen impacts on the "Internal Drainage System" facilities, provide drainage in the event of high flows on the Kansas River, and assess the effects of development in the floodplain. The investigations led to the four major recommendations below. The first bullet item is the key to reducing the burden on the Internal System from areas beyond the existing city limits.

- Drainage from north of 24/40 Highway should be cutoff by the highway embankment and the water should be pumped over the levee at a point just east of the 24/40 intersection to reduce the burden on the 2<sup>nd</sup> Street Pump Station
- Future development in the watershed should maintain the current conveyance levels in the 100-year floodplain development should not reduce the capacity for floodplain storage
- The City should purchase parcels of land as necessary for use as dedicated ponding
- Major roads and hydraulic structures should be improved to meet the current APWA criteria with regard to overtopping during the 100-year event, in order to provide adequate emergency services to the area

Tens of millions of dollars of cost were identified to accomplish the recommendations of the study for dealing with existing stormwater issues and future ones that will be created with development.

The majority of the land coverage within the planning area is agricultural land used for crop production. The planning area also contains areas of prairie, grazing land and reserved areas of land that are a part of the KU Field Station. There are some water bodies and woodlands are also present in the northwest and northeast parts of the planning area. See Map 2-10 for a land coverage summary.

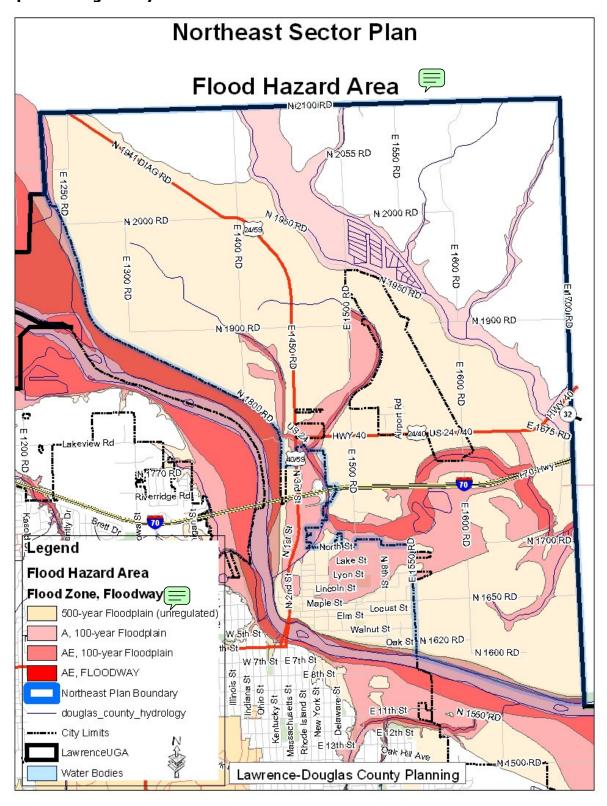
There is a range of topography within the planning area. The high points are along the northern and northeastern portions of the planning area north of the airport and Highway 24/59. The low points are essentially the rest of the planning area. This area is notable for the fact that it is so flat. As such, it is this area that has portions encumbered by floodplain. See

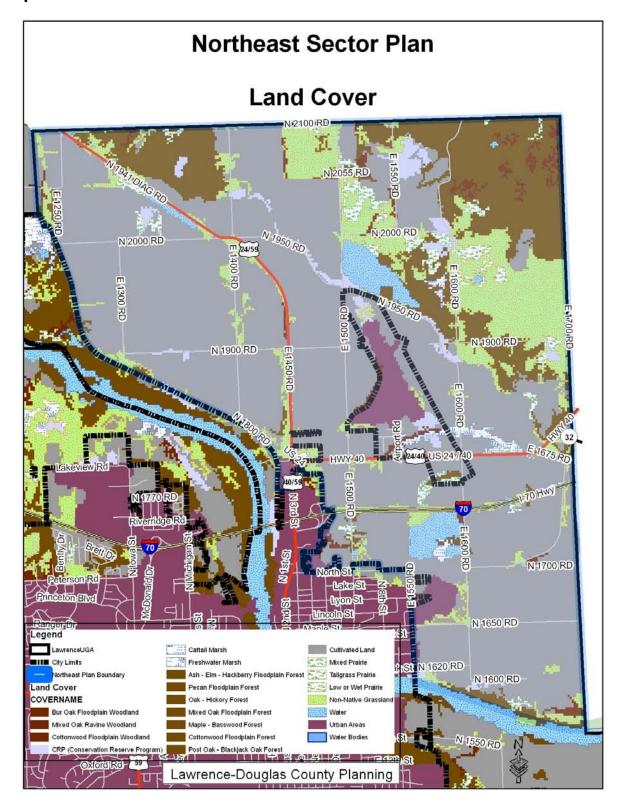
Map 2-11 and Map 2-12. Detailed topographic surveys will be required as individual properties are developed.

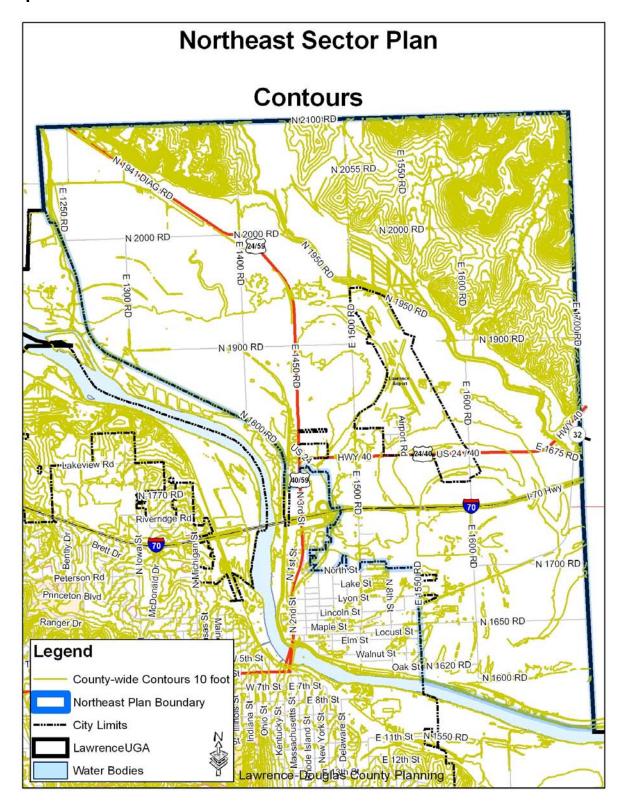
The planning area also contains Class 1 and 2 soils as determined by the Natural Resources Conservation Service, a division of the United States Department of Agriculture. These soils are considered to be high quality agricultural land. Horizon 2020, Chapter 7 Industrial and Employment Related Land Use states "The preservation of high-quality agricultural land, which has been recognized as a finite resource that is important to the regional economy, is of important value to the community. High-quality agricultural land is generally defined as available land that has good soil quality and produces high yields of crops. Within Douglas County these are capability class (non-irrigate) 1 and 2, as identified by the National Resources Conservation Service." See Map 2-13.

It is also generally believed that these soils also are more permeable and assist in stormwater management.

Map 2-9 – Regulatory Hazard Area and Streams

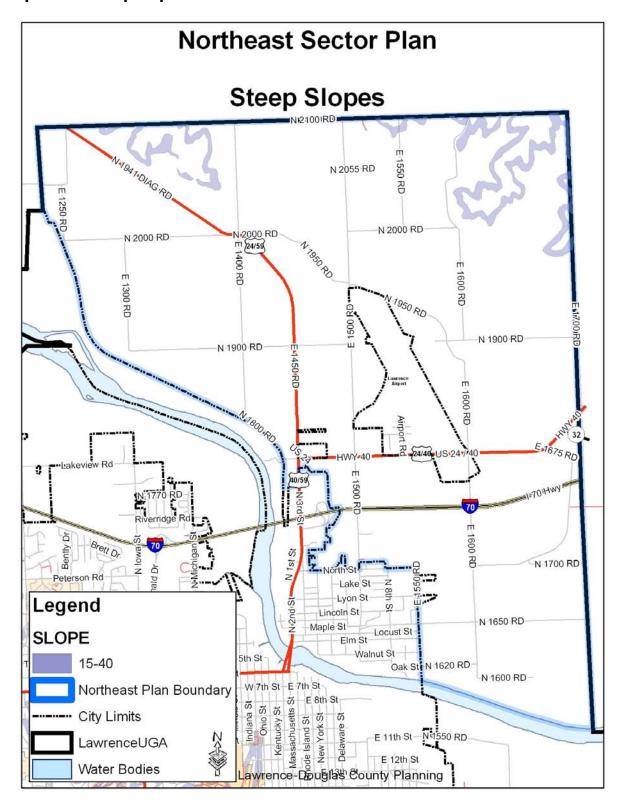




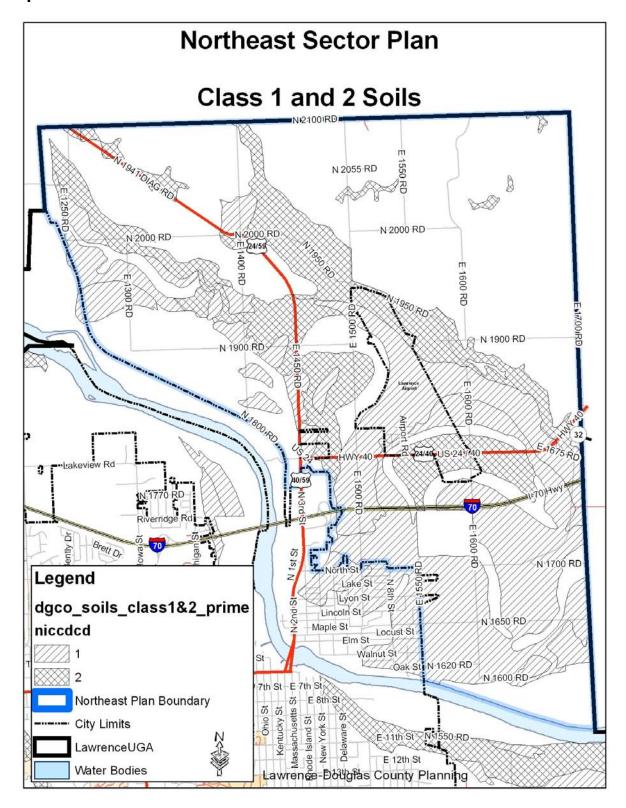


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Map 2-12 - Steep Slopes



Map 2-13 - Class 1 and 2 Soils



# 2.5 Community Facilities

Community facilities are services provided either by government or non-government agencies for the benefit of, and use by, the community. Within the planning area there are a few community facilities. Grant Township owns and maintains a community building east of the airport on E 1600 Rd. That building is also currently being used by Prairie Moon Waldorf School, a private kindergarten and grade school. The Township also maintains a facility near Midland Junction where it stores equipment needed for maintenance.

Kansas University owns and maintains the Kansas Field Station (KSR) in the northeast corner of the planning area. The KSR was established in 1947 and is the biological field station of Kansas University. Numerous research and teaching activities take place at the KSR. Much of the KSR is also located in neighboring Jefferson and Leavenworth counties and is not accessible to the public. However, the KSR also maintains ecological reserves in the planning area that are accessible to the public. For example, the Fitch Preserve, located in the very northeast corner of the planning area, has 2 miles of self-guided nature trails that allow users to explore forest, grassland, stream, wetland, and pond areas.

The planning area is located within the Lawrence Public School District (USD 497). The students in the planning area attend Woodlawn Elementary for elementary school; Central Junior High for junior high; and Free State High for high school. Students in the area can also attend the aforementioned private Prairie Moon Waldorf School for kindergarten and grade school.

Most of the community facilities including urban public services, schools, fire/medical, law enforcement, developed parks, etc., are located to the south of the planning area within the city of Lawrence. See Map 2-14

The rural portions of the planning area are served by Lawrence-Douglas County Fire & Medical ugh an agreement with Grant Township. The Lawrence-Douglas County Health Department is also serves the planning area.

Law enforcement is shared between the City of Lawrence Police Department and the Douglas County Sheriff's Department, depending on whether the property is within the city or in the county. Both are located in the Law Enforcement Center in downtown Lawrence.

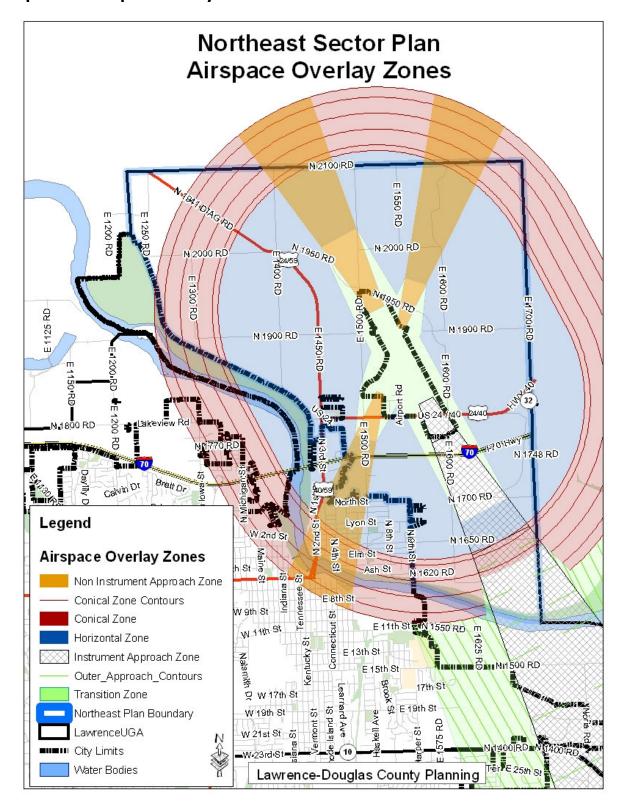
The city-owned Lawrence Municipal Airport is located in the planning area north of Highway 24/40 and east of E 1500 Road. The city has owned and operated the airport at this site since 1929. The airport is a general aviation facility that is an all weather facility for business and recreation flyers. A portion of the airport is dedicated to aviation-related employment activities and the city is actively marketing the airport for new businesses while recently approving water and sewer extensions to serve the airport.

The Federal Aviation Administration (FAA) regulates certain aspects of the operation of the airport and the activity around the airport. There are restrictions in place that manage structure heights around the airport to help maintain the integrity of runway approaches. See Map 2-15. The FAA also mandates a 10,000 foot Wildlife Mitigation Buffer around the runway and taxiway improvements at the airport. The buffer extends 10,000 feet beyond the runway and taxiways. The buffer is meant to keep water bodies and other wildlife attractants to a minimum. Proposed developments within the 10,000 foot buffer require FAA review. See Map 2-16.

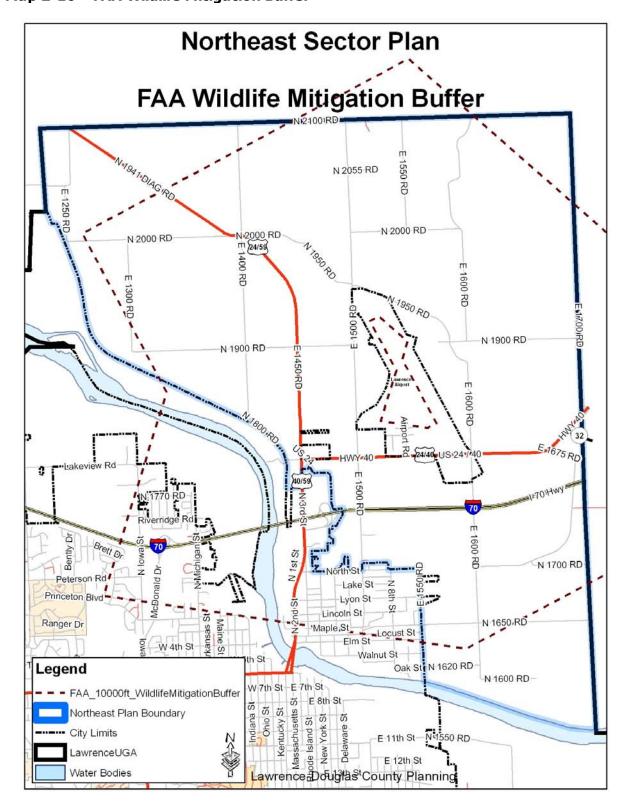
Map 2-14 - Community Facilities



Map 2-15 - Airspace Overlay Zones



Map 2-16 - FAA Wildlife Mitigation Buffer



#### Section 3 – Recommendations

Goals and policies were previously drafted and shared with stakeholders. Changes made to the goals and policies with this draft are called out with underlining of new language and strikethroughs of deleted language.

The Northeast Sector Plan planning area is anticipated to develop with a range of uses and intensities that extend from agriculture to industrial uses. The more intensive industrial and commercial use areas are recommended where they are in close proximity to US 24/40 Highway and the airport. Agriculture uses are located in the majority of the planning area which is not anticipated to urbanize within the foreseeable future.

Compared to other areas of the fringe area of Lawrence, this area is not anticipated to be significantly urbanized.

Due to the unique challenges to development, including:

- o Costly stormwater infrastructure needs as urbanization occurs
- o Significant amounts of regulatory floodplain
- o Significant amounts of Class 1 and 2 so ils

<u>Yet the planning area also benefits from the Lawrence Municipal Airport, nearby urban services,</u> and access to I-70.

This plan recognizes unique elements and proposes only limited urban development in the planning area.

#### 3.1 Goals and Policies

Goals are broad statements of ideal future conditions that are desired by the community. Policies are guiding principles that provide direction for decisions to be made regarding the planning area in order to meet the goals. These policies are in addition to the policies in *Horizon 2020* and are only applicable to the property within the *Northeast Sector Plan* planning area.

#### 1. Land Use

<u>Goal</u>: Establish future land uses appropriate for the <u>following</u> unique characteristics of the area<del>, which include</del>:

The interaction of urban and rural lifestyles and development patterns Multi-modal transportation system

- Airport
- Highway 24/40/59
- Interstate 70
- o Railroad

**Kansas River/Levee** 

Predominate agriculture use with existing industrial and commercial uses along the highways Kelatively flat terrain Floodplain/stormwater challenges KU Field Station and ecological reserves

#### Policies General



- Establish an urban growth area boundary that considers the costs of urban development and that recognizes that the majority of the planning area will not develop in an urban manner during the time horizon of this plan.
- o Recognize that infrastructure challenges will limit urban growth in the planning area.

  Stormwater management costs identified by the North awrence Drainage Study are significant for urban development. The lack of slope of the area presents challenges for ban wastewater infrastructure and management.
- Consider allowing alternate development standards for urbanized development that promote sustainable development swales, no curb and gutter, impervious surfaces, etc. that will limit the downstream impact of development.
- Annex property in an orderly manner as urbanization of new development occulFurther, consider annexing existing county industrial developments as utility issues in the area are better understood and as properties redevelop.

# **Agriculture Use**

- Encourage continued agriculture use for the majority of the planning area, especially in areas with Class 1 and 2 soils and in the regulatory floodplain areas.
- o Encourage incentives/partnerships that assist the ongoing agriculture uses in the area.
- Recognize that the impacts of farming truck traffic, noises, etc. are necessary and are not nuisances in the community.
- Identify and create programs that promote continued agriculture use by supporting existing and new agriculture ventures.

# **Industrial/Employment Use**

- o Per Horizon 2020 Chapter 7 Industrial and Employment-Related Land Use, designate and support the areas southwest of the Airport and north of I-70 as a future industrial area. Soil conserving agri-industry businesses that will protect the quality of existing high-quality agricultural land either through agricultural use or preservation for future agricultural use should be encouraged to locate in these areas.
- o <u>Designate and support industrial/employment uses north of Highway 24/40 and west of the airport.</u>
- Horizon 2020 Chapter 7 Industrial and Employment-Related Land Use, designate the Midland Junction area as a future industrial/employment area. Soil conserving agriindustry businesses that will protect the quality of existing high-quality agricultural land either through agricultural use or preservation for future agricultural use should be encouraged to locate in these areas. Adoption of Nodal Plan is encouraged prior to urbanizing and/or providing urban services to this site.
- o Support continued development of the Airport property for aviation-related businesses.
- o Require compatible land uses within FAA guidelines related to runway protection zones and wildlife mitigation.

#### **Commercial Use**

- Per Horizon 2020 Chapter 6 Commercial Land Use, designate the intersection of E 1500 Rd. and Highway 24/40 as a future Neighborhood Commercial Center.
- Allow future commercial uses, in addition to industrial/employment uses, at Midland Junction to provide a greater mix of uses to support highway travelers <u>after Nodal Plan</u> is adopted.

#### **Residential Use**



- Very low density Rural residential (rural estate) uses are encouraged, for the majority of the planning area, in areas that do not contain Class 1 and 2 soils and regulatory floodplain
- o An urban residen pattern (similar to the North Lawrence neighborhood) is Very low density residential uses are appropriate encouraged for the non-regulatory floodplain area between the North Lawrence neighborhood and I-70.

## **Open Space**

- Protect the existing and futu U Field Station and ecological reserves and protect them it from development with tools such as appropriate buffers and land uses that will minimize the impact of neighboring development.
- o Encourage continued use of the Kansas River levee as an open space amenity.

# **Lawrence Urban Growth Area (UGA)**



 Consider adjusting Lawrence's Urban Growth Area boundary to those areas of Grant Township feasible for <u>urban-type</u> development through the analysis of this Sector Plan and the analysis of future water and wastewater master plans.

#### 2. Environmental Resources

<u>Goal</u>: Consider the unique environmental resources of the area when reviewing development applications. Environmental resources include:

Class 1 and 2 soils
Flat terrain
Floodplain
Groundwater/Wells
KU Field Station and ecological reserves
Kansas River/Levee
Sand, gravel, topsoil, etc.

#### **Policies**

#### Class 1 and 2 Soils

- Recognize Class 1 and 2 soils as valuable to this portion of Douglas County for its permeability (positive attribute for stormwater and flooding) and crop production capabilities.
- o Encourage the preservation of high quality agriculture land (Class 1 and 2 soils) through conservation programs, private/public partnerships, and other funding mechanisms.
- Encourage private agriculture easements that will preserve high quality agriculture land in perpetuity.

#### **Floodplain**

- The City and County should consider developing and implementing higher regulatory standards that promote no adverse impact in flood hazard areas.
- Development should not be allowed within the <u>regulatory</u> floodway <del>or within the 100-</del> <del>year floodplain within the planning area</del>.
- Promote the natural and beneficial functions of the floodplain.
- Encourage natural stormwater management.
- o Crop and animal agriculture uses are appropriate in the regulatory floodplain.

#### Groundwater

- Promote wise land management choices that limit the potential for negative groundwater impacts.
- Minimize pollutants percolating <del>down</del> into groundwater systems to help ensure the quality of the area's groundwater systems.
- Provide educational opportunities regarding natural stormwater management features, Best Management Practices (BMPs) for stormwater structures and pollutant discharge, erosion and sediment control, and water quality.

#### **KU Field Station and ecological reserves**

- o Encourage appropriate use of the KU Field Station and ecological reserves.
- Encourage development that is compatible with the KU Field Station. Buffers and other methods may be necessary to mitigate the impacts of the build environment in close proximity to the Field Station.
- Promote the research and educational aspects of the KU Field Station and ecological reserves.

#### Recreation

Maximize recreation opportunities in the area by developing trails that connect to focal
points in the area and to the larger interconnected Lawrence and Douglas County
network, including the Kansas River levee trail.

# Sand, gravel, topsoil, etc.

 Support the extraction of natural resources such as sand, gravel, topsoil, etc. if compatible with existing land uses, especially the Lawrence Municipal Airport and KU Field Station, and if infrastructure can support the process of extraction.

#### 3. Economic Development

<u>Goal</u>: Promote economic development opportunities that take advantage of the unique characteristics of the area, which include:

# A multi-modal transportation system

- Airport
- Highways 24/40/59
- Interstate 70
- Railroad

Class 1 and 2 soils

**Relatively flat terrain** 

Existing industrial and commercial businesses along the highways KU Endowment land

# **Policies**

#### Airport

 Support aviation-based development at the airport, and the necessary road and utility infrastructure, as an economic development generator for Lawrence and Douglas County.

#### **Industrial/Employment**

Support goals and policies of Horizon 2020 Chapter 7 – Industrial & Employment <u>Related Land Use</u> and recognize that certain areas identified in Chapter 7 in the planning area are valuable to the goal of creating jobs for Douglas County.

# **Agriculture Economy**

- Encourage public/private partnerships and programs to establish and support a sustainable local food program.
- Establish incentives as part of a local food program that foster farm to table relationships.
- Support the ag community by creating partnerships and programs that further economic development of an agricultural nature.
- Per Horizon 2020 Chapter 7 Industrial and Employment-Related Land Use, designate and support the areas southwest of the Airport and north of I-70 as a future industrial area. Soil conserving agri-industry businesses that will protect the quality of existing high-quality agricultural land either through agricultural use or preservation for future agricultural use should be encouraged to locate in these areas.
- Designate and support industrial/employment uses north of Highway 24/40 and west of the airport.

#### KU

 Create partnerships with KU that help build the agricultural, <u>research</u>, aviation, and industrial businesses of the area.

#### 4. Infrastructure

<u>Goal</u>: Improve existing services for the area and recognize the infrastructure challenges posed by the unique characteristics of the area when considering development applications. The unique characteristics include:

Relatively flat terrain Floodplain/stormwater challenges Township roads

#### **Policies**

#### **Existing Services**

- Develop partnerships between Douglas County, Grant Township and the City of Lawrence for appropriate road maintenance programs in the planning area <u>as</u> development occurs.
- When conditions warrant, the City should consider locating a fire station near the airport to improve emergency service for the airport, the North Lawrence neighborhood, and the remainder of Grant Township.
- Heavy truck traffic from commercial and industrial development should use highways or improved roads for travel through the area.

#### Floodplain/Stormwater/Flat terrain

- o Consider implementing alternate sustainable development standards to help reduce the cost of stormwater improvements needed for existing and future development.
- The flat terrain in some parts of the planning area hinders storm drainage. County and City should construct appropriate sStormwater improvements identified in the North Lawrence Drainage Study should be constructed as development occurs in the area.
- Implement appropriate stormwater management practices throughout the planning area.
- Flat terrain poses cost challenges to providing <u>sanitary</u> sewer to the area. Consider alternative sewer solutions when prudent.

# 5. Transportation

# <u>Goal</u>: Continue developing a multi-modal transportation system that supports the designated land uses of the area.

# Policies Safety

- Work with KDOT to improve the Midland Junction Highway 24/59 curves to make the route safer for travelers.
- Consider improvements to Highway 24/40 that facilitate easier turning movements onto and off of the highway – in particular at E 1500 Rd./N 7<sup>th</sup> Street and at the airport entrance.
- o <u>Encourage on-going discussion with the railroad companies regarding rail crossing</u> safety.

# **Trails/Pathways**

- Develop a trail/bikeway system for the planning area that considers connecting to open space and recreation areas.
- o Include the planning area in the county-wide bikeway system map.
- o Identify and build pathways throughout the planning area.

#### 3.2 Land Use

This section outlines the recommended land uses for the planning area. The future land use maps (Map 3-1) and land use descriptions are explained on the subsequent pages. The map is an illustration to help visually identify the recommended land uses in the Northeast Sector Plan planning area. The land use descriptions are more detailed information regarding the different land use categories. The official definitions and the permitted uses within each zoning district are outlined in the use tables that are located in the Zoning Regulations for the Unincorporated Territory of Douglas County and the *Land Development Code* for the City of Lawrence. The map and text descriptions must be used in conjunction with one another in order to obtain the complete recommendation for each particular area. The map is not intended to provide a scaleable map for determining specific land use/zoning boundaries within this area.

#### 3.2.1 Land Use Descriptions

#### 3.2.1.1 Agriculture

The Agriculture designation is intended for those parts of the planning area not anticipated to urbanize over the course of the planning horizon. The dominate existing use of this designation is agriculture uses. The intent of the Agriculture designation is to allow for agriculture activities along with rural residential uses and other uses permitted by the Zoning Regulations of Douglas County. Rural residential uses should be limited to those areas without regulatory floodplain or Class 1 and 2 soils. Existing uses that are not agriculture or residential, and that have the appropriate existing zoning for the use, are not affected because this policy designation is not changing the zoning on the property.

Density: Per Douglas County Zoning Regulations

Intensity: Very low

Zoning Districts: Douglas County - A (Agriculture District), "A-1" (Suburban Homes District)

Primary Uses: Agriculture, commercial greenhouse, commercial riding stable, grain storage structures, single-family dwellings, churches, schools, parks and open space and utilities.

#### 3.2.1.2 Very Low-Density Residential

The intent of the Very Low-Density Residential Use is to allow for large lot, single-dwelling type uses. The very low-density use is expected to urbanize within the city of Lawrence.

Density: 1 or fewer dwelling units per acre

Intensity: Very low

Zoning Districts: Lawrence – RS40 (Single-Dwelling Residential), PD (Planned Development Overlay)

Primary Uses: Detached dwellings, cluster dwellings, manufactured home residentialdesign, zero lot line dwellings, group home, public and civic uses

#### 3.2.1.3 Neighborhood Commercial Center

A Neighborhood Commercial Center provides for the sale of goods and services at the neighborhood level. This commercial center is intended to serve the surrounding employment center area in addition to the commuters using Highway 24/40. *Horizon 2020*, Chapter 6 — Commercial Land Use offers more specific language regarding Neighborhood Commercial Centers. The Neighborhood Commercial Center designation

is intended to urbanize around Highway 24/40 and E 1500 Rd. Other areas designated are rural and are not anticipated to urbanize.

Intensity: Medium-High

Zoning Districts: Douglas County – B-1 (Neighborhood Business District) and B-2 (General Business District); Lawrence – MU (Mixed Use), CN1 (Inner Neighborhood Commercial District), CN2 (Neighborhood Commercial Center District), PD (Planned Development Overlay)

Primary Uses: non-ground floor dwellings, civic and public uses, eating and drinking establishments, general office, retail sales and services, hotels, motels, gas and fuel sales, car wash

#### 3.2.1.4 Agri-Industry

The intent of the Agri-Industry Use is to allow for agriculture-related industrial uses that conserve and use the Class 1 and 2 Soils in the area and that take advantage of Highway 24/40 and I-70 for materials transportation. The Agri-Industry Use may or may not urbanize. This use is identified south of Highway 24/40 and also should be included at Midland Junction when a nodal plan is developed for that area.

Intensity: Medium-High

Zoning Districts: Douglas County — I-1 (Limited Industrial District) and I-2 Light Industrial District; Lawrence — IBP (Industrial and Business Park District) IL (Limited Industrial District), IG (General Industrial District), PD (Planned Development Overlay)

Primary Uses: Soil-conserving agri-businesses

#### 3.2.1.8 Industrial

The intent of the Industrial Use is to allow for moderate to high-impact uses including large scale or specialized industrial uses that utilize Highway 24/40 and I-70 for materials transportation. This category includes existing industrial developments in the area. This category also includes land at the airport dedicated to aviation related development. Land west of the airport and north of Highway 24/40 is also designated as industrial. The industrial use is expected to urbanize.

Intensity: Medium-High

Zoning Districts: Lawrence – IBP (Industrial and Business Park District) IL (Limited Industrial District), IG (General Industrial District), PD (Planned Development Overlay)

Primary Uses: Aviation-related uses, utility facilities, building maintenance services, fleet storage, business support services, construction sales and service, industrial facilities, wholesale, distribution, and storage, research services, manufacturing and production limited and technology

#### 3.2.1.9 Airport

The intent of the airport use is to designate the existing City-owned Lawrence Municipal Airport land and allow for aviation-related development.

Intensity: Medium-High

Zoning District: Lawrence – IG (General Industrial District)

Primary Uses: Aviation-related uses

#### 3.2.1.10 Public/Institutional

The intent of the Public/Institutional Use is to allow for public, civic, and utility uses.

Intensity: Variable

Zoning Districts: Douglas County – A (Agriculture District); Lawrence – GPI (General Public and Institutional)

Primary Uses: Cultural center/library, school, utilities, recreational facilities, utility services

#### 3.2.1.11 KU Field Station

The intent of the KU Field Station Use is to designate the existing KU Field Station property.

Intensity: Low

Zoning Districts: Douglas County – A (Agriculture District)

Primary Uses: crop agricultural, cultural center, teaching, active recreation, passive recreation, nature preserve, research

#### 3.2.1.10 Open Space

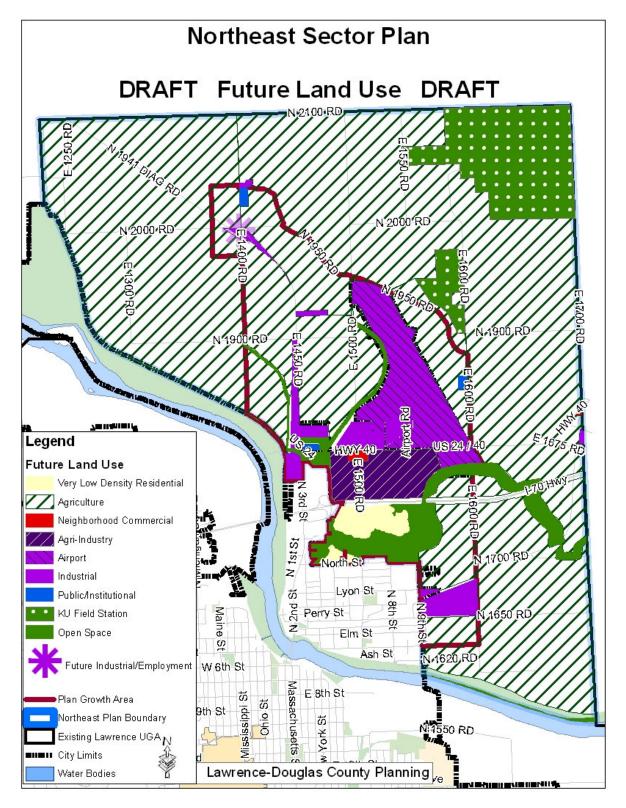
The intent of the Open Space Use is to provide space for public recreational facilities and natural area preservation. This category primarily includes regulatory floodway areas as well as regulatory floodplain areas that are not in the Agriculture Land Use designation.

Intensity: Low

Zoning Districts: Douglas County – A (Agriculture District), V-C (Valley Channel District); Lawrence – GPI (General Public and Institutional District), OS (Open Space), UR (Urban Reserve),

Primary Uses: crop agricultural, cultural center, schools, active recreation, passive recreation, nature preserve, entertainment and spectator sports, participant sports and recreation outdoor, private recreation

Map 3-1 - Future Land Use



# 3.3 Implementation

- 1. Amend *Horizon 2020* Chapter 6 Commercial Land Use designate the Neighborhood Commercial Center at the intersection of E 1500 Road and US Highway 24/40 to the southern portion of the intersection of E 1500 Road and US Highway 24/40.
- 2. Reevaluate and update the Lawrence Urban Growth Area (UGA) in Horizon 2020.
- 3. Include the planning area in the future wastewater and water master plan updates.
- 4. Include the planning area in future long-range transportation plan updates.
- 5. Reassess the planning area in a Bikeway Map update to include connecting the open space areas to the greater trail network.
- 6. Consider implementing regulations that promote no adverse impact for floodplain management.

Amended Comments from Grant Township Comments on NE Sector Plan Draft

Dan,

As the representative of the Grant Township Board of Trustees, I wish to amend my previous comments on the Northeast Sector Plan draft dated March 12, 2010.

Specifically, point 8 of my note asked for identification and protection of two established agricultural businesses in the township. I would like to withdraw that comment and suggest instead state that in matters of land use, zoning and annexation, all property owners should be treated in a consistent manner with respect for their current activities.

Rich Bireta Grant Township Trustee ----Original Message-----

From: rick mitchell [mailto:rwmitchell@sunflower.com]

Sent: Monday, May 24, 2010 10:53 AM

To: Dan Warner

Subject: Feedback from Planning and Development Services contact page

Dan Warner-

I am writing to express my appreciation and support for the way the northeast Sector Plan is developing. I have participated in all but one of the public meetings regarding the development of the draft plan and feel the results, to date, reflect the predominate feelings in the community as well as recognizing the importance of preserving natural resources and utilizing quality soils for agricultural (rather that non-agricultural industrial) purposes.

Thanks for your conscientious work.

Rick Mitchell 2804 Tomahawk Dr. Lawrence, KS 66044

Past President, Waldorf Association of Lawrence (Prairie Moon Waldorf School) 1853 E. 1600 Rd. Lawrence, KS 66044

# CITIZENS FOR RESPONSIBLE PLANNING

# May 23, 2010

TO: Lawrence Douglas County Planning Commission

CC: Dan Warner, Scott McCullough, and Sheila Stogsdill.

RE: 2<sup>nd</sup> Draft of the Northeast Sector Plan

#### **Dear Commissioners:**

Our comments below derive from a balancing and coordination of three overriding priorities of public interest that are unique to the Northeast area: 1) protection of the Lawrence Airport, 2) protection of area farms and North Lawrence residents and businesses from increased storm water flooding, and 3) conservation of Douglas County's largest concentration of high capability agricultural soils.

These three priorities are interconnected. The better agricultural soils of the Kaw bottoms happen to be highly permeable. While used for the agriculture, or otherwise in conservation, this expanse of permeable soil itself constitutes the most effective and least expensive storm water buffer protecting downstream North Lawrence. Agricultural land is also the buffer that surrounds the Lawrence Airport, for which the FAA has flight-safety and development restrictions which extend beyond the airport property.

Out of respect for these principles we respectfully request consideration of the following suggestions and comments to the Draft Northeast Sector Plan:

#### Page 1-6 Section 1.3 Policy Framework

Add to the list of policy documents:

- FAA Regulations and associated maps Wildlife Mitigation
- Runway Protection Zone Map and associated industrial restrictions
- Mayor's Task Force reports on Climate Change and Peak Oil (both recommend protection of prime agricultural soils)

### Page 2-6 Section 2.3.2 Storm water Infrastructure

Modify the wording as follows:

....The majority of the storm water is handled by open channels, streams and highly permeable agricultural soils.

# **Page 2-16 Section 2.4 Environmental Conditions**

The Plan should state that the critical drainage improvements must precede authorization of any development which would increase storm water burdens in the Maple Grove drainage channels. It is only fair to both the City and potential developers to lay out the timing and the cost of these improvements.

We suggest the following language be added to this section:

Prior to authorization of any development which would increase storm water burdens in the Maple Grove drainage channels, the key mitigations of the North Lawrence Drainage Study shall be implemented.

#### Page 3-2 Section 3.1.1.1.a Agriculture Use

Modify the wording as follows:

3. Consider allowing modifying alternate development standards...

# Page 3-2 Section 3.1.1.1.c Industrial/Employment Use and Section 3.1.1.1.d Commercial Use

The designation of Midland Junction as an industrial/employment area is premature. Chapter 7 of Horizon 2020 states that development in this area is not anticipated for more than 30 years. Further, the Nodal Plan is a prerequisite to additional development. Past observations are that developers reference an industrial designation (snowflake) as confirmation that development is encouraged. This will lead to an unnecessary point of contention.

Currently and historically use of this area has been related to agriculture and would infer future land use classification as "Soil-Conserving Agri-Industry". For example, Pine's International is a business that draws its raw materials from agricultural production dependent on the high quality agricultural soils in proximity to its operation. After the Nodal Plan has been completed this area's zoning classification should be "Soil-Conserving Agri-Industry".

# Page 3-2 Section 3.1.1.1.c Industrial/Employment Use

Modify the wording as follows:

4. Support continued development of the Airport property for aviation-related businesses *as the primary non-agricultural industry for the planning area*.

# Page 3-3 Section 3.1.1.1.e Residential User

Modify the wording as follows:

2. Very low density residential uses are encouraged for the non-regulatory floodplain area between North Lawrence neighborhood and I-70, except in the regulatory flood plain.

## Page 3-4 Section 3.1.2.1.b Floodplain

Add a point as follows:

Prior to authorization of any development which would increase storm water burdens in the Maple Grove drainage channels, the key mitigations of the North Lawrence Drainage Study shall be implemented.

# Page 3-5 Section 3.1.2.1.f Sand, gravel, topsoil, etc.

The extraction of sand, gravel and topsoil should be removed from the list of environmental resources. It is not a compatible use within the planning area. Also, any extraction process that would require a water containment feature would not be allowed within the FAA 10,000' Wildlife Mitigation Zone of the airport. Finally, open pit mining is incompatible with preserving Class 1 & Class 2 soils.

If the section is not removed, we suggest that the wording should be clarified as follows:

Extraction of natural resources such as sand, gravel, topsoil, etc. should be allowed only if compatible with existing land uses. These extractive processes would not be compatible within the FAA Wildlife Mitigation Buffer area or proximal to the sensitive lands of the Kansas University Field Station.

#### Page 3-6 Section 3.1.3.1.c Agriculture Economy

The following point:

5. Designate and support industrial/employment uses north of Highway 24/40 and west of the airport. is misplaced in Agriculture Economy and should, instead, be included in the Section on Industrial Employment.

Furthermore, this area as mapped at Map 3-1 Future Land Use is a poor choice for industrial development for the following reasons:

- It is comprised of 100% Capability Class 1 soil.
- It is substantially within the airport runway protection zone.
- It drains into the Maple Grove tributary, a major floodway which drains to the undersized North 2<sup>nd</sup> Street pump in North Lawrence.

Any development in this area should be conditioned upon the implementation of the North Lawrence Drainage Study, and a cost benefit analysis of the required storm water infrastructure.

#### Page 3-7 Section 3.1.4 Infrastructure

Add to the unique characteristics:

- FAA regulations Wildlife Mitigation Zone
- Capability Class 1 and 2 Soils

# Page 3-7 Section 3.1.4.1.b Floodplain/Stormwater/Flat Terrain

Modify the wording as follows:

2. The flat terrain in some parts of the planning area hinders storm drainage. Storm water improvements identified in the North Lawrence Drainage Study should be constructed as *before* development occurs in the area.

### Page 3-10 Section 3.2.1.4 Soil Conserving Agri-Industry

We support the general examples given for Soil Conserving Agri-Industry. However, the uses permitted and disallowed under a Soil Conserving Agri-Industry district need to be defined in the zoning regulations of the City/County codes. An emphasis should be placed on activities which preserve the best agricultural soils.

# Page 3-10 Section 3.2.1.4 Soil Conserving Agri-Industry

The reference to "Agri-Industry may or may not urbanize" is confusing and contrary to the policy of conservation of Capability Class 1 and 2 Soils. We request that it be removed.

#### Additional reference items and corrections

We request that the following be added to the NE Sector Plan document

- A map of the Class 1 and Class 2 soils in Douglas county
- A table of the acreages of Class 1 and Class 2 soils in Douglas county

We further request that City/County maintain a record of Capability Class 1 and 2 soils lost to development.

#### Clerical error:

Map 2-1 Title should be corrected from "Existing Water Infrastructure" to "Existing Land Use"

#### **New Zoning District Definition**

We would respectfully recommend that a new Zoning District Definition and Identification for "Soil-Conserving Agri-Industry" be completed within the time frame of the Northeast Sector Plan.

We appreciate your considerations of these points.

Respectfully,

Citizens for Responsible Planning Steering Committee

From: mnunross@aol.com [mailto:mnunross@aol.com]

Sent: Sunday, May 23, 2010 7:49 PM

To: Dan Warner

Subject: Northeast Sector Plan

To: Dan Warner

From: Mary Ross, Nunemaker-Ross, Inc.

Subject: Northeast Sector Plan

Date: May 23, 2010

My family owns and operates Nunemaker-Ross, Inc., a family farm based in Grant Township. My great grandfather started farming part of Governor Robinson's farm in 1907. We now own or lease 4000 acres, mostly in Grant Township. Our farm includes, traditional row crops, pastures, a feedlot and Bismarck Gardens—35 acres of vegetables for local consumption. Some of the cattle we feed are also consumed locally. We consider our farm to be sustainable, and believe that any definition of sustainability should include financial security, along with family and environmental well-being. We are fortunate to benefit from the economic diversity of Grant Township—agriculture, residential, commercial, industrial, open space and transportation. All of these uses should be considered when planning for the future of our community.

Through the years my family has had farmland taken for public improvement projects—the airport, turnpike, and a KPL substation. Because of these very projects much of our property has had I-1 and I-3 industrial zoning. We have sold parcels of land for industrial and commercial use for much more than farmland value. With that money we have improved our farm in order to remain financially viable. A major expense for us in the past few years is machinery and technology that we use in soil-conserving agricultural practices, such as no-till farming.

I believe that land allocation for future industrial use should be based upon the best use for that particular piece of land, not on soil classification. All resources should be considered, including man-made resources such as the airport, turnpike and railroad. The railroad is ignored in the recommendations as a resource to attract industry. In fact, the railroad is not shown in Map 3-1, future land use.

The plan states that zoning is not changed. But when looking at Map 3-1, property that we own south of the Turnpike that is industrially zoned is shown as agricultural, low density residential and green space. The perception of zoning change is there. We'd like to be able to have the option of selling our I-1 and I-3 zoned property for industrial use. We're not planning on it at this time, but we'd like to have that logical use to be available for the future of our children, grandchildren and community.

Our sand pit lake is marked open space and agricultural use. The plan states that the intent of the open space category is to provide space for public recreational facilities and natural

area preservation. My parents and grandparents worked very hard to get this lake property back after it was condemned and the soil and sand used to build the turnpike. It is our property and I don't want it opened up to the public. We have allowed Crown Casting for Kids, the tri-county underwater rescue group and Jayhawk models masters and others use of the lake. We are preserving the area and open it up to the public in many ways.

There is also a proposed bike route on our private road that is the only access to our field and lake. This bike route passes under the turnpike and through another private field to highway 24-40. We don't want to farm around a bike path. The proposed bike routes raise a number of safety, liability and financial feasibility questions. Private property rights should be protected. When reading the recommendation section pertaining to agriculture economy, the perception is that current agriculture in Grant Township is not sustainable. Our farm and many others are proof that there is a viable, thriving soil-conserving agricultural economy in place. Local food is being grown in the area and is currently part of the agricultural economy. Encouraging more local food production could flood the market. It's unreasonable to expect that the local community would want one choice of where their food is grown. The recommendations put a great deal of emphasis on local food production and tend to ignore the current vibrant agricultural economy.

The soil conserving agri-industry classification has not been fully defined, and therefore cannot be used as an effective planning tool.

Emphasis is placed on public/private partnerships. These types of partnerships should only be voluntary. Planners should be aware that these partnerships would erode the tax base. There could be new information in the Airport Master Plan that would affect the drafting of this plan. This plan should be delayed until we see how the Airport Master Plan will affect the sector. In the meantime, there are misconceptions that should be corrected in this plan. The plan should encourage the continued diversity of the area. Future industrial development should be encouraged and not limited to aviation related development, and the ill-defined agri-industry category. Industrial development could be used to help fund the multi-million dollar North Lawrence drainage plan.

Thank you for the opportunity to comment.

Mary Ross 1616 N. 1700 Rd. Lawrence, KS 66044 785-842-4360

RECEIVED

MAY 17 2010

City County Planning Office Lawrence, Kansas

Lawrence and Douglas County Planning Department In Care Of: City Hall 6E6 Street Lawrence, KS 66044 May 17, 2010

Dear Planning Department:

Please accept and evaluate the 4 part, 7 page technological assessment that is enclosed for you. It is relevant to the proposed development, SUP-3-4-10... and to several other things more crucial to the City of Lawrence.

The subjects of this assessment are, 1. the dam at Lawrence, 2. the levee along Lawrence, 3. flood-related concerns in Lawrence, and 4. the Northeast Douglas County Sector Plan. Everything in the assessment concerns things important to the safety and liveability of the Lawrence community.

I've resided at my current address since 2000.

Would you please return a card or letter to let me know what can be done about these things? Thank you.

Sincerely, Juvience Jugare Smith

LES: les

Lawrence Eugene Smith
Utility Invention
826 Oak Street
Lawrence, KS 66044-5524 USA

Observations Relevant to the Northeast Sector Plan for
Lawrence and Douglas County: A Technological Assessment
Four Parts

To whomever it may concern:

# A. Insufficiencies of the North Lawrence Levee

Here are 5 reasons that show the levee in North Lawrence isn't as good as it should be, at least east of the bridges at U.S. Hwy 40/59. 1. The levee conduit stream and ditch drain valves and boxes are installed backwards! The concrete valve boxes are made to face upstream, to capture debris. A top steel grate is to be removed to manually access the box, to extricate debris. In backwards, and debris extrication is slowed and difficult, because debris must be grappled and pulled through the valve seat opening. The gate valve and seat are unidirectional to some extent. In backwards, and small debris more easily accumulates in the bottom of the seat, which can prevent complete closing. In backwards, and the valve and seat can leak, even though completely closed. That allows flood water to flow from the river into those streams and ditches. That increases the rate of overflow flooding behind the levee, unless pumped at a faster rate into the river. The entire innards of the valve boxes must be reversed. That might require new boxes. I don't recognize any shortcut. Perhaps the expense of correction wasn't figured to be worthwhile, because the difference in performance between the opposite directions was evaluated as marginal or slight. 2. The riprap rock surface on the river side of the levee is defective! A durable riprap surface protects the levee itself from large floating debris, which might gouge the surface and expose it to rapid erosion by waves or winddriven rain. In general and in numerous locations to a greater degree, the limestone riprap has delaminated and shattered into approx. inch thick slabs, and then gravels. That must be consequent to excess absorbsion of moisture along lamination planes, followed by freeze and expansion, and cracking. The gravels that form can't protect the levee, even in deep piles, because gravels are too easily gouged by large floating debris. Durable riprap should overlay the levee surface, but the defective riprap must either be removed or completely shattered into gravels, so as to completely underlay the durable riprap rock. 3. The riprap surface ends at N. 7th Street. From there east, at least a mile or so, the river side of the levee is unprotected. Should the levee fail along there, floodwater will slow and flow back into North Lawrence, depending upon how much flood occurs. The entire river side of the entire levee should have the protective durable riprap rock surface, because the potential for flood damage along the Kansas River is now greater than ever, both urban and rural. Most 10-50 year climate and weather extrapolations probably include equal or somewhat greater, both annual precipitation and potential precipitation

extremes. 4. The river side of the levee is now also too exposed to potential large flood debris, which is mostly tree trunks, which can gouge the levee and allow rain or river turbulence to erode into and through the levee. Wind driven precipitation and waves can aggravate levee erosion, with failure in less than an hour, because the levee core is a waterproof but not very structural bentonite clay. The levee is now too exposed to floating debris, because trees were pushed over along the river side several years ago. Those trees served to slow and trap debris, such as floating tree trunks. Recently, trees were pushed over near N.4th Street. That has completely exposed the levee to flood debris that might drift in along the levee because of the upstream curvature of the river and the levee to that location. A durable riprap rock surfaced, substancial groin is desireable there, to deflect floating debris out into the river proper, even if the levee surface is restored by durable riprap, because repeated or simultaneous impacts by groups of large debris might gouge the levee right through the durable riprap surface. 5. The levee road is routinely damaged, especially while muddy. The levee top road isn't crowned, so rain water doesn't run off to each side. Rainwater saturates the upper layer of clay and gravel road surface, and its non-bentonite roadbed, and it becomes mud, in some places inches deep. Is the buried top of the bentonite clay core also routinely saturated? That depends upon how much it is crowned. If the bentonite saturates and freezes, it expands upward. As it later thaws, it might shift and mix with overlying non-bentonite clay, and lose waterproofing capacity, perhaps to several inches deep. If so, that means that the levee has deteriorated in that measure in its capacity to prevent weepage leak-through by highest flood waters. The road atop the levee should be surfaced with a durable mix of interlocking aggregate of multiple sharp sand and pea gravel sizes with a heavy clay matrix, and tamped into the best crown curvature, perhaps steepest. Vehicular traffic atop the levee should be restricted to emergency or levee maintenance only. Heavy equiptment shouldn't be permitted on the levee unless structural planking is laid first, to spread the weight over a large area, because the top of the bentonite core can deform somewhat like modeling clay, especially if saturated by water. However, I haven't observed any exposed levee core deformation, from the bridges east to N.8th Street. One location that might be suspect of core deformation is the access road over the levee at N. 3rd Street. Heavy equiptment was recently utilized to rebuild the dam at Lawrence, which must've accessed by that road. Because of all these things, is it suspect that the bentonite core itself is installed incorrectly? And, the levee should have a frontage road for heavy equiptment along its non-river side.

It should be recognized that the tree work along the levee wasn't and still isn't environmentally responsible. Animals evidently aren't live trapped and safely transported to other ecologically acceptable natural habitat prior to tree work. Trees are mostly pushed over by heavy equiptment. Some trees that remain show scars evidently caused by impacts with trees that were pushed over. Tree trunk, branch and brush piles are left behind, which become potential flood debris, and attract animals to excess numbers.

Most trees that remain show trunk bottom scars probably caused by impacts with power mowers. That upset of animal habitat exposes the adjacent North Lawrence community to excess numbers of animals as pests. That includes roadkill and garden damage. The injuries to the trees that remain are susceptible to fungal/bacteral infection, which can spread by airborne spores into the adjacent community. Those might infect similar injuries to desireable landscape trees. That tree work, then, violates the truer sense of 'Tree City' principles, which the City of Lawrence has promoted for years.

North Lawrence residents should have a process to access the handwheels necessary to close the levee valves should it be required but the usual government organization procedure fails. Also, they should have similar emergency access to the motor/pumps, fittings and generators necessary to pump the valve box streams and ditches over the levee, to prevent stream and ditch overflow flooding. It would be best to have a small, automatic motor/pump installed at each valve box. Mile to multi-mile stretches might be interconnected by waterproof underground conduit to a central control and electricity distribution connection. That should have auxiliary connections for a diesel/generator truck, in event of power failure. Those pumps would reduce interconnected ditch flow drainage by already functioning installed pumps, and increase total capacity.

# B. Some North and South Lawrence Flood-Related Susceptibilities

There are several North Lawrence ditch locations which have shown several days of stagnant water following periods of ground-saturating precipitation. Those persistent large puddles can develop and mature mosquitos, for example. Those puddles should be located and the ditches there recut to drain completely. All protruding concrete or steel culvert fittings in ditches should be located and reworked so as to be flush, to reduce damage to a vehicle and its occupants if it slides off a road and over or into such a protrusion. That includes motorcyclists and bicyclists. Culvert junction boxes that have settled in excess hold stagnant water. Those should be located, and the water completely displaced by concrete, or by sand and gravel mix. Gravel prevents sand washout, and sand fills the pores between.

Low areas, such as southeastern portions of Lyon Park, should have topsoil fill spread to several more feet elevation, and planted to restore lawn and landscape, so as to completely drain after saturation by precipitation. Adjacent ditches there should be recut to drain completely. A line of drains and underlying culverts might be required in those two adjacent ditches, because both show deep stagnant water almost from end to end. An automatic motor/pump with self-cleaning inlet, might be installed underground at the southwest corner of Lyon Park, to rapidly drain that area, with outflow piped underground to the river. Adjacent low-lying structures might be jacked and raised, and set higher upon improved foundations. Low

lots might have topsoil fill spread to a height sufficient to drain completely, and planted to restore lawn and landscape. Low interest loans might be facilitated to those lot owners, since it is to everyone's gain to prevent stagnant water there.

It should be recognized that the dam at Lawrence actually increases upstream river height even during maximum pre-flooding height, because it absolutely stops lower river current. That obstructs the entire river flow rate per time, proportional to river height. It functions much like a very short section of smaller diameter pipe in a length of larger diameter pipe. As pressure increases, the proportion of reduction of total pipe flow decreases. But there is always some reduction. In the river, the dam-induced

obstruction of river current increases river surface height upstream. As river total height increases, the proportion of reduction of river flow, to total river flow, decreases. But, even at maximum pre-flood height, it still is a quantity, and that quantity increases the river surface height upstream of the dam. A quarter-foot might be added. Once past the dam, unobstructed bottom to top river current rapidly reduces dam-induced extra upstream river height. The 1993 high water mark location near N.3rd Street was the downstream lower of the two different heights, perhaps by a third-foot or so. At that mark, approx. 8 feet above, actual flooding begins, depending upon how much weepage through the top of the levee occurs, and whether it worsens or not. Some weepages self-seal, because of silts in the flood water. The upstream higher height is the more-crucial measurement, even though merely inches greater. So, the dam at Lawrence causes higher water to linger longer, and pile slightly higher. That can be crucial during river flood height, if the flood crest is itself but inches near the maximum pre-flooding height capacity of the levee. However, permanent removal of the formerly defunct deep north side dam control gates would reduce that dam-induced obstruction somewhat, and might not reduce the adjacent hydroelectric production by much, on average. Removal of those gates would improve the river ecosystem, to pass fish and marine organisms down and upstream, even though during higher water only. It should also be recognized that the recent rebuild of that dam appears to hazard the piers of the adjacent, upstream, U.S. Hwy 40/59 bridges, by gouging and erosion by floating flood debris mats, which might accumulate atop the broader top of the rebuilt dam, even though it is submerged.

It should also be recognized that the dam, and the North Lawrence levee, confine Kansas River water height sufficient to flood low-lying areas of South Lawrence. That includes the railway, residences adjacent lower Constant and Burcham Parks, and perhaps the old municipal water treatment facility. The 1993 high water did flood up to the railway tracks. That saturated and softened the railroad roadbed, and that halted railway operation. A South Lawrence levee, with stream valves and automatic pump installations, might parallel the railway, to prevent potential flood damage. Lower Constant and Burcham Parks should be allowed to flood, because their surface area has considerable capacity to laterally spread river

flood volume, and reduce total flood height.

It might be extended upriver, to protect
the railway, perhaps even partway to
Lecompton. It might extend downriver some, too. Is the new structure
in Burcham Park constructed to endure flood and flood borne debris
without damage? It should also be recognized that high river water
and its debris might gouge, erode and damage the old turbine/generator
facility structure adjacent the dam at Lawrence. It should be
comprehended, that northeast Kansas would've gained better, if the
resources that were recently utilized to rebuild the dam at Lawrence,
were instead utilized toward purchase of a modern, efficient turbine/
generator and installation into an 'invisible,' automated facility
at Lake Perry Reservoir outflow structure. Although the 4 largest
Kansas reservoirs might each be so converted to small hydroelectric,
would those remain comparatively self-economical for decades to come?

# C. <u>A Potential Prototypical Flood Crest Reduction Arrangement</u> <u>for the Kansas River</u>

An installation might be evaluated which would reduce flood crest height. It centers around a pair of large, high capacity motor/ pumps located near the junction of the Kansas and Delaware Rivers. Excess flood crest would be pumped through smooth interior, streamlined curvatures pipelines, into either or both Perry and Clinton Reservoirs. A pipeline would be laid to drain into the best of the two northwestern streams into Lake Clinton, but sufficiently downstream from headwaters, to prevent any erosive or disruptive volume, or potential pollution, even if the stream itself is flooded. This arrangement requires almost automatic, synchronized comprehensive flood prevention sequence operation of Perry, Clinton, Tuttle Creek, Milford, and perhaps the other smaller Kansas River watershed reservoirs. During flood susceptible periods, reservoirs are usually kept lower, to increase flood prevention capacity. Prior to anticipated near-flood conditions anywhere downstream, Perry and Clinton Reservoirs might drain at the maximum rates, until near-flood conditions will actually occur. That requires very careful timing, and depends upon all of the watershed precipitation measurements, the current and flow rates of all the watershed rivers and streams, and all other variables at that time. Then, the reservoirs would reduce drainage to the minimum rates. Then, those pumps would reduce the Kansas River flood crest height, A quarter-foot might be reduced out of a sudden flood crest. The same might be reduced out of a stretched flood crest. While a sudden flood crest mightn't last long, and lack much actual flooding volume, a stretched flood crest which persists for a day or more, which might not be but inches over a levee, might accumulate considerable actual flooding and potential damage. To help control the reservoir gates and the crest reduction pumps, a number of automatic, accurate, stream and river height sensors would be installed along and upstream of each area prone to flood, both urban and rural, with wire and auxiliary radio connections to a central control facility. Similar pump installations might be located upstream and downstream. A set of pumps might be installed near Topeka, which pump into streams that

drain into Lake Perry, and into the Wakarusa River and Lake Clinton, again sufficiently downstream of headwaters to prevent any erosive or disruptive volume, or potential pollution, even if a stream is itself flooded. A set of pumps might be installed near Kansas City, Kansas, to pump Kansas River flood pre-crest and crest water into the Missouri River downstream of Kansas City, Missouri, if the Missouri River itself isn't simultaneously flooded there. This pumped flood crest reduction arrangement is generally better than 2 alternatives. 1. Flood crest water might be pumped underground into porous strata. Western Douglas County has an underground, ancient former river bed strata, north to south, at approx. 500 feet, a suitable geology of porous gravels and sands. But the maximum rate of geologically safe, non-erosion injection might be comparatively much less, and prevention or remediation of potential flood borne pollution might be too difficult. 2. Flood crest water might be pumped upward through extra large mist and fog forming nozzles, so as to form low altitude clouds. But it is difficult to prevent clogging of nozzles by flood borne silt and minerals, and some wind in a direction perpendicular to the flood watershed is required. And, fog rapidly precipitates along with other precipitations.

D. Potentially Beneficial Rearrangements for Grant Township

# Business Park Plans

Two things should be recognized relevant to the Northeast Sector Plan. 1. The railway should eventually bypass North Lawrence. That can be laid out into a protected, noise attenuation fenced corridor, with 4 automatic warning and barrier road crossings. Both tracks would curve and angle through the railway underpass of I 70 east of Lawrence, but the adjacent road would be dead ended each side. Several structures might have to be jacked and fitted for transport to new locations. The railway bypass should be laid out to allow the railway to recover some of its construction costs, by fuel and time savings as trains bypass at full velocity. To do that, there might be only one best route. 2. Highways U.S. 40/59, U.S. 24/40 to K32, and K32, should eventually be improved into a non-stop, 4 lane North Lawrence Bypass. To do so, the intersection at 40/59 and 24/40should be replaced by a structure of adjacent overpasses, which allows the railway bypass to underpass on the level. That location allows a single railway underpass/highways overpass structure, which is most distant from central North Lawrence. Other layouts require two railway/highway underpass/overpass structures, and perhaps greater time loss. That intersection be made non-stop from and to each direction, but the adjacent county road intersection should be separated northward by a least. Local access frontage roads would parallel ramps to the overpass, along each side. To allow turnaround, the frontage roads should connect parallel to the railway, under the southern part of the overpass structure, and might connect also to that same county road to the west. Access to K32 as a North Lawrence Bypass

would be from K10, at I435 and K7, and by constructing a bridge access highway around Eudora, and not through it. Except for that,

a North Lawrence Bypass might fit within established highway right of ways only. It would save through traffic time and fuel, and it would access 4 lane U.S. 24 to and through North Topeka. That has shown development toward a non-stop, 4 lane North Topeka Bypass, by overpasses combined with parallel pairs of local access

frontage roads, and adjacent dead ends of lesser traffic streets. A North Lawrence Bypass might serve most interests better than the South Lawrence Bypass. A four-lane combined bridge and ramped overpass for Hwys. 24/40 and K32 would be required at Mud Creek.

The Lawrence Municipal Airport, and the other prospective business park, are each adjacent to both potential railway and highway bypasses. Therefore, it should be recognized that any further actual development of the real estate of either the airport or the other business park, should wait until the railway and highway bypasses are laid out, when and if that occurs, especially if railway access is possibly ever desired. Consequently, those two groups might initiate cooperating planning arrangements together with the relevant railway and highway authorities. If that isn't done, uncomfortable traffic conditions might eventually develop, at the least. With a railway bypass, the railway overpass at N.2nd Street would be removed. U.S. Highways 40/59 would be made level through it. That would benefit highway users and North Lawrence. The railway would continue to access the tracks of each side of the closed and removed railway bridge. Almost all North Lawrence railway commerce is already switched in from Topeka. As it is, I've observed that some if not most trains through North Lawrence are excess velocity for an unfenced urban corridor. On each of a number of occasions through recent years, including Monday, March 22, 2010, I've observed several dead animal corpses, mostly rabbits and opossums, along the tracks of the railway through North Lawrence, from the visitor's center to N. 9th Street: evidently all railroad kill.

### Conclusion

These observations were accumulated during several years, since I undertook study of these things beginning 2002. You are welcome to utilize this letter as a technological assessment. My work serves as my qualification.

I regret I haven't any further time to devote to these subjects. However, if you have any questions, you might send them. I'm writing a 20 section book to describe my utility invention discoveries, which I've accumulated since my self-financed, Christ-inspired private studies began, 1998. I'm grateful I found the report, 'Local Dirt,' in BLUE SKY, GREEN EARTH, Issue 3, and that I recalled these observations. I was directly inspired to compose this technological assessment. I've written several less developed letters about these same subjects, dating to 2003, which were evidently ignored. You might have the grasp on these things sufficient to gain the corrections that are most beneficial, all things considered. God help you.

Sincerely, Januare Lugen Smith
page 7 of 7

March 19-22, 2010 LES:1es 4/12/2010

#### **Dan Warner**

From: Robert Brown [conchuirbrown@gmail.com]
Sent: Monday, November 16, 2009 3:33 PM

To: Dan Warner

Subject: Comments on the North East Sector Plan

Mr. Warner,

As a resident of Lawrence living in the East Lawrence Neighborhood concerned with the well-being of this area in the future, certain aspects of the North East Sector Plan Draft Goals and Policies are very disconcerting to me. Particularly, I find the policies aiming for future industrial and commercial development in between I-70 and the airport to be very shortsighted and in direct contradiction with the draft policies on Environmental Resources, especially in regards to the Class 1 and 2 soils. Having lived in the area for around 18 years, I have seen an "if you build it they will come" attitude towards development create situations where only developers, contractors, and land owners benefit from city-subsidized development while Lawrence is left with vast amounts of empty and underused light industrial and commercial space. North Lawrence has been the sight of probably the majority of this type of planning, but its effects can be seen throughout our city, notably in the 31st and Iowa area.

In addition, as movements towards local food production and markets grow, it should be a priority for the city to do what it can to preserve the great farmland found in the Kaw River Valley, especially when this is supported by the people living in the vicinity of this land (as seems to be the case in the situation of North Lawrence). Also, as the future of fossil fuel energy supplies seems less and less secure, it seems to make little sense to destroy farmland that might someday be needed to grow food for our area.

The conversion of large parts of the North Lawrence floodplain to industrial or commercial use, especially for projects such as the sand dredging operation that is being discussed, in eliminating some of the greatest farmland in the state to make way for projects which could be located elsewhere, would be poor, sort-sighted, urban planning at its worst.

Please keep this in mind as the decisions as Planning and Development services helps decide the future of this area,

Conor Brown (785) 979-6036

## Chestnut Charlie's

P.O. Box 1166, 945 Ohio St., Lawrence, KS 66044 785-841-8505, nuts2sell@aol.com www.chestnutcharlie.com,

November 16, 2009

Dan Warner and associated staff Planning and Development Services 6 East 6<sup>th</sup> Street Lawrence, KS 66044

by email to: dwarner@ci.lawrence.ks.us

Re: Northeast Sector Plan, Draft Goals and Policies

Dear Mr. Warner and Planning Staff:

My wife and I support your planning initiative for all lands north of Lawrence within the so-called Urban Growth Area, and specifically for the agricultural lands within the historic floodplain (area flooded in 1951).

Development pressures, long sleeping in the floodplain, are now awakening. With apparent confidence in our levees, our neighbor/farmers, multigenerational family farms of unimpeachable credentials, who till the best soils of the State of Kansas, are becoming businessmen. These farmers are now pressing for development. In addition, there is a high number of retired farm owners and absentee owners who no longer farm themselves who are not adverse to cashing out.

In order to avoid more piecemeal, tawdry, small-scale and short-term development sprawling across the Kaw bottoms, and to avoid long-term burdens upon taxpayers and innocent neighbors in the aftermath, the present planning initiative is timely.

And we, at least, recognize that if we farmers are going to embrace the City of Lawrence, and profit from its expansion, we farmers must submit to the governance by that community for the common good. For ourselves, we recognize our land which is currently outside the bounds of the City, is now and always has been zoned "Agriculture". We disagree with the extension of the Urban Growth Area to the Jefferson County line—that was an arbitrary and ill-thought-out action which was never adequately aired in public. But for the zoning of the County, we depend upon the environment to remain agricultural in order to recover our investment upon our property.

We give below some specific criticisms and suggestions related to the *Draft* Goals and Policies, as well as some criticisms of the process.

But first, to establish our standing to comment upon this planning process, and stake in the outcome: my wife and I are owners and operators of Chestnut Charlie's, a trial and demonstration plantation of nut trees. Our project land is located on Class 1 and 2 soils in the center of the initial proposed area for the Northeast Sector plan. Our project is easy on the eyes and environmentally friendly yet provides employment and contributes to the economy. We are in part an agro-tourism business, attracting visitors from Kansas City and as far away as St. Louis. Our commitment to the future is evidenced by over 1500 nut trees in the ground. This investment

Dan Warner, Northeast Sector Plan

November 16, 2009, Page 2

cannot be moved should the soil moisture or other environmental conditions be degraded due to neighboring land uses, whether that be wet soils or industrial noise and smells.

We will not pretend to have no personal interest in the planning process. Our production is expected to increase in the future and we will need larger and better cleaning, packing and refrigeration facilities. Before we make these additional investments, we need confidence that our area is likely to continue under its existing and longstanding agricultural zoning, or whether, as some of our farmer neighbors seem to advocate, industry will come in.

#### **Comments on the**

#### Northeast Sector Plan Draft Goals and Policies

We concur and join in the comments of the Citizens for Responsible Planning. We add these further comments.

Under Agriculture Use: we support these policies.

#### Under Industrial/Employment use,

Here you are entering a dispute involving a pending application for rezoning. Any recommendation by staff in this area will be interference with a process already subject to a valid protest petition by neighboring landowners. One of the criteria for reasonableness of rezoning under the "Golden" rule is consistency with the master plan. Any change in the master plan, including this sector plan, which facilitates the petitioner's contested application will suggest a bias in the process.

Furthermore, if this proposed industrial area is indeed to be on the table in this discussion, we would disagree with this provision. It is impossible to reconcile any protection for Class 1 soils with this provision. The property described is mostly Class 1 soils of the type, Rossville silt loam. The Rossville soil is the best agricultural soil of the area by most criteria. And more than half of the Rossville soils underlie the Municipal airport, and have, therefore, already been lost to industrial uses. If the additional area of this soil lying southwest of the Airport is to become agricultural, I would estimate that 80-90% of this soil type will have been already sacrificed for development. If any kind of balance between industrial and agricultural uses is to be struck, it is necessary to preserve the small fraction of the best soils which still remain.

#### Under Commercial Use:

We find it difficult to reconcile commercial development for the same reasons as stated above.

#### Under Lawrence Urban Growth Area (UGA)

The extension of the Urban Growth Area to the Jefferson County line was done without our knowledge and comment, and was perhaps done without effective public notice but undoubtedly without much public debate. Correct or not, the extended UGA has been used as an argument by developers that the City has already decided that urban-type developments should be allowed throughout the UGA, across the farm land. If so, then this action should be subject to reconsideration. We believe it was improvidently adopted.

However, being within the UGA has substantive and material consequences under our zoning and development codes. We ask that in the upcoming meetings you explain to the community in detail these consequences of being within, and without, the UGA as part of this ongoing discussion.

Under 2, Environmental Resources; Sand, gravel, topsoil, etc.,

Dan Warner, Northeast Sector Plan November 16, 2009, Page 3

We were puzzled to see this language as this appears to contradict the consensus aims and goals after discussion at the public meetings. Insertion of this language suggests the staff has succumbed to lobbying by special interests on pending applications. This is not unlawful, so far as I know, but it certainly undermines the public confidence in the planning process.

From our experience, almost the entire alluvial plain within the Northeast Sector area is underlain with sand. This is based on our own digging and also upon a review of published well drilling records. Certainly, in an area of Class 1 and 2 soils, there is a great deal of topsoil that may be mined. A provision to "support the extraction of . . . sand, gravel, topsoil, etc." simply cannot be reconciled in the same document with the provisions for preservation of Class 1 and 2 soils. Neither can extraction through a strip mine as deep as my water well be compatible with language under Groundwater, ie., "…limit the potential for negative groundwater impacts." You cannot have your cake and eat it too.

#### Under Economic Development, Agriculture Economy,

We think that the first sentence of the fourth bullet, beginning, "Per Horizon 2020 Chapter 7, should be deleted for the reasons stated above under the section *Industrial/Employment use*. The second sentence is fine. The first sentence is a self reference, a redundancy. As to the substance, it would be our position that industrial uses should be limited to within the properties currently owned by the City for the Municipal Airport.

#### Under Policies, Floodplain/Stormwater/Flat terrain,

We have no specific language suggestions but flooding and stormwater management is of paramount concern, probably an insurmountable challenge, and a serious limitation upon development potential. Agricultural lands will be negatively impacted by the impermeable surfaces and fill earth that typically accompanies development.

From our experience and observations, and from listening to other farmers' experiences with wet crop diseases, we think the man-made solutions, swales, pumps, retention basins, and so forth will be simply incapable of absorbing the load of storm water shed by warehouse roofs and parking lots without hurting farms as well as North Lawrence homes. We are deeply concerned that the City will allow development to march out into this area with misplaced confidence in engineering solutions that do not work. Farmers, like us, will suffer for other's mistakes.

This past year, with rains regular and accumulated precipitation levels some inches above normal, we have witnessed more flooding on our farm that concerned us than ever before. Knowing that the dry land is floating an alluvial aquifer, a lake in coarse sand, just a few feet down, it is certain that more water moves underground than is apparent from the surface. What we are doing in the North Bottoms is farming a recently drained swamp. In our case, having land that lies low, we are as much threatened by saturated soil as by surface runoff.

We suggest rewriting and strengthening this section after re-reading the North Lawrence Drainage Study and its cautions, and consulting engineers and residents familiar with the area. With all due respect, the present articulation does not reflect the depth of understanding in proportion to the problem.

Thank you for this opportunity to comment.

Yours truly, /s/ Charles NovoGradac

### **Citizens for Responsible Planning**

November 9, 2009

Dan Warner, Long-Range Planner

Lawrence-Douglas County Planning Office

6 E. 6th Street

Lawrence, Kansas 66044

Dear Dan.

We are writing to comment on the Northeast Sector Plan draft that has been proposed by the Planning Department.

Citizens for Responsible Planning is grateful for the public meetings and the continued ability to question and comment on the process that is being undertaken to create this sector plan. As expressed by planning staff this area possesses a unique set of opportunities and challenges to long-range land use planning. It has also become obvious that there are diverse opinions on what the long-range planning goals and objectives should be for this study area. We believe it would be most prudent to slow the process to allow more time for these divergent public positions to find some common ground. We would ask for sufficient time to make this very important attempt at unity for the future of our community. We request the planning process follow the time guidelines recommended in Horizon 2020.

Our first concern focuses on the roll-back of the Urban Growth Area. We have made a request to re-visit the 2003 process and reasoning for the extension of the UGA to the Jefferson County line. We consider clarification and definition of the UGA boundary imperative before reasonable decisions for long-range land use planning can be addressed. This review process should be explored and finalized prior to the completion of the Northeast Sector Plan.

We would once again like to make the point that, in an accurate description of "multi-modal" transportation systems, railroad access should not be

listed. There are not rail spurs available for new industrial use. We request that "railroad" be eliminated from the multi-modal listing. Prior in-depth discussion of this took place within the Airport Business Park application process. At that time, it was determined that access to rail was not factual.

CRP strongly believes that preservation of Capability Class 1 and 2 Soils is vital to the agricultural sustainability of our community and region. We appreciate this emphasis within the plan draft. In addition, we request that the "Policies" statement concerning Class 1 and 2 Soils as listed under Land Use in the Northeast Sector Plan Draft read as "Support the continued agriculture use for the majority of the planning area, especially in areas with Class 1 and 2 soils and in the regulatory floodplain areas". We are strongly in support of economic incentives that will allow these important, finite resources to be maintained in agriculture in perpetuity. CRP concludes that Horizon 2020 solidly supports this view within its General Goal statement in the introduction pg. 1-3. "It is the goal of the planning process to achieve a maximum of individual freedom, but public welfare must prevail." Horizon 2020 also addresses under its statement on Sustainability - "We will strive to ensure the sustainability of our physical environment, both natural and built, the health of our economy and the efficient and effective functioning of our community." CRP would also like to reference the recommendation memo from the Sustainability Advisory Board dated October 14, 2009. This document is included as an attachment.

Preservation of these soils for agricultural use will act as a natural flood mitigation mechanism. CRP strongly advocates for the City and County to move towards its stated policy within this sector plan to develop and implement high regulatory standards that promote no adverse impact in flood hazard areas. We further look to the North Lawrence Drainage Study and its implementation should any development take place north of North Lawrence.

In accordance with the strong public input during our planning process identifying ill planned development as a threat to Class 1 and 2 soils, CRP requests that the two "snowflakes" illustrated on Map 7-2 of Horizon 2020 - Chapter 7 - Future Industrial and Employment-Related Chapter be removed. These 'snowflakes' are at Midland Junction and southwest of the Lawrence Municipal Airport. We support development within the Lawrence Municipal

Airport's property and we recommend that a "snowflake" be placed at that location.

We request that the following section in the "Environmental Resources" section be removed from the plan in accordance with the public input during our planning process.

"Sand, gravel, topsoil, etc.

Support the extraction of natural resources such as sand, gravel, topsoil, etc. if compatible with existing land uses and if infrastructure can support the process of extraction."

Finally we request that the City/County Planning Department establish an inventory of acres identified within all sector plans of areas identified for industrial use. This would be an empirical, unbiased inventory that would be invaluable when making long-range land use planning goals.

Respectfully submitted.

Citizens for Responsible Planning

# Citizens for Responsible Planning - Signer's List

Ellen Paulsen Steve Stemmerman

David Lambertson Carol Schmitt

Sacie Lambertson Wayne Propst

Nicole Tichenor Gabrielle Holcomb

Chris Blackstone Ron Seibold

Maryam Hjersted Samantha Snyder

Timothy Hjersted David Baird

Mary Ellen Graham Carol Huettner

Aaron Claassen David Nelson

Caroljean Brune Jacob LaSorsa

Kim Bellemere Ingrid Klevmark

Fred Bellemere Anne Burgess

Frank Shopen Mel Smith

Gwen Klingenberg Michael Almon

Hilary Brown Daniel Poull

Stuart Shafer Mary Ann Stewart

KC Compton Bill Crahan

Sally McGee P. Simran Sethi

Richard Backus Jud Bonifield

Maggie Backus Brian Lemon

Laurie Ward Robin Gingerich

Brandon Schoenhofer Tom Mersmann

Karen Schoenhofer Lisa Grossman

Judy G. Burch Kelly Barth

Lane Williams Pat Kehde

Mark Robbins Rick Frydman

Kathy Robbins Janet Majure

Jim Smith Linda Haskins

Debbie Smith Phil Minkin

David Eichler Paul M. Liechti

Monika Eichler Jerry Jost

Margaret Shirk Barbara Clark

Nancy Yonally Charles Marsh

Jim Yonally Ted Boyle

Jake Lowen Julie Trowbridge-Alford

Charles Seibel Lori McMinn

Dickie Heckler Chet Fitch

BethAnne Manusr Deanna Fitch

Jocelyn A. Schimke Deborah Altus

Homer J. Van Sant Shannon Buerger

Charles NovoGradac Frederic Brown

Deb Milks Barbara Duke

Greg Allen Edie Kelly

Jill Allen Vicki and Joe Douglas

Mary Coral

Jolene Andersen

#### October 14, 2009

To: City Commission

**CC:** City Planning Staff

From: Sustainability Advisory Board

Re: Northeast Sector Plan and Consideration for Capability Class 1 and 2 Soils in

Future Land Use Planning

Mayor Chestnut, Vice-Amyx, and Commissioners Dever, Johnson and Cromwell,

The Sustainability Advisory Board is charged with advising the City Commission on sustainable endeavors and opportunities within the City of Lawrence, including natural resource conservation. To this end, the Sustainability Advisory Board supports the preservation of our most fertile agricultural land. We strongly encourage the City Commission to consider the value of Capability Class 1 and Class 2 soils in Douglas County when planning future land use for any area under consideration in the developing Northeast Sector Plan which is the largest, contiguous placement of these soils. We are concerned that a proposed tenant of the land has a history of inadequate environmental management and was fined by the Environmental Protection Agency for its actions. <sup>2</sup>

Soils of such quality are rare and, once lost, cannot be restored in our lifetimes. These resources offer a great opportunity for our local and regional food security and economy for future generations to come.

In its Policy Guide on Agricultural Land Preservation, the American Planning Association asserts, "agricultural productivity must be allowed to be a viable economic activity." The SAB encourages the City Commission to recognize the value in preserving these soils to profitably produce local food, increase food security and demonstrate our City's articulated commitment to sustainability.

Sincerely,

Daniel Poull

Chair, Sustainability Advisory Board

<sup>&</sup>lt;sup>1</sup> http://www.ci.lawrence.ks.us/wrr/envadvisoryboard

<sup>&</sup>lt;sup>2</sup> http://www.kansasriver.org/files/File/wamego\_sand.pdf

<sup>&</sup>lt;sup>3</sup> American Planning Association Policy Guide on Agricultural Land Preservation, 4/25/99.

## The University of Kansas

RECEIVED

NOV 16 2009

City County Planning Office Lawrence, Kansas

Kansas Biological Survey

Dan Warner, Long-Range Planner Lawrence-Douglas County Planning Office PO Box 708 Lawrence, KS 66044

November 16, 2009

Specific Comments Re: Northeast Sector Plan Draft Goals and Policy

Dean Dan:

Please consider the following comments on the draft of the Northeast Sector Plan. Note that under a separate letter we have sent general comments and background regarding the University of Kansas Field Station (KU Field Station).

- 1. When referring to the University of Kansas Field Station please use that name, or KU Field Station. Currently the plan refers to the site as the "KU Field Station and ecological reserves." We have just recently formalized the name of the station to avoid confusion.
- 2. Under the "Policies" section within "Economic Development", please consider changing the language regarding the heading of "KU." Currently the entry in that section reads "Create partnerships with KU that help build the agricultural, aviation, and industrial businesses of the area." We suggest that be changed to read:

"Create partnerships with KU to evaluate and facilitate development in the area that will not adversely affect the ongoing research that occurs in the region."

This is a broader heading that more accurately describes the totality of the "KU Endowment land" by incorporating the research that takes place on the KU Field Station. In the last 25 years or more than 20 million dollars of funding for research projects have involved the KU Field Station. This has had significant economic benefits to KU and the local community.

Please note that Ed Martinko, Director of the Kansas Biological Survey (the unit administering the KU Field Station) and Monte Soukup, Vice President for Property Management at KU Endowment, have been involved in discussions for the ideas above and are copied with this letter.

Sincerely,

W. Dean Kettle, Ph.D.

Associate Director, University of Kansas Field Station

University of Kansas Field Station

cc: Ed Martinko, Director

Monte Soukup, Kansas University Endowment Association

November 15, 2009

Mr. Dan Warner, AICP Long-Range Planner Planning and Development Services Lawrence, KS 66044

Re: Protection of Northeast Sector landowners' rights and protection of Class I and Class II soils

Dear Mr. Warner:

As a member of the Mayor's Peak Oil Task force, a teacher of ethics at KU, and a resident of Lawrence, I offer the following brief suggestions for the Northeast Sector Plan. Thank you again for leading this open process.

As the Lawrence Mayor's Peak Oil Task Force has studied other communities' plans for an energy-tight and expensive-energy future, we've noticed that among their first actions is the protection of nearby prime farmland. Because the task force's report is not yet complete, I speak only for myself in urging that the Northeast Sector Plan help ensure a healthy future for our children and grandchildren by protecting Class I and Class II soils.

There certainly are ethical grounds for asking that Class I and Class II soils be preserved for the good of the community. But after that, traditional ethical thinking prompts another question: Who might be directly hurt by preserving those soils for agricultural use? Such a policy might hurt current landowners by limiting the income from sale of the land. If that is the case, then the community should strive to ensure that landowners receive important economic benefits for preserving that land for agricultural use.

Would it be within the spirit of the Northeast Sector Plan to include language specifying that Class I and Class II soils be preserved -- and preserved in such a way that benefits the current landowners? Honoring the value of those soils could be a way to establish common ground between landowners and others who recognize and appreciate the landowners' stewardship and community leadership.

Thank you very much for considering these ideas.

Sincerely,

Charles Marsh

City of Lawrence Planning and Development Services Sixth and Massachusetts P.O. Box 708 Lawrence, KS. 66044-0708

Re: proposed Northeast Sector Draft Plan/goals and policies of Urban Growth Area

Dan Warner, Long-Range Planner:

Dear Dan,

In reference to the most recent draft of prospective policies for planning and development in the Northeast Sector, where reference is made to <u>no development</u> being allowed within a floodway or 100-year floodplain, I want to say the following:

- 1. If the above is adopted as a planning policy, in fact, it would result in the effective "downzoning" of approximately ten acres of my land from General Business zoning on the Douglas County zoning map, to a more restrictive regulatory designation.
- 2. I am absolutely certain that at the first public meeting for the proposed Northeast Sector draft plan, and thereafter, landowners and others were assured there would be no downzoning in the proposed Plan Area, which was subsequently enlarged to include my land at the request of Grant Township officials.
- 3. Therefore, I respectfully request that the reference to <u>no development</u> in the 100-year floodplain be deleted from the proposed goals and policies draft plan for the Northeast Sector, as it would appear to be a taking of economic value without just compensation as regards my land, if allowed to become official public policy.

Sincerely yours,

Kenneth D. Reiling

#### **Dan Warner**

From: mnunross@aol.com

Sent: Monday, November 16, 2009 3:51 PM

To: Dan Warner

Subject: NE Sector draft plant

Dear Mr. Warner,

We have the following comments regarding the draft goals and polices for the Northeast Sector Plan dated 11/4/09.

#### 1. Land Use

<u>Goal</u>-predominate agriculture use with <u>expanded</u> industrial and commercial uses along the highway Industrial/Employment Use

We object to the soil conserving agri-industry business language in Chapter 7 Horizon 2020. A "soil conserving agri-industry business that will protect the quality of existing high-quality agricultural land either through agricultural use or preservation for future agricultural use" would seem to ban most future industrial growth altogether in the areas southwest of the airport and north of I-70.

#### **Policies**

Class 1 and 2 Soils

Putting restrictions on class 1 and 2 soils that have been zoned and seemingly slated for industrial development for decades would amount to a taking of property values. If such restrictions are placed on these soils and property values decline as a result, then owners should be substantially compensated.

A consequence of public conservation easements would be loss of taxes for the township and county, and possibly increasing the tax burden for remaining property owners.

#### 2. Environmental Resources

Sand, gravel, topsoil, etc.

We agree that these resources should be recognized as valuable and should be allowed to be extracted.

#### 3. Economic Development

Agriculture Economy

Recognize that there is a vibrant agricultural community in place in the area not dependent on expanding programs that require more tax dollars.

In summary, we object to the limiting language regarding industrial development in Horizon 2020 Chapter 7. In light of the need for job growth in the community, we see a need for expanded industrial and commercial development in the area. Property owners should be well compensated for restrictions put on class 1 and 2 soils. Unintended consequences of private/public partnerships could be decline in property tax dollars. Sand, gravel and topsoil should be recognized as a valuable natural resource and allowed to be extracted.

Thank you.

Patrick D. Ross Mary P. Ross Nunemaker-Ross, Inc. 1616 N. 1700 Rd. Lawrence, KS 66044

## RECEIVED

NOV 16 2009

Jack W. Skeels, Ph.D.

3005 Oxford Road Lawrence, KS 66049

Phone 785-841-3799 Cell 785-218-3637 Email jackskeels@yahoo.com City County Planning Office Lawrence, Kansas

#### Re: Proposed Northeast Sector Plan

Dear Lawrence-Douglas County Planning Commission Members

Nov 16, 2009

I write this letter as a concerned citizen of Lawrence. Prior to my retirement I spent over 40 years teaching economics at the undergraduate and graduate levels as well running an economic consulting service.

Lawrence and Douglas County have a long and honorable history which has emphasized the individual efforts of farmers, workers and business persons to produce growth and progress. The last 50 years have been ones of growth both in agricultural output and the value of farm land as well as strong growth of Lawrence in population and industry. Progress had made it possible for us to raise our incomes and the value of our assets, including farm land. All this made possible through the free operation our local and national markets.

In contrast to this positive history, the <u>Proposed Northeast Sector Plan</u> emphasizes restricting the best use of our resources for no clear reason. Basically it says let us keep a certain soil class of land solely in agriculture. There is no overriding reason for this restriction. We face no shortage of food in Lawrence, Douglas County or even the our nation. Kansas and Douglas County even exports agricultural output internationally. Moreover there is no foreseeable future threat of a food famine here. In fact local farmers leave the Lawrence Farmers' Market each Saturday with left-over produce. Finally the US government spends over \$2 billion dollars to take more than 30 million acres out of farm production;

The Proposal as presently written is a watered down version the locally hated "Right of Eminent Domain." Eminent Domain seizes all property rights including physical ownership of the property itself. We have recently seen local farmers battle the Kansas State's efforts to seize their farm land. This Proposal seizes the farm property owners right to dispose of his or her property for the best economic use. In everyday terms this Proposal is anti-progress and attempts to stymy the free operation of the market. More immediately it constitutes a heavy tax on the owners of farm land within the proposed zoning district by limiting their ability to sell their land for the highest and best economic use.

Additionally the Northeast Section Proposal as now written sounds anti-Lawrence airport and anti-growth of the City of Lawrence itself.

I am greatly surprised to see such an anti-growth and anti-progress proposal being made by a joint Lawrence-Douglas County Planning body when the Lawrence City Commission has repeatedly emphasized the need for population and economic growth by attracting new industry.

Sincerely yours,

Jack W. Skeels

cc: Lawrence City Commissioners

November 16, 2009

Dan Warner, Long-Range Planner Lawrence-Douglas County Planning Office 6 E. 6th Street Lawrence, Kansas 66044

Dear Dan,

We are writing to provide an additional comment to our submission on the Northeast Sector Plan draft that has been proposed by the Planning Department.

As it specifically addresses the issue of risk and control measures for development in the floodplain and flood prone areas of North Lawrence and Grant Township, we recommend that the North Lawrence Drainage Study be incorporated into the Northeast Sector Plan.

#### Sincerely,

Ted Boyle, President, North Lawrence Improvement Association Barbara Clark, Steering Committee CRP and Grant Township resident Jerry Jost, Steering Committee CRP and Grant Township resident Mary Ann Stewart, Steering Committee CRP and North Lawrence resident Michael Almon, Steering Committee CRP Jim Smith, Steering Committee CRP and Grant Township resident

## NORTH LAWRENCE IMPROVEMENT ASSOCIATION

LAWRENCE, KANSAS

November 19, 2009

Dan Warner, Long Range Planner Lawrence-Douglas County Planning Office PO Box 708 Lawrence, KS 66044 RECEIVED

NOV 25 2009

City County Planning Office Lawrence, Kansas

Dear Dan:

The North Lawrence Improvement Association and the residents of North Lawrence endorse and are in full agreement with the comments provided by Citizens for Responsible Planning regarding the process of developing the Northeast Sector Plan.

The NLIA would also like to see the Urban Growth Area pulled back. The other concerns of the NLIA are flooding into North Lawrence from this area as well as the preservation of type 1 & 2 soils for future food production.

Furthermore the NLIA appreciates the opportunity provided by the public meetings concerning this issue and the ability to provide input while this process is taking place.

Sincerely, Teol Boylo

Ted Boyle, President

North Lawrence Improvement Association

TO: DAN WARNER, DOUGLAS COUNTY PLANNING

FROM: BART HALL, P.Ag. 14 November 2009

RE: GRANT TOWNSHIP PLAN

Please consider carefully the following observation regarding a long-term development plan for Grant Township in Douglas County, Kansas. I have no specific interest, either personal or financial, in the area under discussion, but do, however, maintain a significant general interest in the outcome, since I operate a farm four "bottoms" down-river, in Johnson County.

More particularly, I farm for a living, meaning that we do not work off the farm, and we do not receive a nickel of subsidy or grant money. Agriculture is it. Consequently, I understand all too well the economic challenges of my colleagues up-river, even though nearly all of them receive generous subsidies from the federal government, making their economic lives rather more secure than mine.

Unlike those colleagues, however, I am also an agronomist, specifically trained in soil science. My first two degrees were in geology and geo-chemistry, after which I shifted to general agronomy and then (slightly later) to soil science. In the bargain, I eventually served six years in elected political office at the county level, not in Kansas, thus also understand the dilemma when approached from a political perspective.

These discussions are never easy, which I fully understand from a farmer's perspective, as well as that of a scientist and a politician. What I have done over the years, therefore, is to resort to first principles and let the results flow from there. What, then, are those principles?

- I am a fervent constitutional conservative. My direct ancestors signed the Declaration of Independence, fought the Revolution, and developed the Constitution for some very good reasons. Therefore, I believe rather fervently in property rights in particular and quite limited government in general.
- Liberty, however, is not license. Rights are not unlimited, and they never have been. Limited government is not the same as anarchy. That is why the Constitution places such prominence on the "blessings of liberty" not only "to ourselves [but also to] our posterity."
- Some restriction of personal freedom is necessary for the "general welfare," not only today, but for the future. In Revolutionary New England, for example, homes were required to manage fire and animals in specific ways. In Litchfield, Connecticut in 1789 there was a prohibition against playing "the game of towns, or base-ball" on the village green because errant balls were breaking too many windows.
- There is a huge difference between niggling nanny-state regulation of things that don't really matter (and we have far too many of those already) and thoughtful

controls on selfish activities likely to harm others, or close off their options, now or in the future.

• I also believe that if things are going well, that will eventually change. If they're going badly, that too will change.

Consequently – and based on those principles – true conservatives actually conserve those things that may be of value to future generations, particularly when replacement would be difficult or impossible. That, therefore, is what I'm asking of the Grant Township plan. Once an area of good soil is given over to development it is lost to our nation's food supply ... FOREVER.

America has been incredibly fortunate for the last century or so. Our population in 1920 was about 106 million. A generation later it was 160 million. Quite happily, the development of hybrid corn, wheat, and vegetables increased yields enough to make up for the population growth.

From 1950 to 1980 our population grew almost 50% to just under 240 million, BUT chemical fertilizers, herbicides, and insecticides permitted another increase of yields that once again made up for the population growth.

Once, however, the Baby Boomers began to buy homes in the early '80s encroachment on prime agricultural land became a growing problem. Since that time our population has grown by 70 million, but a lot of good land has disappeared into suburbs and industrial parks. Yields were pushed a bit farther, while heavily subsidized water in California and elsewhere has allowed the cultivation of previously under-used land for farms.

Unfortunately, many of the big horticultural areas of California are now beginning to suffer from soil salinization. The last few decades of irrigation have increased salt levels in those soils to the point it has become challenging to produce some crops. California farmland is already being abandoned.

Questions of "local" food supply are therefore not just some hippy-dippy deal at the Lawrence Farmers' Market.

Much of the soil in Grant Township is of exceedingly rare quality. Less than one-quarter of one percent of all the soils *in the world* are as good as the Eudora soils in the Kansas River valley. I farm Eudora soils myself, and they are a priceless treasure. Grant Township is full of them, and once they are gone, they're gone. What are you going to do? Bulldoze the local equivalent of Fedex?

The Kaw Valley at one time furnished potatoes for much of the region, along with watermelons, sweet corn and other crops. Canneries employed scores of people to preserve crops for the winter. Canneries are less common in this era of quick-frozen crops, but the essential point is the same.

To choose only one example, potatoes yield about 25,000 pounds per acre around here. *Per capita* consumption is 126 pounds per year, but let's limit it to the 44 pounds per year consumed as fresh potatoes. The 15-county KC metro area has a population of 2 million, and on that basis consumes about 88 million pounds of potatoes in fresh form. That's about six square miles of potatoes, and in a sensible production system you return to potatoes perhaps once every four or five years.

Only certain soils are suitable for potato production, most notably (around here) Eudora soils. If other areas get into trouble, where are you going to find 25 or 30 square miles of Eudora soils if they've been given over to industry? Between the Fedex facility at Edwardsville moving upriver to Topeka there are only about 40 square miles of Kansas River bottomlands, and by no means is all of it the Eurdora soil type.

And potatoes are only one crop for fresh consumption. What about the other heavily consumed vegetables? Tomatoes? Spring and fall lettuce? Onions? Sweet corn?

More to the point, UN population growth estimates for the US anticipate a population over 400 million by mid-century. We are the only developed nation in the world with a growing population. How, exactly, do we expect to feed an additional 90 million people? As it is, we must produce more food in a single year than was required to feed the nation for the entire first half of the 19<sup>th</sup> Century.

As an agronomist I can declare with confidence that yields for most crops have topped out. We already have captured the yield increases available from hybridization, fertilizer, and pesticides. Genetic engineering is improving crop quality (in some cases) and reducing the demand for inputs (in others), but it is *not* increasing yields. Increasing quantities of food therefore depend upon continued availability of suitable high-quality land.

The Kaw and Missouri River valleys are irreplaceable for horticulture, and consequently remain a profoundly important insurance policy in view of projected population growth. These valley soils would become even more critical in case of food supply disruptions in other production areas, particularly because prolonged drought is a significant ongoing threat in most of those areas.

In recent years heavily subsidized water in places like California, heavily subsidized road transport across the country, and relatively low energy prices in general have significantly distorted the economics of food production in the Kaw Valley. Will that last forever? Obviously not.

So, in forty years do you think it will be worth the fight for your successors to demand the bulldozing of those old industrial parks in what used to be Grant Township in order to make way for food production? Would you wish that battle on them in a time of distress ... or would you prefer to convey the option, unhindered and uncompromised?

At the end I must return to the question of property rights. Zoning in Lawrence and other cities does not generally permit someone to open a pub in his living room. If he wishes to operate a pub he must locate in a sector where such activities will not destroy or disrupt the intrinsic value of a residential area. Suburbs, too, are subject to restrictions on property rights in order to preserve what is of value for the present and the future.

It is therefore unrealistic — and unreasonable — for property owners in rural areas to demand completely unrestricted property rights merely by virtue of a rural situation. This is particularly true when unrestricted activity eliminates irrevocably important future options. Rural citizens do not, and should not, have completely unlimited "property rights" just because they don't live in town.

I must also highlight a conceptual problem, distressingly common amongst planners — it is the belief that farmland is a place to **hold** land until a "higher and better" use comes along. Over here in Johnson County, that's even part of the official definition of "rural" land.

For most of the soils in Grant Township, and Kansas River bottom land soils in general, however, **agriculture is the highest and best use.** 

I strongly encourage you, therefore, to encode that reality within the framework of the Grant Township development plan. Please do not permit property owners in Grant Township to liquidate irrevocably — for their personal and immediate gain alone — the entire intrinsic <u>future</u> value of those remarkably rare soils.

Vivian E. Miller 25962 Linwood Road Lawrence, KS 88044

RECEIVED

JAN 14 2010

City County Planning Office Lawrence, Kansas

Mr. Dan Warner, Long Range Planner Lawrence-Douglas County Planning Office 6 E. 6<sup>th</sup> Street Lawrence, Kansas 66044

Dear Mr. Warner,

I own land in the Northeast Quadrant near the Airport. I like to see land used for agriculture including my land. Despite my wish for the land, I am shocked that zoning might be placed into effect that would tell me how my land could be used. I am very opposed to such zoning. If such zoning were put in place, it would be like a slap in the face by big brother.

We farmers do not have much voting power as there are only a few farmers compared to those living in Douglas County. That fact does not justify the majority running rough shod over a small minority of farmers.

Thank you for your consideration of these thoughts.

Very Sincerely,

Vivian E. Miller

Vivian E. Miller

Mr. Warner My historic was a farmer, So I had up for farm people of selling their land for other businesses. This area is good farm ground and should other when a farming community unless the farmer want it otherwise.

#### **Dan Warner**

From: Frederic Brown [brown\_frederic@yahoo.com]

Sent: Monday, November 16, 2009 9:04 AM

To: Dan Warner

Dear Mr. Warner,

I am writing you in regards to the north east sector plan. My name is Ric Brown and I recently received a BS in Civil Engineering. I wanted to voice my concerns on possible <u>future development</u> in <u>North Lawrence</u> and turning it into an industrial park might be a huge mistake for future generations. A lot of farmers are concerned future development could cause more run off and flooding problems for those who want to remain in agriculture and this plan will cost the city millions of dollars in <u>flood mitigation</u> infrastructure. Some "old time" developers to this day would not develop even an outhouse in North Lawrence because they experienced the 1951 flood. With decreasing water supplies on the west coast and changing climates, Kansas will be more depended on for future agricultural needs. This is why Lawrence should preserve its rich soil for agriculture. Thank you for your time.

Sincerely, Ric Brown

## RECEIVED

NOV 16 2009

11/13/09 Lawrence Douglas County Planning Department NE Sector Plan Comments

City County Planning Office Lawrence, Kansas

The Lawrence Chamber of Commerce has participated in all phases of the development of the NE Sector Plan to ensure the planned growth and development of the business/industrial/agricultural components of our local economy.

The NE Sector contains critical transportation elements that merit special consideration. Obviously the Lawrence Airport lies in the planning area and its continued use is essential to the future of the region. The area immediately around the facility should also be considered for future aviation industrial and research development. We have already seen companies and new employees brought into the local economy because of the airport and it's business connections.

This area is the hub of local, statewide and national distribution and warehousing. The proximity of this area to national trade, demands that land be available for distribution centers and potential agricultural distribution as well. The area is also served by rail and the potential for future rail spur development should be considered.

The agricultural landowners and those who farm this area must be able to respond to changing markets. Their expertise in dealing with soil, climate, planting/harvest requirements and the economies of agricultural production should be considered in any long range planning.

The issue of storm water management from past and future development must be addressed particularly as it relates to existing North Lawrence residents, businesses and industry.

Finally, all groups and individuals with a stake in the future development of the region must be willing to compromise. The concept of all of the area being put under an "agricultural production only blanket" is unrealistic and not in the best long term interests of Lawrence, Douglas County and the region from an economic development perspective.

#### **Dan Warner**

From: Barbara Clark, Maggie's Farm [maggiesfarm@sbcglobal.net]

Sent: Monday, November 02, 2009 9:19 AM

To: Dan Warner

Cc: Jerry Jost; Chet & Deanna Fitch; Charlie Novogradac; Ted Boyle

Subject: Urban Growth Area for Northeast Sector

Good Morning Dan.

I'd like to request that within the context of drafting the Northeast Sector Plan, the 2003 extension of the Urban Growth Area to the Jefferson County Line be re-visited.

It seems timely to address this at this point in the process.

Thanks for all the work you are doing on this long-range planning process.

See you this Thursday evening.

Best, Barbara Clark 2050 E. 1550 Road Lawrence, KS 66044 Kenneth R. Holladay, M.D.

101 WEST 10TH STREET P.O. FOX & RECEIVED EUDORA, KANSAS 66025

TELEPHONE (785) 542-2345

NOV 1 3 2009

Dan Warner, City County Planning Office Lawrence, Kansas

Dear Sir., I attended my first meeting on 11-5-09 re northeast Sector Plan. I have not changed my opinion that each land owner should retain any option to use his land in any manner including industrial usage. I was surprised to see how many non- stake holders have an interest in telling the owners what they should do with their land. If they had their way the entire Kansas River Valley would still be farmland - no North Lawrence homes, no airport, no light business areas, I grew up an the farm I own - picked potatoes for Emil Hech: Ofthe Husted, smelled the pea factory, went to school at white, got flooded out in 1951 - So I have reason to be sentimental about keeping things the way

they were.

But I have signed a letter stating why there should be multiuses of any soil regardless of what category it is in.

Thanh you.

Kenneth R. Halladay

M.D. D

Box 707

EUDORA, KS. 66025

Email KRHOLLADAY MO@ AGL, Com

#### **Dan Warner**

From: Paul J. Holmes [pjhrbj@swbell.net]

Sent: Tuesday, November 10, 2009 11:01 AM

To: Dan Warner

Subject: northeast sector plan

Dear Dan- I attended last week's meeting and have a few comments. I think it is a mistake to close the northeast sector to comme reial/industrial development. I live on East 1550, north of the airport and drive daily to downtown lawrence. Lawrence is going to need to broaden and diversify its tax base if it is going to continue funding the programs and services valued by its citizens. I suspect revenues from retail sales and property taxes are at best going to be flat in the years ahead. The northeast sector has the best network of state highway access in the city and it is remote from your population centers. Why make it so difficult for taxing paying businesses to locate on some of this land? I would prefer to see a plan that allows 15-20% of the class I and II land fronting 24/40 to be developed without prejudging the suitability of a location. Give the market a chance and deal with proposals as they come. Paul Holmes 2026 E., 1550 Rd

Paul J. Holmes

Phone: 409-835-5011, ext. 782

Fax: 409-835-5729

Home Phone: 409-554-1126

Personal E-mail: pjhrbj@swbell.net

#### **Dan Warner**

From: Madeline Johnson [transformthemelon@gmail.com]

Sent: Monday, November 16, 2009 10:06 PM

To: Dan Warner

Please think of the long term effects of your actions. Destroying wetlands is an incredibly dangerous thing to do as it completely resets the natural course of the land. The wetlands play a vital role in the ecosystem and no commercial or housing development is worth ruining that.

Please, think of the future generations, and the people that depend on that land today.

Madeline Johnson

## The University of Kansas

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NOV 16 2009

City County Planning Office Lawrence, Kansas

Kansas Biological Survey

Dan Warner, Long-Range Planner Lawrence-Douglas County Planning Office PO Box 708 Lawrence, KS 66044

November 16, 2009

General Comments Re: Northeast Sector Plan Draft Goals and Policy

Dean Dan:

Our thanks to you and Planning Department staff members for allowing us to provide information on the Northeast Sector Plan. The following comments regard 1700 acres of land north of the airport that comprises the University of Kansas Field Station. Eight hundred and fifty acres of this land are within the planning area with the balance lying in adjacent tracts just outside the plan boundary. The KU Endowment Association provides the use of these lands, which now constitute a major program in environmental research and teaching. The Kansas Biological Survey facilitates research, teaching, and outreach opportunities on these lands to further the mission of the University of Kansas. In addition to scholarly contributions, these activities in their entirety have had significant economic benefits to KU and the local community. As we continue to support and expand the KU Field Station and its mission we are, of course, keenly interested in any projects or development that may affect the KU Field Station.

Scientists from KU and many other universities use the natural and managed habitats and facilities at the KU Field Station for diverse research. Likewise, innovative educational opportunities are available to KU students and the public. A series of nature trails for the public have been developed on KU Field Station lands to provide greater opportunities for outdoor education and enjoyment of the natural environment. All these activities are possible in large part because of the environmental character of the area, and the specific attributes found on the site.

Development in any form that has the potential to adversely impact the KU Field Station is a major concern for stakeholders in the research and teaching activities there. Changes in land use, habitat fragmentation, and pollution of land, air or water resources often associated with nearby development likely would alter environmental characteristics necessary for research and teaching efforts. We ask that any development proposals be considered in light of the potential consequences on the KU Field Station and its role in supporting the mission of the University of Kansas. It is imperative that the long-term integrity of the site is preserved so that the KU Field Station can continue to provide a critically-needed platform for environmental research and teaching.

Sincerely,

W. Dean Kettle, Ph.D.

Associate Director

University of Kansas Field Station

cc: Ed Martinko, Director

Monte Soukup, Kansas University Endowment Association



## RECEIVED

NOV 1 3 2009

City Gounty Planning Office Lawrence, Kansas

November 6, 2009

Dan Warner, Long-Range Planner Lawrence-Douglas County Planning Office PO Box 708 Lawrence, KS 66044

Re: Northeast Sector Plan Draft Goals and Policies

Dan,

First of all I would like to thank you and Scott for visiting with Dean Kettle and myself, and complement you both on the entire process. The public meetings have run very smoothly, especially considering the vastly diverse opinions with regard to how this area should be viewed and developed.

I believe that you have done a nice job of capturing the general principles that KU Endowment would like to have considered with regard to the development of this area. To reiterate:

- 1. We strongly support the work performed at the University of the Kansas Field Station in the north east corner of the planning area. Land that KU Field Station uses, and where they began research and teaching activities in 1947, is owned by The Kansas University Endowment Association. In support of their work, we strongly discourage development of almost any kind, but particularly any intensive use that would negatively affect the research and teaching activities at the site or alter the natural environment. Development in this area would likely have an adverse effect on the ongoing research performed at the Field Station, which has been established as a long term facility for KU.
- 2. We support maintaining the flexibility of the proposed uses for the property that KU Endowment owns around the airport. Although this area is currently being used in an agricultural application including plant research by KU and Pioneer Seed, we do not know how the University may need to use this land two, fifty, or one hundred years from now and feel that flexibility is the key.

If there are ever questions regarding KU Endowment, our viewpoint, or intended use of these areas, I am more than happy to try to assist in gaining a better understanding.

Respectfully submitted,

Monte Soukup

Vice President for Property

### RECEIVED

NOV 1 3 2009

City County Planning Office Lawrence, Kansas



1446 E. 1850 Rd., Lawrence, KS 66046 785-843-1409

November 2, 2009

Dan Warner, Long-Range Planner, AICP Planning and Development Services, 6 East 6th Street, Lawrence, KS 66044

Dear Dan,

I live and farm in the Kaw Valley and have carefully watched the Northeast Sector Planning issue. As a farm that has transitioned from being a cattle feedlot and row crop operation to an on farm market and greenhouse, specializing in vegetable, bedding plant, and fresh cut flower production, we are one of very few farms in the area, attempting to generate total income through agriculture.

Many of the people involved on both sides of this issue are good friends and important customers of my farm. I hate to disagree with those who see horticultural production as being the answer to keeping Grant Township in production agriculture. It is simply not as profitable as many hope or believe.

We currently grow twenty acres of asparagus for the local fresh market. Yes, if we could grow more, I do believe we could sell it. Kansas City grocery chains have approached us to do so, but the cost of intensively farming more acres brings new challenges and expenses. Our farm's greatest return on asparagus production was when we had a half acre planted. With twenty acres in asparagus, our gross isn't close to 40 times of what we made when we first started. Hired labor (at minimum wage), extended liability insurance, and larger exposure to catastrophic weather risks with increased acres are just part of the extra expenses.

From the paragraph above, you can see that I agree that small-scale farms can be more productive-per-acre than larger ones. Yet that productiveness does not transpose when increasing acreage. It is very easy to be efficient on one acre, but doubling to two acres requires more labor, more mechanization, more management, and more liability. I also ask the question, "Where are we going to find hundreds of people who want to farm for a living?" Farming on a small scale requires more manual (cheap) labor, a nice hobby, but not something most Americans want to do day in and day out.

Having been in the horticultural industry for thirty years now, I derive my livelihood from my wonderful customers who support our farm. I am a huge proponent of local food and local food systems. I aggressively promote other local growers to our customers, and my wife

started the local farm guide that can now be found online at <a href="www.growinglawrence.com">www.growinglawrence.com</a>. I think that all the local growers are assets to this community, and should be held up as wonderful examples of the entrepreneurial spirit. I am however, very disturbed by the proliferation of local food system programs that seem to rely on donated land or/and volunteer labor. I don't see this model as sustainable in the long run.

For those who do not derive their sole income from farming, the land is often highly valued for its scenic views and open space amenities. These added benefits should not take precedents over maintaining agriculture as an economically viable industry. They are often interested in farmland preservation to protect the romantic idea of a "rural way of life". We must remember there can be no farms without farmers. There will be no farmers without profit, and profit shouldn't be discouraged. Land use restriction alone will not guarantee the financial success of a farm, and the value of farmland is usually much higher for non-farm uses.

Farmers typically have most of their assets invested in land and equipment, things needed for production. People who have off-farm employment invest retirement money elsewhere, such as stocks and tax-deferred 401(k) programs. In a few years I hope to sell my farm and be able to retire. I would love to see a farming enterprise continue, but if someone would pay me more to create a park or something else – that's okay. I would hate to see any restriction that would limit landowners' options.

John Pendleton

November 3, 2009 2000 Crossgate Drive Lawrence, Kansas 66047

Mr. Dan Warner AICP Lawrence-Douglas County Planning Commission 6 East 6th Street Lawrence, Kansas 66044

Dear Mr. Warner:

I was out-of-town when the second public meeting on the Northeast Sector Plan was held (October 18<sup>th</sup>), therefore I am writing to provide information which will hopefully be considered in the Planning Commission's deliberations.

It is noted that some comments from the public have been directed toward the best use of land and that soil types 1 and 2 are "premium" soils which should be reserved exclusively for agricultural use. Although data is not available it is believed that many, if not most, of theses comments have been made by persons not having any direct interest in the farms having soil types 1 and 2. The value of land that could potentially be developed for industrial, commercial and/or residential use substantially exceeds that of land when valued economically on the basis of agricultural potential use only. Our family has a 33% interest in a 250 acre farm within the Northeast Sector.

Secondly, it is noted that much of the land area in the Northeast Sector is "premium", not only for agricultural use, but is "premium" also for industrial, commercial and/or residential use. The attributes that make this area "premium" for development include an already existing infrastructure with an excellent transportation potential (Highways 24, 59 and 70, rail and air), a highly educated workforce, a highly recognized K-12 school system, near a "major" R and D University (KU), and much of the area is within 1 to 2 miles from the city limits of Lawrence which affords facilities and an excellent quality of life to prospective employees.

Lawrence and Douglas County have very poor records of attracting new industry and thereby improving its tax base. The attached article from the September 25<sup>th</sup> issue of the Lawrence Journal World indicates Lawrence ranks last, economically, of 34 regional cities in gross domestic product. We need to attract more industry—not place additional roadblocks in the way. Almost all Douglas County residents will benefit from having new development reduce taxes while farmers will also benefit from the increased value of their land due to potential future development activity.

It is respectfully requested that soil types not be a significant factor in establishing guide lines for future development in the Northeast Sector.

Lewis a Phillips

LAWRENCE JOHNAL WERLD

# awrence ranks last economically

## Among 34 regional cities, ours is lowest in gross domestic product

By Chad Lawhorn

clawhorn@ljworld.com

Lawrence isn't being very productive these days.

New federal numbers that measure the overall size of a city's economy found that Lawrence in 2008 ranked last among 34 cities in the Plains region in terms of per capita

The new GDP numbers considered a broad measure of economic health of a community - did not catch economic development leaders by sur-

gross domestic product.

prise.

"This is one that a lot of economic development leaders and business leaders have been scratching their heads about," said Roger Zalneraitis, economic development coordinator for

Gross domestic product measures the amount of income produced in an area. The new report from the Bureau of Economic Analysis measured total GDP for all 366 metropolitan areas in the country. The report also broke the numbers down on a per capita basis to allow for easier comparisons between metro areas of different sizes.

## University towns

Here's a look at the per capita GDP numbers of the 13 other university cities that City Hall leaders have said are similar to Lawrence.

1. Iowa City, Iowa: \$39,256

2. Charlottesville, Va.: \$37,800

3. Missoula, Mont.: \$35,041

4. St. Cloud, Minn.: \$33,451

5. Champaign-Urbana, III.

\$30,368

6. Columbia, Mo.: \$30,268

7. Gainesville, Fla.: \$29,960

8. Grand Junction, Colo.:

\$29,056

9. Bellingham, Wash.: \$28,772 10. Athens-Clarke County, Ga.:

\$27,050

11. Johnson City, Tenn.: \$26,285 12. Bloomington, Ind.: \$25,965

13. Lawrence: \$24,692

14. Chico, Calif.: \$22,719

Lawrence checked in with a per capita GDP of \$24,692. That was up from \$24,578 in 2007. But the 2008 total is actually less than it was in 2001, when it was \$25,659. The numbers are adjusted for inflation.

The report broke the country

into regions, and Lawrence's per capita numbers were the lowest of the 34 cities in the Plains region. Lawrence was about \$1,800 behind the next lowest, Joplin, Mo. Lawrence was well behind the region's leader, Des Moines, Iowa, at \$50,959.

City Hall leaders also maintain a list of college communities across the country that are considered similar to Lawrence. On that list of 14 cities, Lawrence

ranked second to last.

The numbers indicate the city's economic growth has not kept up with its growth in population, even though population growth has slowed over the latter half of the decade.

"This is a long-term concern," Zalneraitis said. "It is not just a concern that has come up in the

last year."

Zalneraitis said the numbers show that Lawrence's economy has never fully recovered from a national downturn following the 9/11 terrorist attacks.

"Back then we did not have a downturn as big as what other counties experienced, but we also had no bounce back," Zalneraitis said. "We've just kind of

Please see LAWRENCE, page 7A

### NATION

Friday, September 25, 2009 | /A

## awrence last in economic rankings

CONTINUED FROM PAGE 1A

sat there. The question is why. It is a tough question to crack, but that is clearly what

is going on."

There was some positive news in the report. From 2007 to 2008, the total value of goods and services produced in the Lawrence area grew by 1.7 percent. That was far better than the national average of 0.8 percent, and was close to the 2 percent average for the Plains region.

Zalneraitis said the Midwest has fared better than many other areas of the country because the downturn in the real estate market has not been as severe here as it has been on the coasts.

But economic development leaders have said Lawrence may be suffering more than some other communities in the region because home construction does play a major role in the city's economy.

The city also is home to several manufacturers that make products for the construction industry.

The new report did show a

dramatic drop in the role construction plays in the economy.

In 2001, construction activity contributed \$128 million to Lawrence's GDP. In 2008, it contributed \$78 million, a decline of 39 percent. That drop was the largest percentage drop of any city in the Plains region, and was well above the region's average construction decline of 22 percent.

<sup>—</sup> City reporter Chad Lawhorn can be reached at 832-6362. Visit his Town Talk blog at LJWorld.com/weblogs/town\_talk.

To: Dan Warner, Long-Range Planner dwarner@ci.lawrence.ks.us

From: Gary Price, Landowner Western Douglas County Immediate Past President, Douglas County Farm Bureau

Re: Northeast Sector Plan and Douglas County

I want to make several observations about development in Douglas County.

- 1. I attended the first two planning meetings for the Northeast sector and had a conflict with the third meeting. Comments were made about non-landowners in the Northeast Sector being in attendance. All farmers are affected by the decisions related to land usage in Douglas County. If we do not support industrial development then taxes will continue to rise on farmland.
- 2. I am assuming all of us want strong schools, good roads and other services that makes our community a good place to live and raise our families.
- 3. Lack of planned development causes increase in taxes on all of Douglas County agriculture land.
- 4. For many farmers their land is their retirement, nursing home care, health care and their 401K. Many of us grew up in families affected by the depression and our only investment is in land and we depend on its appreciation in value to provide us an income when we reach retirement.
- 5. Landowners should be able to decide what should happen to their land. If some farmers want to sell for industrial development then they should have that right. If other landowners want to use their land for small crop production then they should have that right. It seems to me compromise and respect for each other's value system should be a high priority.
- 6. Even though this ground is good farm ground it may not be the best place to farm next to the city.
- 7. We have a very limited growing season and I think it is unrealistic the think that all of that land could and should be used for small food crops.
- 8. Small food crops depend on a certain labor supply that will need housing, education and medical care.
- 9. Small food crops will need storage and processing facilities. This in industry!
- 10. I am attaching a chart I prepare with the chamber's help and I want to make the following observations:
  - a. These 8 industries take up a total of 217.59 acres
  - b. From these 8 industries the property tax totals \$1,565,742.46.
  - c. From these 8 industries on 217 acres 2352 individuals are employed.
  - d. With industrial use for these 8 the average property tax per acre is \$12,007.72.
  - e. At present land around the airport is assessed at \$200.00 per acre if classified as agricultural.

- 11. I am not a planner but it makes sense to me to identify the industries that have success in our community, determine what qualities provides for a good match in terms of labor force, environmental factors, resources, transportation, etc and then try to recruit other industries with those same qualities.
- 12. In addition I hope Douglas County citizens believe that strength comes from diversity with includes a strong agriculture and industrial base. Farms through out the US are raising more food on few acres (1 farmers raises enough food to feed 142 individuals) and continue to do so and a shortage of food is not the issue in Douglas County but we do have a shortage of jobs.

<b>Industrial Property</b>	Tax. Acı	reage. Emplo	vee Coi	ınt			
<u> </u>	142,710		<del>, 00 000</del>				
Company	Acres	Property Tax	# Emplo	Ave Val per ac	Persons pe	er acre	
Lawrence Paper Co.	49.35	\$361,457.00	209	\$7,324.36	4.24		
Berry Plastic	19.3	\$193,691.76	665	\$10,035.84	34.46		
Del Monte	30.2	\$134,623.00	168	\$4,457.72	5.56		
ICL (FMC)	74	\$597,955.54	161	\$8,080.48	2.18		
Allen Press	1.3	\$70,662.70	320	\$54,355.92	246.15		
Hallmark	32.74	\$183,938.40	815	\$5,618.16	24.89		
Capitol Concrete	3.1	\$16,274.64	5	\$5,249.88	1.61		
Shuck Implement	7.6	\$7,139.42	9	\$939.40	1.18		
	217.59	\$1,565,742.46	2352	\$12,007.72	10.81	ave	
land in KS river valley				\$320.00			
tree covered unfarmed				\$10.00			
land around airport if inc	dustrialized			•		200.00 per a	cre
# of acres need to gene	rate	7,828.71	acres @ 20	00.00			
property tax							

### RECEIVED

NOV 1 3 2009

City County Plaining Office Lawrence, Kunsas

City Comission Lawence, Kansas

Re: Proposed Northeast Sector Plan

Dear Members of the Planning Staff

My family has had a farm in the Northeast Sector of Douglas County for over a century. The land has been passed along through our family. The land is our family heritage. The Proposed Northeast Sector Plan would take away much value from this property by limiting severely the use to which we could put this land.

The Proposed Plan violates a fundamental principle. Individuals believe that the fruits of their labor should not be taken from them. The value of the land acts as a retirement plan which can be leased, given to a family member or even sold. It is highly important that these farm lands are valued at their full market price. To restrict the uses of this land robs us of the full value of farm land that has been cared for over several generations. There is no demonstrated public purpose for doing so.

I strongly suggest it is in the best interest of Lawrence, Kansas that the opportunity of full growth be retained in the Northeast Sector to benefit not only the farmers, but the community. Lawrence as a city would continue to be able to grow, and it would provide additional employment.

Thank you for the opportunity to enable land owners and property owners to share their individual concerns. I attended two of the meetings and have learned there are many dreams of different individuals. Surely there is a way where individuals can work together and through working together, everyone's needs and dreams can be realized.

Sincerely,

morning J. Recling

November 16, 2009

Dan Warner, Long-Range Planner Lawrence-Douglas County Planning Office 6 E. 6th Street Lawrence, Kansas 66044

Dear Dan,

I agree with the comments made by Citizens for Responsible Planning.

I am a "Landowner of Grant Township" but I disagree with the assertions of the document allegedly representing "the Landowners of Grant Township." I own the 12 acres collectively known as Pinwheel Farm, located at 1480 N. 1700 Rd.

Several misleading ideas keep coming up, but have not been sufficiently examined in this process. Please forgive the length of my comments; these are complex and important issues, and in the context of the far-reaching Northeast Sector Plan, they deserve very careful attention.

#### "I should be able to do what I want with my land."

I couldn't agree more! But, the cold, hard fact is that I have never been able to "do anything I want with my land" even though what I want to do is farm it. It has been many decades since owning land gave anyone the right to "do whatever they want with it."

For example, it is illegal for me to camp on my own farm! As an agricultural landowner, there are many other restrictions on my imaginary "property rights": utility connections, what can or can't be grown, well drilling, sewage disposal, setbacks, signs, height of structures, hunting, filling, mining, hazardous materials, waste disposal, OSHA, building codes, exotic animals, home businesses, hospitality, burning of trash or agricultural waste, use of pesticides...the list goes on. It is frustrating and it limits me, but I have still developed a solid farm business.

As an industrial or residential developer/landowner, esp. if annexed into the city, I still couldn't do most of those things, and there would be another whole set of things I couldn't do, like run a retail business from my home, make repairs to rental property myself, shoot off fireworks, have unrelated people living with me, or use free-ranging cats to control rodents. In this day and age, nearly everything we do is regulated and restricted—has been thus for longer than many of us have owned our property—and will be increasingly constrained by regulations at the Federal, State, County, City, and neighborhood levels.

This frequently-heard argument, heart-wrenching as it is, must be set aside in the planning process in order for wise long-term community decisions to be made.

The only real question is: which landowners, if any, will be allowed to exchange one set of restrictions for another, actually more restrictive set. Any financial benefit to this "freedom" is



very short-lived and mainly helps the individuals involved, not the entire community long term.

The burden on planners/regulators is to determine which restrictions for land use will have the greatest long term benefit to the community (local, regional and global) both financially and otherwise. If we become bogged down in trying to preserve the "rights" that each individual imagines for themselves, we lose our sense of direction, and future generations will suffer for it.

## "Douglas County does not have the population to support a market for all agricultural land available."

As a small farmer specializing in direct sales of fresh vegetables, lamb meat, and wool products, I can testify that my customer base includes a significant number of residents in Topeka and the KC Metro area, even though I don't deliver or promote my products outside the immediate Lawrence area. Other Lawrence area farms sell even more to the KC Metro area.

Kansas was once a significant exporter of fresh and processed fruits and vegetables to sustain our nation's larger metropolitan areas, and grew enough fruits and vegetables then to feed the state's population today. But we've regressed: we currently produce only a tiny fraction of the fruits and vegetables we consume. If fresh vegetables can be shipped from California across the country, they can be shipped from Kansas just as easily, and maybe more easily. Taking in Douglas County, the Kansas City metro area, and the rest of the U.S., with modern handling and shipping infrastructure, there is no lack of ready, accessible market for all the vegetables our high-quality agricultural land in the Northeast Sector can produce.

#### "Not allowing it to be rezoned will take away its value!"

Much land in the area that is zoned industrial has always been used as agricultural, and it has been appraised for tax purposes based on use, not zoning. Until a sale takes place to set an actual value, that tax appraisal is the land's defined value...based on its use.

Therefore, mandating that the current use of the land cannot change does not take away the actual current value of the land. All that has been taken away is the landowner's hope—speculation—that the land could theoretically someday be sold for a different use at a higher price, resulting in a windfall profit. In some states, such as Hawaii, I understand that when land use is changed to a higher priced use, then the owner must pay back taxes equivalent to what would have been paid had the land all along been used at the higher priced use. This helps prevent hope of windfall profits from distorting the planning and development process, and ensures more equity between those who sell early in the development process, and those who hold out for higher prices later.

To make this understanding of land value more clear by analogy: If I buy a Toyota (using my personal example), I have a car with a good track record for durability, reliability, good mileage, etc. It will do the job of getting me wherever I need to go, for a modest price. However, if I buy it expecting that it will someday magically turn into a Rolls Royce, I am likely to be disappointed. Have I lost anything of monetary value when I learn that it's going to stay a Toyota? Not really; I still have my trusty Toyota, I can still get around, the blue book value on the Toyota hasn't

changed, I can still sell it if I want to. All I've lost is my hope of realizing a fantasy.

Again, it's a heart-wrenching argument, but it must be set aside in order to make wise long-term land use decisions.

#### "It's my investment; it's my 401K!"

There aren't guarantees for future value for ANY form of investment or retirement planning. Other forms of investment such as stocks can be even more risky. Simple savings accounts are only guaranteed up to a certain amount should a bank fail, and there is no guarantee that inflation won't render the most substantial savings relatively valueless. We have seen ALL forms of investment fluctuate wildly this past year, and there is no predicting the future one way or another. Losing the gamble that they will have a windfall profit from re-zoning their land is sad, but so is the financial state of many who invested their 401Ks in stocks and other "securities."

Planning documents such as the Northeast Sector Plan can't predict or guarantee the future, either. Decades ago, it was believed that the area between I-70 and North Street would be a good place for industrial development, and it was zoned that way in the 60s. But over the years, our growing understanding of the interactions between development and stormwater management has resulted in the awareness that most of this land is too low-lying to be wisely built on. FEMA has designated as protected Floodways and Floodway Fringes many areas that were previously thought suitable for development. In fact, some houses in North Lawrence had to be bought by the City and torn down because they were so flood-prone. Sometimes new circumstances (stormwater issues, climate change, dwindling energy supplies, economic recession) make it apparent that reversing a previous planning decision will lead to better future outcomes than continuing to perpetuate an earlier decision that was based on inadequate information.

Now we are at the dawning of a new awareness: that much of the land in the Northeast Sector is too important as cropland to be paved over.

Part of my land was zoned Industrial when I bought it more than 12 years ago. I went to the Planning Commission and Douglas County Commission and petitioned them to rezone it Agricultural, reversing the earlier decision that had zoned it Industrial. The Staff "Findings" on my rezoning request were that agricultural use is the 'highest and best" use of the land. The County Commission commented that they liked to see this kind of re-zoning, and unanimously granted the request. These responses demonstrate that when political pressure to preserve individuals' "rights" to windfall profits are not at play, farmland preservation is seen as a significant benefit to the community. They could easily have voted to retain my land's designation as "Industrial" for the long term without taking away my ability to use it for agriculture, if they truly felt that Industrial was the highest and best use of the land.

#### "It's my retirement"

Property can be viewed as a person's "retirement" in different ways. It seems that most folks think of their land as a form of legal tender, not as "real estate". However, people can view their

property itself as their retirement home, rather than a means to pay for a retirement home.

Nearly 14 years ago, I essentially traded the 401K which I had at the time for the 10 acres of farm ground adjacent to my home. I bought them as my retirement plan—not because I thought that they would magically turn from a Toyota to a Rolls Royce, but because I thought I would need a Toyota for my old age. I am on track to be debt-free by the time I retire. I have a place to live the rest of my life. I have a solid business producing products that are likely to remain in demand no matter what the economy does. I can shift my production towards even lower input products as time goes by to make greater profits with less work, and I can partner, sell or lease the business when I want to "retire" from it. Because of the relatively small scale and diverse nature of my business, I can re-tool to produce different products very rapidly to meet changing demands—such as shifting from lamb to salad greens. My products will have intrinsic value whatever happens to the economy because they are biologically necessary to life.

My land is worth more today, in terms of is production capability, than it was when I bought it because I've improved the soil and built infrastructure. The vagaries of the economy can't take away that increased production capability. And it's worth a lot more than if I had kept the 401K.

Other business uses carry higher degrees of uncertainty in the long term, when natural resource depletion is considered. Farm ground is the only resource that can actually improve in quality and production over time. It's the closest we'll ever get to a perpetual motion machine...the more we use the soil well, the better it gets...unlike other resources that are depleted by being used.

Our prime agricultural land along the river—not just the Class 1 and 2 soils, but all the level, arable ground along the Kansas River Valley, is like the goose that laid the golden eggs. It makes a slow but steady return on investments, not just for the farmer through crop production, but for the whole community by mitigating storm water problems, replenishing the groundwater, releasing oxygen, and sequestering carbon.

Lawrence/Douglas County can keep its golden goose by designating as agricultural in perpetuity all Northeast Sector land currently zoned and/or used as agricultural, while allowing for modest agricultural-related, educational and recreational conditional use permits where these will support the appropriate main use of the land, such as has been done in the past.

Or we can kill the golden goose-subdivide it into residential developments, put in some warehouses, offices, and convenience stores. Lots of very expensive infrastructure will be needed. But then there is the real risk of such "improvements" going the way of the Tanger Outlet Mall while taxpayers for generations foot the bill for the underutilized infrastructure, without the promised jobs to offset the expense. Once we have paved the soil, returning it to agricultural production is very difficult and expensive.

"We need to create high-paying jobs to get back to the economic growth we've had in the past."

I'm not against creating more full-time, living wage jobs in Lawrence. But there is a need, too,



for jobs at a more basic level. In talking with a local grower about her staffing problems, we realized that the people who aren't dependable about showing up as scheduled for part-time, flexible agricultural jobs are probably even less likely to be able to hold down a full-time job.

We also need to realize that we can no longer make forecasts by simply extending the graph lines leading up to this present moment. "Business as usual" can't continue indefinitely in the face of climate change, the changing balance of energy supply/demand, the economic upheaval of the recent past, and global population growth. This is no futuristic fantasy. California—now bankrupt—is already experiencing severe droughts, reducing its agricultural production capabilities. Furthermore, its increasing population demands an ever-increasing percentage of the overall supply for household use.

Who will have both the water and the land to grow our nation's vegetables, when California and other areas dependent on irrigation can't? It could be us.

#### "The flat land in the Northeast Sector makes it ideal for industrial development"

Actually, in order to mitigate stormwater runoff and accommodate floodplain regulations in many areas, the land would have to be "unflattened" anyhow! A bulldozer can reshape clay nearly as easily as Class 1 and 2 soil.

Preserving for agricultural use the land most ideally suited to agriculture—not just because of its soil type, but because of the availability of abundant groundwater that is readily replenished and the close proximity to labor, infrastructure, and markets—is critical to sustaining our community in the long term. There is plenty of other land around Lawrence that is well-suited for industrial and residential development but does not have Class 1 & 2 soils or abundant groundwater.

I'm confident that in my lifetime, my land will be worth more for its value as prime agricultural land than it could ever be as industrial or residential development property.

If I were selfish, I would support the industrial and residential development around me—then my farm ground would be worth even more due to its increased scarcity! But for the sake of feeding future generations in Lawrence, Kansas, and beyond, I want to see all of our prime river bottom soil dedicated to sustainable agricultural and natural use.

Thank you for your thoughtful consideration of these comments.

Sincerely,

Natalya Lowther

P.O. Box 1561

Lawrence, KS 66044

785-979-6786

natalyalowther@hotmail.com



#### **Dan Warner**

From: Elizabeth Stevens [EAStevens@Sunflower.com]

Sent: Wednesday, November 04, 2009 8:48 AM

To: Dan Warner

Subject: Comments re Northeast Sector Plan

Dear Dan.

I cannot attend the upcoming meeting but I'd like to add my opinions to the mix as you develop this plan.

I would like to see the plan include careful consideration of the natural resources in Grant Township that will be lost without thoughtful, ecologically-sound development.

I am particularly concerned about the preservation of four valuable natural assets:

- prime soil for feeding the Lawrence community via local, sustainable farming
- intact landscapes that provide ecosystem services such as filtering our water and absorbing flood runoff
- recreational areas for Lawrence-accessible walking, hiking, bird watching, etc.
- wildlife habitat and migration corridors

Please work toward ecologically-aware planning that protects the natural features that attracted people to Lawrence in the first place. Development that bulldozes, paves over and eliminates Lawrence's natural assets may be economically attractive in the short run but will have larger and long-lasting negative effects.

Sincerely,
Elizabeth Stevens
Writer, screenplay consultant, photographer, filmmaker
<a href="http://sunflower.com/~eastevens/">http://sunflower.com/~eastevens/</a>



1783 East 1500 Road Lawrence, K& 66044-9305 Phone 785-843-6949 EAX 785-843-0526

Date: October 29, 2009

To: Lawrence/Douglas County Planning Commissioners

Lawrence City Commissioners
Douglas County Commissioners

Lawrence/Douglas County Planning Staff

From: PINE FAMILY INVESTMENTS, LLC

Roger C. Pine Sue A. Pine Shawn Pine Bay

Chris Bay Brian Del Pine Kathleen Pine

Re: Northeast Sector Plan

First, we want to thank you for the opportunities for interested parties to express their concerns and ideas. We understand this is time consuming for you but hopefully, you will have a more comprehensive view of the issues involved in developing the Northeast Sector Plan.

Sometimes what sounds reasonable and forward thinking on paper is not workable and practical for all those directly involved. We would like to present the following financial and livable considerations that should be taken into consideration:

1. Currently there are more than 100 vendors selling their produce at the Lawrence Farmers Market each week. This gives the residence of Douglas County the opportunity to purchase locally grown fruits, vegetables, and meats among other things. "Locally Grown" is a high commodity right now. Many people are of the belief the land in question should remain in agriculture for the purpose of providing locally grown produce for the residence of Douglas County – a respected and worthy goal.

Potatoes and corn have both been raised in Grant Township. One acre of potatoes can yield 25,000 - 35,000 lbs/acre. This is the equivalent of  $\frac{1}{2}$  semi-load. If 300 acres of potatoes, producing

9,000,000 lbs of potatoes were sold at Farmers' Market, the market would be flooded and everyone involved would loose (sp) financially. Sweet corn yields 250-350 crates (5 dozen ears/crate)/acres. Three hundred acres of sweet corn or 450,000 dozen ears of corn sold at Farmers Market would, again, flood the market and create financial disaster for all involved.

You do not plant a crop until you are sure you have a market. Douglas County does not have the population to support a market for all agricultural land available. There is room for locally grown, traditional and creative farming, and industry.

- 2. Douglas County, Kansas is not California, Texas, or Florida. Even though we have type I and II soils. We do not have the climate conducive to growing fruits and vegetables throughout the year. Late and early frosts, too much or too little rain at the appropriate time, and hot summers are just a few of the challenges we face. Additionally, the majority of produce grown has a limited shelf-life meaning they must be consumed at harvest. Pine Family Farms has, over the years, grown green beans, cauliflower, broccoli, sweet corn, popcorn, potatoes, blackberries, other fall crops and mums. We have experienced and dealt with all of these challenges.
- 3. There is a core goodness in farming that has kept us and our families attached to the land for generations we are 5<sup>th</sup> and 6<sup>th</sup> generation Pines in Douglas County. That being said, we are also business people. Profit margins in agriculture have never compared with traditional business, but in the past 10 years the ag industry margins have shrunk to levels barely above survival. After visiting with several ag accountants from this area, we have learned an equity investor would look for a 20%+ Return on Investment. If an investor looked to agriculture, he could expect 1-5% Return on Investment. A typical equity investor would not be dependent on a salary that would come out before the ROI. In farming the investor is involved in the day to day, and they are dependent on the compensation that comes from the farm. Often, after this compensation is taken out, there is no ROI left.

In farming, the capital is not just input when the land is purchased (like in a development and the initial development costs), rather there are input costs every year – fuel, fertilizer, feed/seed have to be paid every year and may or may not produce a crop that year dependent on things outside of your control.

4. Many farmers/landowners use their land investment as their 401K, something not available on the farm. Their land is their retirement. They have paid their taxes, paid the mortgage, lived off the land, taken care of the land and now it is time for them to retire. Currently farmland in Grant Township selling for industrial or commercial uses

sells for \$5000/acre and more. There is no way agriculture can support that kind of price. If you decide this land can only be used as farmland, you have devalued the land by perhaps as much as \$3000/acre and created the same economic condition our country finds itself in today.

The Northeast Sector Plan will flood the market with homegrown produce, allowing farmers to take a loss; allow them to pay for inputs, taxes, and again take a loss due to weather conditions, and not be able to sell their land for any more than they ever paid for it, leaving them what for retirement? Who would want to purchase such an investment?

5. Lastly, Lawrence and Douglas County are, obviously, hurting for cost of living job opportunities. The family farm is not going to provide the number of jobs as would business and industry. Vegetable production is labor intensive. There are studies which show that the return for labor is low and that would probably require introduction of migrant workers. The price/hour is not going to be what Lawrence is looking for, often times not much more than minimum wage and working 12-14 hours/day. Very, very few farms provide health insurance, retirement programs, investment opportunities, sick leave, etc. In the past, Lawrence has not been interested in this type of job opportunity.

Again, we would reiterate, "Locally Grown" is a worthy goal and we applaud people who are striving to reach this end. If they are the ones <u>actually doing the work</u>, they need to be praised and applauded for their beliefs and hard work. We believe there is room for all of us without creating more struggle, division and disagreements in this community. We need to agree to disagree and each do their quality best for what they see as needed and good for Lawrence and their own families.

Yes, farmland is important. But we cannot base all of our decisions on soil type. We must look at the broader picture and way the pros and cons. We want to feed this community but we also must provide jobs to pay for the food we eat. One cannot do without the other. Not all areas of this county have access to the airport, turnpike, major highways and easy drive to Kansas City and Topeka.

As landowners and farmers in Grant Township, Northeast Sector, we oppose a plan that would place any covenants on type I and II soils.

You have the heavy responsibility of deciding how the Northeast Sector Plan will read. However you write it, it will have a future impact on Lawrence that we all have to live with. We appreciate your work and consideration in these decisions.

Respectfully,

Pine Family Investments, LLC

#### **Dan Warner**

From: Barbara Clark, Maggie's Farm [maggiesfarm@sbcglobal.net]

Sent: Monday, November 02, 2009 9:19 AM

To: Dan Warner

Cc: Jerry Jost; Chet & Deanna Fitch; Charlie Novogradac; Ted Boyle

Subject: Urban Growth Area for Northeast Sector

Good Morning Dan.

I'd like to request that within the context of drafting the Northeast Sector Plan, the 2003 extension of the Urban Growth Area to the Jefferson County Line be re-visited.

It seems timely to address this at this point in the process.

Thanks for all the work you are doing on this long-range planning process.

See you this Thursday evening.

Best, Barbara Clark 2050 E. 1550 Road Lawrence, KS 66044

#### **Dan Warner**

From: Bill & Mary King [bking6@cox.net]

Sent: Saturday, October 31, 2009 11:27 AM

To: Dan Warner

Subject: Northeast Sector Plan

#### Dear Mr. Warner:

I am one of the landowners in the area of the North East Sector Plan that contains the Class I and II soils. I am writing to protest any restrictions on these soils as an infringement of my personal property rights. My family home, both parents and grandparents, was where 24-40 turns north, just before the junction with highway 32. My land is to the east and has been involved with the city of Lawrence's right of way for airspace for the airport. Some of my property involves land that has been set aside as perpetual wetlands and butts up against the turnpike. Our family at present and likely into the future desires to maintain this land as farmland. However, at times, events occur that make that imposible in terms of taxation and development of the surrounding area.

I have read over the visioning and SWOT comments that have been posted on your website. I am not aware of the make up of the group that was present that evening, but from the tone of many of the comments, I would expect that a large number of the group were made up of Lawrence residents that live south of the river. There did not seem to be much if any input from landowners in the area affected. That would be expected in that they are few in number compared to the population of Lawrence proper. I felt there was a theme that ran through the comments that this area should be legislated so that the people of Lawrence proper could enjoy it in its "natural state" rather than have it fulfill the opportunities that might be presented to it in the future.

I feel that it is good that Lawrence and the Douglas County Commisioners are focusing on this area. It is an area that will be important to the future of the City and County because of its proximity to the railroad, turnpike, airport, and intersecting highways. The City and County need to be careful that in the process of working out plans for the future, it does not infringe on the rights of the longtime owners of the farmland in this area.

The underslash between drafts and plans in the website was very confusing. In your letter it was covered up by the underline. I don't know if this was confusing to others but if your webmaster could change it, it might save you phone calls in the future. I live in the middle of Kansas which makes it difficult to attend these sessions. Please forward this e-mail to the others involved in this decision process. Thanks for your help and the opportunity that is being provided to comment on this process.

Mary King, Trustee MEMK Rev. Trust

#### Dear Commissioners,

As landowners in the Northeast Sector, we oppose a plan that would place any covenants on type I & II soils for the following reasons:

- 1. Risk of flooding locally grown markets. Douglas County does not have the population to support a market for all agricultural land available. There is room for locally grown, traditional and creative farming, and industry.
- 2. Shrinking Profit Margins. Ag Accountants from this area say an average Return On Investment in agriculture is 1-5%. Farmers need the flexibility of using their resources, including the land, to make the best business decisions possible.
- Eliminating or minimizing retirement savings. Many farmers/landowners use their land investment as their 401K. Their land is their retirement. If you decide this land can only be used as farmland, you have significantly devalued the land, and ultimately a farmers/landowner's savings.
- 4. Need of Living Wage Opportunities. Lawrence and Douglas County are in dire need of living wage opportunities. Business and industry will provide better paying jobs for more people than farming or locally grown food crops are capable of providing.
- 5. Room for all. We believe there is room for all types of land use without creating more struggle, division and disagreement in this community.

We consider any restrictions on these soils as an infringement of our personal property rights. We maintain that there is ample land in the area to maintain diverse uses for sustainable agriculture, traditional agriculture and industrial development.

Thank you for your consideration. Sincerely,

Landowners of Grant Township

SEE ATTACHMENT ONE

	Bran D. Print NAME PRINT	1783 E, 1500 ZJ ADDRESS
/	SIGNATURE SIGNATURE	PROPERTY
	Huthleen R. Pine NAME PRINT	1783 E 1900 Pd ADDRESS
	SIGNATURE	PROPERTY
	NAME PRINT	1650 N. 1600 Rd. ADDRESS
	SIGNATURE M. Bery	PROPERTY
	Shawn Pine Bay NAME PRINT	ADDRESS
	SIGNATURE SIGNATURE	PROPERTY
	RENNETH R HOLLADAY ND	BOX707 EUDORA, KS ADDRESS 66025
	Kenneth R. Hallaclay M.D. SIGNATURE	BOX707 EUDORA, KS ADDRESS 66025 40 ACRES IN SECTION 18 PROPERTY

NORMAN LEARY NAME PRINT	1059 E 1479 RD ADDRESS
Mórman Liany SIGNATURE	Grand Jownshin Sed 20 PROPERTY 400cm
NAME PRINT  Signature	ADDRESS  Grant Township Ser 20 PROPERTY 40 ROWL
Sue A. Pine  NAME PRINT  Jue a Clere  SIGNATURE	ADDRESS Linwood, KS 6605 Parts of Linwood, KS 6605 Sections 17,18,19,20,28: n Cetant PROPERTY Two.
Reger C. Pine NAME PRINT SIGNATURE	28758 Golden Rdt ADDRESS Lineway His Cho52 Paris of Sections 17, 18, 19, 20, 28 in Gran+Twn PROPERTY
NAME PRINT	ADDRESS
SIGNATURE	PROPERTY

Clifford Harding NAME PRINT  Clifford Harding SIGNATURE	200 N 8 Lawrence KS ADDRESS  56A 11-12-19 Grant Journeys PROPERTY
Lowell Neitzel  NAME PRINT  Fowell Matter  SIGNATURE	1953 E1460RD Lawrence ADDRESS  Strant  3 A 1212-19  PROPERTY
NAME PRINT	ADDRESS
SIGNATURE	PROPERTY
NAME PRINT	ADDRESS
SIGNATURE	PROPERTY
NAME PRINT	ADDRESS
SIGNATURE	PROPERTY

Bertha L. Wise Trustee NAME PRINT PLANTE Lustee SIGNATURE	1634 V11900 Rd ADDRESS 440 Acres 9-12-20 PROPERTY
NAME PRINT  Dog Westheffer  SIGNATURE	2202 Greenbrin A?, ADDRESS 21-12-20 & 5-12-20 230 Acry Grant + ws. PROPERTY
WANDA L. WESTHEFFER NAME PRINT (Janda L. Lastkoff) SIGNATURE	ADDRESS  J. 73 GRANT TUP  PROPERTY
PHLIP GILL HARRISON  NAME PRINT  PLANTING  SIGNATURE  HARRISON  FARMS	ADDRESS  BO acres Tag 125 Sa 2 7-19E  PROPERTY
NAME PRINT	ADDRESS
SIGNATURE	PROPERTY

FROM : NUMEMOKER-POSS INC.

PHONE NO. : 842 4360

Oct. **27 2009 04:**54PM P2

#### ATTACHMENT ONE

MARY NAME	E KING	ADDRESS GREAT BEND KS 6/530
77/04	E Kina	253 Acres TI25 RADE Seer 20121 PROPERTY Dy.Co. KS.
SIGNATU	RE /	PROPERTY Ly.Co. KS.
MEM	E Kasq E K sucrable trust	
NAME	PRINT	ADDRESS
SIGNATU	RE	PROPERTY
NAME	PRINT	ADDRESS
SIGNATU	RE	PROPERTY
NAME	PRINT	ADDRESS
SIGNATU	JR.F.	PROPERTY
NAME	PRINT	ADDRESS
SIGNATU	JRE	PROPERTY

Kent E Nunemaker NAME PRINT BET E Mulbe- SIGNATURE	25800 Linewood Ra ADDRESS  286 Ain TIAS RACKSECT 20129 PROPERTY GRANT TOWNSHIP
PAULINE M. NUNEMAKER  NAME PRINT  SIGNATURE  SIGNATURE	
MARY PROSS NAME PRINT  Mary P. Ross SIGNATURE	16/6 T), 1700 Rel.  ADDRESS  360A TIRSRAGE SEET 20429  PROPERTY
Potrick D. Ross  NAME PRINT  Patrick D. Ross  SIGNATURE	16/4 77, 1700 £d  ADDRESS  3603 TARROE SECT 20129  PROPERTY
NAME PRINT  La Marana  SIGNATURE	500 C 17 N 4 0 10 07  LANGE 148  ADDRESS  133A 7-12-20  PROPERTY

Dear Commissioners,

As landowners in the Northeast Sector, we oppose a plan that would place any covenants on type I & II soils for the following reasons:

- Risk of flooding locally grown markets. Douglas County does not have the population to support a market for all agricultural land available. There is room for locally grown, traditional and creative farming, and industry.
- Shrinking Profit Margins. Ag Accountants from this area say an average Return On Investment in agriculture is 1-5%. Farmers need the flexibility of using their resources, including the land, to make the best business decisions possible.
- 3. Eliminating or minimizing retirement savings. Many farmers/landowners use their land investment as their 401K. Their land is their retirement. If you decide this land can only be used as farmland, you have significantly devalued the land, and ultimately a farmers/landowner's savings.
- 4. Need of Living Wage Opportunities. Lawrence and Douglas County are in dire need of living wage opportunities. Business and industry will provide better paying jobs for more people than farming or locally grown food crops are capable of providing.

5. Room for all. We believe there is room for all types of land use without creating more struggle, division and disagreement in this community.

We consider any restrictions on these soils as an infringement of our personal property rights. We maintain that there is ample land in the area to maintain diverse uses for sustainable agriculture, traditional agriculture and industrial development.

Thank you for your consideration.

Sincerely,

Landowners of Grant Township (Names)

See Attachments A+B

## Attachment A Northwest Seafor Letter

We have one third ownership of the following tracts of land in Genny Township in Douglas County, Kansas

125 Acres in Section 7-12-20 77.62 Acres in Section 12-12-19 50 Acres in Section 13-12-19

CAROLYN H. Phillips LEWIS A. Phillips 2000 Crossgate Dr. Lawrence, KS 66047

Carolin H. Phillips 10-28-09 Zewi a. Phillips 10-28-09 Attachment B-Northeast Sector Letter

We own the Following tracts of land in Grant Tourship in Douglas County, Kansas.

> 114.2 acres in Section 18-12-20 + 1.7 acres in Section 18-12-20 3.0 acres in Section 12-12-20

> > Emil W Heck Ir. Bette Q Heck

1933 E 1400 Rd Lawrence, Ks 66044 Emil W. Heck Jr. Bette F. Heck

Attachent A = Northeast Sector Letter
We own the following tracts of land in Grant Township
in Douglas County, Kansas.

75 acres in Section 16, 125, 20E 60,8 acres in Section 11, 125, 20E 108 acres in Section 7, 125, 20E

James E, Congrove

Dorothy L. Congrove

1839 E 1700 Nd

Law rence | Kansas 66044

James Z. Congrove 10/27/09 Sorota f. Congress 10,27,09

# Attachment B- Nor Reast Sector Letter

We own the following tracts of band in Grant Township in Doughes County, Kansas

38/ acres in Section 6, 125, 20 E 70,5 acres in Section 7, 125, 20 E 63,5 acres in Section 8, 125, 20 E

Ralph Kitsmiller
1341 E1700 Road
Lowvence Kansas
Raph Kitsmiller
Amy Kitamiller

Roger Kitsmiller Poger Ktimille 1780 NI 1150 Rd Jaurence KS 66046 Attachment " - Northeast Sector

I own 64 acres in Grant Township
in Dauglas County, Kansus, in:

Section 16, 125, 20 E

Kenneth D. Reiling
838 West 22nd Terrace
Lawrence, Kansus 66046

Henneth D. Reiling 10/27/09

Attendment D The Holly Family has interest in the following tracts of land in Count Trip in Douglas County, Kansas ~ 135 nous à Sec 1/ Thp 125 Ray 19E ~ 36 nous à Sec. 7, Thep 125, Ray 20E Michael Haly, Owner, Morrages HALEY FARMS Po Box 904 LAURENCE KS 66044-0904

City of Lawrence Planning and Development Services Sixth and Massachusetts P.O. Box 708 Lawrence, Ks. 66044-0708

Re: proposed Northeast Sector Plan of Urban Growth Area of Lawrence, KS.

Dear members of the Planning staff:

As a landowner, and a significant stakeholder in any long range urban development plan for the City of Lawrence and Douglas County, it is with considerable concern that I view the ongoing public meetings regarding the Northeast Sector Plan of the Horizon 2020 General Plan. It concerns me as to why there seems to be such a negative connotation to non-agricultural land use development by a significant number of attendees at these meetings.

I, as an individual with thirty years experience as an owner/operator of a farm in the Kansas River valley, northeast of Lawrence can appreciate the value of this and other such land for agricultural purposes. Nevertheless, as a past student of Regional and City Planning and a former college Instructor of Geography, I question the intent and wisdom of those who would have the City of Lawrence straight-jacket most of the Kansas River valley in the Northeast Sector, for agricultural land use only.

If Kansas River valley soils are to be used as criteria for the determination of specific types of land use, then the use of Class I and Class II land suitability as a designation specifically for agriculture only, is too restrictive. The writers of the 1973 edition of the Soil Survey of Douglas County Kansas, indicate that these soils have the least need for restrictions on land use. It is the higher class soils (III to VIII) which have more need for restricted use. "The numerals indicate progressively greater limitations and narrower choices for practical use--". (pp. 22-28). With this in mind, as concerns the Northeast Sector Plan, it would follow that the uplands adjacent to the Kansas River valley, rather than the Valley itself, would require the greater land use restrictions by the appropriate Planning and/or governing bodies or agencies.

I would strongly recommend to the Planning Staff, that wise land use planning would involve evaluation on a tract by tract or site by site basis, considering all relevant information available. In other words, the highest and best use for some sites or tracts would be different from others, not excluding economic considerations. Some sites may be best suited for general business or commercial use, while others may be better adapted for residential, industrial, agricultural, recreation, or other uses.

I believe I am correct in my understanding that Regional and City Planning, and more specifically, zoning and eminent domain are the legal basis for land use restriction and/or regulation of property rights. It is my further understanding that these measures are to be used to limit or restrict land owner rights, only when the greater general public welfare is served by their use. The real question is when, and under what circumstances is the greater general public welfare best served by their use.

I would implore the appropriate planning and regulatory agencies of city and/or county government to use exceptional diligence and an appropriate time frame to make wise decisions as to land use planning in the Northeast Sector Plan of Horizon 2020. Hopefully, the future will bear out this wisdom.

Respectfully Submitted,

Kenneth D. Reiling

cc. Hank Booth, Lawrence Chamber of Commerce

Dear Commissioners.

As landowners in the Northeast Sector, we oppose a plan that would place any covenants on type I & II soils for the following reasons:

- 1. Risk of flooding locally grown markets. Douglas County does not have the population to support a market for all agricultural land available. There is room for locally grown, traditional and creative farming, and industry.
- 2. Shrinking Profit Margins. Ag Accountants from this area say an average Return On Investment in agriculture is 1-5%. Farmers need the flexibility of using their resources, including the land, to make the best business decisions possible.
- 3. Eliminating or minimizing retirement savings. Many farmers/landowners use their land investment as their 401K. Their land is their retirement. If you decide this land can only be used as farmland, you have significantly devalued the land, and ultimately a farmers/landowner's savings.
- 4. Need of Living Wage Opportunities. Lawrence and Douglas County are in dire need of living wage opportunities. Business and industry will provide better paying jobs for more people than farming or locally grown food crops are capable of providing.
- 5. Room for all. We believe there is room for all types of land use without creating more struggle, division and disagreement in this community.

We consider any restrictions on these soils as an infringement of our personal property rights. We maintain that there is ample land in the area to maintain diverse uses for sustainable agriculture, traditional agriculture and industrial development.

Thank you for your consideration.

Sincerely,

Landowners of Grant Township (Names)

28-12-20 33-12-20 Kanny Vogel
28-12-20 33-12-20 Laurence 64644

#### **Dan Warner**

From: Ann Kohler [akohler@magdalena.k12.nm.us]

Sent: Thursday, October 15, 2009 2:47 PM

To: Dan Warner

Subject: N W Sector Plan Comments

Mr. Warner

I represent a family partnership. We own three different farm parcels that are included in your NW Sector Plan area. My grandmother, a life long Lawrence resident was born on that land. It is just across the road from the school in which your meetings are held. We are 5<sup>th</sup> generation owners. None of us live close enough to attend your planning meetings. I do, however, get reports from those who do attend.

I understand that at the last meeting there were large lists of concerns, etc. written out on 4 boards. Everyone was given "dots" to place by the issues that were most important. What a fiasco, and people that had no business with a "dot" were given as much say as the farmers were, and my family (with a huge stake) didn't have a single "dot" at all. I would like to suggest that plan area farm land owners be given at least several "dots" for each acre of tillable land owned. We, after all, are the farm land owners. IF decisions are to be made about the future of our farm land, we should have the biggest voice in what the decisions are.

I also have been told the following: It seems that the philosophy behind this whole group is that we will be out of fossil fuels in 25 years, and we will need to grow all of our food within a small radius of where we live--and also will need to learn how to make our own clothes! It seems that Douglas County has been targeted by a national effort to put restrictive covenants on ag land. My goodness, are we then to be forced to produce food?

Our representatives in the planning commission think they can force us to produce their food? This is an insane precept.

Farming has been the back bone of our nation and my feeling is citizens and officials alike should respect, revere and be grateful for that and ask us what help and support we need instead of getting on our faces and telling us what to do with our land. There are few independent farmers left compared to generations ago. I propose you mandate truck farming and food growing lessons to any city resident with a back or front yard and require all to produce their own vegetables, and not sell or develop their yards. Isn't this the same thing you want to do to us? You all can get teams of non farming folks together and plant corn on all the open spaces at KU and in the city parks and in the medians. Here's an idea- how about banning all those fossil fuel guzzling air planes and plant lettuce on the runways at the airport?

Why stop at restrictions on our farmland? How about requiring all Douglas County residents and business owners to convert to solar energy, heat and hot water and restrict automobile use starting now? I can talk: I have solar energy, heating and hot water systems. I feed my family with a large organic garden (at 7,500 ft in the desert with primarily grey water and runoff to drip irrigate it).

Do you expect local farmers to pay for all the bureaucratic and political policy mistakes the local, state and federal officials have made over the years? Let us all accept the responsibility to figure out how to feed ourselves. Most have no clue how to grow an ear of corn or even a radish anymore. If local food is indeed going to be a problem, all people should relearn what their grandparents knew. Let them grow

a garden and keep chickens. Are chickens allowed in residential areas of Lawrence any more? We would still need the farmers, but would then, perhaps, give them the credit and support that is due.

Problems such as decreases in tillable land, fossil fuel and local food production are not simply issues of local rural land use, they are global problems brought on by many years of poor planning, greed and stupidity. Restrictions on rural land use won't solve anything by itself. Think about asking the local agricultural land owners to please remain in farming as long as they and their families can, and ask them how Douglas County can assist in that process. Our hearts are in what we do, respect that and try to see it from our perspective. Good grief, I have trouble believing this "planning" is really happening.

#### Thank you

Ann M Kohler, Manager Gilmore Sisters Partnership P.O. Box 1034 Magdalena NM 87825 575 854 8030 Jim and Dorothy Congrove 1839 E 1700 Rd Lawrence, Kansas 66044 October 23, 2009

City of Lawrence Douglas County Planning & Development Services 6 East 6<sup>th</sup> Street Lawrence, Kansas 66044

# RECEIVED

OCT 27 2009

City County Planning Office Lawrence, Kansas

We are landowners in Grant Township and have attended the first two meetings regarding the Northeast Sector Plan. Although we have not seen anything in writing what the Sector plan will include, we are commenting on some of the issues that have been discussed.

It has been pointed out that the area has been identified as having potential for economic development. The potential is based on proximity to Lawrence, access to interstate and Lawrence Airport, possible rail access and topography attractive to certain types of businesses.

Recent articles In the Lawrence Journal World have reported that Lawrence ranks low in job growth and wages. Many of those attending the sector meetings have made statements that indicate they are opposed to any economic development. Many of those opposing business development are promoting sustainable vegetable production for the area.

We believe there is room for economic development and also allow for as much vegetable production that is economically feasible.

There has been considerable discussion about a sustainable local food supply for Lawrence. We understand this has not been defined but the "local" food systems that we have read about certainly do not restrict the area of consideration to 3 or 4 miles, but rather look at a 50 mile or even larger area.

We think our climate will be the biggest obstacle in developing a diverse local sustainable food supply. Climate factors include length of growing season (late and/or early frosts), rainfall (excess or not enough) and hot summer weather.

We were one of the owners of an operation that grew around 300 acres of potatoes from the mid-70's until the early to mid 90's. These were produced for potato chips factories in Topeka and Kansas City. Potatoes in this area are ready for harvest in July which is normally hot weather. Potatoes harvested during hot weather do not store well. The potatoes we grew were processed within a few days. This would be typical for most vegetable crops adapted to this area.

Planning & Development Services October 23, 2009 Page 2

We also experienced leaf disease problems such as blight during wet rainy periods which can completely destroy the crop as was experienced during at least two or three years during the period. The risk of losing a high investment crop because of too much rain or humid weather is a factor that potential growers will need to address.

We also found that some fields in the area that are classified as Class I or Class II soils are so level that after a big rain the water does not drain quickly enough, causing drownout and harvest problems for vegetable crops which is important as most are perishable.

We enjoy our home vegetable garden and experience the ups and downs of growing most of the commonly grown vegetables and fruits in this area. Some years the weather conditions are good and we have a productive garden. Other years it isn't so good.

Based on our experiences, we question why it would be in the best interest of the community to discourage business development in the area which could provide job growth and an expanded tax base. We believe there is room for business growth in the area and also plenty of land for vegetable and/or fruit production.

Sincerely,

Jen Congress

Lorathy Congress

Jim Congrove, Dorothy Congrove

From: Jerry Jost [jerrytjost@gmail.com]

Sent: Friday, October 23, 2009 11:49 AM

To: Dan Warner

Cc: Barbara Clark; Ted Boyle; Charlie NovoGradacSubject: Recommendations for the Northeast Sector Plan

Attachments: NESectorPlanRecommendations.doc; class\_1\_2\_urban.jpg; class\_1\_and\_2\_acres.xls

Hi, Dan.

Thank you for involving citizens in the Northeast Sector Planning process. I want to submit recommendations to you as you develop a draft plan for the northeast sector on behalf of several interested parties in the area. We tried to base these recommendations from our review of other sector plans. As you will notice by our recommendations, we are strongly invested in this planning process and appreciate your serious consideration of our recommendations.

I welcome your reflections, responses and questions.

Best Regards,

Jerry Jost 2002 East 1600 Road Lawrence, KS 66044 (785) 766-0428 jerrytjost@gmail.com

#### Northeast Sector Plan

### **Goals and Guiding Principles**

### **Land Use**

**Goal** – Agriculture shall remain the predominant land use. Commercial and research development shall be within the boundaries of the Lawrence Municipal Airport targeting high quality aerospace jobs.

# **Guiding Principles**

- Two primary planning goals are to provide locations for necessary urban development and to protect natural resources, such as good agricultural soils. If growth is properly directed, the two rarely come into conflict. If it is not, neither goal can be achieved. Therefore, agricultural land preservation programs shall not be independent of more general growth management programs. (Reference: Policy Guide on Agricultural Land Preservation, American Planning Association)
- Prime farmland is of major importance in meeting the Nation's short and long-range needs
  of food and fiber. Because the supply of high-quality farmland is limited, the USDA
  recognizes that responsible levels of government, as well as individuals, should encourage
  and facilitate the wise use of our Nation's prime farmland (class 1 and 2 soils). (Reference:
  USDA)
- Class 1 and 2 soils are a finite resource in the county. Previously presented data showed
  Class 1 soils representing 2.8% of Douglas County and Class 2 soils representing 8.2%. These
  figures have been corrected by K State agronomist DeAnn Presley. With the removal of
  Class 1 soils in urban land types, these soils have been reduced by 24% and Class 2 soils by
  38.6%. (Reference: Attached map.)
- Development shall be discouraged on prime agricultural soils that are class 1 and 2 and including high absorbency soils capable of absorbing storm waters and ameliorating.
- Protected agricultural lands shall be preserved in large contiguous blocks.
- Land use shall strengthen the local and regional economy by promoting local and regional food systems.
- County and municipal governments shall adopt agricultural zoning ordinances as an appropriate technique for protecting agricultural land. Such agricultural zones would limit non-agricultural development to densities and development patterns that are consistent with continuation of agriculture. (Reference: Policy Guide on Agricultural Land Preservation, American Planning Association)
- The area shall serve as buffer against storm water flooding and to recharge underground aquifers.

### **Public Facilities and Infrastructure**

**Goal** – Public water and sewer infrastructure shall be extended to the Lawrence Municipal Airport for utilization on the airport property.

# **Guiding Principles**

- The agricultural soils of the sector are a natural storm water drainage and flood control infrastructure because of the soil types' high capacity to absorb and transmit water. These permeable soils mitigate flooding impacts upon existing North Lawrence.
- The sector is in large part, together with existing North Lawrence, a natural drainage area and flood plain which has suffered several devastating major floods in the historic past. Although levies have been erected by the US Army Corps of Engineers against flooding from the Kansas River there remain serious internal storm-water concerns as well as the possibility, acknowledged by the Corps of Engineers, of levy overtopping and failure. Therefore, flood and storm-water protection and management are of paramount importance to the protection of existing farms, businesses, the municipal airport, and residences. Additional development in the area strain the capacity of the natural and constructed storm water protection infrastructure, as detailed in the "North Lawrence Drainage Study." Therefore, development of the sector shall be restrained by the findings and recommendations of North Lawrence Drainage Study.
- In order to maintain the agricultural character of the area and preserve the low density of development and, the extension of urban services and infrastructure into agricultural areas shall be discouraged.
- The existing soils of the part of the sector within the historic flood plain are not well suited, using engineering criteria, for construction of large or tall buildings. The lack of grade through this area makes gravity sewage and storm drainage systems less practical and will require pressure mains and pump stations and associated increased costs.

# **City-Country Character**

**Goal** – The character of the area shall retain a prosperous rural atmosphere tied to its historical roots as an agricultural community. The current view shed of the Kaw Valley including open space and agricultural lands shall be protected.

### **Guiding Principles**

- The northern entrance to Lawrence shall visually integrate a pastoral landscape with an attractive city gateway. The Turnpike approach to North Lawrence is a first-impression view of the City of Lawrence and the University of Kansas skyline for many visitors arriving by highway or by air (from Kansas City International Airport). Care must be taken to preserve from any unsightly uses the prosperous, clean, attractive and open view shed.
- Travelers along the elevated turnpike shall continue to view prosperous agricultural lands on the northern horizon.

#### Environment

**Goal** - Land uses shall protect natural drainage systems and any development shall have no adverse impact upon flooding and drainage.

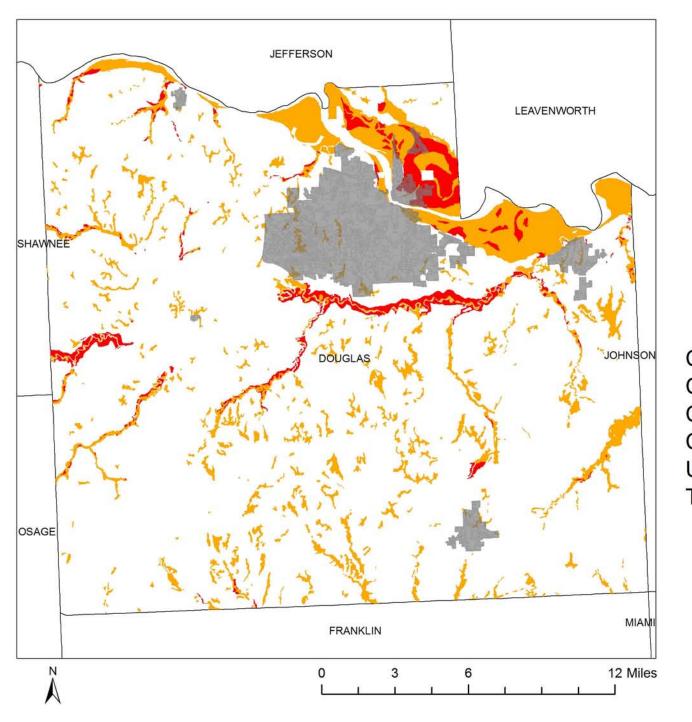
- Land use shall preserve existing natural ecosystems including the Kansas Ecological Reserves.
- The Kansas Ecological Reserves shall be protected as a natural resource for research and public education and recreation.
- Land use shall develop connectivity through a green corridor for transportation and recreational uses between pedestrian and bicycle trails in Lawrence and the University of Kansas Ecological Reserves.
- Flood management plans shall mitigate impacts of climate change.

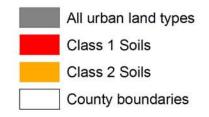
### Submitted by

Ted Boyle, President of the North Lawrence Neighborhood Improvement Association Barbara Clark, Grant Township resident and representative of Citizens for Responsible Planning Chet Fitch, life-long resident of Grant Township

Jerry Jost, Grant Township resident and representative of Citizens for Responsible Planning Charlie NovoGradac, Farmer in Grant Township

# Class 1 and 2 Soils, plus all Urban land types





	Acres
Class 1, Total	8,366
Class 1, Urban	2,009
Class 2, Total	33,053
Class 2, Urban	12,761
Urban, Total	21,298
Total Area	303,808

county	total county size in acres	total urban acres in county	acres of class 1	% class 1	acres of developed class 1	% of class 1 that is developed	d acres of cla	ass 2 %	% class 2	acres of developed class 2	% of class 2 that is deve	eloped
Wyandotte	99700		1437	1.4	4		•	19972	20.0			
Wabaunsee	511827		842	0.2	2		4	18457	9.5			
Shawnee	355488		29518	8.3	3		5	57063	16.1			
Riley	398400		15878	4.0	)		(	66084	16.6			
Pott	551366		18305	3.3	3		11	19415	21.7			
Johnson	307066		3148	1.0	)		4	11199	13.4			
Jefferson	356429		2806	3.0	3		4	19349	13.8			
Leavenworth	300300		3460	1.2	2		(	60112	20.0			
Douglas	303808	21298	8370	2.8	3 2009	9	24.0	33053	10.9	12761		38.6
Geary	258611		13187	5.	1		3	39329	15.2			
Jackson	420953		2779	0.7	7		8	39739	21.3			

From: Scott McCullough

Sent: Tuesday, October 27, 2009 8:29 PM

To: Dan Warner

Subject: FW: NE Sector Plan

**From:** Pauline Nunemaker [mailto:pmnun@att.net]

Sent: Tuesday, October 27, 2009 4:37 PM

**To:** nthellman@douglas-county.com; mgaughan@douglas-county.com; jflory@douglas-county.com; cweinaug@douglas-county.com; robchestnut@sunflower.com; mikeamyx515@hotmail.com; aroncromwell@gmail.com; ljohnson@peridiangroup.com; mdever@sunflower.com; Lisa Harris Email; greg@moorevaluation.com; cblaser@sunflorwer.com; bradfink@stevensbrand.com; hughcarter@dgcounty.com; rhird@pihlawyers.com; therenwgroup@sbcglobal.net; jeff@chaney-inc.com; MontanaStan62@gmail.com; ksingleton@kcsdv.org; David L. Corliss; Scott McCullough

**Subject:** NE Sector Plan

# Dear Commissioners,

For decades Grant Township has been a center for industry and agriculture. I believe there is ample land in Grant Township for traditional agriculture, food production for local consumption and industrial development. I would oppose any plan for the Northeast Sector that would place restrictions on type I and II soils.

Beginning in 1907 my grandfather rented and farmed the Robinson Farm, now owned by the Kansas University Endowment Association. After serving in WWI my father, Will Hayden, began farming this property. Five daughters, including me, were born and raised on this farm. My parents lived on and farmed the land for 50 years. In 1929 my family lost the productive farmland where the airport is. The location was no doubt chosen because of its proximity to Lawrence, and the fact that one of the few paved roads at the time was the Fort to Fort highway (Fort Leavenworth to Fort Riley), now highway 24/40, adjacent to the property. After his return from the service after WWII, my husband, Gene Nunemaker and I began to farm the land with my parents. Since then, much more of that productive farmland has been taken for further airport expansion by the City of Lawrence. My son, daughter, and families continue to farm the Kansas University Endowment, and City of Lawrence land surrounding the airport.

In 1948 my family and I purchased the property adjoining the Union Pacific Railroad known as Bismarck Grove. The Railroad hired us to operate a feed, water and rest stop for livestock on their way from Western Kansas and Colorado to the packing houses of Kansas City, until the 1951 flood. We improved the existing facilities as a cattle feedlot, growing much of the feed on the adjoining land. My family continues to operate that cattle feedlot today.

In 1950 the Westvaco Company was built across the railroad tracks from Bismarck Grove to take advantage of the railroad siding, proximity to Lawrence and highways, and access to the high-quality labor pool. Since the 1951 flood, the levee system in North Lawrence has been improved and maintained to prevent such a devastating flood from happening again. The Westvaco Plant was rebuilt after the flood, and is today the thriving ICL Performance Products L.P. and the Chemtrade Company. These manufacturing industries provide high paying jobs, contribute to the tax base of Grant Township and manufacture many valuable products for worldwide consumption.

In 1953 the northern acres of our Bismarck Grove farmland was condemned by the Kansas Turnpike Authority to be used as a borrow pit for the Turnpike construction. A valuable natural resource, sand, was dredged from the pit and sold to companies in the community for road improvements and other construction projects.

Ten acres of productive farmland that my husband and I owned was condemned by KP&L to construct an electrical substation. The airport project, turnpike project and substation were all uses that were for the greater good of the community, and I hold no ill feelings due to the condemnations. Because of the proximity to the City of Lawrence, airport, highways, railroad frontage and flood protection, much of our property has for decades been zoned for industrial use. With Lawrence losing more and more good jobs to other communities and countries, it makes no sense to change that zoning now.

Farming is a volatile business with many financial ups and downs. My family and I have been innovative through the years and have built a thriving, diverse agricultural business. We have sold property with railroad frontage for much more that its value as farmland. We started Bismarck Gardens, devoting 35 acres to growing food for local consumption. After my husband died, I sold farmland adjacent to the airport for much more than farm value. All of these actions have enabled me to retire and my family to improve the farming operation and stay in business.

Throughout my life I've seen that Grant Township land is destined to have many more uses that just agricultural. After giving up so much of it for the greater good of the community, it is my belief that placing restrictive covenants on type I and II soils would be unfair to me and my heirs. It would be an unjust taking of my personal property rights.

Sincerely,

Pauline M. Nunemaker

2718 Chipperfield Rd.

Lawrence, KS 66047

From: Scott McCullough

Sent: Tuesday, October 27, 2009 8:29 PM

To: Dan Warner

Subject: FW:

**From:** mnunross@aol.com [mailto:mnunross@aol.com]

Sent: Tuesday, October 27, 2009 6:29 PM

**To:** nthellman@douglas-county.com; mgaughan@douglas-county.com; jflory@douglas-county.com; cweinaug@douglas-county.com; robchestnut@sunflower.com; mikeamyx515@hotmail.com; aroncromwell@gmail.com; ljohnson@peridiangroup.com; mdever@sunflower.com; Lisa Harris Email; greg@moorevaluation.com; cblaser@sunflower.com; bradfink@stevensbrand.com; hughcarter@dgcounty.com; rhird@pihlawyers.com; threnwgroup@sbcglobal.net; jeff@chaney-inc.com; MontanaStan62@gmail.com; ksingleton@kcsdv.org; David L. Corliss; Scott McCullough

### Subject:

### Dear Commissioners,

We, the owners of Nunemaker-Ross, Inc., oppose any restrictive covenants placed on class I and II soils in Grant Township. We are a family farm corporation, have farmed for 4 generations and own or rent from others approximately 3,000 acres in Grant Township.

The historic basis of our country is life, liberty and the pursuit of happiness. The ability to own property and do with it as we please is a basic constitutional right. However, there are copious state and federal regulations that we follow and we are held accountable for the farming methods we use. Just as we are free to own property, others are free to purchase farmland from a willing seller and farm it in perpetuity if they choose.

The vast majority or our landlords are in agreement that they want their property rights protected. That would include the ability to sell land that is or can be properly zoned for uses other than agriculture. The City of Lawrence has actually taken the lead in purchasing Kansas University Endowment land for airport expansion and future business development, all on class I soils. KU Endowment has expressed their desire to keep options open on the land they own adjacent to the airport.

We have owned and operated Bismarck Gardens on 35 acres for 27 years. Along with traditional crops of soybeans and corn we also know the business of growing fresh food for the community. It's true that we can grow most any crop on class I and II soils, but only for a short part of the year due to our climate. Fresh produce crops are labor intensive. We provide summer employment for local teens, but if we expanded we would need to employ migrant workers. Not something we are willing to do, nor would the community want to support. If even 100 more acres of our land was planted to produce, the market would soon be flooded. Although we don't grow fresh produce on most of our land, we are producing crops with a ready market that help feed our country—and the world.

Our community needs to halt the loss of good paying jobs, and we need to find ways to attract business and industry. Much of our farmland has been zoned for industrial use for decades. It makes sense to continue to target the northeast sector for industrial development because of the levee system, airport, highways, railroad access and the talented labor pool of Lawrence.

We want to continue to farm highly productive land, but we maintain that there is sufficient land in the northeast sector for traditional farming, fresh food crops and economic development. Above all we want our private property rights preserved.

Thank you.

Nunemaker-Ross, Inc.

Patrick D. Ross Mary P. Ross

Kent E. Nunemaker Debra A. Nunemaker

Pauline M. Nunemaker

From: Austin Turney [aturney@usd497.org]
Sent: Thursday, August 27, 2009 10:24 AM

To: Dan Warner

Subject: Northeast sector plan

Dear Mr. Warner,

My essential concern is to preserve prime agricultural land for that use.

I will be traveling at the time of the first meeting but I will follow this development closely.

**Austin Turney** 

aturney@usd497.org

(785) 749-2243

1501 Pennsylvania St.

Lawrence, KS 66044-3753

Kenneth R. Holladay, M.D.

101 WEST 10TH STREET P.O. BOX G
EUDORA, KANSAS 66025 RECEIVED

TELEPHONE (913) 542-2345

SEP 15 2009

Dan Warner,

City County Planning Office Lawrence, Kansas

Dear Sir.

I attempted to Send you an Email, but it was rejected. I own land in the Northeast Sector Land. I spent much of my childhood there & inherited it when my uncle died. It presently (37+acres) is rented to Pine Family farms & will continue to be so renteed for the near future. as to the use beyond that it should be usece for light industry & highway construction. I have seen a map at KDOT Showing Hiway 59 going by

Kenneth R. Holladay, M.D.

101 WEST 10TH STREET P.O. BOX G

EUDORA, KANSAS 66025

TELEPHONE (913) 542-2345

the barn & an interchange just

South of my property, obviously

it will be much more valuable

as the years go by unless it, use

is restricted to agricultural usuage,

I may or may not need

the income myself, but I know

that my four children will have
a greater need for the income

from its Sale.

I cannot come to

the first meeting on Sept 17th.

a fack Franks may come as he rents the house on the property. How we he closs not represent me or my views:

Email KR Holladay

Thank R Halloclay com

From: Rich Bireta [rbireta@us.ibm.com]

Sent: Wednesday, September 09, 2009 7:07 AM

To: Dan Warner Cc: Rich Bireta

Subject: Northeast Area Plan Boundaries

### Dan,

I wanted to make you aware of a concern that I and others have expressed regarding the plan. When you look at the township map overlaid with the boundaries of the area plan, I have to question why the plan does not include the entire township. The plan area includes almost half of the township when measured by area; the entire township is currently included in the UGA, so why exclude an area so close? When measured on a basis of assessed value, the current plan boundaries include (I estimate) over 90% of the assessed value in the township. (This would include the ICL plant and the commercial development from teepee junction to Midland junction.) The area excluded is mainly agricultural and low-density rural housing and with the current Sand Pit proposal for Midland Junction, it makes sense to include the entire township in the area plan.

Please consider this note a formal request from the Grant Township government to include all of Grant Township in the boundary for the Northeast Area Plan

~Rich

Rich Bireta, IBM Systems Architect 913-907-1124

From: Michael Almon [paradigm@ixks.com]
Sent: Friday, September 18, 2009 11:06 AM

To: Dan Warner

Cc: Scott McCullough; Clark, Barbara; Bireta, Rich & Jane; Jost, Jerry; Seibold, Ron

Subject: N.E. Sector boundaries

### Hi again Dan:

Please consider this additional clarification on my comments regarding extending the boundaries of the N.E. Sector Plan farther to the west and to the east.

If, as you or Scott mentioned, the trigger for when a sector plan is justified is development pressure, there now are two clear and present examples of development pressure.

- \* The first example is the "sand strip mine CUP application" which indicates the Sector Plan boundary should be extended to the west.
- \* And the second example is the new KTA interchange at Leavenworth Co. #1, a mere 5 minutes to the east, which will accelerate existing Leavenworth County development advances towards Grant Township; this indicates the Sector Plan boundary should be extended to the east.

Please add these clarifications of my comments during the introductory "scope and purpose" discussion at the meeting.

thanks again, Michael Almon Sustainability Action Network 832-1300

From: Barbara Clark, Maggie's Farm [maggiesfarm@sbcglobal.net]

Sent: Friday, September 18, 2009 2:00 PM

To: Dan Warner

Cc: Sheila Stogsdill; Scott McCullough

Subject: A thank-you!

Dan, Sheila and Scott,

Thanks for facilitating the Northeast Sector Plan meeting last night...very much appreciated!

Dan, I wanted to let you know of two additions I would like to have you make to the comments received last night. I thought of this at about 2 AM while reviewing the meeting in my head.

The first comment would fall under the "Threat" category:

The two "snowflakes" on the Chapter 7 Map titled "Future Industrial" that identify Midland Junction and the area southwest of the Lawrence Municipal Airport.

The second comment would fall under the "Opportunity" category"

Within the process of drafting future land use for the Northeast Sector Plan, removal of the Midland Junction and southwest of the Lawrence Municipal Airport "snowflakes" on the Chapter 7 Map titled "Future Industrial" and consolidating them as one "snowflake" that sits on the Lawrence Municipal Airport proper.

Thanks again to you all!

Best,
Barbara Clark
Maggie's Farm
www.maggiesfarm-ks.com
"wear more wool"

From: Kettle, Dean [kettle@ku.edu]

Sent: Tuesday, September 29, 2009 3:34 PM

To: Dan Warner

**Subject:** NE sector plan - land use corrections

Attachments: KUFS north aerial w bndry.JPG

Hello Dan,

I attended the kick-off meeting at Prairie Moon School for the Northeast sector plan. The "Existing Land Use" map that you provided as a part of handout materials has some errors that you will want to correct.

The University of Kansas Field Station has approximately 780 acres of land just north of the airport in Douglas County. This land is owned by KU Endowment and used for research and teaching. You have a 110-acre tract classified as "Parks/Rec/Open Space", which seems appropriate. However, the remaining 670 acres (80-acre McColl Nature Reserve and 590-acre Fitch Natural History Reservation) are not in this category and probably should be. In the case of the Fitch Reservation it is certainly not a "Single Family Residential" as it appears on the map. I'm attaching a map showing the locations of KU Field Station lands.

Please let me know if you need more information or if you have any questions. I thought you would make as soon as possible. By the way, I thought you and the City staff did a good job of handling the first meeting.

Thanks,

Dean

W. Dean Kettle, Ph.D. Associate Director, University of Kansas Field Station Kansas Biological Survey 2101 Constant Avenue Lawrence, KS 66047-3759

Office phone: 785-864-1540

FAX: 785-1534 www.ksr.ku.edu

From: Gary Black [gary@bcrstorage.com]

Sent: Wednesday, October 07, 2009 2:47 PM

To: Dan Warner

Subject: Northeast sector plan

Dan,

My name is Gary Black and I wanted to pass along my feelings about the NE plan if I might take a moment of your time. I grew up in north Lawrence and while I don't currently reside there my brother and I still own my parents property there. I also have a long standing business that resides in north Lawrence (BC&R Storage Co. Inc.) This business started in N Law and is this year celebrating its 45th year. My partner and I are both second generation in this business. The property that I mentioned earlier is at 1733 E. 1500 Rd. which lays just to the east behind the juvenile detention center and the city recycling center on industrial lane. We are currently getting ready to market this property approx 17.21 acres and are having a hard time trying to figure out what might be the best land use. It sits across the street east from a small housing developement, it is currently being farmed and it has county zoning of I-1 and I-2. It is some of the highest ground in N Law. according to flood plain map. I think N Law and this sector play a big part in the future of Law overall. From a business point of view I feel like we need more industrial ground over here and if we can grow our industrial base we will create jobs and need more housing for people seeking these jobs, so I think a good plan for both Industrial and single family will help not only N law but the entire community. Last I will leave you with this thought that with this developement plan you will need emergency services, already people in N law feel like we have been slighted for projects in S Law and I can't say that I would argue with that but to show the people of N Law that the city of Law really cares what happens here would be to aquire property now for the safety of the people and business's and send them a message unlike the waterline project going to the airport for a couple of business. Thanks Gary

From: tlgolden@juno.com

Sent: Wednesday, October 07, 2009 12:48 PM

To: Dan Warner

Subject: Northeast Section Plan

Dear Mr. Warner. I am currently in Montana and unable to attend the next meeting. I live at 1465 N 2100 Rd Lawrence, Ks. Please be advised I do not want my property included in the Northeast Section Plan. Even though I have lived in Grant Township 32 years, I receive very little benefit except the right to pay taxes to Grant. Grant Township does not maintain my road, it is maintained by Jefferson County. My electricity is supplied by Leavenworth-Jefferson Electric. I do receive fire protection from the City of Lawrence, but if I was covered by the Saracoixe fire dept in Jefferson County my insurance rates would be cheaper because it is closer. I have chiggers. I don't want your rules and regulations. I do not want my property included in the Northeast Section Plan.

Respectfully,

Terry Golden 1465 N 2100 Rd Lawrence, KS 6044 785 393 4635

\_\_\_\_\_

Best Weight Loss Program - Click Here!

http://thirdpartyoffers.juno.com/TGL2131/fc/BLSrjnsEGrHIkdz2VdYgNnZJDv5SnXBkZjixneakI7A3Wz EoemBCC8BzscQ/

From: Gary Black [gary@bcrstorage.com]

Sent: Thursday, October 08, 2009 1:43 PM

To: Dan Warner

Subject: Re: Northeast sector plan

Dan,

Yes thank you I would like to be included in the e-mail's for the plan. Also I would like to add that I know there are some people who would like N Law to stay that perfect little place, however all of this was farm ground before we started building houses and industry and I think that we should move forward with controlled progress. We are competing with other cities for jobs.

Thanks Gary PS-Think about that property for Fire& emergency services

---- Original Message -----

From: Dan Warner
To: Gary Black

Sent: Thursday, October 08, 2009 11:16 AM

Subject: RE: Northeast sector plan

Gary,

Thanks for your comments.

Would you like me to add you to the email update list for this plan? If I sign you up then you will receive email updates about meetings and when new items get posted to the website.

Thanks.

Dan Warner, Long-Range Planner, AICP

**From:** Gary Black [mailto:gary@bcrstorage.com] **Sent:** Wednesday, October 07, 2009 2:47 PM

To: Dan Warner

Subject: Northeast sector plan

Dan.

My name is Gary Black and I wanted to pass along my feelings about the NE plan if I might take a moment of your time. I grew up in north Lawrence and while I don't currently reside there my brother and I still own my parents property there. I also have a long standing business that resides in north Lawrence (BC&R Storage Co. Inc.) This business started in N Law and is this year celebrating its 45th year. My partner and I are both second generation in this business. The property that I mentioned earlier is at 1733 E. 1500 Rd. which lays just to the east behind the juvenile detention center and the city recycling center on industrial lane. We are currently getting ready to market this property approx 17.21 acres and are having a hard time trying to figure out what might be the best land use. It sits across the street east from a small housing developement, it is currently being farmed and it has county zoning of I-1 and I-2. It is some of the highest ground in N Law. according to flood plain map. I think N Law and this sector play a big part in the future of Law overall. From a business point of view I feel like we need more industrial ground over here and if we can grow our industrial base we will create jobs and need more housing for people seeking these jobs, so I think a good plan for both Industrial and single family will help not only N law but the entire community. Last I will leave you with this thought that with this developement plan you will need emergency services, already people in N law feel like we have been slighted

for projects in S Law and I can't say that I would argue with that but to show the people of N Law that the city of Law really cares what happens here would be to aquire property now for the safety of the people and business's and send them a message unlike the waterline project going to the airport for a couple of business. Thanks Gary

From: Ann Kohler [akohler@magdalena.k12.nm.us]

Sent: Thursday, October 01, 2009 5:15 PM

To: Dan Warner

Cc: Judi McMillin

Subject: NE Sector Plan

Dan Warner,

Hello from New Mexico.

I have several different parcels of farm land in the proposed NE Sector area. I am a 5<sup>th</sup> generation owner of these parcels. As I understand it from a friend who attended your last meeting that one issue is possible a push to keep the at least some of the land for farming "forever". If there are indeed individual property rights such as this involved I would oppose such designation. Without more information it is difficult to tell from here just what it is you are doing with this "plan".

I strongly believe it would be a shame to develop what to me is some of the best farm soil in America. However, as owners and generations change I wish to retain the right to do with my land what I will, and want those same rights for my heirs. My family partners agree. Please do not make decisions for future generations that restrict what we do with our land. I would hope you have and enforce proper building and environmental codes, but if I wish to do something other than farm my land that should be up to me.

If there are folks who feel the land should be designated farm land "forever" they can purchase land and farm it. This should not be for anyone but the owners to say, and I suspect my fellow local farmers who love the land will agree.

I also suggest you post the letters and messages you receive so that all of your process is out in the open.

Thank you Ann Kohler

Ann M Kohler, Manager Gilmore Sisters, LLC PO Box 1034 Magdalena, NM 87825 575 854 8030 akohler@magdalena.k12.nm.us

10/12/2009

# PLANNING COMMISSION REPORT Regular Agenda -- Public Hearing Item

PC Staff Report 5/24/10

# ITEM NO. 5 TEXT AMENDMENT; LAND DEVELOPMENT CODE; MU DISTRICT (MJL)

**TA-1-10**: Consider Text Amendments to the City of Lawrence Land Development Code, various sections of Chapter 20, to permit Bars or Lounges and to consider changes to development standards for various Eating & Drinking Establishments in the MU (Mixed Use) District and to consider a new Mixed Use Entertainment District. *Initiated by City Commission on 2/2/10.* 

**RECOMMENDATION:** Staff recommends that the Planning Commission forward a recommendation for approval of the following proposed amendments of TA-1-1-10 to Development Code to the City Commission:

- 1. Revisions to Section 20-233 as noted in the attached document;
- 2. Section 20-403
  - a. Adding a "S" for the Bar or Lounge use in the MU District to permit the use by Special Use Permit
  - b. Removing the asterisk from the Quality Restaurant use in the MU District
  - c. Removing the asterisk from the Fast Order Food use in the MU District
- 3. Removing references to the MU District in Section 20-509(3);
- 4. Revisions to Section 20-1108 as noted in the attached document.

**Reason for Request:** To permit the Bar or Lounge use by Special Use Permit in the MU (Mixed Use) District

### **RELEVANT GOLDEN FACTOR:**

• The proposed amendment is generally in conformance with the comprehensive plan.

### PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

• Staff has received several comments in opposition to a Bar or Lounge use locating at the Jayhawk Bookstore site. The comments we have received since the last meeting are attached and this issue is addressed in the body of the staff report. No request has been submitted to change the use at this property.

### **OVERVIEW OF PROPOSED AMENDMENT**

The CC initiated the proposed text amendment following a request that the Bar or Lounge use be a use permitted in the MU District by Special Use Permit. The specific request made is as follows:

20-403 Eating and Drinking Establishments -

- 1. Bar or Lounge Establishments are allowed in the MU District as a special use with the following standards located in 20-509(3).
- 2. The Asterisk need to be removed from the use table behind the permitted use of a quality restaurant in the MU District.

# 20-509(3)

Bar or Lounge

Bar or Lounge establishments are allowed in the MU District as a special use with no

expiration date provided the net floor area (customer occupied space) shall not exceed 5,000 S.F., the dance floor shall be no larger than 500 S.F. If a bar or lounge is an existing establishment allowed by-right at the time it was established the use will be considered an approved special use and will be allowed to continue without a public hearing.

20-524

**Quality Restaurants** 

The quality restaurant square footage should be increased so that the Gross Floor Area shall not exceed 8,000 S.F.

### CONFORMANCE WITH THE COMPREHENSIVE PLAN

The proposed amendments are generally in conformance with the comprehensive plan and trying to integrate the Mixed Use District in to the neighborhood.

### CRITERIA FOR REVIEW AND DECISION-MAKING

Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It states that review bodies shall consider at least the following factors:

# 1) Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and

Applicant Response 20-403

- 1. Bars and lounges are not currently allowed in the MU District and should the Oread Neighborhood plan be approved with a MU District along 14th Street The Wheel and The Hawk which are existing bars would remain non-conforming uses unless the Development Code is amended to allow bars and lounges.
- 2. Currently restaurants in the MU district don't have restrictions. Removing the asterisk would correct the error in the use table which points readers to section 524.

20-509(3)

By making bars and lounges a special use in the MU District it allows control over the number, size and type of bars.

20-524

The quality restaurant square footage limitation needs to be removed, there's not a quality restaurant that can build a building of only 3,000 S.F. and do business in Lawrence. If the regulations are to remain at 3,000 S.F. the City of Lawrence will gain more fast food restaurants and not gain quality restaurants like Olive Garden or Texas Roadhouse etc.

Does the proposed amendment meet the challenge of a changing condition?

The conditions that require these amendments are no different than when the Development Code was written. These amendments are being proposed so that the Development Code meets the current conditions found in Lawrence.

### Staff Response

The proposal does not correct an error or inconsistency in the Code. The district has only been applied to one area and staff has identified items that could be changed in order to apply the district in other situations.

# 2) Whether the proposed text amendment is consistent with the Comprehensive Plan

# and the stated purpose of this Development Code (Sec. 20-104).

# Applicant Response

Page 6-6 of Horizon 2020 states that "mixed use districts shall include a mix of uses designed to maintain the character of the surrounding neighborhood, achieve integration with adjacent land uses and be no larger than 20 acres in size." By adding bars and lounges to the mixed use district with the approval of a Special Use permit, the goal stated in H2020 is achieved and the character of the neighborhood is preserved by allowing historical businesses such as The Hawk located at 1340 & 1342 Ohio and The Wheel located at 507 W. 14th to be conforming uses.

Horizon 2020 does not place a restriction on the square footage of quality restaurants but rather places the restrictions on the square footage of an entire development. With that in mind a land owner and developer should be the ones to decide how they will use the allowable square footage for their development. By removing the 3,000 S.F quality restaurant restriction, decisions can be made by the owners and quality restaurants can locate in Lawrence should they choose to do so.

Is the proposed amendment consistent with the stated purpose of the Development Code?

This text amendment in no way endangers health, safety and general welfare of the citizens of Lawrence but allows the diversification of the uses in the MU district.

# Staff Response

Horizon 2020 speaks to a mixing of uses in the Mixed Use District and integrating the district into the surrounding neighborhood. The SUP process will help to do that on a project by project basis versus trying to draft standards that are required to be used in every situation and meet the intent of the plan.

### **Staff Discussion**

The Planning Commission held a public hearing on the proposed MU District related text amendments (TA-1-1-10) at the March 24<sup>th</sup> meeting. Staff received direction from the Commission and below is a discussion of the issues.

### Bar or Lounge Use in the Development Code

The applicant has requested that the Bar or Lounge use be a permitted use with a Special Use Permit (SUP) in the MU (Mixed Use) District. Staff has outlined possible options for the Bar or Lounge use below:

- 1. Not permit the Bar or Lounge use in the MU District.
- 2. Permit the Bar or Lounge use with a Special Use Permit (SUP) in the current MU District.
- 3. Draft a new MU District that would include the Bar or Lounge use as a permitted (by-right) use and review other uses that would be compatible permitted uses in the district.

At the March 24<sup>th</sup> PC meeting, the Commission directed staff to look into a new Mixed Use District, more of a Mixed Use Entertainment (MUE) District. Staff has looked at the Nonresidential Use Table and proposed uses for a district. See attached draft. Some differences between the MU and the draft MUE District are that the MU District permits detached dwellings and the MUE District could permit more entertainment oriented uses such as more recreational facilities, eating and drinking establishments and sexually oriented businesses. Staff does not support the addition of a new district.

In staff's opinion, the Special Use Permit offers the necessary protection and process to accommodate this type of use in a MU District to assure neighborhood compatibility.

Staff recommends Option 2, permit the Bar or Lounge use with a SUP in the MU District. Staff believes the Special Use process and possible revocation will ensure neighborhood compatibility of any MU District. The *Land Development Code* states that the purpose of the Special Use Permit is:

"The Special Use review and approval procedures provide a discretionary approval process for uses with unique or widely varying operating characteristics or unusual site development features. The procedure entails public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed Special Uses will not have a significant adverse impact on surrounding uses or on the community at-large."

Additionally, the SUP can be suspended or revoked due to the conditions being violated, the City Code being violated, and/or State or Federal law being violated. Some common conditions placed on SUPs are length of time the permit valid, time of the day for which the business can operate, specific activities that can and/or can not take place on site, and size of the project. The SUP allows for a use in a district with more restrictions than the use would typically have if permitted outright in order to mitigate the potential effect that use might have on the surrounding properties.

### **Jayhawk Bookstore**

The Jayhawk Bookstore, located at 1420 Crescent Road, is currently the only area zoned MU District in the city. There is concern from the surrounding neighborhood about the potential addition of the Bar or Lounge Use as a Special Use Permit for this property, as use restrictions were established at the time of rezoning the property to the MU District. Below are some options to address this concern. Please note that it is not possible to preclude a future request to rezone the Jayhawk Bookstore property to a district that permits the Bar or Lounge use, but the neighborhood does not want it to be an easy option in the code for this property. The following options are presented to ensure that the Jayhawk Bookstore property will not have a readily available process by which to obtain the Bar or Lounge use if the use is established as a Special Use in the current district.

- 1. Address in the code that the Bar or Lounge use is only available for properties zoned MU District after the effective date of the use addition.
- 2. Initiate a rezoning for the Jayhawk Bookstore, at the city's cost and effort, to specifically restrict the Bar or Lounge use on this property.
- 3. If the MUE District is established with the Bar or Lounge use as a permitted use, then this matter is moot and the Jayhawk Bookstore site would remain zoned MU and would need to request rezoning to this new district to gain the ability to establish a Bar or Lounge.

Staff spoke with the property owner of the Jayhawk Bookstore and believed he was willing to be rezoned to exclude the Bar or Lounge use at this property in the current MU District if the City Commission approves the text amendment to permit the use by Special Use. The proposal would not include any other changes to the existing conditions for the district. The current conditions for this district are as follows:

- 1. The following uses shall be prohibited
  - a. Sexually Oriented Media Store
  - b. Manufacturing & Production, Limited

2. Except for those uses prohibited in condition no. 1, any use permitted in the MU District by the Development Code shall be permitted at this location. Any site plan required as a result of a new use shall be approved by the Governing Body after public notice has been provided to owners within 400 feet of the property, as well as to the University Heights and West Hills neighborhood associations, and applying the criteria required in the Development Code.

Upon further review, the owner of Jayhawk Bookstore does not wish to make his property available for such a rezoning. Staff wishes to uphold the owner's position and recommends that the proposed language be revised to permit the Bar or Lounge use only for properties zoned MU District after the effective date of the use addition if approved as proposed.

# **Nonconforming Uses**

The applicant has requested an automatic Special Use Permit for existing Bar or Lounge uses in any MU District. Currently in Section 20-1306(b) the section talks about automatic Special Use:

"If an existing use was allowed by-right at the time it was established, but is now regulated as a Special Use, the use will be considered an approved Special Use and will be allowed to continue without a public hearing. Any alterations or expansions of the use are subject to the Special Use amendment procedures of Section 20-1306."

The two identified properties (the Wheel/The Hawk) are non-conforming commercial uses in a residential District. Therefore they are not currently "allowed by-right" uses and the existing code language does not apply. Staff has proposed language to address situations that do not meet this code section and would address the issues the applicant has raised:

Any use existing at the time of rezoning to the MU District that is regulated as a Special Use upon rezoning to the MU District shall be considered an approved Special Use and will be allowed to continue without an additional public hearing. Any alterations or expansions of the use are subject to the Special Use amendment procedures of Section 20-1306.

### **Additional Discussion**

Staff has discovered that Sections 20-233 and 20-1108 regarding the MU District are difficult to follow and often times duplicate information. To remedy these issues, staff is proposing some rearranging of the two sections. See attached proposed amendments. All of the deleted sections in 20-233 have been moved to 20-1108 unless it was a duplication of regulations already in that section. Much of Section 20-1108 has been rearranged to be more user friendly and flow better. Some additions to the Applicability section have been made.

The applicant requested some additional standards be changed in Sections 20-509 and 20-524. The request for Section 20-509 is to add use standards for the Bar or Lounge use. Staff does not feel that these are needed because the Special Use Permit process offers the opportunity to regulate some of these issues. Additionally, the nonconforming issue is being proposed to be addressed in Section 20-1108.

Section 20-509 states that Fast Order Food establishments in the MU District shall not exceed 3,000 square feet. Staff believes that this is too restrictive for the MU District and recommends this be removed.

The applicant requested the standards be changed in Section 20-524 regarding Quality Restaurant uses in the MU District. The use table refers you to this section for additional standards but none of the standards apply specifically to the MU District. Staff recommends removing the asterisk in the use table under the MU District for the Quality Restaurant use which refers to Section 20-524.

### 20-223 MU, MIXED USE DISTRICT

# (a) Purpose

The MU, Mixed Use District, is primarily intended to permit a variety of land uses together in one or more Structures on a site including governmental, retail, office, public and Community Facilities, institutional, religious, and residential uses in a pedestrian-oriented and transit-oriented setting. Retail and service uses that attract and generate foot traffic are encouraged to be located at ground level along the Public Frontage. Development in the Mixed Use District shall include both residential and nonresidential uses.

- (b) Where Appropriate (items removed were moved to Section 20-1108)
  The Mixed Use District zoning classification may not be appropriate in all areas of the City of Lawrence. Specific standards apply to Mixed-Use Developments. See Section 20-1108. To be eligible for rezoning to the Mixed Use District, a site proposed for Mixed-Use development shall be:
  - (1) Within one quarter of a mile of Designated Transit Route at the time the rezoning is initiated; and
  - (2) Near or adjacent to the intersection of Arterial Streets as per the adopted Major Thoroughfares Map; or
  - (3) Within one-quarter of a mile of university campuses; or
  - (4) Within one-quarter of a mile of downtown, the boundaries of which are described in Chapter 6 of Horizon 2020; or
  - (5) Immediately adjacent to public parks or open space; or
  - (6) An existing nonresidential development proposed for redevelopment.
- (c) Compatibility (items removed were moved to Section 20-1108)

Mixed-Use developments shall be compatible with existing development which surrounds the proposed Mixed-Use development. Specific standards apply to Mixed-Use Developments. See Section 20-1108. Compatibility is best achieved through a transition in Building form, Scale and intensity rather than through uses, peripheral buffers or Landscaping. In furtherance of this purpose, development zones shall be designated on the property proposed for the Mixed-Use development. Such zones shall be designated to govern the permitted Density, Building-Height and Building Scale and to assure compatibility between the proposed development and surrounding existing development.

(c) Development Zones (items removed were moved to Section 20-1108)

Development zones govern permitted Density on the site as well as Building-Height, Scale and form. The three development zones are hierarchical in terms of development intensity permitted. A proposal to rezone to the MU District need not designate all three development zones. Development zones shall be designated to ensure compatibility with surrounding existing development. In cases where a rezoning to the MU District is proposed for a site which is surrounded by existing detached residential development, a Tertiary Development Zone shall be required to be designated adjacent to such existing development in order to ensure compatibility of Height, Scale and form.

### (1) Primary Development Zone

The Primary Development Zone is that area of land within a Mixed-Use development which is designated for the most intense development allowed by the District. Primary Development Zones shall contain Vertical Mixed Use Structures with a mixture of both residential and nonresidential uses and no interruption of Building Frontage along the Public Frontage. Where a Primary Development Zone enfronts upon a Public Frontage, such area shall be designated as Primary Public Frontage. A Primary Public Frontage shall be designed to accommodate heavy pedestrian traffic and ground-level nonresidential uses. Residential uses shall not be permitted on the ground level of Structures in the Primary Development Zone.

### (2) Secondary Development Zone

The Secondary Development Zone is that area of land within a Mixed-Use development which is designated for less-intense development, relative to that permitted by a Primary Development Zone. Secondary Development Zones may contain Vertical Mixed Use Structures, Horizontal Mixed Use Structures or single-use Structures with interruption of Building Frontage along the Public Frontage allowed only for Access to Parking Areas, for Alleys or service lanes. Where a Secondary Development Zone enfronts a Public Frontage such area shall be designated as Secondary Public Frontage. A Secondary Public Frontage shall be designed to accommodate moderate amounts of pedestrian traffic, and if planned, vehicular Access to Parking Areas and service lanes in a manner that minimizes pedestrian-vehicular conflict. Secondary Development Zones may contain both nonresidential ground-level uses as well as ground level residential uses.

### (3) Tertiary Development Zone

The Tertiary Development Zone is that area of land within a Mixed-Use development which is designated for the least-intense development, relative to that permitted in the other zones. Tertiary Development Zones shall permit a development intensity which is no greater than that of surrounding existing development. Such zones shall permit a development form which is consistent with that of surrounding existing development (i.e. two-Story detached residential Dwellings across the street from existing Structures which are of the same form, etc.). Nonresidential uses shall only be permitted in a Tertiary Development Zone if the existing surrounding development contains such nonresidential uses. A Tertiary Development Zone shall only permit a residential use type which exists in surrounding development.

# (d) Designation of Development Zones (items removed were moved to Section 20-1108)

The applicant for any rezoning to the MU District shall propose development zones for the entire site proposed to be rezoned. The proposed designation shall be included with the application for rezoning. No application for rezoning to the MU District shall be considered complete and sufficient without this information. The proposed designation shall include, at a minimum, the following information:

- (1) A plan or graphic representation depicting the location and arrangement of each proposed development zone for the entire site proposed to be rezoned. The plan or graphic shall include the following:
  - (i) A general location map showing the subject property's location;

- (ii) Existing and proposed Lot lines on the subject property;
- (iii) Existing and proposed rights-of-ways of the subject property;
- (iv) The existing zoning and land use of the subject property;
- (v) The existing zoning and land use of surrounding properties;
- (vi) The Height and Floor Area footprint of individual Structures in surrounding existing development;
- (vii) The Building form (i.e. Vertical Mixed Use Structure, Horizontal Mixed Use Structure, Attached Structure or Detached Structure) of surrounding existing development;
- (viii) A written narrative describing how each development zone proposed is compatible with surrounding existing development in terms of Building-Height, Building form, and land use.

# (e) Development Standards (items removed were duplicated in Section 20-1108)

Development constituting a Major Development Project shall comply with the General Development standards for Mixed Use Districts (Section 20-1108). Any Structure(s) which existed prior to being rezoned to the Mixed Use District may become nonconforming with regard to the Development standards of Section 20-1108. Such Structures, if involuntarily damaged or destroyed may be reconstructed as they existed if and only if the conditions of Section 20-1503(e)(2) are satisfied. The following situations are exempt from the Development standards of Section 20-1108:

- (1) Structures which existed prior to being rezoned to the Mixed Use District shall be allowed to remain as developed until such Structure is proposed to be demolished and redeveloped;
- (2) The intensification of the use of property in the MU District that increases the off-street parking requirements shall not constitute a Major Development Project.

### (f) (d) Principal Uses

Principal Uses are allowed in MU District in accordance with the Use Table of Article 4

### (g) (e) Accessory Uses and Structures

Accessory Uses and Structures are permitted by right in connection with any lawfully established Principal Use, except as otherwise expressly provided in this Development Code. Also, unless otherwise stated, Accessory Uses are subject to the same regulations as the Principal Use. Accessory Uses and Structures, including Home Occupations, are subject to the regulations of Article 5.

# (h) (f) Density and Dimensional Standards (items removed were duplicates of standards in Article 6)

Unless expressly stated below, a All development in the MU District shall comply with the Density and Dimensional Standards of Article 6. The following additional Density and Dimensional Standards shall apply in the MU District:

### (1) Site Requirements

Development sites between 20,000 square feet and 20 acres in area are permitted in the MU District. For Mixed-Use developments on sites greater than 20 acres in area, see Section 20-701(f) Planned Developments.

### (2) Lot Requirements

All Lots in the MU District shall be a minimum of 3,000 square feet.

# (b) Pedestrian and Vehicular Access (items removed were moved to Section 20-1108)

In areas designated as the Primary Public Frontage, vehicular Access to individual Lots may be permitted only from a public Alley. In areas designated as Secondary Public Frontage or Tertiary Public Frontage, vehicular Access may be permitted from the Alley or Street. Pedestrian Access shall be permitted from the Street, public Alley or pathway.

## (c) Alterations to Designated Transit Routes (items removed were moved to Section 20-1108)

The provisions of Section 20-223(b)(1) shall apply to Mixed-Use development in the MU-Zoning District. If the Designated Transit Route is altered such that it is no longer within one-quarter of a mile of a Mixed-Use development, then an approved Mixed-Use development shall not be made a nonconforming use.

# 

There are a number of other Development standards that may apply to development in Base Districts, including but not limited to the following:

### (1) General Development Standards

Specific standards apply to Mixed-Use Developments. See Article 11.

### (2) Landscaping

Specific standards apply to Mixed-Use Developments. See Article 10.

### (3) Off-Street Parking and Loading

Specific standards apply to Mixed-Use Developments. See Articles 9 & 11.

### (4) Outdoor Lighting

Specific standards apply to Mixed Use Developments. See Section 20-1103.

# (5) Overlay Districts

See Article 3.

# 20-403 NONRESIDENTIAL DISTRICT USE TABLE

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed			Base Zoning Districts													
		CN1	CN2	MU	00	CD	၁၁	CR	SO	IBP	_	91	SO	GPI	Ξ	Use-Specific Standards (Sec. 20-)
RESIDE	NTIAL USE GROUP															
Household Living	Accessory Dwelling Attached Dwelling Cluster Dwelling Detached Dwelling Duplex Manufactured Home Manufactured Home, Residential-Design Mobile Home Mobile Home Park Multi-Dwelling	P* P* P* P* - P*	- - - - - - - - - P*	P* P* P P P P* - P	-	- - - - - - - P*/S*	- - - - - - - - - P*	-	- - - - - - - - - - - -		- - - - - - P	- - - - - - P	111111111	- P* - P* - P	- - - P* - P - P	534 503 702 508 503 513
Hou	Structure Non-Ground Floor Dwelling Work/Live Unit Zero Lot Line Dwelling Home Occupation,	P* P* P*	P* P* -	P* P* P*	-	P* P*/S* -	P* P* -	-	P* P* -	-	- P* -	- - -	-		- - -	517/542 517/541 531
	Type A or B															
<u></u> 6	Assisted Living Boarding Houses & Cooperatives Dormitory	-	-	P P	-	-	-	-	-	-	-	-	-	S -	S - P	
Group Living	Fraternity or Sorority House	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Gro	Group Home, General (11 or more) Group Home, Limited	S P	S	S P	S	S	S	S	S	-	_	-	-	-	P	
DUDLIC	(10 or less)			'												
PUBLIC	AND CIVIC USE GROUP Cemetery	P*	P*	_	P*	_	P*	P*	P*	P*	P*	_	P*	P*	_	505
	College/University	S	Р	Р	Р	Р	Р	Р	Р	Р	P	Р	-	Р	Р	555
ities	Cultural Center/ Library	S	P	P	S	P	P	-	-	P	-	-	S	Р	Α	505
Community Facilities	Day Care Center Day Care Home,	S* P	P* P	S* P*	S* -	S* P	P* P	P* -	P* P	P* -	P* -	P* -	-	-	-	507
munity	Class A Day Care Home, Class B	S*/A*	P*	S*	-	Р	Р	-	Р	_	_	_	-	-	-	507
Com	Detention Lodge, Fraternal and Civic Assembly	- S*	- S*	- S*	- S*	- P*	– P*	– P*	- P*	-	S P*	P -	-	– P*	-	512
	Postal & Parcel Service	-	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	-	Р	-	

Key:							Base Z	Zoning I	Districts	;						
A = Acce P = Perr S = Spe * = Stan	A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN2	MU	00	CD	၁၁	CR	cs	IBP	II.	91	SO	GPI	н	Use-Specific Standards (Sec. 20-)
	Public Safety School	S P	P P	P -	Р	Р	_	P P	-							
	Funeral and Interment	-	P*	-	P*	_	A*	_	-	505						
	Temporary Shelter	S*/A*	S*	S*/A*	S*	_	S*	S*/A*	544/522							
	Social Service	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	_	Р	Р	
	Agency Community Meal Program	S/A*	S	S/A*	S	-	S	S/A*	522							
	Utility, Minor	P*/ S*		530												
	Utility and Service, Major	S	S	S	S	S	S	S	S	S	S	Р	S	Р	_	
	Extended Care Facility, General	_	S	_	S	_	_	_	_	S	_	-	_	_	Р	
cilities	Extended Care Facility, Limited	Р	Р	Р	Р		-		-		-	_	_	S	Р	
Medical Facilities	Health Care Office, Health Care Clinic	Р	S	Р	Р	Р	Р	Р	Р	Р	Р	-	_	Р	А	
Medi	Hospital	-	-	-	-	_	_	_	-	-	_	_	_	_	Р	
	Outpatient Care Facility	P*	-	-	-	-	P*	P*	519							
	Active Recreation	S	Р	Р	S	S	Р	Р	Р	Р	Р	-	S	A*/S*	Α	532
es	Entertainment & Spectator Sports, Gen.	_		_	_	Р	Р	Р	Р			_	_	S	-	
Recreational Facilitie	Entertainment & Spectator Sports, Ltd.	-	Р	Р	-	Р	Р	Р	Р	-	-	-	S	Р	-	
nal F	Participant Sports & Recreation, Indoor	-	Р	Р	-	Р	Р	Р	Р	Р	Р	-	-	Р	Α	
reatic	Participant Sports & Recreation, Outdoor	_	_	S	_	_	Р	Р	Р	Р	Р	-	_	A*/S*	-	532
Reci	Passive Recreation	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	
	Nature Preserve/ Undeveloped	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	
	Private Recreation	Р	Р	Р	-	Р	Р	1	Р	-	-	-	Р	Р	Р	
Religious Assembly	Campus or Community Institution	P*	-	P*	-	_	_	A*	522							
	Neighborhood Institution	P*	-	P*	_	_	_	-	522							
	RCIAL USE GROUP Kennel	_	_	_	_	_	P	P	Р	_	P	P	_	_	_	
mal Ser vice	Livestock Sale	-	-	-	-	-	S	S	S	-	Р	Р	-	-	-	

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed			Base Zoning Districts													
		CN1	CN2	ЛМ	00	С	၁၁	CR	SO	IBP	II.	91	S0	ld9	Н	Use-Specific Standards (Sec. 20-)
	Sales and Grooming Veterinary	P -	P P	P P	P P	P P	P P	P P	P P	- Р	P P	P P	-	-	-	
Eating & Drinking Establishments	Accessory Bar Accessory Restaurant Bar Or Lounge Brewpub Fast Order Food Fast Order Food, With Drive-In Nightclub Private Dining Establishments	A*	A*	A*	A*	A* P* P* P* P* P*	A*	A*	A* P* P* P P* P*	A* A	A*	1 1 1 1 1 1 1	1 1 1 1 1 1 1	1 111 1 1 1 1	- - - A*	509 509 511 & 509 509 539 524
Office	Restaurant, Quality  Administrative and Professional Financial, Insurance & Real Estate Other	P* P* P*	P* P* P*	P* P* P*	P* P* P*	P* P* P*	P* P* P*	P* P* P*	P* P* P*	P* P* P*	P* P* P*	P*		P* - -	A* A*	518 510 537
Parking Facilities	Accessory  Commercial	A*	A*	A*	A*	A*	A*	A* P	A* P	A*	A*	A*	A*	A* P	A*	535
Retail Sales & Service	Building Maintenance Business Equipment Business Support Communications Construction Sales and Service Food and Beverage	- - - - P*	P P P P P*	S P P P P - P*	- P P - P*	P P P - P*	P P P P P*	P P P P P*	P P P P P	- P P -	P P P P P*	P - P	1 1 1 1 1	A	A A A A*	511
	Mixed Media Store  Personal Convenience  Personal Improvement	P* P*	P* P* P*	P* P*	P* _	P* P* P*	P* P*	P* P*	P* P*	-	P* P*	-	-	- - A*	A* A*	516 528 520 521
	Repair Service, Consumer Retail Sales, General Retail Establishment,	P* P*	P* P*	P* P*	- P*	P* P*	P* P*	P* P* P*	P* P* S*		P* P*		1 1	-	- A*	523 525 526
	Large Retail Establishment,	_	P*	P*	_	P*	P*	P*	P*		_		_	_	_	526

Key:							Base 2	Zoning l	Districts	6						
A = Accord P = Perr S = Spe * = Stan	A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN2	ПМ	00	αɔ	၁၁	CR	SO	dal	าเ	91	S0	ld9	Н	Use-Specific Standards (Sec. 20-)
	Medium Retail Establishment, Specialty		P*	P*		P*	P*	P*	P*	-	_	-	-		-	526
nted	Sexually Oriented Media Store	-	-	P*	-	-	-	-	-	_	-	-	-	-	-	528
Sexually Oriented Businesses	Physical Sexually Oriented Business	-	-	-	-	-	-	-	-	_	-	_	_	-	-	528
ually 3usin	Sex Shop	-	-	-	-	-	P*	P*	P*	_	-	-	_	-	-	528
Sex	Sexually Oriented Theater						P*	P*	P*				_		_	528
t ition	Bed and Breakfast	P*	-	P*	-	-	-	-	-	-	-	-	_	-	-	20-504
Transient Accommodation	Campground	-	-	-	-	-	Р	Р	Р	-	-	-	S	-	-	
Tr	Hotel, Motel, Extended Stay	-	-	Р	_	Р	Р	Р	Р	_	-	-	_	-	Α	
	Cleaning (e.g., Car Wash)	_	S	_	_	_	Р	Р	Р	_	Р	Р	-	-	-	
	Fleet Storage	-	-	-	-	-	Р	Р	Р	-	Р	Р	_	-	Α	
	Gas and Fuel Sales	_	S	S	_	-	Р	Р	Р	_	Р	Р	_	-	-	
& Service	Heavy Equipment Repair	-	-	-	-	-	Р	Р	Р	-	Р	Р	_	-	-	
	Heavy Equipment Sales/Rental	-	-	-	-	-	Р	Р	Р	-	Р	Р	-	-	-	
Vehicle Sales	Inoperable Vehicles Storage	-	-	-	-	-	Р	Р	Р	-	Р	Р	-	-	-	
Vel	Light Equipment Repair	-	S	-	-	S	Р	Р	Р	-	Р	Р	-	-	-	
	Light Equipment Sales/Rental		P*			S	Р	Р	Р		Р	Р	_			545
	RV and Boats Storage	-	-	-	-	-	Р	Р	Р	-	Р	Р	-	-	-	
INDUST	RIAL USE GROUP															
Si	Explosive Storage	-	-	-	_	-	_	-	_	-	-	Р	-	-	-	
	Industrial, General	-	-	-	-	-	_	-	-	-	Р	Р	-	-	-	
Fac	Industrial, Intensive Laundry Service	_	_	_	_	_	_ Р	– Р	– Р	_	- Р	P	_	_	_	
strial	Manufacturing &	_	_	P	_	S	S	S	S	P	P	P	_	_	_	
Industrial Facilities	Production, Ltd. Manufacturing & Production, Tech.			-	_	S	Р	Р	Р	Р	Р	Р	_	-	_	

Key:							Base 2	Zoning l	Districts	S						
A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN1	CN2	MU	00	CD	၁၁	CR	SO	IBP	_	91	SO	GPI	н	Use-Specific Standards (Sec. 20-)
	Research Service Scrap and Salvage Operation	-	-	-	S -	S -	P _	P -	P -	P -	P S*	P S*	_	-	-	527
	Exterior Storage	-	-	-	-	_	A*	Α*	Α*	A*	Α*	A*	_	A*	A*	538
esale, ige & outior	Heavy	-	_	-	-	-	S	S	S	-	S	Р	_	-	-	
Wholesale, Storage & Distribution	Light	_	_	-	_	_	Р	Р	Р	Р	Р	Р	_	S	-	
	Mini-Warehouse	-	-	-	-	-	Р	Р	Р		Р	Р	_			
OTHER U	JSES GROUP		ı		1	· 1	1									
Adaptive Reuse	Designated Historic Property	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	501
Ada Reu	Greek Housing Unit	-	_	-	_	_		-	_		_	_	-		-	
re	Agricultural Sales	-	_	_	-	-	Р	Р	Р	_	Р	Р	-	-	-	
Agriculture	Agriculture, Animal	-	-	-	-	-	_	-	-	-	-	_	_	-	-	
Agri	Agriculture, Crop	Р	Р	Р	Р	_	Р	Р	Р	Р	Р	Р	ı	Р	ı	
S	Amateur & Receive- Only Antennas	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	Α*	A*	536
s Facilities	Broadcasting Tower	_	_	-	_	S	_	-	-	Р	Р	Р	_	_	А	
	Communications Service Establishment	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	A*	506
Communication	Telecommunications Antenna	A*	A*	A*	A*	S*	A*	A*	A*	A*	A*	A*	A*	A*	A*	529
mmn	Telecommunications Tower	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	A*	A*	529
၀၁	Satellite Dish	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	Α*	A*	536
Mining	Mining	-	_	-	-	-	-	-	-	-	-	S*	ı	-	-	515
g (s	Large Collection	-	-	-	-	-	Р	Р	Р	-	Р	Р	-	-	-	540
Recycling Facilities	Small Collection	Р	Р	P*	Р	Р	Р	Р	Р	Р	Р	Р	-	А	А	540
Rec Fac	Processing Center	-	-	-	-	-	-	-	-	-	Р	Р	-	-	-	

#### 20-509 EATING AND DRINKING ESTABLISHMENTS

The restrictions in (1) and (2) shall apply to a Licensed Premises use. The Fast Order Food establishments in 3 and 4 are not permitted to be a Licensed Premise:

# (1) Accessory Uses to Hotels

A hotel with 50 or more rooms may have a restaurant as an Accessory Use; a restaurant may be permitted as a second Principal Use on the same property as a smaller hotel, subject to all of the other conditions applicable to the use and the district in which it is located, including separate Parking requirements.

A hotel with 100 or more rooms may have a Bar as an Accessory Use, subject to all of the other conditions applicable to the use and the district in which it is located, including separate Parking requirements.

A hotel with 150 or more rooms may have a Nightclub or other live entertainment as an Accessory Use.

# (2) Accessory Bars

In any Zoning District allowing a Restaurant as a permitted use and allowing an Accessory Bar, the Accessory Bar shall be allowed only subject to the following standards:

- (i) the Accessory Bar shall not constitute more than 25% of the Floor Area of the eating & drinking establishment;
- (ii) the Accessory Bar shall not have a separate Street entrance; and
- (iii) if at any time the sales of alcoholic beverages in the eating & drinking establishment constitute more than 55% of gross sales for any two months or longer measuring period, the Bar shall be deemed to be a Principal Use and the operator shall be subject to penalties under this Development Code for operation of an unlawful use.

#### (3) Standards that Apply in MU, CN1 and CN2 Districts

Fast Order Food establishments shall be permitted in MU, CN1 and CN2 Districts provided that the Gross Floor Area shall not exceed 3,000 square feet.

#### (4) Standards that Apply in CO District

Fast Order Food establishments are permitted in the CO District provided that the total Floor Area does not exceed 10 percent (10%) of the total Gross Floor Area of all floors of the office Building or of all Buildings in the office complex in which the use is located.

# (5) Standards that Apply in CD District

The following restrictions apply to Licensed Premises in the CD district:

- (i) The Licensed Premises use in CD shall be required to derive from the sales of food for consumption on the Premises not less than 55% of all the Licensed Premises' gross receipts for a calendar year from sales of food and beverages on such Premises.
- (ii) The City Manager or his/her designee shall establish an administrative procedure for the investigation and enforcement of this requirement that shall include the annual reporting of appropriate sales and receipt information from Licensed Premises governed by this Section.

# 20-1108 GENERAL DEVELOPMENT STANDARDS FOR MIXED USE (MU) DISTRICTS

# (a) Applicability (items were moved elsewhere in the section)

Development constituting a Major Development Project shall comply with the General Development Standards for Mixed Use Districts (Section 20-1108). Any Structure(s) which existed prior to being rezoned to the Mixed Use District may become nonconforming with regard to the Development Standards of Section 20-1108. Such Structures, if involuntarily damaged or destroyed may be reconstructed as they existed if and only if the conditions of Section 20-1503(e)(2) are satisfied. The following situations are exempt from these Development Standards:

- (1) Structures which existed prior to being rezoned to the Mixed Use District shall be allowed to remain as developed until such Structure is proposed to be demolished and redeveloped;
- The intensification of the use of property in the MU District that increases the off-street parking requirements shall not constitute a Major Development Project.

Development constituting a Major Development Project shall include a mixture of residential and nonresidential uses together in one Structure or in separate Structures, designed to form a Pedestrian-Scale environment. All Mixed Use developments shall require site plan review and approval.

#### (a) Where Appropriate (items inserted from Section 20-223)

The Mixed Use District zoning classification may not be appropriate in all areas of the City of Lawrence. To be eligible for rezoning to the Mixed Use District, a site proposed for Mixed-Use development shall be:

- (1) Within one-quarter of a mile of Designated Transit Route at the time the rezoning is initiated; and
- (2) Near or adjacent to the intersection of Arterial Streets as per the adopted Major Thoroughfares Map; or
- (3) Within one-quarter of a mile of university campuses; or
- (4) Within one-quarter of a mile of downtown, the boundaries of which are described in Chapter 6 of Horizon 2020; or
- (5) <u>Immediately adjacent to public parks or open space; or</u>
- (6) An existing nonresidential development proposed for redevelopment.

(b) Alterations to Designated Transit Routes (items inserted from Section 20-223) The provisions of Section 20-1108(a)(1) shall apply to Mixed-Use development in the MU Zoning District. If the Designated Transit Route is altered such that it is no longer within one-quarter of a mile of a Mixed-Use development, then an approved Mixed-Use development shall not be made a nonconforming use.

#### (c) Compatibility (items inserted from Section 20-223)

Mixed-Use developments shall be compatible with existing development which surrounds the proposed Mixed-Use development. Compatibility is best achieved through a transition in Building form, Scale and intensity rather than through uses, peripheral buffers or Landscaping. In furtherance of this purpose, development

zones shall be designated on the property proposed for the Mixed-Use development. Such zones shall be designated to govern the permitted Density, Building Height and Building Scale and to assure compatibility between the proposed development and surrounding existing development.

(b) Terms Defined (items were moved elsewhere in the section)

The following terminology is used frequently in this Section and is provided below for reference.

Building Frontage	That portion of a Building or Structure that is adjacent to or faces the Public Frontage.
Clear Zone	An area designated within the Public Frontage of a Mixed Use Project which reserves space for
	sidewalk. The Clear Zone shall be clear of any obstruction to a minimum height of eight (
	above Grade.
Designated Transit	Any bus route identified on the route map published by the Lawrence Transit System or KU (
Route Property of the Property	Wheels transit system.
Development Zone,	Land area in a Mixed Use development designated at time of rezoning to the Mixed Use Distr
Primary	and reserved for the most intense development proposed for the Mixed Use development.
Development Zone,	Land area in a Mixed Use development designated at time of rezoning to the Mixed Use Distr
Secondary .	and reserved for less intense development than the Primary Development Zone, but more intense
	development than the Tertiary Development Zone. The Secondary Development Zone may sen
	as a transitional zone within a larger Mixed Use Development.
Development Zone,	Land area in a Mixed Use development designated at time of rezoning to the Mixed Use Distr
Tertiary	and reserved for the least intense development proposed for the Mixed Use development.
Light Court	An area within the Public Frontage in a Mixed Use development adjacent to the Building Frontage
<u></u>	which provides a means of outdoor light to reach an underground level of a Structure. It may all
	provide a means of emergency exit from the Structure but shall not serve as a primary entrangement of the structure but shall not serve as a serve as a primary entrangement of the structure but shall not serve as a serve
	or exit to the Structure.
<del>Massing</del>	The size and shape of Structure(s) individually and their arrangements relative to oth
iwa 3311 ig	Structure(s)
Mixed Use Structure.	A Building or Structure containing two or more different uses distributed horizontally throughout
<del>Horizontal</del>	the Structure.
Mixed Use Structure.	A Building or Structure, a minimum of two stories in Height, containing two or more different us
Vertical	distributed vertically throughout the Structure.
<del>Vertical</del> Moderately-Priced	A Dwelling Unit marketed and reserved for occupancy by a household whose income is equal
<b>.</b>	or less than 80% of the City of Lawrence's median household income, as defined by the me
Dwelling Unit	current U.S. Department of Housing and Urban Development (HUD) guidelines.
Non-Ground Floor	Residential Dwelling(s) permitted in any Vertical Mixed Use Structure which are located above to
Oround rioor	ground level or first level of the Structure or below the ground level or first level of a Structure at
Dwelling(s)	do not have direct internal Access to a nonresidential use.
0.11. 11. 7	
<mark>Outdoor Use Zone</mark>	An area designated for outdoor use by a nonresidential or residential tenant within the Pub
	Frontage in a Mixed Use development. At ground level, Outdoor Use Zones may inclu
	sidewalk dining, sidewalk sales, product demonstrations or any use Accessory and incidental to
	permitted nonresidential use in the Mixed Use District. Outdoor Use Zones may also include
	upper level uses such as balconies or terraces as well as Building mounted signs.
Public Frontage	The publicly owned layer between the Lot-line or Street Line and the edge of the vehicular land
	The Public Frontage may include sidewalks, street planters, trees and other vegetate
D. L.II. E.	Landscaping, benches, lamp posts, and other street furniture.
<del>Public Frontage,</del>	The Public Frontage along a designated Primary Development Zone. Primary Public Frontage
<del>Primary</del>	are commonly associated with pedestrian oriented urban commercial and retail areas in Mixe
	Use settings. They are commonly served by or are Accessible to public transit and may conto
	medium to high residential densities and Vertical Mixed Use Structures. Primary Public Frontag
	are designed to accommodate heavy pedestrian traffic, street vendors and sidewalk dining at
	typically consist of a sidewalk or clear area paved from the back of curb of the Thoroughfare-
	the Building Frontage or Right of way line, reserving space for street furniture.
Public Frontage,	The Public Frontage along a designated Secondary Development Zone. Secondary Pub
<del>Secondary</del>	Frontages are commonly associated with pedestrian oriented Thoroughfares and Mixed U
	settings. They are designed to accommodate moderate amounts of pedestrian traffic at
	typically consist of a sidewalk or clear area adjacent to the Building Frontage or Right of way lin
	reserving space for street furniture, and a landscaped strip with street trees between the back
	curb of the Thoroughfare and the sidewalk or clear area.

Public Frontage,	The Public Frontage along a designated Tertiary Development Zone. Tertiary Public Frontages
<del>Tertiary</del>	are commonly associated with pedestrian friendly. Thoroughfares in lower intensity mixed
	residential settings, consisting of a 5' wide sidewalk and street trees. Tertiary Public Frontages
	are designed to accommodate pedestrians who seek to walk to a nearby destination.
Root System Zone	A subsurface area designated within the Public Frontage in a Mixed Use development. Such
	zones shall reserve space for the root system of street trees and Landscaping planted in the
	Street Tree & Furniture Zone.
Scale	A quantitative measure of the relative Height and Massing of Structure(s) Building(s) and spaces.
Slip Road	A road which provides Access to and runs a course parallel to an Arterial Street or other limited
	Access street or highway. Slip Roads are commonly used along boulevards to provide Access to
	adjacent properties, on-street parking, and to buffer high-speed traffic lanes from pedestrian
	areas. Slip Roads may also be known as Access roads.
Subsurface Utility	A subsurface area designated within the Public Frontage in a Mixed Use development. Such
Zone	zones shall reserve space for public utilities.
Street Tree and	An area designated within the Public Frontage in a Mixed Use development. Such zones shall
Furniture Zone	reserve space for street trees and other Landscaping as well as street furniture including, but not
	limited to benches, street lights and transit stops.
Work/Live Unit	A space within a Building that consists of a Non-Ground Floor Dwelling which is Accessory to a
	nonresidential use and has direct internal Access to the nonresidential use.

### (a) (d) Applicability (items were moved from elsewhere in the section)

The provisions of this section shall apply to all construction and development in the Mixed Use District, except as expressly exempted in this section.

Development constituting a Major Development Project shall comply with the General Development standards for Mixed Use Districts (Section 20-1108). Any Structure(s) which existed prior to being rezoned to the Mixed Use District may become nonconforming with regard to the Development standards of Section 20-1108. Such Structures, if involuntarily damaged or destroyed may be reconstructed as they existed if and only if the conditions of Section 20-1503(e) (2) are The following situations are exempt from the Development standards of Section 20-1108:

- (1) Any Structure(s) which existed prior to being rezoned to the Mixed Use District may become nonconforming with regard to the Development standards of Section 20-1108. Such Structures, if involuntarily damaged or destroyed may be reconstructed as they existed if and only if a Building Permit for the restoration is obtained within 12 months of the date of the occurrence of the damage and once issued, construction shall be diligently pursued.
- (2) Structures which existed prior to being rezoned to the Mixed Use District shall be allowed to remain as developed until such Structure is proposed to be demolished and redeveloped, improved or modified as a Major Development Project. Improvements or modifications proposed and approved as a Minor or Standard Development Project are required to be compliant with the standards of this section, the Development Code and/or the Commercial Design Standards, unless otherwise determined by the Planning Director.
- The intensification of the use of property in structures which existed prior to being rezoned to the MU District that increases the off-street parking requirements shall not constitute a Major Development Project.
- (4) Any use existing at the time of rezoning to the MU District that is regulated as a Special Use upon rezoning to the MU District shall be

considered an approved Special Use and will be allowed to continue without an additional public hearing. Any alterations or expansions of the use are subject to the Special Use amendment procedures of Section 20-1306.

#### (e) Mixed Use Development (items inserted from Section 20-223)

Development <u>in the Mixed Use District</u> constituting a Major Development Project shall include a mixture of residential and nonresidential uses together in one Structure or in separate Structures, designed to form a Pedestrian-Scale environment. All Mixed Use developments shall require site plan review and approval.

# (f) Development Zones (items inserted from Section 20-223)

Development zones govern permitted Density on the site as well as Building Height, Scale and form. The three development zones are hierarchical in terms of development intensity permitted. A proposal to rezone to the MU District need not designate all three development zones. Development zones shall be designated to ensure compatibility with surrounding existing development. In cases where a rezoning to the MU District is proposed for a site which is surrounded by existing detached residential development, a Tertiary Development Zone shall be required to be designated adjacent to such existing development in order to ensure compatibility of Height, Scale and form.

# (1) Primary Development Zone

The Primary Development Zone is that area of land within a Mixed-Use development which is designated for the most intense development allowed by the District. Primary Development Zones shall contain Vertical Mixed Use Structures with a mixture of both residential and nonresidential uses and no interruption of Building Frontage along the Public Frontage. Where a Primary Development Zone enfronts fronts upon a Public Frontage, such area shall be designated as Primary Public Frontage. A Primary Public Frontage shall be designed to accommodate heavy pedestrian traffic and ground-level nonresidential uses. Residential uses shall not be permitted on the ground level of Structures in the Primary Development Zone.

#### (2) Secondary Development Zone

The Secondary Development Zone is that area of land within a Mixed-Use development which is designated for less-intense development, relative to that permitted by a Primary Development Zone. Secondary Development Zones may contain Vertical Mixed Use Structures, Horizontal Mixed Use Structures or single-use Structures with interruption of Building Frontage along the Public Frontage allowed only for Access to Parking Areas, for Alleys or service lanes. Where a Secondary Development Zone enfrents fronts a Public Frontage such area shall be designated as Secondary Public Frontage. A Secondary Public Frontage shall be designed to accommodate moderate amounts of pedestrian traffic, and if planned, vehicular Access to Parking Areas and service lanes in a manner that minimizes pedestrian-vehicular conflict. Secondary Development Zones may contain both nonresidential ground-level uses as well as ground level residential uses.

#### (3) Tertiary Development Zone

The Tertiary Development Zone is that area of land within a Mixed-Use development which is designated for the least-intense development, relative to that permitted in the other zones. Tertiary Development Zones shall permit a development intensity which is no greater than that of surrounding existing

development. Such zones shall permit a development form which is consistent with that of surrounding existing development (i.e. two-Story detached residential Dwellings across the street from existing Structures which are of the same form, etc.). Nonresidential uses shall only be permitted in a Tertiary Development Zone if the existing surrounding development contains such nonresidential uses. A Tertiary Development Zone shall only permit a residential use type which exists in surrounding development.

(g) Designation of Development Zones (items inserted from Section 20-223)

The applicant for any rezoning to the MU District shall propose development zones for the entire site proposed to be rezoned. The proposed designation shall be included with the application for rezoning. No application for rezoning to the MU District shall be considered complete and sufficient without this information. The proposed designation shall include, at a minimum, the following information:

- (1) A plan or graphic representation depicting the location and arrangement of each proposed development zone for the entire site proposed to be rezoned. The plan or graphic shall include the following:
  - (i) A general location map showing the subject property's location;
  - (ii) Existing and proposed Lot lines on the subject property;
  - (iii) Existing and proposed rights-of-ways of the subject property;
  - (iv) The existing zoning and land use of the subject property;
  - (v) The existing zoning and land use of surrounding properties;
  - (vi) The Height and Floor Area footprint of individual Structures in surrounding existing development;
  - (vii) The Building form (i.e. Vertical Mixed Use Structure, Horizontal Mixed Use Structure, Attached Structure or Detached Structure) of surrounding existing development;
  - (viii) A written narrative describing how each development zone proposed is compatible with surrounding existing development in terms of Building Height, Building form, and land use.

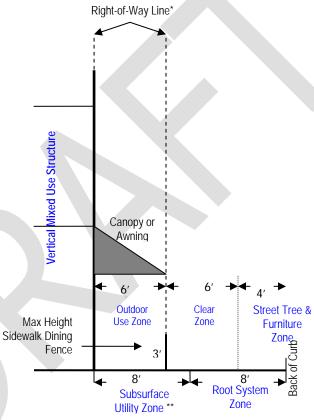
# (b) (h) Public Frontage Form Standards

In order to ensure the design of pedestrian-oriented Mixed Use developments, each development proposed shall comply with the following standards based upon the applicable Public Frontage. The site plan proposed shall clearly demonstrate that the following Public Frontage form standards are satisfied.

# (1) Primary Public Frontages

A Primary Public Frontage shall be planned and designed for all Public Frontages in association with any designated Primary Development Zone. The site plan shall demonstrate that each Primary Public Frontage is planned and designed in accordance with the standards shown below.

#### Primary Public Frontage



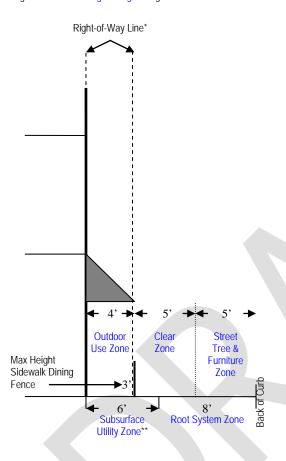
\*When an Outdoor Use Zone is designated within the ROW a Use of Right-of-Way License Agreement shall be executed prior to Site Plan approval.

<sup>\*\*</sup> When a Subsurface Utility Zone is located on private property or behind the ROW line, a Utility Easement shall be filed at the Douglas County Register of Deeds with Book and Page number noted on the approved Site Plan.

# (2) Secondary Public Frontages

A Secondary Public Frontage shall be planned and designed for all Public Frontages in association with any designated Secondary Development Zone. The site plan shall demonstrate that each Secondary Public Frontage is planned and designed in accordance with the standards shown below.

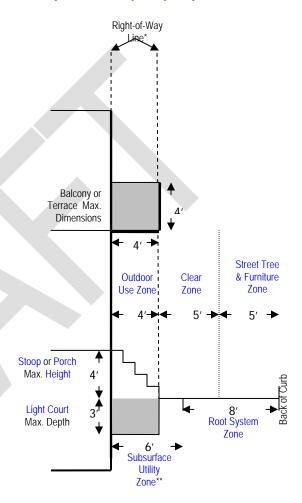
# Secondary Public Frontage With ground-level building frontage designated for Nonresidential Uses.



\*When an Outdoor Use Zone is designated within the ROW, a Use of Right-of-Way License Agreement shall be executed prior to Site Plan approval.

\*\*When a Subsurface Utility Zone is located on private property or behind the ROW line, a Utility Easement shall be filed at the Douglas County Register of Deeds with Book and Page number noted on the approved Site Plan.

# Secondary Public Frontage With ground-level Building Frontage designated for Residential Uses.



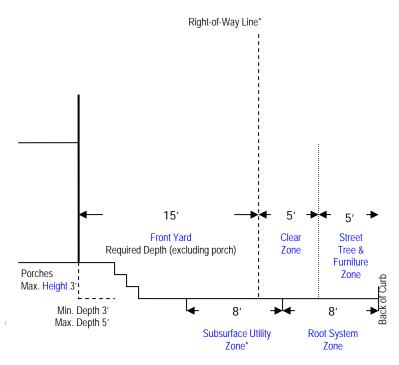
\*When an Outdoor Use Zone is designated within the ROW, a Use of Right-of-Way License Agreement shall be executed prior to Site Plan approval.

\*\*When a Subsurface Utility Zone is located on private property, or behind the ROW line, a Utility Easement shall be filed with the Douglas County Register of Deeds with Book and Page number noted on the approved Site Plan.

# (3) Tertiary Public Frontages

A Tertiary Public Frontage shall be planned and designed for all Public Frontages in association with any designated Tertiary Development Zone. The site plan shall demonstrate that each Tertiary Public Frontage is planned and designed in accordance with the standards shown below.

# **Tertiary Public Frontage**



\*When a Subsurface Utility Zone is located on private property or behind the ROW line, a Utility Easement shall be filed at the Douglas County Register of Deeds with Book and Page number noted on the approved Site Plan.

#### (4) Deviations

Deviations from these Public Frontage form standards may be granted by the Planning Director during site plan review in the following circumstances:

- (i) The width of the Subsurface Utility Zone and Root System Zone may be altered based upon a recommendation by the City Utility Department and/or Parks and Recreation Department staff in order to resolve a conflict between placement of trees, Landscaping and utilities:
- (ii) The width of the any above-surface zone may be altered by the Planning Director if he/she determines that such alteration promotes pedestrian safety.

# (i) Pedestrian and Vehicular Access (items inserted from Section 20-223)

In areas designated as the Primary Public Frontage, vehicular Access to individual Lots may be permitted only from a public Alley. In areas designated as Secondary Public Frontage or Tertiary Public Frontage, vehicular Access may be permitted from the Alley or Street. Pedestrian Access shall be permitted from the Street, public Alley or pathway.

# (d) (j) Building Form & Use Standards

The following Building forms shall be permitted in the Mixed Use District:

#### (1) Vertical Mixed Use Structures

Such Structures shall be a minimum of two stories in Height above Grade and shall contain both nonresidential uses and residential uses distributed vertically throughout the Structure.

# (i) Where Permitted

Vertical Mixed Use Structures shall only be permitted in the Primary Development Zone and Secondary Development Zone. The Density and dimensional standards of Article 6 for each development zone shall apply.

#### (ii) Nonresidential Uses

Any permitted nonresidential use may be located in a Vertical Mixed Use Structure.

### (iii) Location of Nonresidential Uses

The ground-level or street-level of Vertical Mixed Use Structures shall be designed, constructed, and reserved for occupation by nonresidential uses.

# (iv) Residential Uses

Non-Ground Floor Dwelling(s) shall be permitted in Vertical Mixed Use Structures. Work/Live Units are permitted when the nonresidential component of the unit occupies the Building Frontage.

#### (2) Horizontal Mixed Use Structures

Such Structures shall contain a mixture of nonresidential uses and residential uses distributed horizontally throughout the Structure. The location of the uses within as Horizontal Mixed Use Structure shall be as follows.

# (i) Where Permitted

Horizontal Mixed Use Structures shall only be permitted in the Secondary Development Zone and the Tertiary Development Zone. The Density and dimensional standards of Article 6 for each development zone shall apply.

#### (ii) Nonresidential Uses

Any permitted nonresidential use may be located in a Horizontal Mixed Use Structure.

#### (iii) Location of Nonresidential Uses

The Building Frontage of a Horizontal Mixed Use Structure shall be designed, constructed, and reserved for occupation by nonresidential uses.

# (iv) Residential Uses

Attached Dwellings shall be permitted in Horizontal Mixed Use Structures. Live/Work Unit(s) are permitted in Horizontal Mixed Use Structures with direct internal Access between the residential and nonresidential components of the unit, however, the nonresidential component of the unit must occupy the Building Frontage with the residential component of the unit located behind the nonresidential component.

#### (3) Attached Structures

Such Structures are designed to contain either nonresidential or residential use(s). Such Structures are not designed to contain both residential and nonresidential uses and therefore are not considered to be Mixed Use Structures. Attached Structures may contain a variety of nonresidential uses (such as retail and office) or a variety of residential uses (such as townhomes or rowhomes, i.e. Attached Dwellings).

#### (i) Where Permitted

Attached Structures shall only be permitted in the Secondary Development Zone and the Tertiary Development Zone. The Density and dimensional standards of Article 6 for each development zone shall apply.

#### (4) Detached Structures

Such Structures are designed to contain either a single nonresidential or a single residential use. Such Structures are designed to contain a single use.

#### (i) Where Permitted

Detached Structures shall only be permitted in the Tertiary Development Zone. Detached residential Structures (i.e. Detached Dwellings) shall be required in Tertiary Development Zones when surrounding existing Structures are of the same form.

# (e) (k) Parking Area Standards

The following Automobile and Bicycle Parking provisions apply to all development in the MU District in addition to the provisions of Article 9 not described below. If the provisions of Article 9 conflict or are inconsistent with any of the provisions within this Section, the regulations of this Section shall apply.

# (1) Required Automobile Parking

# (i) Provision of On-Street Parking

On-Street parking shall be counted toward the minimum off-Street parking requirements for a given use as per Section 20-902. On-Street Parking may be provided on all Streets forming the perimeter boundary of or within a Mixed Use development with the exception of Streets classified as Principal Arterial Streets according to the adopted Major Thoroughfares Map of the City of Lawrence. When a Principal Arterial Street forms the perimeter boundary of, or is contained within a Mixed Use development parking may be designed in the form of a Slip Road as approved by the City Engineer.

# (ii) Shared Off-Street Parking

The applicant may elect to use the Shared Parking provisions of Section 20-909 to calculate the required parking for the Mixed Use development. All uses within Mixed Use development, except Detached Dwellings on

individual Lots are encouraged to share parking rather than provide parking on a use by use basis on individual properties.

#### (iii) Location of Off-Street Parking Areas

Parking Areas shall not be permitted in a designated Primary Development Zone. All Parking Areas shall be located within the site area of the Mixed Use development and within 1,320 feet of any use for which it is designated to provide parking. Parking Areas shall be located in accordance with the provisions of Section 20-908(c).

#### (iv) Access to Off-Street Parking Areas

Access to a Parking Area shall not be permitted through a designated Primary Public Frontage.

# (2) Bicycle Parking Areas

The provisions of Article 9 shall apply.

# (f) (I) Development Bonuses

A development bonus is an incentive-based tool that permits an increase in the allowable development potential of a property in exchange for helping the community achieve goals as stated in the Lawrence/Douglas County Comprehensive Land Use Plan. Mixed Use developments in the MU District which contain features it identified as public goals in the table below may be eligible to increase development potential based upon the number of points earned. The applicant shall make a request for development bonus(es) in writing with the site plan application. The request shall state the goal(s) provided, points earned and development bonus redeemed for the points earned. Such information shall also be stated on the approved site plan.

Public Goal	Points Earned
Goal I: Provision of Moderately-Priced Dwelling Units	
Percentage of all Dwelling Units which are considered to be Moderately-Priced Dwelling Units	100 points for the first 10%; PLUS 10 points for each 1% provided in addition to 10%
Goal II: Provision of a variety of housing types	
At least two (2) of the following five (5) housing types must be	provided in order to redeem points.
Non-Ground Floor Dwellings Attached Dwellings Live/Work Units Assisted Living or Independent Living Zero-Lot Line Dwellings	25 if two (2) of the types are provided; 50 if three (3) of the types are provided; 75 if four(4) of the types are provided; 100 if five (5) of the types are provided;
*The points earned for provision of the above-mentioned goals	s may be combined
Goal III: Provision of transit-supportive development	
Location adjacent to Designated Transit Stop	100 points if located directly adjacent to a transit stop and if stop is integrated into the Mixed Use Development and transit stop/pedestrian amenities are provided.
Goal IV: Ensuring availability of adequate public facilities	
Location within ½ mile of a fire station	10 points
Location within 1 mile of a police station	10 points
Location within ¼ mile of a public park or open space	25 points
Location within ¼ mile of a school or cultural center	25 points
Redevelopment of an existing commercial or nonresidential center with adequate utility and transportation Infrastructure to support redevelopment	75 points

Public Goal	Points Earned
Location adjacent to the intersection of two streets classified as either Minor Arterial or Principal Arterial according to the adopted Major Thoroughfares Map	15 points
Goal V: Ensuring Protection of Environmental Quality	
Provision of a green roof or rooftop garden to control stormwater runoff (determination of materials used to constitute a green roof or rooftop garden shall be made by the City Stormwater Engineer)	75 points
Provision of a stormwater best management practice as per the adopted BMP Manual	25 to 50 points (as determined by the City's Stormwater Engineer)
Construction of a Structure with LEED (Leadership in Energy Efficient Design) Certification	100 points per mixed-use Structure certified;
Construction of a residential Structure with ENERGY STAR Certification	25 points per attached or detached Dwelling certified;
Protection of Sensitive Land Features as per Section 20- 1101(d)(4) otherwise not required to be protected or preserved	25 points per feature preserved

# (g) (m) Redemption of Development Bonus

#### (1) Increase in Residential Density

In a designated Primary Development Zone, the maximum residential Density permitted as stated in Section 20-601(c) may be increased at the rate of 1 additional Dwelling Unit per acre for every 10 points earned. For instance, if a development proposal earns 20 points an additional 2 Dwelling Units per acre may be constructed (for a total of 34) in the Primary Development Zone. Points earned in any development zone may be transferred to the Primary Development Zone for redemption.

#### (2) Increase in Building Height

In a designated Primary Development Zone, Building Height may be increased above the permitted maximum Height as stated in Section 20-601(c) at the rate of 12 feet for every 100 points earned. Points earned in any development zone may be transferred to the Primary Development Zone for redemption.

# (3) Increase in **Building Coverage above Maximum**

In the Secondary Development Zone, Building coverage may be increased above the maximum permitted as per Section 20-601(c) up to 100% coverage for 75 points earned. Only those points earned through provision of features of Goal V may be redeemed for an increase in Building coverage.

# (4) Reduction in Minimum Parking Requirement

The minimum number of Parking Spaces required may be reduced at a rate of 1 Parking Space for every 5 points earned. Only those points earned through provision of features of Goal III may be redeemed for a reduction in the minimum parking requirement.

#### (5) Increase in Impervious Surface Coverage above Maximum

In the Secondary Development Zone, Impervious Surface coverage may be increased above the maximum permitted as per Section 20-601(c) up to 100% coverage for 75 points earned. Only those points earned through provision of a feature of Goal V may be redeemed for an increase in Building coverage.

(b) (n) Terms Defined (items were moved from elsewhere in the section)
The following terminology is used frequently in this Section and is provided below for reference.

<b>Building Frontage</b>	That portion of a Building or Structure that is adjacent to or faces the Public Frontage.
Clear Zone	An area designated within the Public Frontage of a Mixed Use Project which reserves space for a
	sidewalk. The Clear Zone shall be clear of any obstruction to a minimum height of eight (8)
	above Grade.
Designated Transit	Any bus route identified on the route map published by the Lawrence Transit System or KU on
Route	Wheels transit system.
Development Zone,	Land area in a Mixed Use development designated at time of rezoning to the Mixed Use District
<u>Primary</u>	and reserved for the most intense development proposed for the Mixed Use development.
Development Zone,	Land area in a Mixed Use development designated at time of rezoning to the Mixed Use District
<b>Secondary</b>	and reserved for less intense development than the Primary Development Zone, but more intense
	development than the Tertiary Development Zone. The Secondary Development Zone may serve
	as a transitional zone within a larger Mixed Use Development.
Development Zone,	Land area in a Mixed Use development designated at time of rezoning to the Mixed Use District
<u>Tertiary</u>	and reserved for the least intense development proposed for the Mixed Use development.
Light Court	An area within the Public Frontage in a Mixed Use development adjacent to the Building Frontage
	which provides a means of outdoor light to reach an underground level of a Structure. It may also
	provide a means of emergency exit from the Structure but shall not serve as a primary entrance
	or exit to the Structure.
<b>Massing</b>	The size and shape of Structure(s) individually and their arrangements relative to other
	Structure(s).
Mixed Use Structure,	A Building or Structure containing two or more different uses distributed horizontally throughout
<u>Horizontal</u>	the Structure.
Mixed Use Structure,	A Building or Structure, a minimum of two stories in Height, containing two or more different uses
<u>Vertical</u>	distributed vertically throughout the Structure.
Moderately-Priced	A Dwelling Unit marketed and reserved for occupancy by a household whose income is equal to
Dwelling Unit	or less than 80% of the City of Lawrence's median household income, as defined by the most
	current U.S. Department of Housing and Urban Development (HUD) guidelines.
Non-Ground Floor	Residential Dwelling(s) permitted in any Vertical Mixed Use Structure which are located above the
Dwelling(s)	ground level or first level of the Structure or below the ground level or first level of a Structure and
2	do not have direct internal Access to a nonresidential use.
Outdoor Use Zone	An area designated for outdoor use by a nonresidential or residential tenant within the Public
	Frontage in a Mixed Use development. At ground level, Outdoor Use Zones may include
	sidewalk dining, sidewalk sales, product demonstrations or any use Accessory and incidental to a permitted nonresidential use in the Mixed Use District. Outdoor Use Zones may also include
	upper level uses such as balconies or terraces as well as Building-mounted signs.
Public Frontage	The publicly-owned layer between the Lot line or Street Line and the edge of the vehicular lanes.
Fublic Fromage	The Public Frontage may include sidewalks, street planters, trees and other vegetated
	Landscaping, benches, lamp posts, and other street furniture.
Public Frontage,	The Public Frontage along a designated Primary Development Zone. Primary Public Frontages
Primary	are commonly associated with pedestrian-oriented urban commercial and retail areas in Mixed
- Amary	Use settings. They are commonly served by or are Accessible to public transit and may contain
	medium to high residential densities and Vertical Mixed Use Structures. Primary Public Frontages
	are designed to accommodate heavy pedestrian traffic, street vendors and sidewalk dining and
	typically consist of a sidewalk or clear area paved from the back of curb of the Thoroughfare to
	the Building Frontage or Right-of-way line, reserving space for street furniture.
Public Frontage,	The Public Frontage along a designated Secondary Development Zone. Secondary Public
Secondary	Frontages are commonly associated with pedestrian-oriented Thoroughfares and Mixed Use
	settings. They are designed to accommodate moderate amounts of pedestrian traffic and
	typically consist of a sidewalk or clear area adjacent to the Building Frontage or Right-of-way line,
	reserving space for street furniture, and a landscaped strip with street trees between the back of
	curb of the Thoroughfare and the sidewalk or clear area.
Public Frontage,	The Public Frontage along a designated Tertiary Development Zone. Tertiary Public Frontages
Tertiary	are commonly associated with pedestrian-friendly Thoroughfares in lower intensity mixed
	residential settings, consisting of a 5' wide sidewalk and street trees. Tertiary Public Frontages
	are designed to accommodate pedestrians who seek to walk to a nearby destination.
	J

Root System Zone	A subsurface area designated within the Public Frontage in a Mixed Use development. Such
	zones shall reserve space for the root system of street trees and Landscaping planted in the
	Street Tree & Furniture Zone.
<b>Scale</b>	A quantitative measure of the relative Height and Massing of Structure(s) Building(s) and spaces.
Slip Road	A road which provides Access to and runs a course parallel to an Arterial Street or other limited
	Access street or highway. Slip Roads are commonly used along boulevards to provide Access to
	adjacent properties, on-street parking, and to buffer high-speed traffic lanes from pedestrian
	areas. Slip Roads may also be known as Access roads.
Subsurface Utility	A subsurface area designated within the Public Frontage in a Mixed Use development. Such
Zone	zones shall reserve space for public utilities.
Street Tree and	An area designated within the Public Frontage in a Mixed Use development. Such zones shall
Furniture Zone	reserve space for street trees and other Landscaping as well as street furniture including, but not
	limited to benches, street lights and transit stops.
Work/Live Unit	A space within a Building that consists of a Non-Ground Floor Dwelling which is Accessory to a
	nonresidential use and has direct internal Access to the nonresidential use.

# (h) (o) Other Regulations

There are a number of other development standards that may apply to Mixed Use development, including but not limited to the following:

# (1) Use Standards

For standards applicable to uses in the Mixed Use District see Article 5.

# (2) Density and Dimensional Standards

For Density and Dimensional Standards of the Mixed Use District see Article 6.

# (3) Off-Street Parking and Loading

For parking standards not provided in this Section see Article 9.

# (4) Landscaping & Screening

For Landscaping & Screening requirements see Article 10.

# (5) Outdoor Lighting

See Section 20-1103.

Key:	cassarv				Base Zo	oning Di	istricts				Specific Standar ds
P = Per S = Spe * = Star	A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN2	MU	MUE	00	CD	၁၁	CR	cs	
RESIDE	NTIAL USE GROUP										
	Accessory Dwelling Attached Dwelling	P* P*	-	P* P*	– P*	-	_	-			534 503
	Cluster Dwelling	_	_	_	_	_	_	_	_	_	702
	Detached Dwelling	P*	_	Р	_	_	_	_	-	_	508
	Duplex	P*	-	P*	P*	-	_	-	-	_	503
	Manufactured Home	_	-	_	-	_	_	-	-	_	
Household Living	Manufactured Home, Residential- Design	P*	-	-	_	-	-	-	-	_	513
	Mobile Home	_	_	_	_	_	-	_	-	_	
eho	Mobile Home Park	-	_	-	_	-	_	_	-	_	
Hous	Multi-Dwelling Structure	-	P*	P*	P*	_	P*/S*	P*		P*	517
	Non-Ground Floor Dwelling	P*	P*	P*	P*	-	P*	P*	-	P*	517/542
	Work/Live Unit	P*	P*	P*	P*	_	P*/S*	P*	-	P*	517/541
	Zero Lot Line Dwelling	P*	-	Р	P*	-	_	-	-	-	531
	Home Occupation, Type A or B	-	-	P*	P*	_	-	-	-	-	537
	Assisted Living	-	-	Р	Р	-	_	-	-	-	
	Boarding Houses & Cooperatives	-	-	Р	Р	_	-	-	-	-	
Group Living	Dormitory Fraternity or Sorority	_	-	_	_	-	_	-	_	_	
dr	House Croup Home										
Grou	Group Home, General (11 or more)	S	S	S	S	S	S	S	S	S	
	Group Home, Limited (10 or less)	Р	-	Р	Р	_	-	-	-	-	
PUBLIC	AND CIVIC USE GROU	JP P*	P*			P*		P*	P*	P*	EOF
S	Cemetery College/University	S	P P	- Р	- Р	P	- Р	P P	P	Р	505
Community Facilities	Cultural Center/ Library	S	Р	Р	Р	S	Р	Р	_	_	
y F.	Day Care Center	S*	P*	S*	S*	S*	S*	P*	P*	P*	507
	Day Care Home, Class A	Р	P	P*	P*	_	Р	P	-	Р	507
Con	Day Care Home, Class B	S*/A*	P*	S*	S*	-	Р	Р	-	Р	507
1	Detention	-	_	_	-	_	-	_	_	_	

Key:	coccoru				Base Zo	ning Di	stricts				Specific Standar ds
P = Per S = Spe * = Star	A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN2	MU	MUE	co	СD	၁၁	cR	cs	
	Lodge, Fraternal		S*	S*	P*	S*	P*	P*	P*	P*	512
	and Civic Assembly Postal & Parcel	S*	P	P	' Р	P	' Р	' Р	' Р	' Р	312
	Service Public Safety School Funeral and Interment	S	P	Р	P	P	P	P	Р	Р	
		P	Р	P	P	Р	Р	P	Р	Р	
		-	P*	_		P*	P*	P*	P*	P*	505
	Temporary Shelter	S*/A*	544/522								
	Social Service Agency	Р	Р	Р	Р	Р	Р	Р	Р	Р	
	Community Meal Program	S/A*	S/A*	S/A*	S*/A*	S/A*	S/A*	S/A*	S/A*	S/A*	522
	Utility, Minor	P*/ S*	530								
	Utility and Service, Major	S	S	S	S	S	S	S	S	S	
	Extended Care Facility, General	_	S	-	-	S	-	-	-	-	
cilities	Extended Care Facility, Limited	Р	Р	Р	Р	Р	-	-	-	-	
Medical Facilities	Health Care Office, Health Care Clinic	Р	S	Р	Р	Р	Р	Р	Р	Р	
Med	Hospital	-	-	-	_	_	-	-	-	_	-
	Outpatient Care Facility	P*	P*	P*	-	P*	P*	P*	P*	P*	519
	Active Recreation	S	Р	Р	Р	S	S	Р	Р	Р	532
(0	Entertainment & Spectator Sports, Gen.	-	1	-	Р	1	Р	Р	Р	Р	
Recreational Facilities	Entertainment & Spectator Sports, Ltd.	_	Р	Р	Р	_	Р	Р	Р	Р	
tional	Participant Sports & Recreation, Indoor	-	Р	Р	Р	-	Р	Р	Р	Р	
creal	Participant Sports & Recreation, Outdoor	-	_	S	Р	_	-	Р	Р	Р	532
Re	Passive Recreation	Р	Р	Р	Р	Р	Р	Р	Р	Р	
	Nature Preserve/ Undeveloped	Р	Р	Р	_	Р	Р	Р	Р	Р	
	Private Recreation	Р	Р	Р	Р	-	Р	Р	-	Р	

Key:	Key: A = Accessory				Base Zo	ning Di	stricts				Specific Standar ds
P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN1	CN2	MU	MUE	00	СО	၁၁	CR	cs	
Religious Assembly	Campus or Community Institution	P*	P*	P*	P*	P*	P*	P*	P*	P*	522
Rel As:	Neighborhood Institution	P*	P*	P*	P*	P*	P*	P*	P*	P*	522
			COMI	MERCIA	L USE	GROUP					ı
	Kennel	-	-	-	-	-	-	Р	Р	Р	
Animal Services	Livestock Sale	_	-	-	-	-	-	S	S	S	
\nin serv	Sales and Grooming	Р	Р	Р	Р	Р	Р	Р	Р	Р	
4	Veterinary	_	Р	Р	Р	Р	Р	Р	Р	Р	
nts	Accessory Bar	A*	Α*	A*	A*	Α*	A*	Α*	A*	A*	509
	Accessory Restaurant	-	-	-	Α	_	-	_	_	-	
Eating & Drinking Establishments	Bar Or Lounge Brewpub	-	– P*	_ S*	P P	-	P* P*	P* P*	P* P*	P* P*	509 509
ing Es	Fast Order Food	P*	P*	P*	Р	P*	P*	P*	P*	P*	511 & 509
Drink	Fast Order Food, With Drive-In	-	S	-	Р	-	-	Р	Р	Р	500
ng &	Nightclub Private Dining	_	_	_	Р	_	P*	_	P*	P*	509
Eatir	Establishments Restaurant, Quality	P* P*	P* P*	- P*	P P	P* P*	P* P*	P* P*	P* P*	P* P*	539 524
	Administrative and Professional	P*	P*	P*	P*	P*	P*	P*	P*	P*	518
eo	Financial, Insurance & Real Estate	P*	P*	P*	Р	P*	P*	P*	P*	P*	510
Office	Other	P*	P*	P*	P*	P*	P*	P*	P*	P*	<del>537</del> 543
ig ies	Accessory	A*	Α*	Α*	A*	A*	A*	A*	A*	A*	535
Parking Facilities	Commercial	-	S	S	S	S	S	Р	Р	Р	
⊗ 4	Building Maintenance		Р	S	_	_	Р	Р	Р	Р	
Retail Sales Service	Business Equipment	-	Р	Р	_	-	Р	Р	Р	Р	
Retail Sales Servic	Business Support	_	Р	Р	-	Р	Р	Р	Р	Р	

Key:	Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed				Base Zo	oning Di	stricts				Specific Standar ds
P = Per S = Spe * = Star			CN2	MU	MUE	00	CD	၁၁	CR	SO	
	Construction Sales and Service	_	-	-	-	-	-	Р	Р	Р	
	Food and Beverage	P*	P*	P*	P*	P*	P*	P*	P*	P*	511
	Mixed Media Store	P*	P*	P*	P*	P*	P*	P*	P*	P*	516 528
	Personal Convenience	P*	P*	P*	Р	_	P*	P*	P*	P*	520
	Personal Improvement	P*	P*	P*	Р	_	P*	P*	P*	P*	521
	Repair Service, Consumer	P*	P*	P*	Р	-	P*	P*	P*	P*	523
	Retail Sales, General	P*	P*	P*	Р	P*	P*	P*	P*	P*	525
	Retail Establishment, Large	-	-	-	_	-	-	P*	P*	S*	526
	Retail Establishment, Medium	-	P*	P*	P*	-	P*	P*	P*	P*	526
	Retail Establishment, Specialty	_	P*	P*	P*	-	P*	P*	P*	P*	526
nted	Sexually Oriented Media Store	-	-	P*	P*	-	-	-	-	-	528
kually Oriented Businesses	Physical Sexually Oriented Business	-	-	-	-	-	-	1	-	-	528
Sexually Busin	Sex Shop	_	-	-	P*	-	-	P*	P*	P*	528
Sex	Sexually Oriented Theater	-	-	-	P*	-	-	P*	P*	P*	528
ion	Bed and Breakfast	P*	_	P*	_	_	-	_	_	-	20-504
Transient Accommodation	Campground	-	-	-	-	-	-	Р	Р	Р	
Tr	Hotel, Motel, Extended Stay	-	-	Р	Р	_	Р	Р	Р	Р	
ales 3e	Cleaning (e.g., Car Wash)	_	S	_	_	_	_	Р	Р	Р	
Vehicle Sales & Service	Fleet Storage	-	-	-	-	-	-	Р	Р	Р	
Veh &	Gas and Fuel Sales	_	S	S	S	_	-	Р	Р	Р	

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts												
		CN1	CN2	М	MUE	00	СD	၁၁	CR	SO				
	Heavy Equipment Repair	-	-	_	-	-	-	Р	Р	Р				
	Heavy Equipment Sales/Rental	-	-	-	-	-	-	Р	Р	Р				
	Inoperable Vehicles Storage	-	-	_	-	-	_	Р	Р	Р				
	Light Equipment Repair	-	S	-	-	-	S	Р	Р	Р				
	Light Equipment Sales/Rental	-	P*	-	_	-	S	Р	Р	Р	545			
	RV and Boats Storage	_	_	_	_	_	_	Р	Р	Р				
INDUST	RIAL USE GROUP										_			
	Explosive Storage	_	-	-	-	_	_	_	-	-				
	Industrial, General	_	_	_	_	_	_	_	_	_				
cilities	Industrial, Intensive Laundry Service	-	-	-	_	-	-	– Р	– P	– P				
Fac	Manufacturing &	_	_	Р	_	_	S	S	S	S				
Industrial Facilities	Production, Ltd. Manufacturing & Production, Tech.	-	_	-	-	-	S	Р	Р	Р				
<u>=</u>	Research Service	-	-	-	_	S	S	Р	Р	Р				
	Scrap and Salvage Operation				_	_	_				527			
	Exterior Storage	-	-	-	-	-	-	Α*	A*	A*	538			
sale ge &	Heavy	_	-	_	_	-	_	S	S	S				
Wholesale, Storage & Distribution	Light	-	-	-	-	-	-	Р	Р	Р				
	Mini-Warehouse	_	_	-	_	_	_	Р	Р	Р				
OTHER	USES GROUP													
Adaptive Reuse	Designated Historic Property	S*	S*	S*	S*	S*	S*	S*	S*	S*	501			
Ada Reu	Greek Housing Unit	-	-	_	-	-	-	-	-	-				
gri cu	Agricultural Sales	_	_	_	_	_	_	Р	Р	Р				

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts												
		CN1	CN2	ПМ	МИЕ	00	ОЭ	၁၁	CR	SO				
	Agriculture, Animal	_	-	-	_	_	_	-	-	-				
	Agriculture, Crop		Р	Р	-	Р	-	Р	Р	Р				
(0	Amateur & Receive- Only Antennas	A*	A*	A*	A*	A*	A*	A*	A*	A*	536			
Communications Facilities	Broadcasting Tower	_	_	_		_	S	-	_	-				
	Communications Service Establishment	Р	Р	Р	Р	Р	Р	Р	Р	Р				
nicat	Telecommunications Antenna	A*	A*	A*	A*	A*	S*	A*	A*	A*	529			
nww	Telecommunications Tower	S*	S*	S*	S*	S*	S*	S*	S*	S*	529			
ပိ	Satellite Dish	A*	A*	A*	A*	A*	A*	A*	A*	A*	536			
Mining	Mining	-	-	-	_	Ι	Ι	-	-	-	515			
D	Large Collection	-	-	-	-	-	-	Р	Р	Р	540			
Recycling Facilities	Small Collection	Р	Р	P*	_	Р	Р	Р	Р	Р	540			
Recycling Facilities	Processing Center	-	-	-	-	-	-	-	-	-				

From: <u>Scott McCullough</u>

To: <u>Michelle Leininger</u>; <u>Denny Ewert (Brown)</u>

Subject: FW: Feedback from Planning and Development Services contact page

**Date:** Wednesday, March 24, 2010 5:46:45 PM

# For CC packet when it moves forward.

Scott McCullough, *Director* - smccullough@ci.lawrence.ks.us Planning and Development Services | www.lawrenceks.org City Hall, 6 E. 6<sup>th</sup> Street P.O. Box 708, Lawrence, KS 66044-0708 office (785) 832-3154 | fax (785) 832-3160

From: JayMHaugh@aol.com [mailto:JayMHaugh@aol.com]

Sent: Wednesday, March 24, 2010 4:22 PM

To: Scott McCullough

Subject: Feedback from Planning and Development Services contact page

#### To Whom It May Concern:

We are unable to attend the planning commission meeting tonight (March 24, 2010) but would like to express to the committee our deep opposition to any amendment to 20-403, 20-509(3) and 20-524 that would permit Bars and Restaurants in the MU district in and around 1420 Crescent.

Please strongly consider the potentially devastating impact of such a move on this family oriented neighborhood before voting on any changes.

Thank you for your time.

Jay and Dan Haugh 1512 University Drive Lawrence. Kansas 66044 785-843-7620 From: Scott McCullough

To: Michelle Leininger

Subject: FW: Text Amendment TA-1-1-10, to allow bars and restaurants in the Mixed Use (MU) District zoning .

**Date:** Tuesday, April 13, 2010 8:11:07 AM

Attachments: John P Stacy SIOR.vcf

Importance: High

For PC correspondence on the MU TA.

Scott McCullough, Director - <a href="mailto:smccullough@ci.lawrence.ks.us">smccullough@ci.lawrence.ks.us</a>

Planning and Development Services | www.lawrenceks.org

City Hall, 6 E. 6<sup>th</sup> Street P.O. Box 708, Lawrence, KS 66044-0708

office (785) 832-3154 | fax (785) 832-3160

From: John Stacy [mailto:jstacy@kc.rr.com]

**Sent:** Friday, April 09, 2010 2:00 PM

To: Scott McCullough

**Cc:** Stacey Dillon; Allyn Risley; 'Allyn Risley'; Brett McClellan; 'David Gage'; Eric Trompeter; John P. Stacy; jparker@mainlineprinting.com; Terrance.Wilson@westarenergy.com; 'Terry Wilson'; Tom Wiggans **Subject:** Text Amendment TA-1-1-10, to allow bars and restaurants in the Mixed Use (MU) District zoning.

Importance: High

Scott:

My name is John Stacy. I am president of the House Corporation of the SAE house at 1301 W Campus Rd.

My board is very concerned about the possibility of having a bar in the vicinity of the house where the Jayhawk Book Store is located—at Naismith and Crescent, virtually in our back yard.

Drinking and underage drinking on and near our campus is a huge problem. We do not believe that adding another alcoholic environment near the three sorority and two fraternity houses is appropriate.

We cannot state our objection to this possibility strongly enough. I would be glad to discuss this with you should you wish. My contact information is attached.

Thank you.
S/
John Stacy
President
SIGMA ALPHA EPSILON FRATERNAL ASSOCIATION
1301 W Campus Rd
Lawrence KS 66044

From: Scott McCullough

To: Michelle Leininger

Subject: FW: proposed Text Amendment TA-1-1-10 Date: Tuesday, April 13, 2010 8:09:04 AM

Correspondence for PC on MU TA.

Scott McCullough, Director - smccullough@ci.lawrence.ks.us
Planning and Development Services | www.lawrenceks.org
City Hall, 6 E. 6<sup>th</sup> Street
P.O. Box 708, Lawrence, KS 66044-0708
office (785) 832-3154 | fax (785) 832-3160

**From:** John Parker [mailto:jparker@mainlineprinting.com]

Sent: Monday, April 12, 2010 1:38 PM

To: Scott McCullough

Cc: 'John Stacy'; stacey dillon (RS2GDillon@aol.com)
Subject: proposed Text Amendment TA-1-1-10

#### Scott—

I am on the Sigma Alpha Epsilon Fraternal House Corporation board at KU. It has come to our attention that the proposed Text Amendment TA-1-10 is before the Planning Commission. Our board president will speak on the SAE fraternity board's behalf, but I would like to comment on this amendment as a Lawrence citizen.

Our SAE board is in a forever search for the right mix of "fraternity living" in a residential neighborhood. I think that our chapter has done a good job recently of behaving as good neighbors should. I fear that a bar in the neighborhood will disrupt an already delicate balance.

Furthermore, and honestly more importantly, the constant/unending fight against underage drinking among the student population is very real. We spend more time with our undergrads on the subject of alcohol use/abuse than any other topic. While there may be appropriate mixed use options related to this amendment for other locations in the city, I want to strongly oppose the option of a bar locating as close to the general student living population as the Jayhawk Bookstore...either now or in the future.

Thank you for your time and for passing my comments on to the

# commissioners,

John Parker 1704 Prestwick Dr Lawrence, KS 66047 Mr. Scott McCullough Director Planning and Development Services City Hall, 6 East 6<sup>th</sup> Street P.O. Box 708 Lawrence, KS 66044-0708

Dear Scott,

This letter is a follow up to the Planning Commission meeting I attended in regards to the proposed Text Amendment TA-1-1-10. I am the President of the Chi Omega Corporation Board and am writing this letter on behalf of our entire Board and many of our alumnae.

The Chi Omega House, located at 1345 West Campus Road, is listed on the State Register of Historic Places and the building is significant for its rare Jacobethan style architecture. The change proposed by this amendment to the existing bookstore will encroach upon, damage and destroy the environs of the Chi Omega House. We feel it is extremely important that you consult with the city Historic Resources Administrator, Lynne Braddock Zollner. Chi Omega has been diligent about consulting with your department before every project and has always followed your recommendations. In fact, we won an Award for Excellence in 2002 from the Kansas Preservation Alliance.

We have always prided ourselves as being a major focal point for the gateway to the University of Kansas. As such, we feel that it is highly inappropriate for the city to change the existing zoning so as to allow a bar, nightclub or restaurant to be constructed there. Is that type of use what the city and the university want as the focal point for the entrance to KU? Aren't we, as a concerned community, all working together to discourage the excessive use of alcohol amongst our students? We believe this amendment will encourage the use of alcohol and damage the integrity of our university and our beautiful campus. We should instead be striving to make this gateway something that will be safe for our students and one of which we can all be proud.

We strongly oppose the Text Amendment TA-1-1-10 and hope that you will share our concerns and our recommendation that this amendment should not pass with the members of the Planning Commission.

We all look forward to an outcome that will save the integrity of our neighborhood and benefit the city of Lawrence and the University of Kansas. Thank you for your time and effort in this matter. Please telephone me at 785-865-5303 if you have any questions.

Sincerely,

Stacey Dillon Chi Omega Corporation Board President

# Gamma Phi Beta



Sigma Chapter 1339 West Campus Road Lawrence, Kansas 66044 University of Kansas

RECEIVED

APR 19 2010

City County Planning Office Lawrence, Kansas

April 19, 2010

Dear Sirs:

We, the Corporation Board of Gamma Phi Beta at the University of Kansas, are alarmed by the proposal to allow a bar or any establishment serving alcohol at the site of the current Jayhawk Bookstore at 1420 Crescent Road adjacent to our sorority house.

In light of the on-going struggle students at K. U. have with underage drinking and the recent recognition of this problem and the community's attempts to address this very serious issue, it seems ludicrous that you would consider this proposal.

Furthermore, parking is at a premium in this area and we cannot imagine this problem would not be exacerbated by such an establishment.

We urge you to deny this request to establish a bar or any form of drinking establishment at 1420 Crescent Road.

The Corporation Board, Betty Crooker, Chairman

Thank you for your consideration.

Sincerely,

The Corporation Board of Sigma of Gamma Phi Beta

1339 West Campus Road

# Michelle Leininger

From: Scott McCullough

**Sent:** Friday, April 30, 2010 11:33 AM

To: 'Bill Muggy'

Cc: Michelle Leininger; Sheila Stogsdill; John Miller

Subject: Jahwak Rezoning

Bill,

Thanks for the discussion today. I've attached the approving ordinance if it helps. As we discussed, one of the options we will be sharing with the PC is to rezone your property, at the city's cost and effort, to prohibit the Bars or Lounge use. Of course, this depends on whether the PC will support staff's proposal to permit Bars or Lounge as a special use in the current district or whether they desire a new district for Bars or Lounge.

In our conversation you stated that you would likely accept that option as long as the property maintained its ability to have a Quality Restaurant and Accessory Bar. Both are permitted in the MU district. An accessory bar has limitations (think of an Applebee's or Red Lobster) but is permitted outright in the MU district. A Brewpub is permitted with a Special Use Permit as well. Please see definitions below.

# Restaurant, Quality

An eating establishment where the principal business is the dispensing and consumption of prepared foods and/or beverage at tables, not including bars, brewpubs or nightclubs. Table service by food & beverage servers is available at "quality restaurants".

# **Accessory Bar**

An accessory bar is a part of a quality restaurant or high turnover restaurant offering alcoholic beverages. An accessory bar is not separated by a permanent wall from the restaurant to which it is accessory, and generally shares one or more entrances, as well as restrooms, coatrooms and other facilities, with the restaurant. An establishment with an accessory bar will generally characterize itself in its signs, advertising and other promotions as a restaurant or food-service establishment rather than as a bar.

#### **Brewpub**

A bar or accessory bar in a restaurant that manufactures up to 5,000 barrels of fermented malt beverages per year on Premises for either consumption on Premises in hand-capped or sealed containers in quantities up to one-half barrel or 15 and one-half gallons sold directly to the consumer.

Michelle – please incorporate a discussion of these matters in the staff report. Also, Mr. Muggy requested all correspondence on the MU amendment. Please forward to him.

Thanks.

Scott McCullough, *Director* - smccullough@ci.lawrence.ks.us Planning and Development Services | www.lawrenceks.org City Hall, 6 E. 6<sup>th</sup> Street P.O. Box 708, Lawrence, KS 66044-0708 office (785) 832-3154 | fax (785) 832-3160 
 From:
 Bill Muggy

 To:
 Michelle Leininger

 Cc:
 Scott McCullough

Subject: Re: MU District Text Amendment

Date: Monday, May 17, 2010 4:51:49 PM

# On 5/17/2010 4:01 PM, Michelle Leininger wrote:

# Good afternoon,

Attached are the staff report, the proposed amendments, and the communications for the MU District. The textual changes look like a lot but mostly we moved the standards to one location (from Section 20-233 to 20-1108) and did a little tweaking. Please review and let me know if you have any questions. The PC will hear the item on Monday, May 24<sup>th</sup> in the City Commission room beginning at 6:30. The item is number 5 on the agenda. Again, let me know if you have any questions.



Michelle Leininger, AICP, Area and Neighborhood Planner-mleininger@ci.lawrence.ks.us
Planning Division | www.lawrenceks.org/pds/
P.O. Box 708, Lawrence, KS 66044
office (785) 832-3163 | fax (785) 832-3160

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This message has been scanned for viruses and dangerous content by <u>MailScanner</u>, and is believed to be clean.

# Michelle:

Due to a misunderstanding, regarding an MU use, which I though Scott indicated as permiotted, I would like to leave my property zoned as it is with the restrictions.

The agenda item should exclude me. Hopefully that will allow a satisfactory out come for your staff and the Wheel/Hawk.

My endurance level with the neighbors has run out. After 33 years of attacks, their arrows need to be quivered.

Thanks. Bill Muggy

--

This message has been scanned for viruses and dangerous content by <u>MailScanner</u>, and is

TO: Planning Commission

FROM: Bill Mitchell 1201 Emery Road 66044

SUBJ: Text Amendment to Mixed Use staff recommendation

DATE: 19 May 2010

I've now seen the staff recommendation for the MU text amendment and am overwhelmed by the complexities. Although staff apparently prefers pretty much the  $status\ quo$ , I favor (and I hope you do, too) the establishment of a second MU district that would allow bars as a SUP, thus making it very clear, both now and in future, that bars are positively <u>excluded</u> from the original MU. I think that would serve not only 1420 Crescent well, but could also serve other plain MUs in future. To rely solely on the SUP provision just opens the door to perpetual harassment of neighbors by overreaching commercial owners.

I am also disappointed — but not surprised — that the matter of providing neighbors notification of  $de\ facto\ zoning\ changes\ by\ text\ amendment/administrative\ decision\ was$ not mentioned (not, at least, so far as I could see in its multi-colored complexity). This may serve the Planning Dept. well, but it does the community a disservice.

I am also puzzled by the non-inclusion of my letter of 25May10 in the packet of staff recommendations. "The comments we have received since the last meeting are attached..." - well, some of them are.

cc: West Hills Homes Association; University Heights Neighborhood Association; STECTED vid Corliss

MAY 21 2010

City County Planning Office Lawrence, Kansas

# PLANNING COMMISSION REPORT Regular Agenda -- Public Hearing Item

PC Staff Report 5/24/10

ITEM NO. 6 TEXT AMENDMENT; LAND DEVELOPMENT CODE; IBP DISTRICT (MJL)

**TA-4-4-10**: Consider Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Section 20-403 of the Code of the City of Lawrence, KS to permit the Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District. *Initiated by Planning Commission on 4/26/10.* 

**RECOMMENDATION:** Staff recommends that the Planning Commission forward a recommendation for approval to the City Commission for TA-4-4-10 to amend the Land Development Code to permit the Hotel, Motel, Extended Stay use in the IBP District.

**Reason for Request:** To permit the Hotel/Motel/Extended Stay use in the IBP District.

#### **RELEVANT GOLDEN FACTOR:**

• This request is generally in conformance with the comprehensive plan.

# PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

No public comment received prior to printing

#### **OVERVIEW OF PROPOSED AMENDMENT**

Proposed amendment to Section 20-403, the Nonresidential District Use Table to permit the Hotel, Motel, Extended Stay use in the IBP District.

#### CONFORMANCE WITH THE COMPREHENSIVE PLAN

Chapter 7, Goal 3 of *Horizon 2020* supports the use of transitions between more intensive and lesser intensive uses for Industrial and Employment Related Land Uses. Additionally Goal 3.2 discusses low-intensity commercial or office uses as a transitional method.

# CRITERIA FOR REVIEW AND DECISION-MAKING

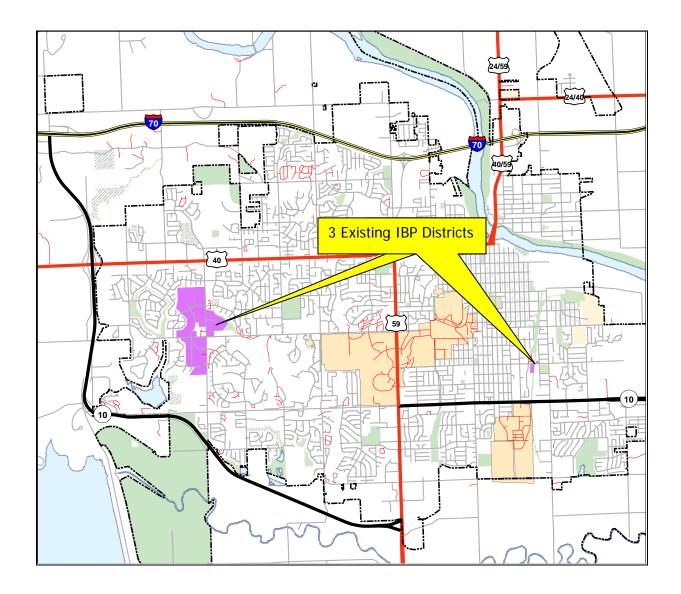
Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It states that review bodies shall consider at least the following factors:

1) Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and

There is a general change in condition that recognizes the positive benefits of mixed use development and less need to segregate uses. A hotel, motel, extended stay use could be a use that supports other industrial, office, and research uses in industrial districts.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (Sec. 20-104).

Staff believes the text amendment is consistent with *Horizon 2020* because the Hotel, Motel, Extended Stay use could provides an opportunity to transition uses. Additionally the text amendment is consistent with the stated purpose to protect the health, safety and general welfare of the citizens.



# **Draft Code Changes**

# 20-403 NONRESIDENTIAL DISTRICT USE TABLE

Key:		Base Zoning Districts														
A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN1	CN2	М	00	С	၁၁	CR	SO	IBP	_	91	SO So	GPI	Ŧ	Use-Specific Standards (Sec. 20-)
RESID	ENTIAL USE GROUP															
	Accessory Dwelling	P*	-	P*	-	_	-	-	-	-	-	_	-	_	_	534
	Attached Dwelling	P*	-	P*	-	_	-	-	-	-	-	_	_	P*	_	503
	Cluster Dwelling	-	-	_	_	_	_	_	-	-	-	_	-	_	_	702
	Detached Dwelling	P*	-	Р	-	_	-	-	_	_	-	_	_	P*	P*	508
	Duplex	P*	-	P*	_	_	_	_	_	_	_	_	-	-	_	503
Вu	Manufactured Home Manufactured Home,	-	-	_	_	_	_	_	-	-	_	-	-	Р	Р	
Household Living	Residential-Design	P*	-	-	-	-	-	-	-	-	-	-	-	_	_	513
l Poc	Mobile Home	-	-	-	_	-	-	-	-	-	Р	Р	_	Р	Р	
nsek	Mobile Home Park	-	_	_	_	_	_	_	_	-	_	_	_	_	_	
원	Multi-Dwelling Structure	-	P*	P*	-	P*/S*	P*		P*	-	_	-	-	S	Р	517
	Non-Ground Floor Dwelling	P*	P*	P*	-	P*	P*	_	P*	-	_	_	-	_	_	517/542
	Work/Live Unit	P*	P*	P*	_	P*/S*	P*	-	P*	-	P*	-	_	-	_	517/541
	Zero Lot Line Dwelling	P*	-	Р	_	_	_	_	_	_	_	_	-	-	_	531
	Home Occupation, Type A or B	-	-	P*	_	_	-	-	-	_		_	_	-	-	
	Assisted Living	_	_	Р	_	_	_	_	_	_	_	_	_	S	S	
	Boarding Houses & Cooperatives	-	-	Р	-	_	-	-	-	-	-	_	_	-	_	
ving	Dormitory	_	-	-	-	_	-	-	-	_	-	-	_	-	Р	
Group Living	Fraternity or Sorority House	-	-	_	-	_	-	-	-	-	_	-	-	-	-	
Gro	Group Home, General (11 or more)	S	S	S	S	S	S	S	S	-	_	_	_	_	Р	
	Group Home, Limited (10 or less)	Р	-	Р	-	-	-	-	-	-	_	_	_	-	-	
PUBLI	C AND CIVIC USE GRO	OUP														
	Cemetery	P*	P*	_	P*	_	P*	P*	P*	P*	P*	_	P*	P*	_	505
Si	College/University	S	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	-	Р	Р	
acilitie	Cultural Center/ Library	S	Р	Р	S	Р	Р	_	-	Р	-	_	S	Р	А	
lity F	Day Care Center	S*	P*	S*	S*	S*	P*	P*	P*	P*	P*	P*	-	-	-	507
Community Facilities	Day Care Home, Class A	Р	Р	P*	_	Р	Р	_	Р	-	_	-	-	-	_	
<u></u>	Day Care Home, Class B	S*/A*	P*	S*	-	Р	Р	-	Р	-	-	-	-	-	-	507
	Detention	-	_	_	_	_	_	_	_	-	S	Р	-	_	-	

Key:		Base Zoning Districts														
A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN1	CN2	MU	00	СD	၁၁	CR	SO	IBP	IL.	91	SO	GPI	Н	Use-Specific Standards (Sec. 20-)
	Lodge, Fraternal and Civic Assembly	S*	S*	S*	S*	P*	P*	P*	P*	-	P*	-	-	P*	-	512
	Postal & Parcel Service	_	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	-	Р	_	
	Public Safety	S	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	-	Р	-	
	School	Р	P P*	Р	P P*	P P*	P P*	P P*	P *	– P*	– P*	-	_ Λ*	Р	_	FOF
	Funeral and Interment Temporary Shelter	- S*/A*	S*/A*	- S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*	S*/A*	- S*	A* -	- S*	- S*/A*	505 544/522
	Social Service Agency	9 P	P	P	P	P	P	P	P	Р	P	P	_	P	P	544/522
	Community Meal	S/A*	S/A*	S/A*	S/A*	S/A*	S/A*	S/A*	S/A*	S	S/A*	S	_	S	S/A*	522
	Program	9*/	P*/	P*/	P*/	P*/	P*/	9/A P*/	P*/	P*/	P*/	P*/	P*/	P*/	SIA	
	Utility, Minor	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	-	530
	Utility and Service, Major	S	S	S	S	S	S	S	S	S	S	Р	S	Р	_	
	Extended Care Facility, General	-	S	-	S	-	-	-	-	S	-	-	-	-	Р	
cilities	Extended Care Facility, Limited	Р	Р	Р	Р	_	_	-	_	-	-	_	-	S	Р	
Medical Facilities	Health Care Office, Health Care Clinic	Р	S	Р	Р	Р	Р	Р	Р	Р	Р	-	-	Р	А	
Med	Hospital	-	_	_	_	_	-	-	-	-	-	_	-	_	Р	
	Outpatient Care Facility	P*	P*	P*	P*	P*	P*	P*	P*	_	-	_	_	P*	P*	519
	Active Recreation	S	Р	Р	S	S	Р	Р	Р	Р	Р	_	S	A*/S*	А	532
Se	Entertainment & Spectator Sports, Gen.		-	-	-	Р	Р	Р	Р	-	-	-	-	S	-	
acilitie	Entertainment & Spectator Sports, Ltd.	-	Р	Р	-	Р	Р	Р	Р	-	-	-	S	Р	-	
Recreational Facilities	Participant Sports & Recreation, Indoor	-	Р	Р	-	Р	Р	Р	Р	Р	Р	_	-	Р	А	
	Participant Sports & Recreation, Outdoor	-	-	S	-	-	Р	Р	Р	Р	Р	-	-	A*/S*	-	532
Reci	Passive Recreation	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	
	Nature Preserve/ Undeveloped	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	
	Private Recreation	Р	Р	Р	-	Р	Р	-	Р	-	-	-	Р	Р	Р	

Key:							Base Z	oning	Distric	ts						
A = Ac P = Pe S = Sp * = Sta	cessory ermitted ecial Use endard Applies e not allowed	CN1	CN2	MU	00	CD	22	CR	cs	IBP	II.	91	SO	GPI	I	Use-Specific Standards (Sec. 20-)
Religious Assembly	Campus or Community Institution	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	A*	522
	Neighborhood Institution	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	_	-	-	522
COMIV	IERCIAL USE GROUP			i					i							
Animal Services	Kennel Livestock Sale Sales and Grooming Veterinary	– P –	– Р Р	– Р Р	– Р Р	- Р Р	P S P P	P S P P	P S P P	- - P	P P P	P P P	- - -	- - -	- - -	
Eating & Drinking Establishments	Accessory Bar Accessory Restaurant Bar Or Lounge Brewpub	A*	A* - - P*	A* S*	A*	A* - P* P*	A* - P* P*	A* - P* P*	A* - P* P*	A* A -	A*	- - -		- - -	- - -	509 509 509
ng Est	Fast Order Food	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	A*	511 & 509
, Drinki	Fast Order Food, With Drive-In Nightclub	-	S -	-	-	– P*	P -	P P*	P P*	-	P _	_	-	-	-	509
Eating 8	Private Dining Establishments Restaurant, Quality	P* P*	P* P*	- P*	P* P*	P* P*	P* P*	P*	P*	P*	– P*	-	-	-	-	539 524
	Administrative and Professional	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	_	P*	A*	518
Offlice	Financial, Insurance & Real Estate Other	P* P*	P* P*	P* P*	P* P*	P* P*	P* P*	P* P*	P* P*	P*	P* P*	- P*		- 1	A*	510 537
Ses	Accessory	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	535
Parking Facilities	Commercial	1	S	S	S	S	Р	Р	Р	Р	Р	Р	- 1	Р	А	
9.	Building Maintenance		Р	S		Р	Р	Р	Р		Р	Р	_	А	А	
rvic	Business Equipment	-	Р	Р	-	Р	Р	Р	Р	Р	Р	_	_	-	_	
& Sé	Business Support	-	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	_	-	А	
Retail Sales & Service	Construction Sales and Service	-	-	-	-	-	Р	Р	Р	-	Р	Р	-	-	Α	
etail	Food and Beverage	P*	P*	P*	P*	P*	P*	P*	P*		P*	_	_	-	A*	511
~	Mixed Media Store	P*	P*	P*	P*	P*	P*	P*	P*	-	P*		-	-	_	516 528

Key:							Base Z	oning	Distric	ts						
A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN1	CN2	MU	00	СО	22	CR	S	IBP	IL	91	SO	GPI	Н	Use-Specific Standards (Sec. 20-)
	Personal Convenience	P*	P*	P*	_	P*	P*	P*	P*	-	P*	_	_	_	Α*	520
	Personal Improvement	P*	P*	P*	-	P*	P*	P*	P*	_	P*	_	_	Α*	Α*	521
	Repair Service, Consumer	P*	P*	P*	-	P*	P*	P*	P*	-	P*	-	-	-	-	523
	Retail Sales, General	P*	P*	P*	P*	P*	P*	P*	P*	_	P*	_	_	_	Α*	525
	Retail Establishment, Large	-	-	_	-	-	P*	P*	S*	-	-	_	_	_	-	526
	Retail Establishment, Medium	_	P*	P*	-	P*	P*	P*	P*	-	-	_	_	-	-	526
	Retail Establishment, Specialty	-	P*	P*	-	P*	P*	P*	P*	-	-	-	_	-	-	526
pe	Sexually Oriented	_	_	P*	_	_	-	-	-	_	_	-	_	_	_	528
Sexually Oriented Businesses	Media Store Physical Sexually		_	_	_	_	_	_	_	_	_		_		_	528
lly C	Oriented Business Sex Shop				-	1	P*	P*	P*							528
xua Bus	Sexually Oriented	_	_	_	_	_				_	_	_	_	_	_	
Se	Theater	-	_	_	-	-	P*	P*	P*	-	-	_	-	-	-	528
t ation	Bed and Breakfast	P*	-	P*	-	-	-	-	-	-	-	-	-	-	-	20-504
Transient Accommodation	Campground			_		-	Р	Р	Р	_		_	S			
Tr	Hotel, Motel, Extended Stay	_	ı	Р	-	Р	Р	Р	Р	<u>P</u>	Р	_	_	-	А	
	Cleaning (e.g., Car Wash)	-	S	_	-	_	Р	Р	Р	-	Р	Р	_	-	-	
	Fleet Storage	-	-	_	-	_	Р	Р	Р	_	Р	Р	-	-	А	
ω	Gas and Fuel Sales	-	S	S	-	-	Р	Р	Р	_	Р	Р	_	_	-	
Service	Heavy Equipment Repair	_	-	_	-	-	Р	Р	Р	-	Р	Р	_		-	
Vehicle Sales & Service	Heavy Equipment Sales/Rental	_	_	-	-	_	Р	Р	Р	_	Р	Р	_	_	-	
hicle S	Inoperable Vehicles Storage	-	-	-	-	_	Р	Р	Р	-	Р	Р	-	-	-	
Ve	Light Equipment Repair	-	S	-	-	S	Р	Р	Р	-	Р	Р	_	_	-	
	Light Equipment Sales/Rental	_	P*	-	-	S	Р	Р	Р	-	Р	Р	-	-	-	545
	RV and Boats Storage	-	_	_	-	_	Р	Р	Р	_	Р	Р	_	_	_	

Key:							Base Z	oning	Distric	ts						
A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		CN1	CN2	ПМ	00	СD	၁၁	CR	SO	d8l		91	S0	ld9	Н	Use-Specific Standards (Sec. 20-)
INDUS	TRIAL USE GROUP														ı	ı
Industrial Facilities	Industrial, General Industrial, Intensive Laundry Service Manufacturing & Production, Ltd. Manufacturing & Production, Tech. Research Service Scrap and Salvage	- - - - -	1 1 1 1 1 1 1	- - - P	- - - - - S	- - - S S S	- - P S P	- - P S P	- - P S P	- - - P P	- P P P P S*	P P P P P S*	1 1 1 1 1 1 1	1 1 1 1 1	-	527
	Operation									'			'			
	Exterior Storage	-	-	-	-	-	Α*	Α*	Α*	Α*	Α*	Α*	-	Α*	A*	538
sale ge & oution	Heavy	-	-	_	-	-	S	S	S		S	Р	_	-		
Wholesale, Storage & Distribution	Light	_	_	_	_	_	Р	Р	Р	Р	Р	Р	_	S	_	
<b>Р</b> " О	Mini-Warehouse	_	_	_	_	_	Р	Р	Р	_	Р	Р	_	_	_	
OTHER	R USES GROUP															
Adaptive Reuse	Designated Historic Property	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	501
Adaptiv Reuse	Greek Housing Unit		ı	1	1	1	-	1	1		L-	L-	L-	1		
e e	Agricultural Sales	-	_	-	_	-	Р	Р	Р	-	Р	Р	_	-	-	
Agricultur	Agriculture, Animal	-	-	_	_	_	-	-	-	-	-	-	_	-	-	
Agri	Agriculture, Crop	Р	Р	Р	Р	-	Р	Р	Р	Р	Р	Р	-	Р	-	
lities	Amateur & Receive- Only Antennas Broadcasting Tower	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A* A	536
Faci	Communications	- D			-		-	-					-			
Communications Facilities	Service Establishment Telecommunications Antenna	P A*	P A*	P A*	P A*	P S*	P A*	P A*	P A*	P A*	P A*	P A*	_ A*	P A*	A A*	529
mmuni	Telecommunications Tower	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	A*	A*	529
ပိ	Satellite Dish	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	536

Key:			Base Zoning Districts													
A = Ac P = Pe S = Sp * = Sta	cessory rmitted ecial Use ndard Applies e not allowed	CN1	CN2	NM	00	CD	22	CR	SO	IBP	IL	91	SO	ld9	Н	Use-Specific Standards (Sec. 20-)
Mining	Mining	ı	1	ı	ı	ı	-	ı	ı	ı	ı	S*	ı	1	ı	515
<b>.</b>	Large Collection	-	-	_	-	-	Р	Р	Р	_	Р	Р	_	-	_	540
cling	Small Collection	Р	Р	P*	Р	Р	Р	Р	Р	Р	Р	Р	-	А	Α	540
Recycling Facilities	Processing Center	ı	-	ı	-	-	-	-	-	_	Р	Р	_	-	-	

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

From: David Schauner [mailto:dschauner@sunflower.com]

Sent: Friday, May 21, 2010 8:56 AM

To: Michelle Leininger

Subject: Text Amendment/Reasearch Pary drive

Please consider this email as my official notice of OPPOSITION to the proposed text amendment changes for the area abutting Research Park Drive.

This area is a family neighborhood and the proposed text changes would be devastating to the property owners ability to safely enjoy their property if retail or related uses were permitted.

David Schauner 5002 Jeffries Ct Lawrence, Ks 66047 League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

May 23, 2010

Mr. Greg Moore, Chairman Members Lawrence-Douglas County Planning Commission City Hall Lawrence, Kansas 66044



RE: ITEM NO. 6, TEXT AMENDMENT; LAND DEVELOPMENT CODE; IBP DISTRICT

Dear Chairman Moore and Planning Commissioners:

This letter concerns the addition of the hotels, motels, and extended stay uses to the list of permitted uses in the Industrial Business Park (IBP) District. We share the misgivings of some of the residents of the surrounding neighborhood of the IBP District adjacent to Wakarusa and Bob Billings Parkway about the possible incompatibilities and traffic increase on neighboring streets with the addition of such uses to this zoning district.

However, beyond the neighborhood issue is the consideration of changing an industrial area in a way that would allow non-industrial uses to monopolize an existing industrial district. Industrial districts tend to be reduced over time because this use may take more capitalization and a longer time span to utilize the land than other uses. If this text amendment is going to be seriously considered there should be limits on such non-industrial uses. For example, an IBP District should be large enough to make a hotel or motel use a needed functional addition to the industrial and business uses for out-of-town clients and personnel utilizing the primary uses in the IBP District.

Because of the importance of protecting our industrial and employment related land uses, such as the IBP District, for the economic health of the city, we believe that adding disparate, possibly conflicting uses to these districts must be done with special care. We believe that only those uses that are complementary to the original intended use of these IBP districts should be considered as additional permitted uses. By "complementary" we mean that the use assists or strengthens the originally intended use. Therefore we believe that any complementary use added to an industrial and employment related district such as the IBP District should be auxiliary to the predominant industrial/employment related uses.

In order to achieve these objectives we suggest that hotels, motels, and extended stay uses not be permitted by right, but rather must require a Special Use Permit, with the added condition that these auxiliary uses must be a small fraction of the area devoted to the industrial/business park use and only approved after a portion of the district area is occupied by the industrial/business park use.

Thank you for considering our letter on this issue.

incerely yours,

Milton Scott Vice President Alan Black, Chairman Land Use Committee

Olan Black

### Memorandum City of Lawrence-Douglas County Planning & Development Services

TO: Lawrence-Douglas County Planning Commission

FROM: Michelle Leininger, AICP, Area/Neighborhood Planner

John Miller, Staff Attorney

CC: Scott McCullough, Planning and Development Services Director

Sheila Stogsdill, Assistant Planning Director

Date: May 24, 2010

RE: ITEM NO. 7 CITY & COUNTY PUBLIC NOTIFICATION

At the March 24<sup>th</sup> PC meeting, the Commission directed staff to prepare a memo regarding current notification done for planning related items.

#### **Kansas Statutory and Case Law Requirements**

City and county regulation of land use is an exercise of police power delegated to cities and counties by the State of Kansas. The planning and zoning enabling legislation was enacted in 1991 with K.S.A. 12-741 *et seq.* The 1991 act established notice requirements for the adoption of a comprehensive plan, zoning regulations, amendments to zoning regulations and downzoning or rezoning.

Kansas courts and the state statutes make a distinction between adopting zoning regulations and rezoning a particular tract of land. The adoption of a comprehensive plan or amendments thereto and zoning regulations or amendments to the text is a legislative function. With the rezoning of specific property, the Planning and City Commission are acting in a quasi-judicial capacity.

Kansas courts and the state statutes require procedural due process for the adoption of a comprehensive plan, zoning regulations, amendments to zoning regulations and downzoning or rezoning. The people and entities involved, both landowners and opponents to a zoning change, have procedural rights, including the right to notice, a fair and open hearing, and an impartial decision-maker.

The procedural requirements when acting in a legislative capacity are primarily a public hearing held by the planning commission after publication of notice in the newspaper, a recommendation by the planning commission and ultimately adoption by the governing body. The newspaper publication must occur at least 20 days prior to the public hearing.

For the adoption of a comprehensive plan and amendments thereto the process is provided in K.S.A. 12-747. The notice requirement is established in K.S.A. 12-747(b) that states in part:

Before adopting or amending any such plan or part thereof, the planning commission shall hold a public hearing thereon, notice of which shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county. Such notice shall be published at least 20 days prior to the date of the hearing.

In addition to the published notice prior to the planning commission's public hearing, notice is also required to be provided to other units of government affected by the adoption of or amendments to the comprehensive plan. K.S.A. 12-743 requires that written notice be given to other governmental units "at least 20 days prior to the proposed action" of the governing body adopting the comprehensive plan. The city, in K.S.A. 12-743(a), is required to give notice to the board of county commissioners and the township board of the township in which such property is located. The county, in K.S.A. 12-743(b), is required to give written notice to the governing body of any city within three miles of the property affected by the comprehensive plan and the township board of the township in which the affected property is located. The notice to the townships is required because Douglas County does operate under the county unit road system.

For the adoption of subdivision regulations and amendments thereto the process is provided in K.S.A. 12-749. The notice requirement is established in K.S.A. 12-749(d) that states in part:

Before adopting or amending any subdivision regulations, the planning commission shall call and hold a hearing on such regulations or amendments thereto. Notice of such hearing shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county. Such notice shall be published at least 20 days prior to the hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. In the case of a joint committee on subdivision regulations, such notice shall be published in the official city and official county newspapers.

Like the adoption of comprehensive plan, the adoption of subdivision regulations must also meet the written notice requirements of K.S.A. 12-743 prior to action by the governing body.

For the adoption of zoning regulations the process is provided in K.S.A. 12-756. The notice requirement is established in K.S.A. 12-756(b) that states in part:

Notice of such public hearing shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county at least 20 days prior to the date of the hearing. In the case of a joint zoning board, notice of such hearing shall be published in the official city and official county newspapers. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms.

For the adoption of amendments to the zoning regulations, otherwise known as text amendments, the process is provided in K.S.A. 12-757. The notice requirement is established in K.S.A. 12-757(b) that states in part:

The planning commission shall hold a public hearing thereon, shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for recommendations on the original proposed zoning regulations provided in K.S.A. 12-756, and amendments thereto. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district.

While the city does not establish zoning regulations affecting property outside of the city, the county must satisfy the written notice requirements of K.S.A. 12-743 for any city within three miles of the property affected by the zoning regulations and the township board of the township in which the affected property is located.

The procedural requirements for a rezoning request require all of the procedures established for zoning regulations or text amendments as well as written notice of the rezoning request to the land owners located within either 200 feet in the city or 1000 feet in the county of the property to be rezoned. A planning commission or governing body is acting in a quasi-judicial capacity when rezoning a particular tract of land. The notice requirement for the planning commission hearing is established in K.S.A. 12-757(b) that states in part:

If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration. In addition to such publication notice, written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all owners of record of real property within the area to be altered and to all owners of record of real property located within at least 200 feet of the area proposed to be altered for regulations of a city and to all owners of record of real property located within at least 1,000 feet of the area proposed to be altered for regulations of a county. If a city proposes a zoning amendment to property located adjacent to or outside the city's limits, the area of notification of the city's action shall be extended to at least 1,000 feet in the unincorporated area. Notice of a county's action shall extend 200 feet in those areas where the notification area extends within the corporate limits of a city. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available.

With special or conditional use permits the statutory procedural requirements are not as clearly provided as they are for rezoning or text amendments. However, Kansas case law strongly suggests that the procedural requirements for a special use permit should be the same as a zoning amendment.

The Kansas courts have stated that planning commission and governing body consideration of a special or conditional use permit is a quasi-judicial action. See *Zimmerman v. Board of County Commissioners of Wabaunsee County, 289 Kan. 926,* 

950, 218 P.3d 400 (2009). The courts also impose the same scope of review for special use permits as they do for zoning cases. See *Manly v. City of Shawnee, 287 Kan. 63, 75, 194 P.3d 1 (2008).* 

Because the courts apply the same standards for special and conditional use permits as they do for a rezoning request, it is advisable to follow the same notice requirements used for rezoning requests under K.S.A. 12-757(b).

Appropriately, the city and county codes provide the notice requirements for special and conditional use permits as directed by the Kansas courts.

#### **City and County Notification Requirements**

The city and the county both are legally required, and required by code, to provide public notification of particular planning related items.

Notification of varying degrees (newspaper, mail, sign) is provided for text amendments, rezonings, preliminary and final development plans, site plans, SUPs, variances, appeals of administrative decisions, preliminary plats, and comp plan amendments. Additional notification is provided in situations staff deems necessary.

Notifications for rezonings, CUPs, commercial or industrial plats, certificates of surveys in the UGA and telecommunication tower applications in the unincorporated area are also provided. The regulations require newspaper notice and mailed notice but do not require notice signs be posted for any public hearing item development requests in the unincorporated parts of the county that are considered by the Planning Commission. Site plans, which are considered by the County Commission, are placed on the Commission's agenda, but do not receive any additional notice.

The following table outlines the notice provided for the different application types. The items shown in bold represent notice that exceeds the statutory minimums. Additionally, the Lawrence Development Code requires mailed notice to registered neighborhood associations whose boundaries include or are contiguous to the subject property, which is additional notice not required by statute.

Procedure	Newspaper Notice	Mailed Notice Distance	Sign Posted
County Commercial or Industrial Plats	Υ	1000′	N
County Certificate of Survey	Υ	In UGA: ¼ mile/ Rural: None	N
County Rezoning	Υ	1000′	N
County Conditional Use Permit	Υ	1000′	N
County Towers	Υ	1000' (additional 1 mile by applicant)	N
City Text Amendment	Υ	None	N
City Rezoning	Υ	200′	Υ
City Prelim. Devel. Plan	Υ	200′	Υ
City Final Devel. Plan	Y(old code)/ N(new code)	200'(old code)/ None (new code)	N
City Site Plan	N	200' by applicant	Υ
City Special Use Permit	Υ	200′	Υ

City Variance from BZA	Υ	200′	N
City Written Interpretations	N	None	N
Type B Home Occupation	N	200' by applicant	N
Minor Subdivision	N	None	N
Minor Subdivision w/ a variance	Υ	200′	N
Preliminary Plat	Υ	200′	N
Final Plat	N	None	N
City Appeals of Admin. Decisions	Υ	200′	N
Comp Plan Amendments		To affected	
	Y	townships and towns	N
	T T	in the county before	IN
		CC & BCC action	

The codes require the extra-ordinary notice as outlined above. Additionally, the city uses several other methods for reaching out to stakeholders and citizens in order to be as transparent as possible in processing land use applications. These include:

- Listserv:
  - Notice of applications received
  - Notice of Planning Commission meeting/agenda
  - Development activity by city quadrant
  - Special project updates
- Web posting of agendas and agenda packets
- City representative to Lawrence Association of Neighborhoods (LAN) meetings every month

Currently the code does not require any mailed notice for text amendments; however, publication of agendas with the items listed is completed monthly. This has been a contentious issue because property owners in and around a district where changes are required may not know of the proposal. In some situations, notice has been provided by City Commission direction if the area is small but potentially staff could be sending out thousands of letters depending on the amendment. Individual notice for general text amendments would require defining thresholds for when notification should be mailed and to whom the notification should be mailed.

#### **Action Requested**

Review report and direct staff as appropriate.

Memorandum Page 1 of 5

### Memorandum City of Lawrence

TO: David L. Corliss, City Manager

FROM: Mike Lawless, Assistant Director, Utilities

Scott McCullough, Director, Planning and Development Services

CC: Cynthia Wagner, Assistant City Manager

Diane Stoddard, Assistant City Manager

**Dave Wagner, Utilities Director** 

Date: For April 27, 2010 City Commission Meeting

RE: Utilities Master Planning Growth Projections

On November 11, 2009 notice to proceed was issued for an engineering services contract for the Wastewater Master Plan (Plan). The Plan will provide an evaluation of the wastewater collection and treatment systems for improvements to serve potential development planned through the year 2030. The Plan will use existing population for 2010 and population projections for 2020 and 2030 as the input data for the design years. The Plan will provide flow/development triggers for the construction of system improvements.

#### **Plan Boundary**

To develop the flow projections for the design years, a defined boundary with the population estimates and distribution of the population within the boundary are needed. Utilities and Planning staff have met several times to discuss the planning boundaries of the project as well as the logistics of preparing the underlying data needed for the population and growth projections for the design years. Several adopted sector plans, including the Southeast Area Plan, the K-10 & Farmer's Turnpike Plan, the West of K-10 Plan, and the Northeast Sector Plan that is currently underway, have guided development of an appropriate boundary for the Plan. In addition to the planning boundaries, the drainage basins are physical boundaries that also effect development and the results of the Plan.

A <u>map</u> of the current Urban Growth Area, basin boundaries, and sector plans is provided to show how these boundaries overlay each other. As a result of these overlays and staff discussions, a logical and justifiable boundary is proposed for the Wastewater Master Plan as shown on the map. This planning boundary, the population projections, and distribution of the population will allow distribution of the basin flows needed for the project. While this boundary is logical based on the discussion above there is always the possibility that a development request could be made outside of the planning area.

Memorandum Page 2 of 5

#### **Population Projections**

Horizon 2020 sets out three population projections using July 1<sup>st</sup> 2000 Census data of 80,508 for the city of Lawrence: Low, Medium, and High.

Population Projections from Horizon 2020			
Horizon 2020 Projections	2010	2020	2030
Low	88,961	100,076	111,191
Medium	95,178	110,406	125,635
High	99,013	122,394	151,296

Population projection methods primarily rely on trend data and the most accurate projections can only be completed every decade after the Census Bureau releases the Decennial Census Data. Staff will release new population projections after the 2010 Census numbers are calculated and disclosed for public use.

Planning Staff has analyzed the effects that short and long-term growth trends would have on the population projections. Given recent population trends, staff is of the opinion that Lawrence is between the Low and Medium population projections from Horizon 2020 and the department currently projects Lawrence to reach between 112,000 and 126,000 people in 2030. A 2030 population of approximately 125,000 for Lawrence is used to build the growth scenarios for the Wastewater Master Plan.

#### **Population Distribution - Future Development Trends and Growth Areas**

To determine appropriate distribution of the 2030 population, staff used existing data and made assumptions about the amount of residential dwelling unit inventory the city of Lawrence currently has and where the likely growth will occur based on historic patterns and identified opportunities and constraints. The following exercise will assist the consultants as they embark on the Plan update.

Staff used census population data, building permit trend data and information from meetings with owners and consultants on specific properties over the last few years to make assumptions about the number of dwelling units that are approved for construction or could be available with the appropriate land use approvals granted and infrastructure extended. Staff concludes that there are approximately 5,100 approved or potentially approved residential units available in the city limits currently. Please see map for locations of approved and not yet, but potentially, approved residential units.

A range of population growth, based on *Horizon 2020* projections, was used to draw conclusions as to the number of years of current or potential residential inventory currently within the city. The data does not differentiate between single-family, duplex, and multi-family structures and so any one of these types of residential units may be more or less under-represented in the exercise.

Memorandum Page 3 of 5

	Build Out Table										
Population / Year	Assumed Persons /	Units Occupied /	Years to Build Out								
	Unit	Year	Approved and								
			Potentially Approved								
			Inventory of 5,100								
			units (City Only)								
LOW - 1,000 / year	2.3 persons / unit	435	11.7 years								
MED 1,500 / year	2.3 persons / unit	650	7.8 years								

#### **Notes**

- 1. The numbers in the table are approximations and have been rounded for ease of computation. Alignment with the <u>Residential Inventory Analysis</u>, authored by Roger Zalneraitis, is not possible since that memo tracks "lots" and this memo uses "units" (several units can be constructed on a single lot in some instances duplexes, triplexes, multi-dwelling).
- 2. There is an assumed potential for approximately 5,100 dwelling units in the city limits including available lots and assuming densities on unplatted parcels that could be served.
  - a. These units could serve a population of 11,700 new residents
- 3. Of the 5,100 units, there are 1,335 lots currently vacant with infrastructure available to serve them.
- 4. There are several infill and fringe areas that are in the concept stage and the anticipated number of units is currently unknown. The following areas were not assigned a unit count but are on the development radar the area east of The Exchange Apartments, several lots downtown, N. Lawrence redevelopment near Johnny's Tavern, mixed use potential near the Oread Hotel, several fringe areas, etc. These areas were not included in the total unit count used in the calculations in the table and so the actual potential for units in the table may be low.

#### Discussion

The table and exercise above concludes that there is approximately a decade's worth of existing and potential residential inventory of building sites within the city limits assuming current absorption rates; however, adequate infrastructure may not be in place to serve all of these areas at this time. This is an overly simplistic view, however, because it does not differentiate between housing types, a level of detail that could be investigated if the commission desires but may not be necessary for the purposes of the Wastewater Master Plan update.

This exercise begs several questions about growth and its impact on infrastructure – roads, sewer, water, and even outside providers – electric, gas, cable, cellular, etc.

- 1. Is there currently an appropriate amount of residential inventory for the community?
  - Historically, the market has dictated the level of residential inventory in the community and the city has not established a certain level of "healthy" residential inventory. It is good to track the current inventory over time to understand the historic rates, but it is assumed that the inventory will cycle through periods of growth.
- 2. What is the design capacity of the current wastewater treatment plant? When must the City begin construction of the Wakarusa Water Reclamation Facility (WWRF)?
  - The Utilities Department reports that the design population equivalent that can be served by the wastewater treatment plant located on East 8<sup>th</sup> Street is 100,000. However, for a number of

Memorandum Page 4 of 5

reasons the City should not wait until that number is reached to begin construction of the WWRF. The Utilities Department believes the WWRF should be completed at a population equivalent of 98,000. The WWRF's design and construction is estimated to take up to five years to complete. The 2008 population estimate for the city was determined to be 90,866. The upcoming recommendations from the Wastewater Master Plan will be very important in determining the timing and scope of the necessary WWRF.

3. Assuming a 10-year inventory of residential locations, it is still appropriate to plan for future growth. Where will growth likely occur given the opportunities and constraints specific to this community?

Providing sewer and water are only two components of setting a framework for growth. Other opportunities and constraints to development include the following:

- West of K-10 Expected **High** rate of growth. Growth in this area aligns with the historic growth pattern of Lawrence and would take advantage of K-10 and I-70 access and inclusion in the Lawrence school district. The West of K-10 Plan established a policy for not permitting development for a large portion of this area until a financing plan and a commitment to construct an interchange at 15<sup>th</sup> Street/Bob Billings Parkway is established.
- K-10 and Farmer's Turnpike Sector Plan area Expected **Medium** rate of growth. The area north of I-70 along Farmer's Turnpike has been planned for significant employment center growth. Demand for residential growth would need to be high to develop some portions of this area with sewers given the makeup of the watersheds. Residential growth in this area is not expected to occur at a high rate.
- Northeast Sector Plan area Expected Low rate of growth. The Grant Township area is an
  area currently undergoing sector planning to determine the level of future urbanization.
  Historically, this has been a very slow growth area as it is constrained by floodplain and
  other elements that make it less desirable to urbanize.
- East Expected **Low** rate of growth. Challenging topography, limited highway access, floodplain, and moving too far downstream of the treatment facilities all constrain development to the east along K-10 Highway. Urbanizing within the Southeast Sector Plan area is anticipated, but developing east of this plan's boundaries may not be feasible.
- South Expected **High** rate of growth. South of the Wakarusa River, opportunities exist to
  take advantage of a new treatment facility and the Highway 59 improvements. The area is
  within the Lawrence school district and staff believes this could be a significant growth area
  if the market demands it after the new treatment facility is constructed. Sector planning
  this area is included on the long range work plan for the department.
- Infill Expected Low rate of growth. While there is opportunity to develop and redevelop
  certain areas of the community, this will not play a significant role in the long term growth
  projections for Lawrence. Infill and higher density redevelopment is considered the most
  efficient use of existing infrastructure but would only provide a small fraction of inventory
  needed to support the anticipated growth over the coming decades.

While capacity issues can be resolved with the new WWRF, decisions about where to establish water, sewer and road infrastructure will need to be made within the next 10 years. The Utilities Department indicates that once the WWRF is online, projects will continually need to be *balanced* in order to optimize the system. Growth decisions also impact other public services – street maintenance, police, fire, solid waste, and other general government services that must expand to keep up with the growth demand.

#### **Plan Scenarios**

Memorandum Page 5 of 5

Staff believes that the consultant should develop wastewater infrastructure solutions to serve the following three (3) <u>scenarios</u>:

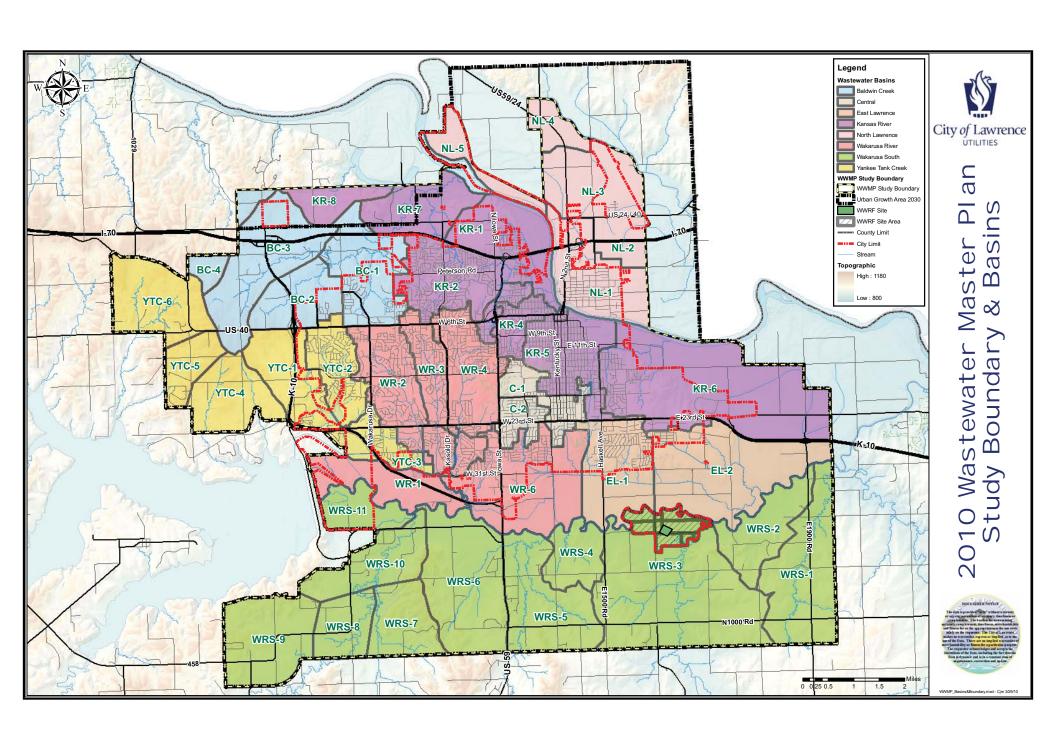
- a) **Scenario 2020:** Using the approved sector plans and other assumptions about future growth, disburse the projected 2020 population within the Wastewater Master Plan boundary.
- b) **Scenario 2030:** Using the approved sector plans and other assumptions about future growth, disburse the projected 2030 population within the Wastewater Master Plan boundary.
- c) **Scenario Build-out:** Using the approved sector plans and other assumptions about future growth, populate the entire Wastewater Master Plan boundary.

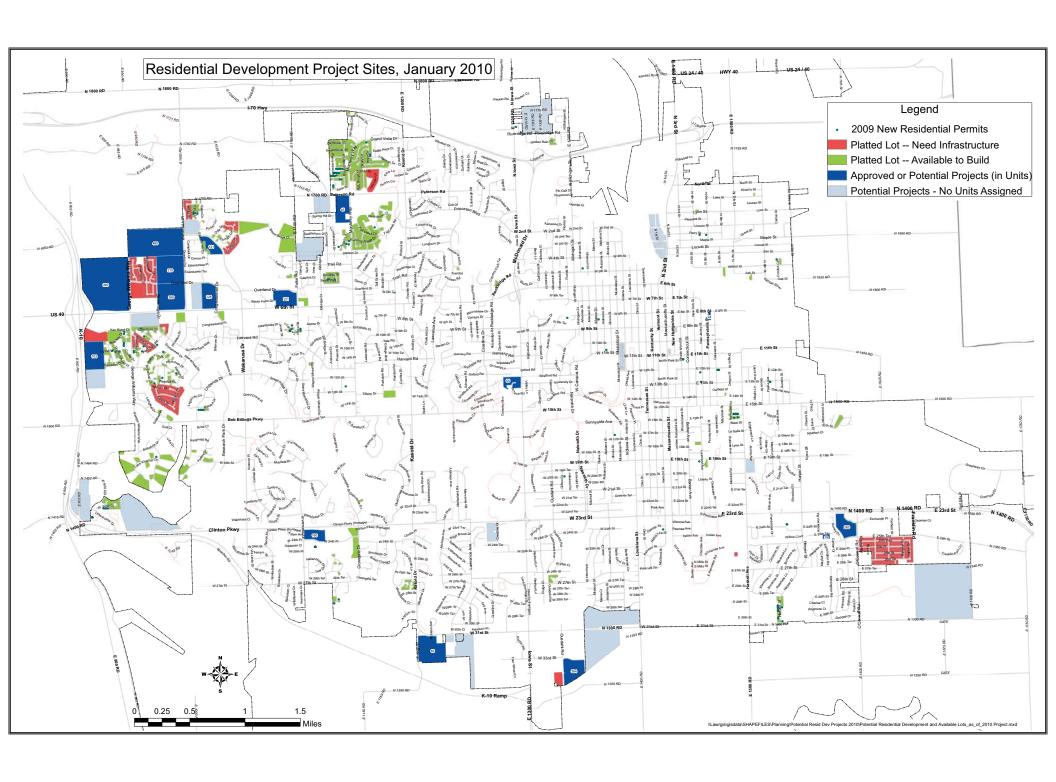
#### **Planning Process**

It is appropriate for this report and attached maps to be provided to the Planning Commission, County Commission, School Districts, and other stakeholders for review and comment. Input from the stakeholders and general public will be solicited through the meetings staff will hold with the City Commission, Planning Commission, County Commission, and School Districts. Staff can complete the majority of the information sharing in May, 2010. Results of the input and comments will be summarized and a report of the results will be presented for City Commission approval at the end of the information-sharing process in order to provide staff the direction to implement the planning process.

#### **Action Requested:**

Receive report and direct staff as appropriate.





# Memorandum City of Lawrence City Manager's Office

TO: David L. Corliss, City Manager

CC: Diane Stoddard, Assistant City Manager

FROM: Roger Zalneraitis, Economic Development Coordinator/Planner

DATE: January 27, 2010

RE: Update to Residential Inventory Analysis

This memo provides an update to the available residential lot inventory conducted on January 30<sup>th</sup>, 2009. The update finds that based on current market conditions, there is sufficient inventory to meet 8 to 14 years of demand for new single family residential housing. This represents an increase from last year and is almost exclusively caused by deteriorating housing market conditions.

#### **Previous Report**

The residential lot inventory of January, 2009 found that there were about 4,400 lots platted from 1997 to the end of 2008. Of those, approximately 1,000 lots remained available for construction, and a little over 1,400 lots remained available for construction throughout the City. In 2008, there were 141 single family residential permits issued for new construction. As a result, the available lots represented up to 11 years of available inventory for the community.

#### **Inventory Update**

From 1999 to the end of 2009, there were approximately 4,087 residential lots platted in Lawrence. The change from the previous analysis suggests that about 300 lots were platted in 1997 and 1998. Perhaps as a result of the recession, there were very few new plats filed in 2009. The majority of new plats were replats of existing subdivisions.

Of the 4,087 lots available at the end of 2009, about 761 of them remained available for development:

Table 1
Residential Inventory as of December 31st, 2009

Lots Platted After January 1, 1999

	Lots	Area (Acres)	Average Lot Size
No Infrastructure, No Dwelling Units	547	137.6	0.25
Infrastructure, No Dwelling Units	761	223.3	0.29
Infrastructure and Dwelling Units	2,779	787.7	0.28
Total Lots	4,087	1,148.7	0.28

Note: The increase in area from 2008 resulted from lots that previously had no acreage recorded within the GIS database.

Additionally, almost 550 lots platted in the last 10 years still have no sewer or water (infrastructure). It is unclear at this time when these lots may receive infrastructure, as the recession has slowed demand for additional housing. The 761 lots with infrastructure represent almost 20% of the total stock of newly platted lots.

Across the City as a whole, there are 1,335 available lots for development (this includes the 761 lots in recently platted subdivisions). This represents a decrease of about 90 available lots since last year. The decrease in available lots resulted because of new building permits and limited new plats over the course of the year.

#### **New Residential Construction**

About 141 residential building permits were issued last year:

Table 2
New Residential Permits in 2009

Platted, 1999-2009 Type Total Units Single Family 110 91 110 Duplex 13 16 32 Apartment 15 15 172 141 119 Total 314

source: GIS and Development Services Permit Report

There were 110 single family residential permits issued (compared to 141 single family residential permits in 2008), 16 duplex permits issued (representing 32 units of new construction), and 15 apartment permits issued. However, all 15 apartment building permits were issued to the same site and represent 172 units in 15 new buildings at the one site. In total, 314 new units of residential housing were built. The vast majority of these new units were built on lots that were platted between 1999 and 2009. Three duplex permits and 19 single family housing permits were issued on lots that were platted prior to 1999. Therefore, it is reasonable to expect that new residential building permits will be issued on recently or soon-to-be platted properties in the City.

A map of the residential lots platted from 1999 to 2009 and the building permits that were issued in 2009 is available in the Appendix to this report.

#### **Residential Building Lot Inventory**

The residential lots listed in Table 1 are predominantly single family residential units. Therefore, this analysis will use them as a proxy for all available single family residential units in the City.

With approximately 761 single family residential lots available in areas platted from 1999 to 2009, in current market conditions this represents over 8 years of market demand. In other words, the market demand of 91 new single family residential units in newlyconstructed subdivisions could be maintained for that time period. However, we also

saw in Table 1 that almost 2,800 lots platted since 1999 have housing on them. The historic rate of demand is thus about 252 units per year. At that rate of development, the 761 single family lots would accommodate about 3 years of growth.

There are a total of 1,335 available residential lots in the City. This implies that there are 574 additional single family residential lots available in older subdivisions. As noted, 18 permits were issued in these subdivisions last year for single family residences. Therefore, under current market conditions these 574 lots could accommodate far more than 20 years of growth.

Finally, there are 547 residential units that are platted but have no infrastructure. If these are added to the 761 available single family residential units, the inventory rises from being able to accommodate 8 years of current demand to being able to accommodate over 14 years of current demand. Under historic demand scenarios, there would be a little more than 5 years of inventory available for single residential family housing.

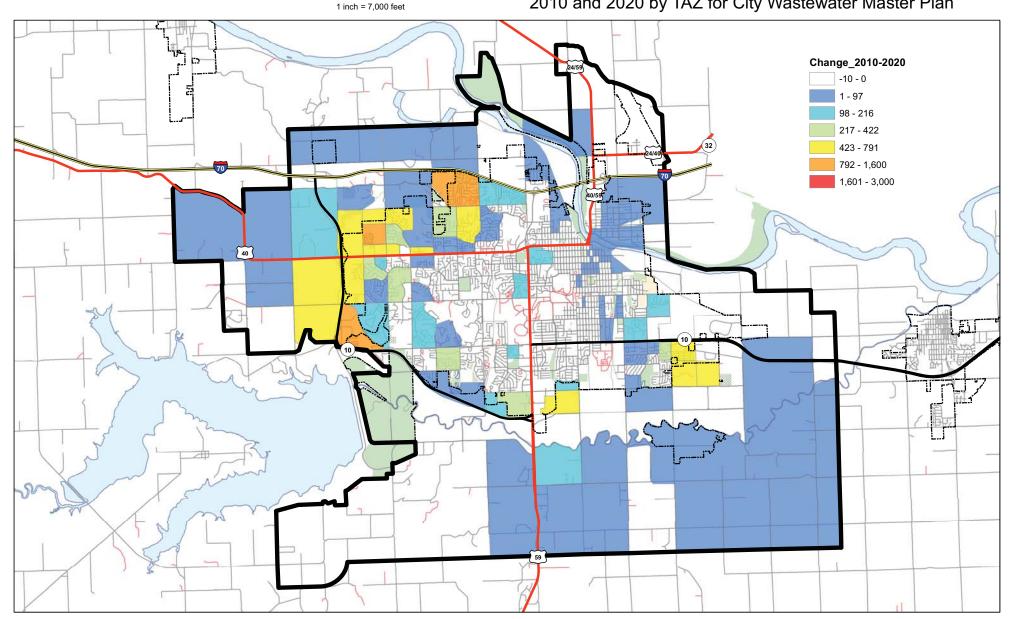
At the end of 2008, we estimated that existing and potential inventory (lots that do not yet have infrastructure) could accommodate between 5 and 11 years worth of demand. There now appears to be between 5 and 14 years of demand. Additionally, there has been a slight decline in available lot inventory over this period. The fact that demand appears to be slightly greater now is a reflection of deteriorated housing market conditions rather than new supply coming online.

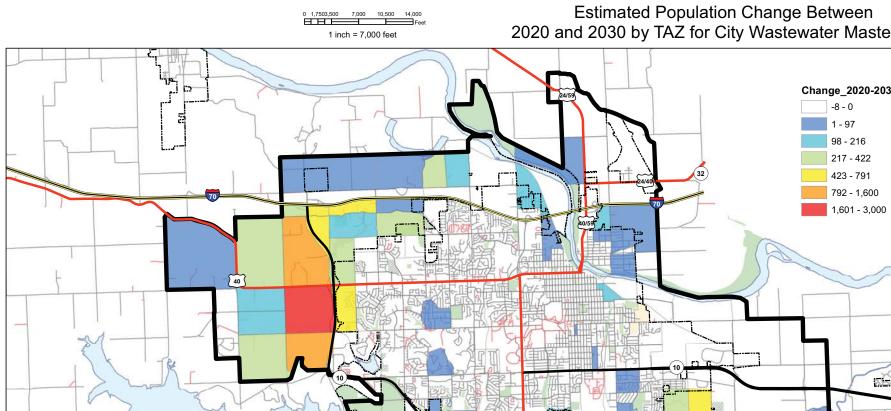
N 1400 RD E 25th Ter Lawrence Residential Lots Platted Between 1999 and 2009, and Residential Building Permits Issued 2009 E/27th St Harper St E 11th St E 19th St Maple St 2009 New Residential Permit E 23rd Si Haskell Ave E 1500 RD HWY E 11th St Eyon St Need Infrastructure ö Available to Build -egend Barker Ave 듏 Sud St Already Built N 3rd St w Massachusetts St Tennessee St Vermont St Kentucky St Is ensistand! 12 snaibni W 23rd St W 21st St W 9th St 12 enisM W 19th St W 27th St W 2nd St V 33rd St Pu W4th St St W 15th Harvard Ro 12 swol W 31st St IS EWOL IS EMOIN Rd M Str St erson Rd W 8th St Harvard Rd Kasold Dr Š Kasold Dr (rail N 1800 RD Clinton Pkwy Мопетеру Мау 1700 W 6th St Overland Br Wakarusa Dr 0 0.25 0.5 E 900 RD N 1800 RD

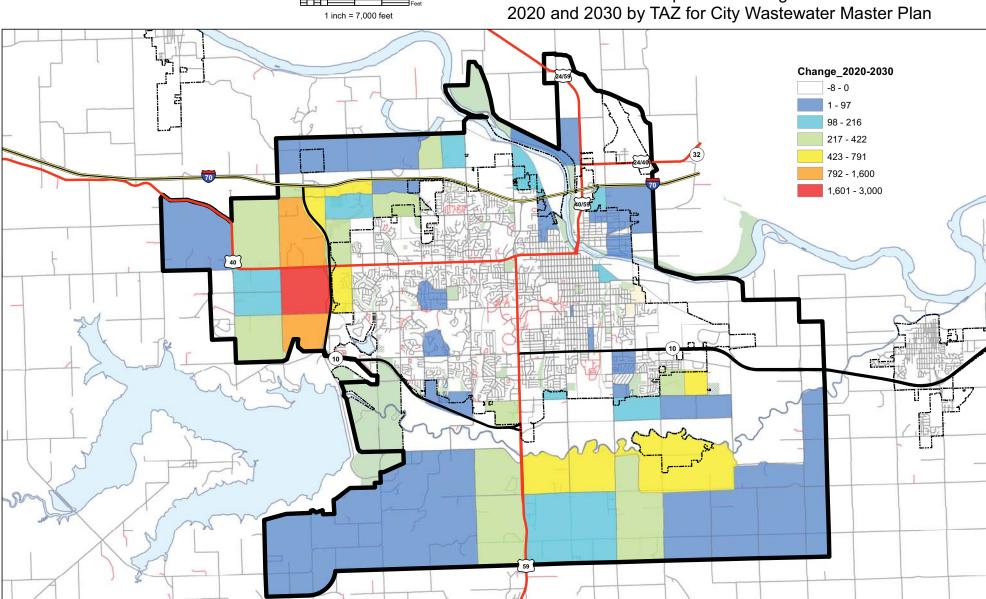
**APPENDIX** 

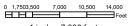


# Estimated Population Change Between 2010 and 2020 by TAZ for City Wastewater Master Plan

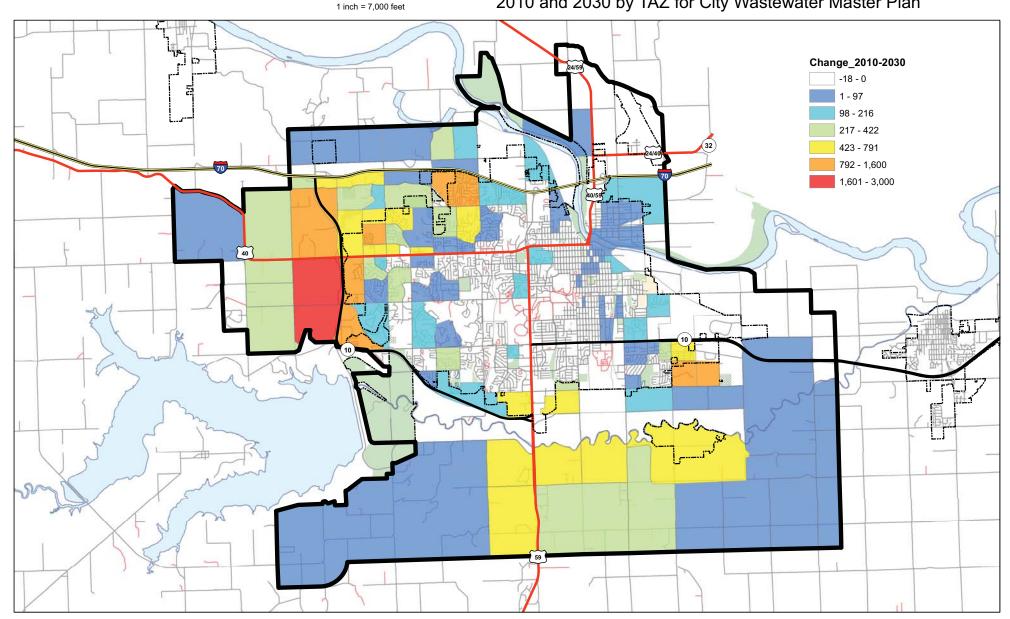


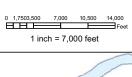




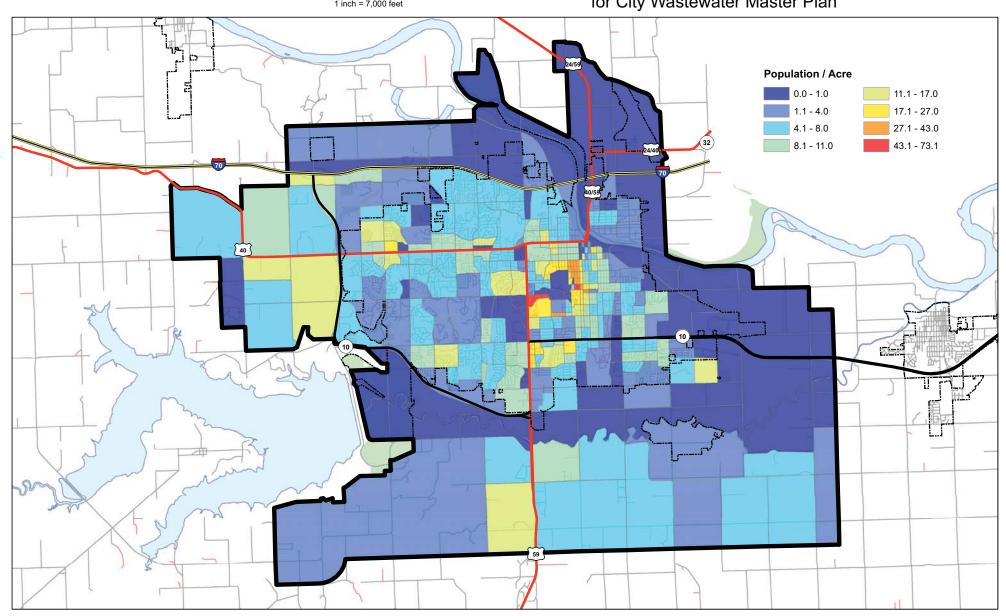


# Estimated Population Change Between 2010 and 2030 by TAZ for City Wastewater Master Plan





# Estimated Build Out Population Per Acre by TAZ for City Wastewater Master Plan





#### PINCKNEY NEIGHBORHOOD ASSOCIATION

P. O. Box 125, Lawrence, Kansas 66044 www.pinckneyneighborhood.org

President: Steve Braswell Vice President: Linda Bush

pinckney@acornwebworks.com

RECEIVED

MAY 06 2010

CITY MANAGERS OFFICE LAWRENCE, KS

April 29, 2010

Gene Meyer President and Chief Executive Officer Lawrence Memorial Hospital 325 Maine Street Lawrence, Kansas 66044

RE:

An Open Letter to Lawrence Memorial Hospital about the Future of Woody Park

Dear Mr. Meyer:

On behalf of the Pinckney neighborhood, we want to thank you for bringing the issue of future use of Woody Park to the attention of the Pinckney Neighborhood Association (PNA). As you informed us last summer and again at our January 16, 2010 monthly PNA meeting, Lawrence Memorial Hospital (LMH) would like to use a portion of Woody Park for additional staff parking spaces. In addition, LMH proposes incorporating a memorial in recognition of the contributions by Mr. Elgin Woody, the park's namesake, into its plans for Woody Park and also proposes securing additional park lands for the Pinckney neighborhood.

#### Past and Present

Woody Park originally served as a baseball field for Lawrence's black population during segregation. The property was maintained by Elgin Woody, who served as a profound influence, mentor, and advocate for youth sports in Lawrence. PNA has carefully considered the current park facilities within the Pinckney neighborhood and the cultural and historic significance of Woody Park. The first preference of PNA would be to preserve the use of Woody Park as a viable baseball field in honor of Mr. Woody and of the historical nature of this site. Unfortunately, the park has been diminished several times over the years as LMH expanded, with a significant encroachment occurring in the past few years for the expansion of the Emergency services and medical arts addition. The current state of Woody Park is insufficient to support a fully-functioning baseball field.

LMH is a vibrant and positive force within the Lawrence community, and Pinckney neighborhood is fortunate to include the hospital as a neighbor. We recognize the commitment LMH has made to the community, as expressed in the hospital's Mission Statement, dedicating itself to providing personal and high quality health and wellness services for the people of Lawrence and the extended community, and in its Vision and Values Statements, committing itself to be the best community hospital. After careful consideration of many alternatives, and in recognition of the common values, goals, and needs of LMH and the Pinckney neighborhood, PNA offers several recommendations regarding the loss of Woody Park

and developing alternative recreational facilities in the Pinckney neighborhood. This proposal takes into account practical, business considerations for the hospital and aesthetic, social, wellness, environmental, and cultural benefits to the hospital, the immediate neighborhood and the Lawrence community at large. PNA proposes a three-part approach for the future use of Woody Park, fulfillment of community recreational needs, and considerations for the hospital's long-term growth needs.

#### The Future of Woody Park

With respect to the future use of Woody Park, PNA proposes using a portion of the current Woody Park grounds for hospital parking and reserving a small but significant portion of the area for a memorial and recreation/mediation green space. Specifically, PNA recommends the following criteria be used for future use of the Woody Park site:

- Preserve no less than one half acre of landscaped green space in the south east corner of the four-acre plot;
- Erect a memorial in recognition of the historical and cultural significance of the park and the contributions of Mr. Elgin Woody;
- Incorporate a baseball theme (e.g., embed the footprint of a scaled-down baseball diamond) into the landscaping design to ensure future generations will understand and appreciate the historical context of the site:
- Include features to accommodate foot traffic, such as a wide sidewalk around the perimeter;
- Include features to promote relaxation and meditation, such as graceful, native landscaping, several benches and a shaded/sheltered area, such as a gazebo;
- Include features for children's entertainment and exercise, such as a climbing sculpture and an open area:
- Reserve several parking spaces for visitors along Maine Street adjacent to the east side of the park;
- Ensure that the landscaped and parking areas are designed in an environmentally sound manner to significantly reduce the volume of, and pollutant loadings in, storm water runoff through use of design features such as permeable parking surfaces and ecobuffers between the parking area and the storm sewer and stream; and
- Utilize the talents of local artists and artisans to design and construct the project.

Our proposal for Woody Park would not only create an enormous benefit to the community by preserving and enhancing a small piece of the rich history of Lawrence in a sustainable and environmentally friendly manner but would also provide both significant physical and aesthetic benefits to the hospital. In addition to gaining desired parking spaces, the landscaped area would provide a serene space for relaxation, reflection and meditation for patients, their families and hospital staff as well as an area for children visiting the hospital to move and play.

Studies show that the stress and anxiety experienced by those staying, visiting, or working at hospitals is greatly reduced by exposure to natural settings. The sights, sounds, and scents of nature and natural elements are not just refreshing and relaxing, but also promote health, healing, and an overall sense of well-being. Research regarding modern hospital design for patient-centered care strongly recommends inclusion or access to natural spaces, sometimes called *healing gardens* or

Gene Meyer April 29, 2010 Page 3 of 4

therapeutic landscaping. At present, LMH has no such green space features. Incorporating PNA's recommendations for the future of Woody Park into the hospital's design for this site is consistent with LMH's Mission, Values, and Vision which commit the hospital to providing personal and high quality health and wellness services to its patients and the community.

#### **Additional Recreational Needs**

The second aspect of PNA's proposal addresses how to replace Woody Park as a viable recreational facility. The Pinckney neighborhood covers a very large area – from 6<sup>th</sup> Street north to I-70, and from McDonald Drive east to the Kansas River. Other than Woody Park, current park space is located within the far eastern portion of Pinckney neighborhood and includes Burcham Park, a large, open Community Park adjacent to the Kansas River that beautifully serves the entire population of Lawrence, but is subject to frequent flooding; Constant Park, a lovely irregularly shaped Neighborhood Park that complements Watson Park to the north of 6<sup>th</sup> Street and also connects to Burcham Park via a nature trail along the river and Watson Park; and Clinton Park, a beautiful, recently upgraded Neighborhood Park with playground equipment, a gazebo and restrooms.

Pinckney neighborhood and the Lawrence community are clearly enriched by the presence of these parks. However, there is no park space within the large Pinckney neighborhood area, that is easily accessible to Pinckney's youth, and that serves as an open multi-purpose athletic field. Woody Park had served this purpose in the past, but with increased traffic and hospital expansions, the utility of the park has deteriorated. Therefore, PNA recommends LMH's participation and support in creating a new community park within the Pinckney neighborhood to serve as a multi-purpose athletic field and family meeting area. Our proposal includes the following features:

- Location of the park in the western or northern area of the Pinckney neighborhood to serve the Lawrence community, such as on upper Michigan Street;
- Encompassing an area large enough to accommodate multi-purpose athletic venues, e.g., for baseball/softball, soccer, touch football and tennis courts:
- Playground equipment;
- Accommodations for public usage, such as a generous parking area, a shelter house or gazebo, drinking fountains, restrooms; and
- Safety features for accessibility to the park, such as enhanced bike lanes leading to the park, sidewalks leading to the park, and marked crosswalks.

This new park would compensate the neighborhood and the community for the loss of the Woody Park athletic field. In addition, creation of the new park is consistent with the hospital's commitment to the wellness of the people of Lawrence and the extended community.

#### **Future Planning for Pinckney Neighborhood**

The third aspect of PNA's proposal addresses future planning for the Pinckney neighborhood and LMH. PNA is grateful for this opportunity to work with LMH regarding issues of concern to the hospital and the neighborhood. We request that the residents of the Pinckney neighborhood, through PNA, continue to be consulted and involved in future plans for LMH, particularly regarding expansion, environmental sustainability and neighborhood connectivity.

Gene Meyer April 29, 2010 Page 4 of 4

Thank you for this opportunity to present these proposals on behalf of Pinckney Neighborhood regarding Woody Park and future replacement park and athletic space. We look forward to having an opportunity in the near future to continue our discussion on these important issues for the Pinckney neighborhood, LMH and the Lawrence community.

Respectfully submitted by Pinckney Neighborhood Association on behalf of the residents of Pinckney Neighborhood,

Steve Braswell President

Linda Bush Vice President

cc:

William F. Woody, Jr.

Lawrence Memorial Hospital, Board of Trustees

City of Lawrence, City Commission

City of Lawrence, City Manager

City of Lawrence, Parks and Recreation Department

City of Lawrence, Historical Resources Commission

City of Lawrence, Director of Sustainability

Lawrence/Douglas County Planning Commission

**Douglas County Historical Society** 

Lawrence Association of Neighborhoods

Lawrence Chamber of Commerce

Lawrence Journal World

Sources of information regarding benefits of green spaces for hospitals:

C. Cooper Marcus, *Healing Gardens in Hospitals*, Interdisciplinary Design and Research, Vol. I, Issue I, Design and Health (2007). http://www.idrp.wsu.edu/Vol\_1/Cooper\_Marcus.pdf

K. A. Levine, Some Benefits of Nearby Nature for Hospital Visitors: Restorative Walks in the Nichols Arboretum, University of Michigan, 2006. (Available via http://preview.tinyurl.com/y7edg4o)

R. Ulrich et al., The Role of the Physical Environment in the Hospital of the 21st Century: A Once-in-a-Lifetime Opportunity. http://www.healthdesign.org/research/reports/pdfs/role\_physical\_env.pdf

R.S. Ulrich, View through a Window May Influence Recovery From Surgery, Science 421 (1984). See also http://www.hfma.org/leadership/Roger-Ulrich.html

# PLANNING COMMISSION REPORT Regular Agenda

PC Staff Report 05/26/2010

# ITEM NO.8: CONDITIONAL USE PERMIT FOR BLUEJACKET CROSSING WINERY; 1969 N 1250 RD (MKM)

**CUP-3-2-10:** Consider a Conditional Use Permit for accessory uses such as outdoor weddings, picnicking, and live outdoor music with the Bluejacket Crossing Winery, approximately 20 acres, located at 1969 N 1250 Rd, Eudora. Submitted by Kandaya Selvan, property owner of record. *A joint Planning Commission meeting will be held with the Eudora Planning Commission.* 

**STAFF RECOMMENDATION:** Staff recommends approval of a Conditional Use Permit for picnicking, live music events and occasional outdoor events subject to the following conditions:

- 1) The provision of a revised site plan with the following changes:
  - a) Addition of a note which states "The permit will be administratively reviewed by the County in 5 years (Calendar Year 2015)".
  - b) Addition of a note which states "The permit will expire at the end of 10 years (July 1, 2020), unless an application for renewal is approved by the local governing body."
  - c) Addition of a note which states "Events will typically occur on Saturdays, although Friday and Sunday events may be permitted. Up to 8 live music events may occur per calendar year. These events will conclude by 8:30 PM and the clean-up will be completed by 10 PM. Maximum attendance at live music events is 150."
  - d) Addition of a note which states "The parking area will be surfaced with gravel and the ADA accessible parking spaces will be paved. The ADA accessible parking space will be constructed to meet ADAAG (American with Disabilities Act Accessibility Guidelines) requirements, including signage."
  - e) The second access shall be located per the County Engineer's approval.
  - f) Landscaping shall be added to include evergreen trees and shrubs along west property to screen activity area from residence to the west.
  - g) The parking space dimensions shall be noted on the plan.
  - h) The capacity of the overflow parking area shall be noted on the plan.
  - i) A parking summary which notes the number of parking spaces required per Code, and the amount of parking provided shall be included on the site plan.
  - j) Both the event area being proposed at this time and the future event area shall be shown on one plan along with a proposed phasing schedule.
  - k) Addition of a note on the plan which states: "A revised site plan showing the details of the future event area and any associated parking would return for Staff approval prior to construction of the future event area."
  - I) Additional measures being used to buffer the property to the west shall be noted on the plan (orientation of music, use of farm vehicles, etc)
  - m) Note added to the plan which states that chemical toilets may be used for the first year, at a rate of 1 toilet per 100 attendees. Any use of chemical toilets past the first year would require approval of the County Health Official.
- 2) Permits secured from the Douglas County Health Department for new septic system, if applicable.
- 3) Approval of an entrance permit for the new driveway from Eudora Township.
- 4) Chemical toilets may be used for the first year of the CUP to allow the applicant to determine if

P-3-2-10 Item No. 8-2

the events are successful.

5) When the plans are combined, Note No. 1 regarding RV parking spaces should be removed.

#### **Reason for Request:**

"To further enhance agritourism in Douglas county at our vineyard and winery. Provide occasional. Music primarily on weekends at the exterior of our tasting room. To allow for picnic tables at the exterior of our tasting room."

#### **KEY POINTS**

- The applicant had originally requested self-contained RV parking with this Conditional Use Permit, but has withdrawn that request. RV parking is not being proposed with this CUP.
- Proposed uses are permitted in the A District only with approval of a Conditional Use Permit.
- The new uses being proposed are agri-tourism uses as defined by the Kansas Dept of Commerce (see attachment).
- A winery tasting room is an allowed agricultural use (K.S.A. 41-308a) which does not require a Conditional Use Permit. (see attachment)

#### **ATTACHMENTS**

A -- Kansas Statute K.S.A. 41-308a

#### **GOLDEN FACTORS TO CONSIDER**

#### ZONING AND USES OF PROPERTY NEARBY

• The subject property is located in the northeast quarter of Section 13 in Township 13, Range 20 East of Douglas County (1969 N 1250 Rd). Agricultural zoning and related land uses surround subject property.

#### **CHARACTER OF THE AREA**

The subject property is approximately 20 acres in size, and slopes gently from the east to the west. The property is developed with a residence and several outbuildings. The remainder of the property consists primarily of open space and vineyards. The character of the surrounding area is primarily agricultural with scattered rural residences.

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

- The current zoning designation for the property is A (Agricultural) District, a district in which
  many different agriculture-related uses are allowed. Recreation facilities are allowed in the A
  District with approval of a Conditional Use Permit.
- The proposed request will not revise the underlying zoning district.

#### ASSOCIATED CASES/OTHER ACTION REQUIRED

Approval by Board of County Commissioners

#### PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

• Charlene Neaderhiser, nearby property owner, called about the music being proposed and expressed the opinion that there be limits on the loudness so it would not detract from the general quietness of the area.

#### **GENERAL INFORMATION**

Current Zoning and Land Use: A (Agricultural); developed property with residence,

outbuildings, vineyards and a winery with tasting room.

Surrounding Zoning and Land Use: A (County Agricultural District) in all directions.

Agricultural uses, rural residences, and wooded areas.

V-C (Valley Channel) District surrounding the general area

to the north, east and west. Wooded areas and

agricultural uses

**Site Summary:** 

Subject Property:

**Proposed Buildings:** 

Off Street Parking Required:

No new buildings are being proposed. New winery and tasting room are shown in southeast corner; however, these uses are not

included in the CUP request.

Off Street Parking Provided:

[1 space per 5 attendees, Section 12-316-1 requirement for place

of assembly

20 acres

21 parking spaces and 1 ADA accessible parking space provided.

Overflow parking area provided with capacity of 40 spaces

#### I. ZONING AND USES OF PROPERTY NEARBY

**Staff Finding** – The property is located on the south side of N. 1250 Road approximately 1 mile south of K-10 Highway and is zoned for agricultural uses. It is developed with a rural residence, multiple accessory buildings, a producing vineyard and a winery which includes a wine tasting room. The surrounding area is zoned for agricultural use with portions zoned VC (Valley Channel) further to the north, east and west. (Figure 1) Agriculture, open space, and rural residences are the principal land uses in the area.

#### II. CHARACTER OF THE AREA

**Staff Finding** – This is an agricultural area which includes pasture land, rural residences and densely wooded areas.



**Figure 1.** Zoning and land use in surrounding area. Gray-toned area is A (Agricultural), yellow-toned area is V-C (Valley Channel).

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

Applicant's response:

"Good. It compliments the agritourism efforts by the state and county while providing activities that extend the visit of our quests to the winery."

**Staff Finding** – A Conditional Use Permit (CUP) does not change the base, underlying zoning; therefore, the suitability of the property for agricultural uses will not be altered. The 20 acre property is developed with a single-family home and multiple accessory buildings. Agricultural uses on the property consist of a producing vineyard, a winery and a wine tasting room. The applicant is involved with the Committee for Agritourism in Douglas County and feels that the addition of live music and an area for picnicking would enhance the wine tasting activities. The property has been used as a vineyard since 2002 and State Statutes [KS 41-308a] (attached) allow wine tasting rooms as agriculturally exempt uses. The request is to allow the following accessory recreational uses in conjunction with the wine tasting room: picnicking, live music and an outdoor volleyball court. Outdoor events, such as weddings, are also being requested with this CUP. No structures would be built for these events. The State of Kansas definition of 'agritourism', per the Kansas Chamber of Commerce web site is "Agritourism is when the public visits a working farm, ranch, winery or any agricultural operation or active agricultural heritage site for enjoyment, outdoor recreation, activities, education, shopping, dining or lodging. These visits generate income for the operators, which can help sustain the rural way of life and help keep more producers on our Kansas lands." The uses which would be accessory to the winery and the proposed outdoor events fall within this definition. The property is suitable for the uses to which it has been restricted and for the agritourism uses being proposed.

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

**Staff Finding** – The subject property is developed with a single-family house and a winery. The County Zoning was adopted in 1966, this property has been zoned "A (Agricultural)" since that adoption.

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

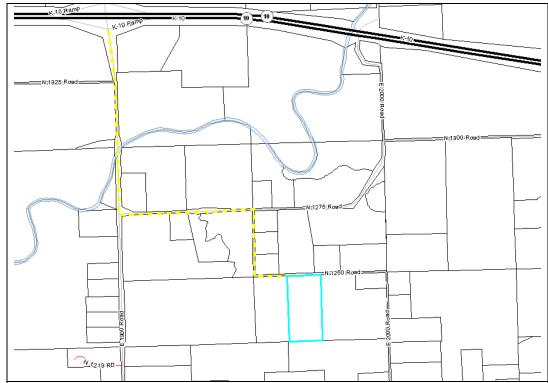
Applicant's Response:

"It shouldn't. Live music would be placed mostly during the weekend daylight hours. (Friday, Saturday, Sunday) The musician(s) would be placed behind the winery to muffle the sound. There is ample on-site parking to prevent county road congestion. It reinforces the zoning as an agricultural business."

Section 19-01 of the County Zoning Regulations recognize 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...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." The proposed use falls under Use 11. Recreation Facility use listed in Section 12-319-4.11 Conditional Uses Enumerated, of the Zoning Regulations for the Unincorporated Territory of Douglas County.

Approval of the CUP will allow the applicant to add accessory uses to the winery and wine tasting room and to host outdoor events such as weddings. The accessory uses would be primarily for the customers of the winery and while it is the applicant's intent that they increase the patronage of the winery and wine tasting room, these uses should not result in additional traffic in and of themselves. Outdoor events could be planned that are not associated with the winery and additional traffic would be generated with these events. Staff contacted the Eudora Township Trustee to discuss the proposed use and he indicated that they had no concerns with road maintenance as long as the number of cars involved were less than 100 cars per day. They were not concerned about the additional dust and indicated that residences along township roads could subscribe to the dust palliative treatment program. The traffic on the road could result in safety issues, due to the increase in traffic and the additional dust which could obscure vision on the road.

The applicant is aware that the County Commission suggested that additional notification be provided to property owners along the portion of the route which is unpaved, as the impact of the event may spread beyond the required 1000 ft notification area in the form of increased traffic and dust. The applicant indicated that he would notify the property owners along the preferred route to his facility which is: E 1900 Road south from K10, East on N 1275 Road, south of E 1950 Road, then east on N 1250 Road. (Figures 2a and 2b) Access to the property using the applicant's preferred route will require travel on approximately 4800 ft, or about 1 mile, of unpaved roads. Several steps could be taken to reduce the negative impact to those traveling or living along this route including, notification of residents and property owners when an outdoor event, such as a wedding, is planned, restrictions on times for events, and/or size limitations for these events to manage the number of cars travelling on the route.



**Figure 2a.** Applicant's preferred route to the property (in yellow): south from K10 on E 1900 Road, east on N 1275 Road, south on E 1950 Road, and east on N 1250 Road.

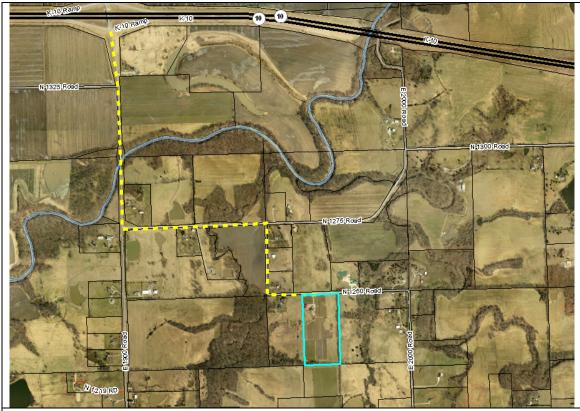


Figure 2b. Applicant's preferred route with aerial

The information and restrictions listed below were provided by the applicant. Planning staff comments are included in *italics*:

- 1. Music may be amplified, but the volume will be limited to keep the guests comfortable within a short distance of the musicians. (This limitation should minimize negative impacts from the music to adjacent properties.)
- 2. 6 to 8 live music events are proposed between April to October (with the majority of the events being held by June due to the heat of the summer and workload).
- 3. All live music events would end by 8:30 PM and the cleanup crew would be finished by 10PM on Event Days.
- 4. The larger crowds for the wine tasting are 50 to 70 guests. The event capacity for outside activities with the removable shade (tent) is 150 guests. The Douglas County Farm Tour in October brought over 300 people per day to the site.
- 5. The applicant indicated that dust should not be much of an issue as they are not expecting an increase over the traffic they normally have at the tasting room on Saturday.
- 6. Saturday would be their primary event day—although they would like to have Friday and Sunday as potential dates as well.
- 7. The maximum number of people at a music event would be 150 guests. Most of their activities have less than 100 guests.
- 8. Tasting Room sales would end at 8PM on event days; otherwise the Tasting Room closes at 6PM.
- 9. One outdoor wedding is planned for the upcoming year. The wedding guests will leave by 9 pm and the event area will be cleaned up by 10 pm. (Time limits for the weddings should be set, similar to the music events.)
- 10. Weddings would not be scheduled at the same time as a music event. In the case of a wedding, the tasting room would be closed for a private party.
- 11. Chemical toilets will be used for the wedding or other outdoor events. The winery has an ADA accessible restroom that is used for the wine tasting activities. (The County Health Official indicated that chemical toilets may be used for the first year, while the applicant determines if the events are feasible. If feasible, the events will be relocated to the east side of the property and a new septic system would be installed to accommodate the new wine tasting area and the event quests.)

The general layout of the proposed activities is shown in Figure 3. The music, picnicking area and volleyball court will be located south of the winery. The outdoor wedding would occur in this area as well. The winery will buffer noise associated with these activities from the properties to the north. Properties to the south and east would be buffered by distance, the existing residence and woodland. There is one nearby residence to the west, 1957 N 1250 Road that would not be buffered by the winery. Staff recommends that evergreen trees and shrubs be planted along the west property line to serve as a buffer for this residence. Staff received one public comment prior to the printing of this staff report which was concerned that the noise level associated with these events would not alter the quiet rural character of the area. The limitations on hours and noise that the applicant has proposed for these activities should minimize any negative impacts to the nearby property owners.

The applicant informed the Planning Office that they met with their neighbor to the west following a family birthday party they held near the tasting room. The neighbor indicated that the noise level associated with the birthday party was unacceptable. The applicant has agreed to plant landscaping in this area; but noted that the landscaping would take several years to provide an effective sound buffer. The applicant plans on building a wine storage/tasting room in the eastern portion of the property and will relocate the event area to this location. This area is shown on the revised CUP site plan and is also marked in Figure 4. The applicant indicated that the events would be held in the current location this year, and would be held in the eastern location when the tasting room has been relocated to that area. In the interim, they will work to address the neighbor's concerns by orienting the musicians to the east and parking farm vehicles along the west property line during an event to buffer the sound.

**Staff Finding** – Possible negative impacts to nearby properties would be increased noise and increased traffic on the unpaved road. The activity area will be buffered from nearby homes with the exception of the residence to the west. Landscape screening with evergreen species should be installed along the west property line to serve as a buffer; along with the additional steps the applicant has proposed to buffer the event noise. The applicant's proposed limitation on the number of events and hours should minimize negative impacts associated with traffic.

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

# Applicant's Response:

"The gain to the public in general is to provide an enjoyable rural experience in the vineyard and winery with practical activities that give our guests an experience to visit more frequently. Over a thousand guests have helped us with pruning, harvest, and wine processing the past 3 years independent of our customers. We do not feel this is a hardship for our neighbors but a positive destination, community activity and again agriculturally based."

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property. In Staff's opinion, denial of the request for a Conditional Use Permit would affect the individual landowner by prohibiting these agritourism opportunities. The property could continue to be utilized as agricultural land, residence, winery and tasting room but the property owner could not enhance the winery and wine tasting room through agritourism uses. Denial of the CUP request may limit the amount of traffic on the unpaved portions of N 1250 and E 1950 and N 1275 Roads; however there are no limits on the number of vehicles which may visit the winery and wine tasting room so it is uncertain that the denial would reduce traffic significantly.

**Staff Finding** – Approval of the Conditional Use Permit may indirectly benefit the community by adding to the agritourism in the area, thus strengthening the agricultural base. It does not directly harm the public health, safety and welfare; however the increase in traffic associated with these uses may present a safety issue for the public in increased traffic and dust on unpaved roads. Restrictions on the frequency and size of events will control the increase in traffic.

#### VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

"We think our request conforms because our primary focus is agriculture and the success of a Kansas grown product."

The subject property is not located within an identified urban growth area. The comprehensive plan recommends that agricultural uses continue to be the predominant land use within the areas of the county beyond the designated urban growth areas. Uses permitted in the rural area should continue to be limited to those which are compatible with agricultural production and uses. Uses which allow farmers to sell directly to the consumer, such as seasonal farm stands and pick-your-own operations, provide flexibility and incentives to retain agricultural land in production. (Page 5-6, Horizon 2020)

Horizon 2020 does not address Conditional Use Permits as a tool to achieve specific policies.

**Staff Finding** – The Comprehensive Plan encourages uses which provide incentives to retain agricultural land in production in the rural area of the county (outside any Urban Growth Area). A Conditional Use Permit can be used to allow specific uses that are not permitted in a zoning district with the approval of a site plan. This tool allows development to occur in harmony with the surrounding area. The proposed request is consistent with the Comprehensive Plan.

#### STAFF REVIEW

Approval of the request would allow the property owner to engage in agritourism which includes accessory uses to the winery and wine tasting room as well as the outdoor events on a restricted basis. The subject property is not located within an identified urban growth area but is located within three miles of Eudora's city limits. The request has been forwarded to the Eudora Planning Commission and the application will be considered at a joint Eudora/Lawrence and Douglas County Planning Commission meeting. The proposed application is for activities associated with the winery and wine tasting room which would consist of a picnicking area, area for music and a fire pit, and a volleyball area. A portable shade canopy is proposed to provide shade for the attendees. The tasting room is allowed by Kansas Statute, but a Conditional Use Permit (CUP) is necessary for the additional recreation activities per Section 12-319-4.11 of the Zoning Regulations. Access to the site is currently provided from an existing driveway cut through the public right-of-way abutting N. 1250 Road. A new driveway is proposed for access to the overflow parking area approximately 220' to the west of the existing driveway. The County Engineer indicated that a shared driveway, or a driveway located further to the west would be more appropriate, as the proposed location could create a sight distance problem. The driveway should be placed in a location which is approved by the County Engineer. A driveway permit must be obtained from the Eudora Township.

The County Health Department noted that permits will need to be secured for septic systems if applicable for use.

The current location may result in negative impacts on the property owner to the west and landscaping in addition to the measures proposed by the applicant should be utilized as a buffer. The future location is further removed (Figure 4) and is buffered from surrounding properties by distance and the vineyard. Two site plans have been provided with this application; one showing the current proposed location of the events and one showing the future location. These should be combined into one site plan, with a note that the event area to the east has been approved with this CUP for construction per the phasing schedule on the plan. The site plan should be revised to show the details of the future event area and parking layout and returned for Staff approval prior to construction of facilities for the new event location.

# **Parking**

The site plan identifies approximately 17 parking spaces in an existing parking area which serves the winery. 4 additional parking spaces are shown to the north of the residence. The applicant indicated that these parking spaces would be graveled and this should be noted on the site plan. The plan should clearly show how the southern parking area is accessed. Overflow parking is proposed near N 1250 Road and is access from the proposed western driveway. This area should be more clearly defined on the plan and the number of vehicles which could be accommodated noted.

The plan shows 21 parking spaces and one ADA accessible space. A parking summary should be provided on the plan which notes the following: that parking is calculated per Section 12-316-1 at a rate of 1 space per 5 attendees, (requirement for assembly use) as there are no structures associated with the proposed activities; the total number of parking spaces including ADA and overflow parking spaces provided should also be noted in the summary.

The total number of attendees would be determined by the number of parking spaces provided, or by conditions placed upon the Conditional Use Permit. A note should be added to the plan which states that the ADA parking spaces will be paved and the ADA accessible parking spaces will be constructed to meet ADAAG (American with Disabilities Act Accessibility Guidelines) requirements, including signage.

#### Conclusion

A Conditional Use Permit does not allow the range of uses permitted in a commercial district. Approval of a CUP can be tailored to address specific issues such as intensity or frequency of use, include time limitations, and provide screening requirements. The recommended conditions respond to the specific nature of the request without the associated intensity of full-scale commercial zoning. Recent actions by the County Commission have approved Conditional Use Permits with the following term limitations:

- A CUP will be administratively reviewed in 5 years
- A CUP will expire at the end of 10 years, unless an application for renewal is approved by the local governing body

Time limitations may be placed on the activities to reduce any negative impacts to the nearby property owners. The picnicking activities which are accessory to the winery and wine tasting room should be permitted during the winery and wine tasting room hours. Live music events shall conclude by 8:30 PM with clean-up completed by 10:00 PM. Outdoor events, such as weddings, shall be limited to Friday, Saturday and Sundays and must end by 9 PM with no guests remaining past 10:00 PM.

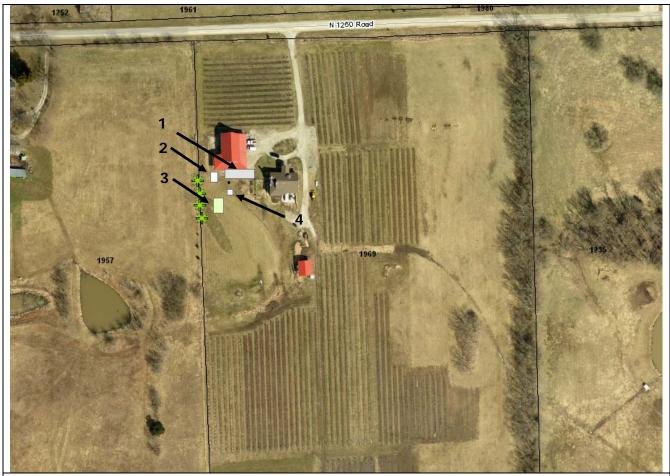


Figure 3. Approximate layout of activity areas with existing wine tasting room.
1 → picnic area 2 → moveable shade canopy 3 → volleyball area 4 → music \* → recommended screening



**Figure 4.** Location of event areas. Current (marked with a circle) Future (marked with a rectangle) would be buffered from neighbor to west by vineyard.

# 41-308a: Farm winery license; authority of licensee. (a) A farm winery license shall allow:

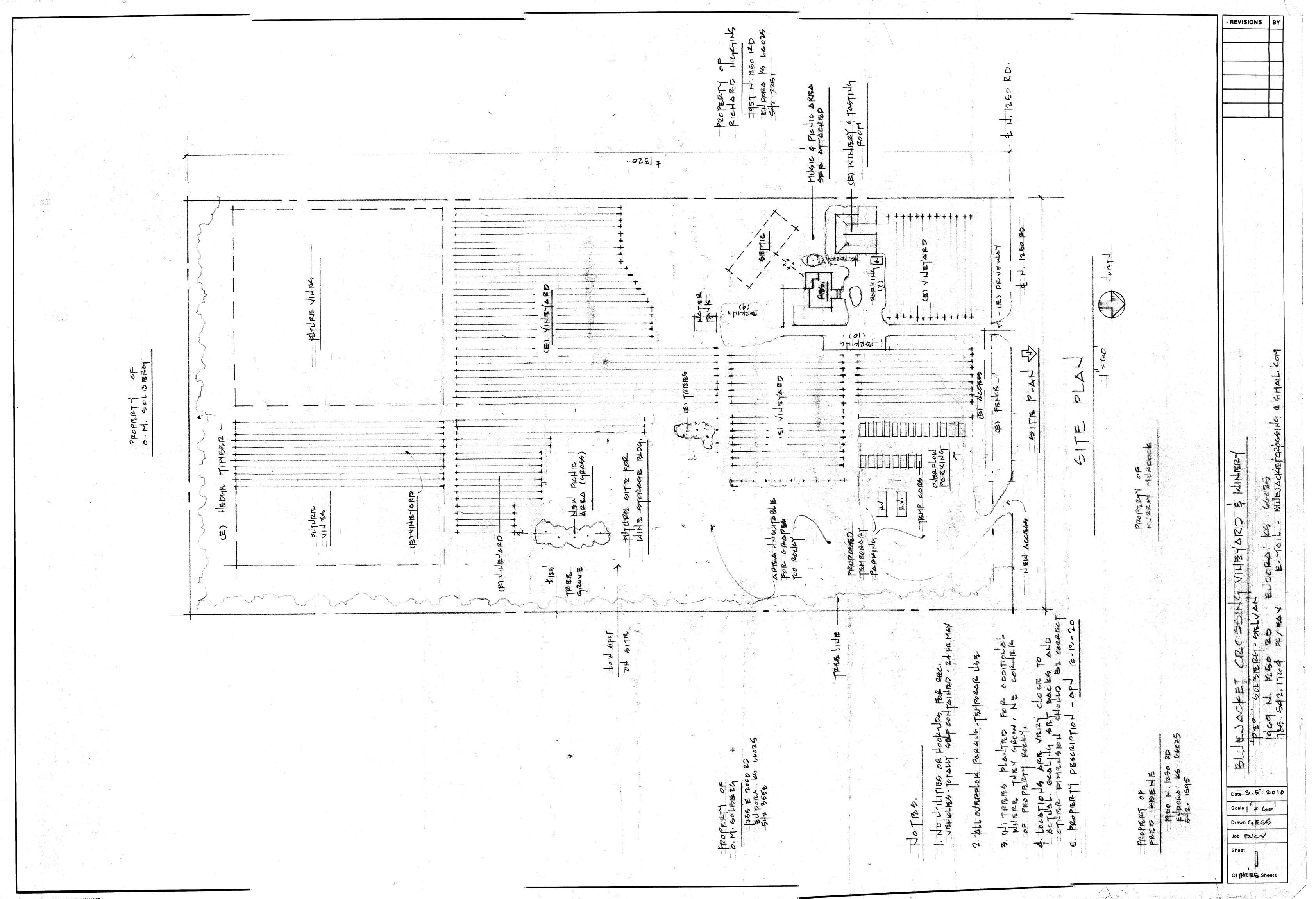
- (1) The manufacture of domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;
- (2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, clubs, drinking establishments, holders of temporary permits as authorized by <u>K.S.A. 41-2645</u>, and amendments thereto, and caterers;
- (3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;
- (4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;
- (5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;
- (6) if the licensee is also licensed as a caterer, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the unlicensed premises as authorized by the club and drinking establishment act;
- (7) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped; and
- (8) the sale and shipping of wine within this state pursuant to a permit issued pursuant to K.S.A. 2009 Supp. 41-348, and amendments thereto.
- (b) Upon application and payment of the fee prescribed by <u>K.S.A. 41-310</u>, and amendments thereto, by a farm winery licensee, the director may issue not to exceed three winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:
- (1) The sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;
- (2) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; and
- (3) the manufacture of domestic table wine and domestic fortified wine and the storage thereof; provided, that the aggregate quantity of wine produced by the farm winery licensee, including all winery outlets, shall not exceed 100,000 gallons per year.
- (c) Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser

proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.

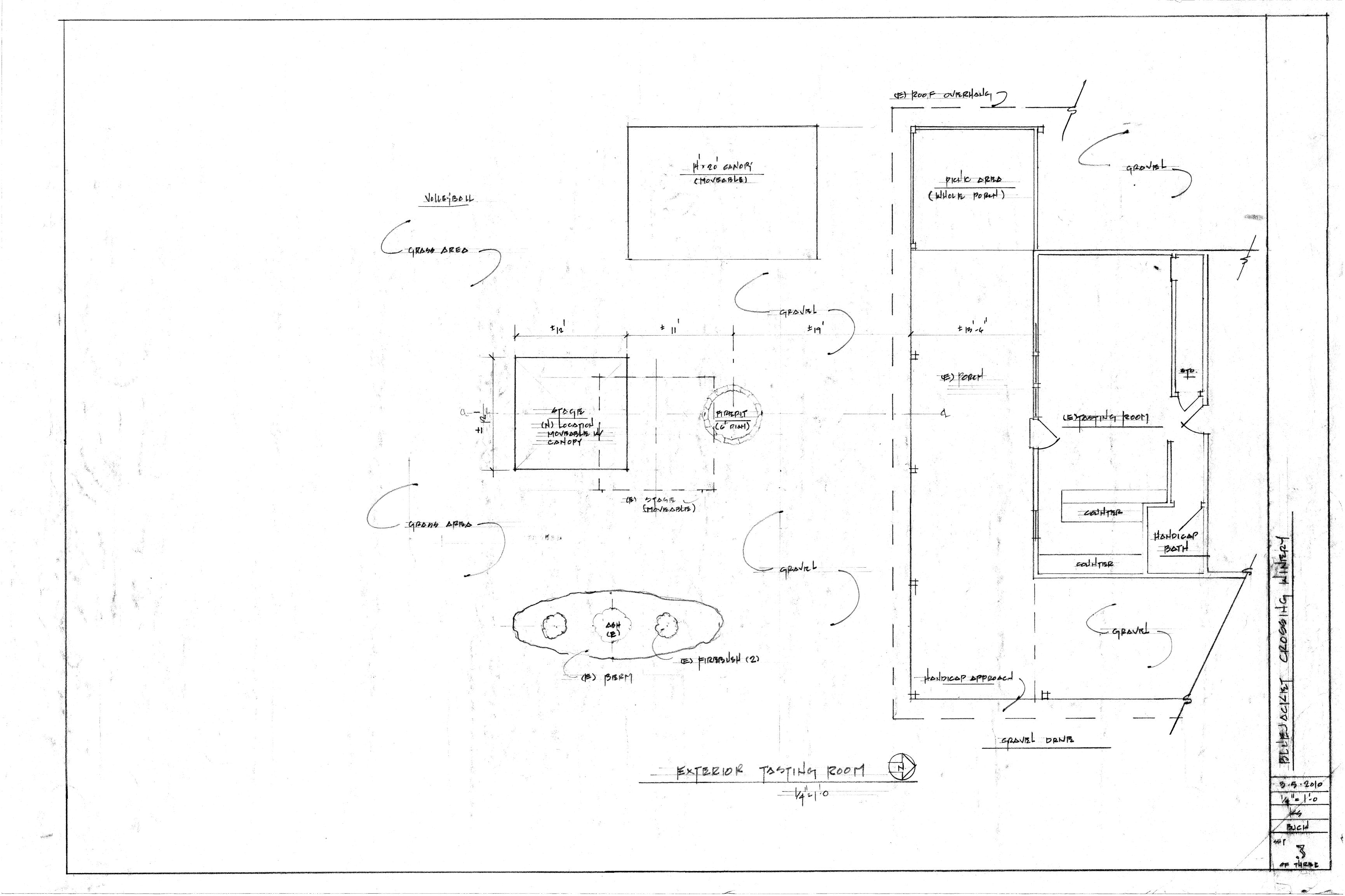
- (d) A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.
- (e) The director may issue to the Kansas state fair or any bona fide group of grape growers or wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.
- (f) A farm winery license or winery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.
  - (g) No farm winery or winery outlet shall:
- (1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;
- (2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premise supervision of either the licensee or an employee of the licensee who is 21 years of age or over;
- (3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or
- (4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.
- (h) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.
  - (i) This section shall be part of and supplemental to the Kansas liquor control act.

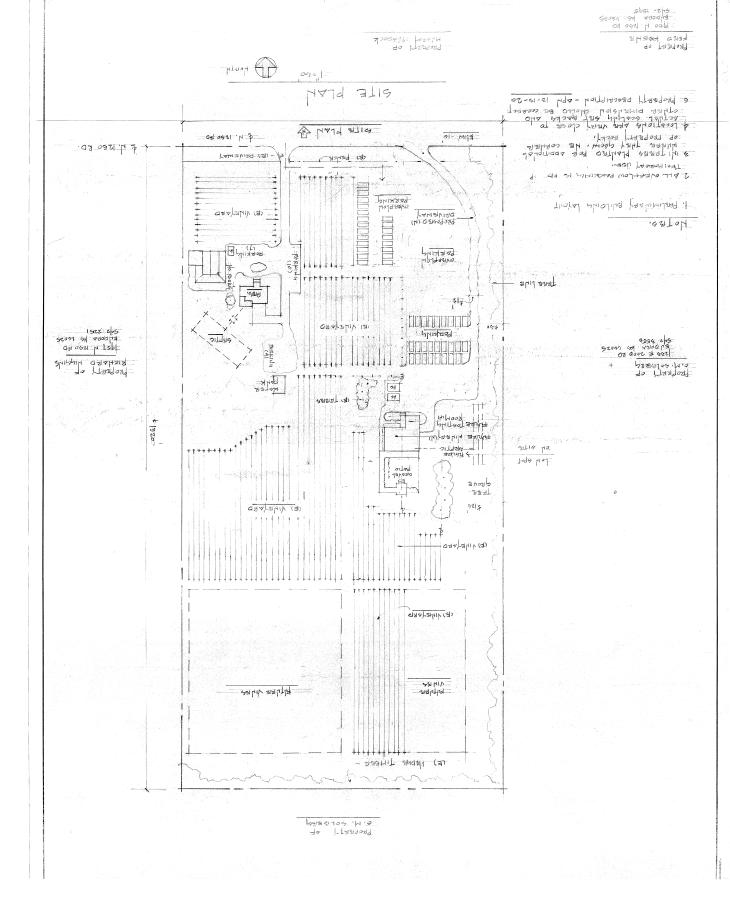
**History:** L. 1983, ch. 161, § 3; L. 1985, ch. 170, § 25; L. 1987, ch. 182, § 141; L. 1988, ch.

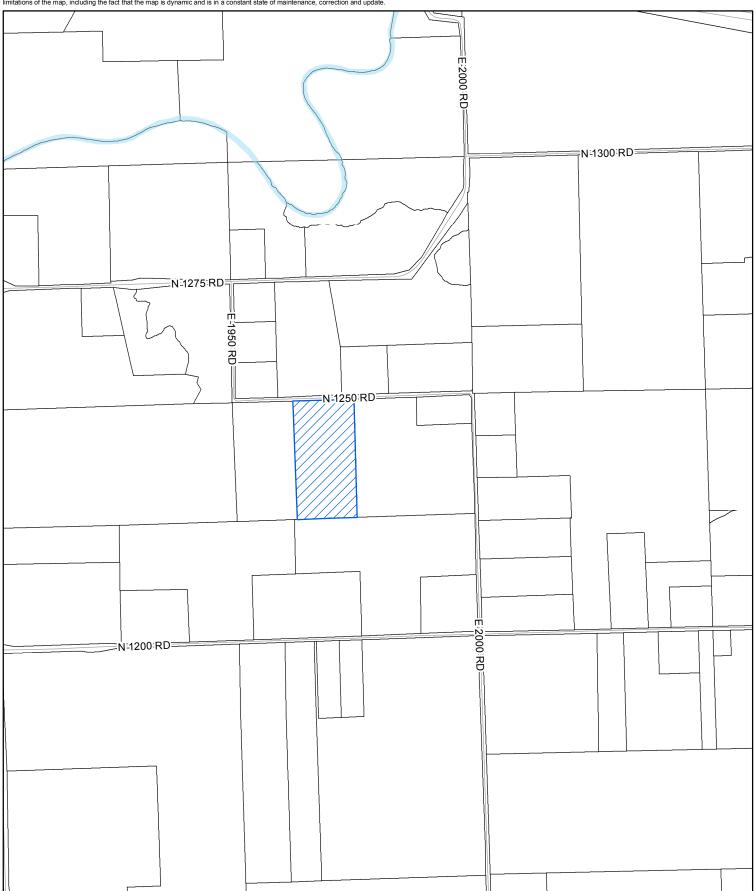
165, § 1; L. 1990, ch. 178, § 1; L. 1992, ch. 201, § 2; L. 1998, ch. 191, § 3; L. 2005, ch. 201, § 14; L. 2006, ch. 206, § 5; L. 2007, ch. 178, § 2; L. 2008, ch. 126, § 1; L. 2009, ch. 114, § 4; July 1.



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CUP-03-02-10: Conditional Use Permit for accessory uses such as outdoor weddings, picnicking, outdoor music, and overnight RV parking, with the Bluejacket Crossing Winery located at 1969 N 1250 Rd, Eudora

Area Requested

# PLANNING COMMISSION REPORT REGULAR AGENDA PUBLIC HEARING ON THE VARIANCE REQUEST ONLY

PC Staff Report 05/26/10

ITEM NO 9: PRELIMINARY PLAT FOR JOHNSON & ELLIS INVESTMENTS

ADDITION; .538 ACRES; 1804 W 6<sup>TH</sup> ST (MKM)

**PP-3-3-10:** Consider a Preliminary Plat for Johnson & Ellis Investments Addition, with

one lot, approximately 0.538 acres, located at 1804 W  $6^{th}$  St. and a variance from the right-of-way requirements in Section 20-810(d)(4)(i). Submitted by Bartlett & West, Inc., for Johnson & Ellis Investments,

property owner of record.

#### STAFF RECOMMENDATIONS:

Staff recommends approval of the variance requested from Section 20-810(d)(4)(i) to permit the right-of-way for W 6<sup>th</sup> Street to remain at 100 ft.

Staff recommends approval of the Preliminary Plat of the Johnson & Ellis Investments Addition and forwarding it to the City Commission for consideration of dedication of easements subject to the following conditions of approval:

- 1) City Commission approval of the variance request from City Code Section 19-214 to permit the private sanitary sewer line to extend more than 15 ft into the right-of-way.
- 2) The preliminary plat shall be revised with the following changes:
  - a. A 5 ft wide sidewalk shall be shown along Colorado Street, 3 ft from the curb as approved by the City Engineer.

**Applicant's Reason for Request:** Subdivision requirement prior to construction of building addition.

#### **KEY POINTS**

- This parcel is the only remaining unplatted parcel in the area. It is surrounded on all 4 sides by platted property. (Figure 1)
- Subject property is developed with the Jayhawk Jewelry and Pawn Shop.
- Sanitary sewer line was installed when property was originally developed but it is not
  compliant with current City Code requirement that private sewer lines not extend more than
  15 ft into the right-of-way. A variance request has been submitted for City Commission
  approval and is being processed by the Utilities Department. This variance must be
  approved prior to final approval of this plat.

#### SUBDIVISION CITATIONS TO CONSIDER

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 1, 2007.
- Section 20-813 states that building permits will not be issued for unplatted property.
- Section 20-810(d)(4)(i) requires 150 ft of right-of-way for principal arterials, such as W 6<sup>th</sup> Street. A variance has been requested from this requirement to permit the subdivision to occur with the existing 100 ft of right-of-way.

#### ASSOCIATED CASES/OTHER ACTION REQUIRED

- City Commission acceptance of easements as shown on the preliminary plat.
- Final Plat submitted to Planning Office for administrative approval and recordation at the Douglas County Register of Deeds.
- Execution and recordation of access easement so off-site access to Colorado Street can be utilized.
- City Commission approval of the variance request for the sanitary sewer service line extension into the right-of-way.
- Site Plan approval for the proposed building addition and parking lot expansion.
- Building permits prior to construction activity.

# PLANS AND STUDIES REQUIRED

- *Traffic Study* Not required with the preliminary plat.
- *Downstream Sanitary Sewer Analysis* The City Utility Engineer indicated that a DSSA is not required due to the fact that there will be no increase in plumbing fixtures.
- Drainage Study A drainage study is not required for this project because downstream flooding is confined to the regulatory floodplain. [Stormwater Management Criteria Section 1.6.E.2.a]
- Retail Market Study Not applicable to project.

# PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

None

# Site Summary

Gross Area: .538 acres

Number of Lots: 1

Area of Lot 1: .538 acres

#### **GENERAL INFORMATION**

Current Zoning and Land Use: CS (Commercial Strip) District; retail and warehouse use.

Surrounding Zoning and Land

Use:

CS (Commercial Strip) District in all directions; medical offices to the west, drive aisle associated with the medical office to the north, warehouse use to the east, and general

retail uses to the south.

RM24 (Multi-Dwelling Residential) District to the north of

the drive aisle; apartment complex.

#### STAFF REVIEW

The subject property is developed with the Jayhawk Jewelry and Pawn Shop which consists of both retail and warehouse uses. The property is being platted so a building permit can be obtained for a building addition.

# **Zoning and Land Use**

The subject property is zoned CS (Commercial Strip) District. The existing land use, *general retail and light wholesale storage & distribution*, is permitted in the CS District.

#### **Streets and Access**

The property is bordered by W 6<sup>th</sup> Street/ Highway 40, a principal arterial, on the south and by Colorado Street, a local street, on the east. Currently, access is taken from W 6<sup>th</sup> Street and Colorado Street. The access onto Colorado Street will be closed with this development and access will be taken through the drive to the north which serves the medical facility west of the subject property. (Figure 2) Per Section 20-810(h)(2) a joint use driveway may be approved if a city approved easement of record ensuring perpetual access to the joint use driveway by all lots and providing for its perpetual ownership, continuance and maintenance is provided. An access easement will be required for this shared driveway. Access onto W 6<sup>th</sup> Street will remain. KDOT indicated that they may consider closure or restrictions on this access if any intensification of use is proposed, but as the use is remaining a pawn shop they are not requiring any changes at this time.

A 5 ft wide sidewalk will be installed along Colorado Street and this sidewalk should be shown on the face of the plat. The City Horticulture Manager cautioned against locating the sidewalk too close to the existing trees as a change in grade within the dripline of the trees may damage them. The City Engineer approved the location of the sidewalk at 3 ft from the curb in order to reduce the amount of grading required within the dripline of the existing street trees.

#### **Utilities and Infrastructure**

Utilities have been extended to the property when it was originally developed. The sanitary sewer service line connects to the main located in the center of Colorado Street, approximately 40 ft from the property line. The City Code limits the extension of private service lines to 15 ft into the right-of-way; therefore, a variance has been requested from the City Commission to permit the service line to remain in this location.

# **Easements and Rights-of-way**

W 6<sup>th</sup> Street has 100 ft of right-of-way and Colorado Street has 80 ft of right-of-way. Adequate right-of-way currently exists for Colorado Street, a local street, and a variance is being requested to permit the W 6<sup>th</sup> Street right-of-way to remain at 100 ft, rather than the 150 ft required in the Development Code.

Utility easements were provided on the adjacent properties when they were platted. The only new easement required with this plat is a utility easement for the water service line to the meter. This easement is shown on the plat. An access easement which is acceptable to the city must be recorded to permit this property to take access to Colorado Street through the access drive on the adjacent property to the north.

#### **VARIANCES**

The property owner is requesting a variance from the right-of-way requirement in Section 20-810(d)(4)(i) to permit the right-of-way for W 6<sup>th</sup> Street to remain 100 ft, rather than the 150 ft required by Code.

Section 20-813(g) states that the Planning Commission may grant a variance from the design standards of these regulations only if the following three criteria are met: that the strict application of these regulations will create an unnecessary hardship upon the Subdivider, that the proposed variance is in harmony with the intended purpose of these regulations and that the public health, safety and welfare will be protected.

The evaluation below reviews the proposed development with the criteria necessary for granting a variance.

Criteria 1: Strict application of these regulations will create an unnecessary hardship upon the Subdivider.

Dedicating the additional 50 ft of right-of-way would relocate the south property line 25 ft to the north. This would result in a reduced number of parking spaces on the south side of the building (from 3 to 1) and would reduce the display area by about half. While these changes would not result in any non-conformity with the site, the hardship would be unnecessary as the City Engineer indicated that there were no plans to widen W 6th Street and no requirement for additional right-of-way in this area.

The development pattern along this section of W 6<sup>th</sup> Street was established when 100 ft of right-of-way was required for an arterial. Buildings were constructed near the front setback. Widening the street to the extent that another 25 ft of right-of-way on each side would be required would result in buildings being located within the setback or right-of-way. The City Engineer indicated that it is highly unlikely that this portion of W 6<sup>th</sup> Street would be widened and that the additional right-of-way would not be necessary.

For this reason, the dedication of additional right-of-way would result in unnecessary hardship.

Criteria 2: The proposed variance is in harmony with the intended purpose of these regulations.

Per Section 20-801(a) of the Subdivision Regulations, these regulations are intended to ensure that the division of land will serve the public interest and general welfare as well as to coordinate the development of each parcel of land with the existing community and facilitate the proper development of adjoining land.

The amount of right-of-way being provided with this plat is consistent with the amount of right-of-way currently existing along W 6<sup>th</sup> Street in this area. (Figure 2) The development of this property will be consistent with the development pattern in the area.

Criteria 3: The public health, safety and welfare will be protected.

The City Engineer indicated that additional right-of-way would not be necessary as there are no plans to widen W 6<sup>th</sup> Street in this location. W 6<sup>th</sup> Street is functioning adequately with the 100 ft of right-of-way; therefore maintaining the same right-of-way will not negatively impact the public health, safety, or welfare.

# STAFF RECOMMENDATION

Staff recommends approval of the variance request from Section 20-810(d)(4)(i) to permit the platting of the subject property without dedication of additional right-of-way.

#### Conformance

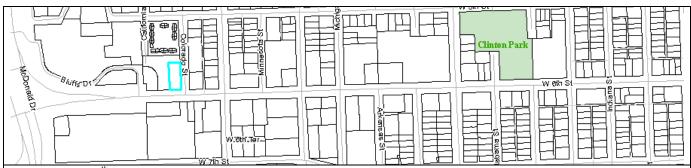
With the approved variance and recommended conditions, the preliminary plat is in conformance with the standards and requirements of the Subdivision Regulations and the Development Code.



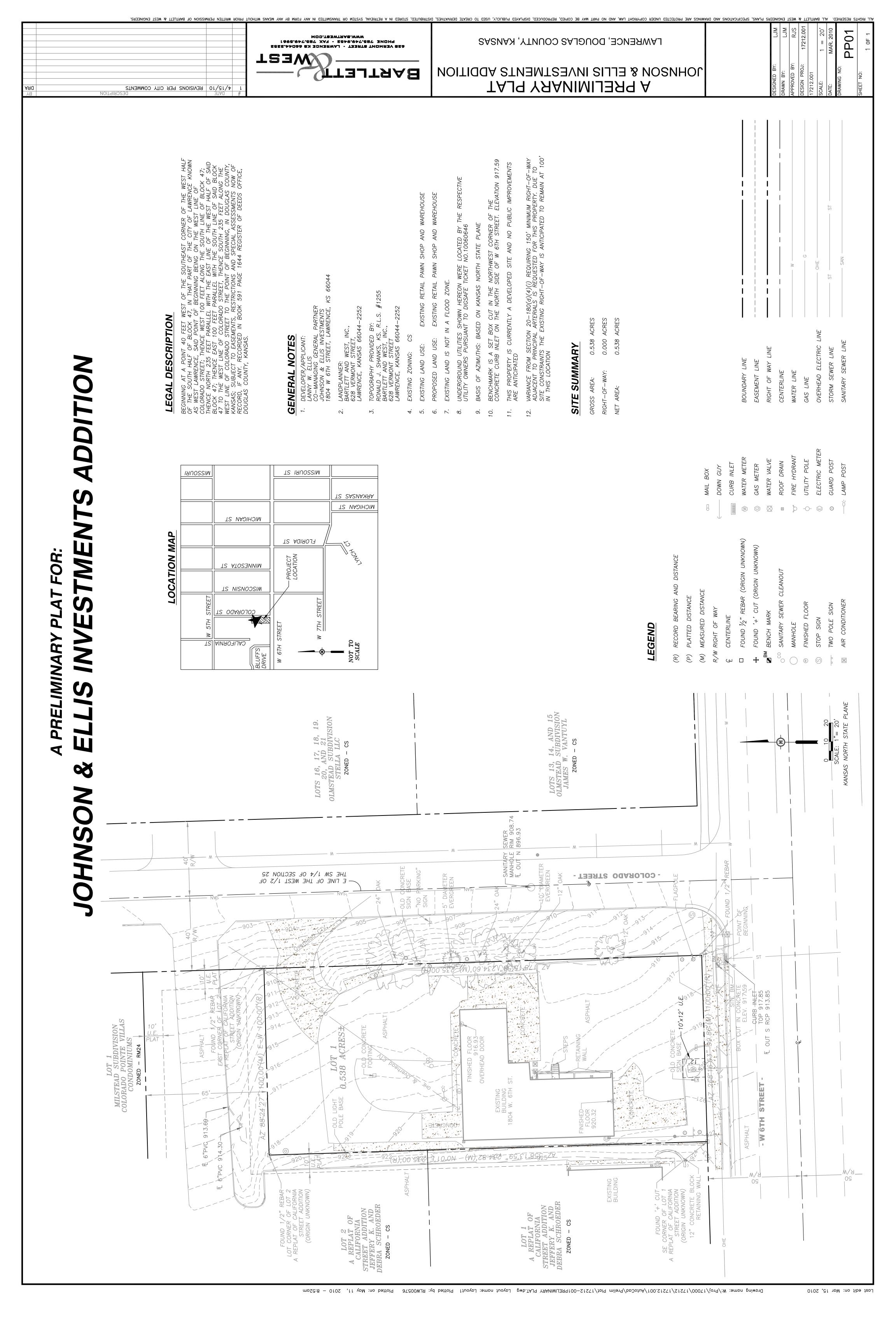
**Figure 1.** Platted properties in the area. Subject property outlined in blue.



**Figure 2.** Access to Colorado Street will be closed (X). Access will be taken from drive to the north.



**Figure 3.** W 6<sup>th</sup> Street/Hwy 40 100 ft of right-of-way shown in orange. Greater right-of-way is provided to the west for the Iowa and W 6<sup>th</sup> Street intersection and exit ramps to McDonald Drive.



# PLANNING COMMISSION REPORT Regular Agenda – Public Hearing Item

PC Staff Report 05/26/10

ITEM NO. 10: CONDITIONAL USE PERMIT; 1478 N 1700 RD (MKM)

**CUP-2-1-10**: Consider a Conditional Use Permit for camping, sale of farm products, and events at Pinwheel Farm, approximately 11.79 acres, located at 1478 North 1700 Road. Submitted by Natalya Lowther, property owner of record. *Deferred by Planning Commission on 4/26/10*.

This request for a Conditional Use Permit (CUP) was considered by the Planning Commission at their April, 2010 meeting. The Planning Commission deferred the item and requested additional information be provided when the item was returned to the Commission. The Commission directed the applicant to provide the following:

- o A plan and schedule for site improvements, with particular emphasis on the area visible from North Street.
- An exhibit defining the camping areas more clearly. The exhibit should identify the number and type of camping that would be provided in each area (for example 2 WWOOF (World Wide Opportunities on Organic Farms) campsites and 1 RV campsite in one designated location.

The Commission directed Staff to take the following actions:

- o Research Code requirements regarding a person camping on property they own.
- Research the possibility of obtaining a variance from the Board of Zoning Appeals from the requirement to provide a water supply and sewage system for mobile homes used to house farm employees.
- o Find information on the proposed waterline and how it may affect this property.
- o Revise the recommended conditions of approval with the following changes:
  - Improved water supply and sewage management for campers and participants at farm activities
  - Establish condition for maintenance and periodic upgrade for the alternative pavement material to insure that it would function adequately.
  - Prohibit firearms on the property with the exception of the applicant.
  - Review the applicant's proposed revised conditions and respond.
  - Develop a condition related to the improvement of the appearance and upkeep of the property, particularly the areas which face other residences and North Street.
  - Establish a time limit for the camping use.
  - Group conditions relating to each use (sales, events camping) together.
  - Establish guidelines for campfires so fires would not create a safety hazard in the area.
- Provide a revised staff report

The applicant provided materials for the Planning Commission on May 18, 2010 (included as Attachment A) in which she asked to defer the events and farm sales from the CUP and pursue only the camping use at this time. The sales and event uses can be removed from this CUP

request; and, if the uses are proposed in the future an application to amend the CUP can be submitted.

The April Staff report has been revised to reflect the revised uses requested and to incorporate the materials requested by the Planning Commission. Changes in the staff report are shown by the use of strikethrough for deleted text and **bold** print for new text.

#### ATTACHMENTS:

- A: Applicant's materials for Commission
- B: Proposed waterline map
- C: Staff review of applicant's proposed amendments submitted to Commission on April 26, 2010.
- D: List of revised conditions showing changes from those recommended in the April report.

# • REGULATIONS PERTAINING TO CAMPING ON ONE'S OWN PROPERTY

The Zoning Regulations of the Unincorporated Portions of Douglas County are silent on the subject of a property owner camping on their own property. Staff contacted the Director of Zoning and Codes for information on regulations pertaining to this type of camping. He indicated he would provide the information prior to the Planning Commission meeting.

# PROPOSED WATERLINE INFO PROVIDED BY THE CITY UTILITIES DEPARTMENT

Permanent easements are expected to be 20'-30' wide and temporary construction easements will typically be 75' wide. There will be additional locations where larger temporary construction easements are required for boring activities and material storage but these are not defined at this time. Typical restrictions to improvements and construction within the permanent easements will apply.

The design of the project was originally authorized by the City Commission in January 2008 with construction proposed in 3 phases 2008 – 2010. Currently design, permitting and property acquisition are proceeding under the 2008 contract. In response to the downturn in growth and Utility Department revenues, funding for the construction of the project was not maintained in 2008 and has been removed from proposed Capital Improvements Plans since 2009. The project will eventually happen to provide additional connection to N. Lawrence, for development of the Farmland area, continued development of SE Lawrence beyond 23<sup>rd</sup> and O'Connell and ultimately to south of the Wakarusa River in the area of the proposed Wakarusa Water Reclamation Facility. Timing and funding are currently unknown but we may have some ideas coming forth via the pending utility master plans.

The map is still applicable and has been shared during public meetings and in mailings to property owners (Attachment B). Burns & McDonnell are completing more detailed preliminary plan and profile construction drawings and should be submitting those by the 2<sup>nd</sup> week in May for review.

With the submittal of the preliminary plan and profile drawings in May, Utilities will meet with City Staff to go over the property requirements and affected owners. Out of that the Utilities Dept will be looking for a confirmation of the proposed property acquisition needs and initiation of that process. With the route and property acquisition confirmed, Burns & McDonnell will generate the required easement documents for each property. The next scheduled contact with

the property owners would be notification of the initiation of the process and scheduling of the appraisal activities. This could occur during June. As always, additional contact with property owners is an option.

(Planning Comment: The map in Attachment B shows the waterline crossing the northern portion of the subject property across the pastures. It appears that the waterline would require the removal of trees in two 75' wide areas on the west and east side of the property. Staff is not aware of any negative impacts the waterline would have on the farming operations once it is installed.)

#### **USE OF MOBILE HOME TO HOUSE FARM WORKERS – POSSIBLE VARIANCES**

Section 12-306-2.17: One or more mobile homes shall be allowed as an accessory use to a farm so long as they are occupied by a family related by blood, or marriage, to the occupant of the main dwelling, or by a person or persons employed on the farm. This mobile home must be at least 150 feet from another dwelling, and must be provided with a water supply and sanitary sewerage facilities, and may not be used as a rental income property. Mobile homes shall not be located within the 'F-W' or 'F-F' Overlay Districts.

Definition of Mobile Home: A vehicle used, or so constructed as to permit being used, as a conveyance upon the public streets and highways and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling or sleeping places for one or more persons, provided further that this definition shall refer to and include all portable contrivances used or intended to be used generally for living and sleeping quarters and which is capable of being moved by its own power, towed or transported by another vehicle.

<u>Variances:</u> Given the configuration of the subject properties, a variance may be necessary to permit a mobile home to be located in an area where it could be connected to an existing septic system as it would not be possible to locate the mobile home 150 ft from other dwellings in this area. The Commission asked staff to look into the possibility of a variance from this requirement to permit the mobile home to utilize a holding tank if a septic system is not acceptable or available for connection. Section 12-323-2 of the Zoning Regulations notes that the Board of Zoning Appeals may hear and decide special exceptions to the provisions of the Zoning Regulations in those instances where the Board is specifically authorized to grant such exceptions. "In no event shall exceptions to the provisions of the Zoning Regulations be granted where the use or exception contemplated is not specifically listed as an exception in the Zoning Regulation." A variance from the yard requirements is included in those items that the Board could grant an exception or variance from; therefore, the Board could consider the variance to reduce the required separation between a mobile home and other dwellings The requirement to provide sanitary sewerage facilities is not listed as an exception. If there is an issue with linking to the existing septic system, there is a variance procedure in place for the Douglas County Sanitary Code. The County Health Official indicated that a more permanent mobile home would require connection to the septic system, but other arrangements could be made for a more mobile type of mobile home. A variance application can be submitted for consideration by the Douglas County Health Department.

#### PLANNING COMMISSION RECOMMENDED REVISIONS TO CONDITIONS

 Improved water supply and sewage management for campers and participants at farm activities.---

The applicant indicated that water is available from the private well on the property and also from the residence at 1480 N 1700 Road. Restroom facilities are available in the residence at 1480 N 1700 Road and a privy is located on the property. The County Health Officer said that private well water is permissible as long as the use does not exceed 25 persons for more than 60 days. In that case bottled water would be required. He recommended the use of publicly treated water for the campers. He also indicated that the privy is permitted, but he recommended a chemical toilet with the additional users. The well is acceptable for use by the owners of the property; however, the County Health Official highly recommends the use of treated water for the campers as well water is not disinfected and could be unsafe. He indicated that she could buy a 5 gallon jug and fill it with city water for campers to use. The 5 gallon jug should be rinsed out with City water (treated water) in between uses. The Health Official felt that the privy would be a sanitary restroom facility for the campers but recommended that a provisions for hand-washing be provided. After discussing this issue with the County Health Official and the applicant, staff recommends the following condition:

A safe water supply and adequate sewage management system shall be provided for the camping use approved with this CUP.

- 1) City or bottled water shall be provided for the campers, rather than well water. The health official indicated that the applicant could fill a large jug with City or treated water for the use of the campers.
- 2) The privy may be used to serve the camping use; provided provisions for hand-washing are provided.
- Establish condition for maintenance and periodic upgrade for the alternative pavement materials to insure that it would function adequately.

The alternative pavement materials are experimental in nature. The drive utilizing the alternative pavement materials shall be maintained and upgraded to insure that it can function adequately. If it is determined by the County Engineer that the alternative pavement materials are not able to function adequately, this area of drive will be graveled.

Prohibit firearms on the property with the exception of the applicant. The applicant indicated that they felt this restriction was unfair, as visitors to neighboring properties often bring firearms onto the properties to hunt. She also stated that she would like to permit the campers in the north pasture area to be able to have firearms for security reasons. As this is a Conditional Use Permit, additional restrictions may be placed on the use—as it is not a use that is commonly permitted within the A District—to insure that it is compatible with the area. Staff recommends the following condition: No firearms are permitted on the property with the exception of those owned by the applicant.

Review the applicant's proposed revised conditions and respond.

See Attachment C

 Develop a condition related to the improvement of the appearance and upkeep of the property, particularly the areas which face other residences and North Street.

Maintaining a pleasing streetscape should increase the property's compatibility with the surrounding area. The portion of the farm adjacent to North Street should be maintained in a manner similar to that required for the nearby city lots. Article 3 of Chapter 18 of the City Code prohibits excessive growth of vegetation (plant height of 12" or more) unless the property has been registered for 'natural landscaping'. This would apply only to the within 30 ft of North Street and not to the farm as a whole. The adjacent building to the east, 509 North Street, is located 30 ft from the street so this area would be visible from the street. Article 6 of Chapter 9 of the City Code prohibits dilapidated structures or the storage of debris, appliances, and other items on porches. The subject property is not located within the city limits and is not required to comply with City Codes; however maintaining the area near North Street in a similar fashion to other nearby developed properties would result in a more compatible streetscape. Staff recommends the following condition:

The physical appearance of the structures near North Street (501 North Street and 1478 N 1700 Road) shall be improved and maintained, either through structural improvements, painting, cleaning or removal. The porches will not be used for the storage of equipment or other items. The property within 30 ft of North Street will be mowed to prevent excessive vegetation unless the property is registered as a natural landscape.

- Establish a time limit for the camping use.
  - Camping for purposes other than volunteer workers for the farm shall be limited to two weeks. Camping for volunteer farm workers or interns shall be limited to two months.
- Group conditions relating to each use together. (Conditions have been grouped for clarity)
- Research the water line plans and see how it would affect this property. (Provided)
- Establish guidelines for campfires so fires would not create a safety hazard in the area.

Fire rings or pits should be established away from overhanging branches, rotten stumps, logs or dry grass. The pit shall be circled with rocks or a metal fire ring. A 5 ft area cleared of vegetation shall be provided around the ring. Extra wood shall not be located within 5 ft of the fire ring. A shovel and water shall be available in case the fire gets out of control.

**STAFF RECOMMENDATION:** Staff recommends approval of a Conditional Use Permit for camping, events, and sale of farm products at a Farmer's Market at Pinwheel Farm, located at 1478 N 1700 Road and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report subject to the following conditions:

(The following conditions have been revised from the conditions in the April Staff Report based on the Planning Commission's recommendations and the applicant's proposed amendments. Attachment D contains the conditions with changes shown.)

# (GENERAL PROVISIONS)

- 1. The physical appearance of the structures near North Street (501 North Street and 1478 N 1700 Road) shall be improved and maintained, either through structural improvements, painting, cleaning or removal. The porches will not be used for the storage of equipment or other items. The property within 30 ft of North Street will be mowed to prevent excessive vegetation unless the property is registered with the City as a natural landscape.
- 2. The CUP approval is valid for 40 20 years (July 1, 2030) with a review in 5 years (July 1, 2015) to determine if the use is still appropriate with the level of urbanization that has occurred. The CUP approval will expire at the end of 40 20 years (July 1, 2030), unless an application for renewal is approved by the local governing body. The camping use will be reviewed in 1 year from the date of approval (July 1, 2011) to determine if the use is compatible with the surrounding area.

# (CAMPING)

- 3. Camping will be operated as an accessory use to farm operations, not as a stand-alone enterprise.
- 4. Camping shall not be publicly promoted in any way, although it may be mentioned as a housing option in farm volunteer opportunity descriptions.
- 5. The property owner shall provide an annual report to Planning Staff which lists the number of campers in each camping unit, the type of unit, location of campsite used, and dates of stay. This report shall be submitted electronically or in hard copy by Jan. 15 of each year commencing Jan 15, 2011.
- 6. Fire extinguishers are required in all camping units.
- 7. No engines or gas generators may be used for power supply to campers on the farm, except for emergency use in the case of neighborhood power failure.
- 8. Lights shall be shielded to prevent glare or light trespass to neighboring properties.
- 9. Camping areas shall be kept in a neat, safe and sanitary manner.
- 10. Camping units in active use shall be placed in areas that are reasonably screened from view of street or neighbors.
- 11. No electronic sound amplification is permitted that is readily audible from neighboring properties, except for emergency/hazard warning devices.
- 12. Camping will observe quiet time between 9 pm and 7 am Sunday through Thursday, and between 11 pm and 7 am Friday and Saturday.
- 13. Camping for purposes other than volunteer workers for the farm shall be limited to two weeks. Camping for volunteer farm workers or interns shall be limited to two months.

- 14. The general site plan shall be revised to reflect the camping areas as shown on the detailed camping sheet.
- 15. A safe water supply and adequate sewage management system shall be provided for the camping use approved with this CUP.
  - 1) City or bottled water shall be provided for the campers, rather than well water. The health official indicated that the applicant could fill a large jug with City or treated water for the use of the campers.
  - 2) The privy may be used to serve the camping use; provided provisions for hand-washing are provided.
- 16. No firearms are permitted on the property with the exception of those owned by the applicant.
- 17. Fire rings or pits shall be established away from overhanging branches, rotten stumps, logs or dry grass and shall be circled with rocks or a metal fire ring. A 5 ft area cleared of vegetation shall be provided around the ring. Extra wood shall not be located within 5 ft of the fire ring. A shovel and water shall be available in case the fire gets out of control.

# (CAMPING UNITS)

- 18. No more than 4 self-contained camping trailers or RVs and/or up to 4 tents at a time, with a maximum of 6 units housing up to 12 adults may be located on the site at any given time (exclusive of the permanent house on 1480 N 1700 Road). Vacant RVs or other camping units will count toward the number permitted on the site.
- 19. RVs and other camping units are limited in size as follows:
  - No more than 2 RVs or other camping units which are longer than 20 ft. may be located on the site at any one time. The maximum size for any RV or camping unit is 30 ft, exclusive of hitches or carrying racks.
- 20. RVs or other vehicular camping units must be properly tagged and roadworthy.

# (EASEMENTS)

- 21. An affidavit stating the following requirement shall be recorded with the Register of Deeds prior to the final approval of the CUP: "The property owner shall execute a lateral line easement for the off-site lateral lines for 1480 N 1700 Road, per the County Health Official's approval, prior to the sale of either 1480 N 1700 Rd. or the land where the laterals are located, if the off-site lateral lines are still in service. The easement shall be recorded at the Register of Deeds."
- 22. The property owner shall relocate the eastern driveway within the dedicated right-of-way easement or the easement should be revised to include the drive. The driveway shall be relocated or the revised right-of-way easement recorded prior to final approval of the CUP.

# (FLOODPLAIN)

23. Any development on a parcel which contains regulatory floodplain may require a Floodplain Development Permit from the Zoning and Codes Office.

# (SITE PLAN)

- 24. Applicant shall provide a revised site plan with the following changes:
  - i. The limits of the regulatory floodplain shall be shown.

- ii. A note shall be added to the site plan which states "Camping may occur in the regulatory floodplain only in the area known as the 'key-hole' area, which is located at the intersection of the 4 rotational pastures. This area shall be clearly delineated on the site plan. This camping shall be limited to no more than 2 camping units or tents." The applicant shall meet with the County Floodplain Manager and develop restrictions/regulations for this area which shall be noted on the site plan.
- iii. The parking requirements (6 for camping) shall be noted and the plan shall show the location and number of provided parking spaces.
- iv. The southern camping area shall be delineated to maintain a 50 ft setback from North Street right-of-way. A note shall be added that no more than 2 camping units will be permitted in this area at a time.
- v. A 15 ft camping setback shall be provided from the property lines adjacent to residential zoning or uses.
- vi. The site plan shall show the location of screening which will be provided as a condition of this CUP, or which currently exists, to screen the southern camping areas from view of adjacent residences and North Street. If temporary screening is to be used while long-term screening is becoming established, the location must be shown and the type of screening must be noted on the plan.
- vii. The site plan notes shall specify "All drives and parking areas shall be graveled except for the portion of the drive designated on the site plan as approved by the County Engineer for the use of alternative surfacing materials. The alternative pavement materials are experimental in nature. The drive utilizing the alternative pavement materials shall be maintained and upgraded to insure that it can function adequately. If it is determined by the County Engineer that the alternative pavement materials are not able to function adequately, this area of drive will be graveled.
- viii. Facilities for auxiliary uses to camping and events such as picnic and outdoor cooking areas, fire pits, play areas, walking trails, etc. will comply with all camping conditions, except that property line setbacks will not be required for trails.
- ix. The privy shall be shown and labeled.

# **Reason for Request:**

Applicant's response:

"In 2005, I was informed that I had unwittingly violated county regulations prohibiting camping by utilizing a self-contained tent camper (a birthday gift from my parents) as a temporary seasonal office space, storage, break room, and occasional overnight accommodation at my small farm at 1480 N 1700 Rd. I complied with the order to remove the vehicle entirely from the property, and it remains in storage at my parent's home in another county. Yet I was surprised to learn that camping and so many other activities normally and naturally associated with farm life are not actually permitted as 'agricultural uses' for land zoned specifically for farming.

Ironically, the State of Kansas has, in recent years, begun to see the benefits of promoting 'agritourism' as a source of economic development based on the natural resources of the region. A special state agency has been created, and special regulations have been promulgated in order to encourage farms to open their operations to visitors. This includes regulations waiving liability for injury or death to

participants in registered agritourism activities. I have registered my farm as an agritourism site with the State in order to protect myself should any mishap befall a visitor.

As I continue to develop my farm, I find that its close proximity to the City of Lawrence makes it an increasingly popular destination for families, who wish to expose their children to the 'farm experience' so they can learn where food comes from. Furthermore, an exploding nationwide interest in locally grown, sustainably produced food has created an upsurge in people wishing to obtain hands-on training and experience in this rapidly growing agricultural niche. With a significant lack of educational/vocational training programs in established academic institutions to meet this demand, grass-roots educational networks have evolved. Programs like WWOOF (international) and Growing Growers (KS food-shed area) have emerged to connect farms needing helpers with eager volunteers, who get hands-on opportunities to hone their farming skills and knowledge, add to their resumes, and network with agriculture professionals and potential customers while providing farms with enthusiastic help in return.

In meeting these demands for agritourism and agri-education, other auxiliary needs arise: Space for children to play, for eating and resting, accommodations for temporary volunteers who may be living on the road in campers passing through town, etc. To balance the needs of guests/volunteers with the orderly operations of the farm and its natural environment, designated adequate facilities are essential. Currently, Pinwheel Farm's potential pool of volunteers, especially through the WWOOF program, is limited to those who are willing to room in my home and to those whom I am willing to live with in close quarters.

The farms' proximity to the City of Lawrence also brings to bear additional use restrictions that farms in more rural areas do not face, because of its location within the Urban Growth Area. Because I live outside city limits, and thus cannot vote for elected city officials, I do not have full representation in the development of City regulations that apply to my farm now or in the future. The possibility of involuntary incorporation into the City of Lawrence cannot be ruled out until such time as City authorities put in writing that this will never be done.

Therefore, I am requesting to have camping permitted on my farm in carefully delineated circumstances, as described in the supporting document titled "Pinwheel Farm Camping Guidelines". I am also requesting permitting for other normal outdoor agritourism activities including picnicking, outdoor cooking of food/barbequing, playing, hiking, bird-watching, dog walking, horseback riding, etc. I am also requesting to have a wide variety of other specific activities, primarily pertaining to agriculture and essential to the on-going development of Pinwheel Farm as an agricultural enterprise and living environment, permitted at the farm. The full range of activities requested under this CUP are listed in the Table of Long Range Goals."

# **KEY POINTS**

• The subject property is located within Service Area 2 of the Lawrence Urban Growth Area.

Item No. 10-10

- The property is located on North Street and is adjacent to the city limits.
- The applicant owns 5 contiguous parcels in this location; however, as one parcel (501 North Street) is located within the city limits only 4 parcels are included in this CUP.

#### **GOLDEN FACTORS TO CONSIDER**

#### **ZONING AND USES OF PROPERTY NEARBY**

• Nearby properties close to North Street are zoned RS7, RS10 (Single-Dwelling Residential—City zoning) and A (Agricultural—County zoning). Single family residences are the primary land use on these properties. The subject property extends to the north, where the nearby properties are zoned I-1 (Limited Industrial—County zoning), GPI (General Public and Institutional Uses—City zoning) and IG (General Industrial—City zoning). Several of the properties have not been developed, and the others contain a warehouse/distribution center, a construction sales business and a detention facility. The 100 year regulatory floodway and floodplain is present in this area, so nearby properties and portions of the subject property are located in the Floodplain Overlay Districts, both City and County.

# **CHARACTER OF THE AREA**

The area is a transitional area on the edge of the city where urban and rural land uses blend.
The streets in this area are constructed with open ditches rather than curb and gutter and
several of the residences have gardens and seasonal farm stands. The blend of uses include
the subject farm property, other agricultural lands, single-dwelling residences and a mobile
home park.

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

• The current zoning designation for the property is A (Agricultural) District, a district in which many different agriculture-related uses are allowed. The A District is intended to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises. The district is also intended to promote the growing of natural crops and grazing and to prevent untimely scattering of more dense urban development. The subject property contains high quality agricultural soils and is therefore well suited for agricultural uses; however, consideration must be given to the close proximity to the city limits. As the area becomes more urbanized, some agricultural uses may not be appropriate in this location.

Uses which are not permitted within the A District but have been determined to be compatible with the character of the area are permitted with the approval of a Conditional Use Permit. The requested uses: camping, events, and year-round sale of farm products at a farm stand or market are is allowed in the A District with approval of a Conditional Use Permit (CUP). The property is suited for the uses which are permitted in the A District.

#### ASSOCIATED CASES/OTHER ACTION REQUIRED

- Approval by Board of County Commissioners
- If approved, new and/or converted buildings will be subject to county building code requirements.
- Dedication of easement Recording of affidavit regarding requirement for future easement for septic field lateral lines which extend over the parcel lines.

Item No. 10-11

• Floodplain Development Permit from the Douglas County Office of Zoning and Codes for any new development on parcels which are encumbered with the regulatory floodplain.

#### PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Phone call from neighbor expressing concern with parking for the events and other uses on the farm. She felt that adequate parking should be provided on-site so parking on North Street would not be utilized.
- Phone call from Ted Boyle, President of the North Lawrence Improvement Association expressing concern about the negative impact camping may have if it were to be used primarily for people without permanent residences.
- E-mail from Barbara Higgins-Dover requesting that the following link to a newspaper story concerning the Pinwheel Farm be provided to the Planning Commissioners. She said the story is on several pages, but you can pan between pages.

http://news.google.com/newspapers?nid=2199&dat=20000504&id=gpAyAAAAIBAJ&sjid=5ecFAAAAIBAJ&pg=4638,1169832

#### **GENERAL INFORMATION**

Current Zoning and Land Use: A (Agricultural) District and Floodplain Overlay District;

agriculture and residential land uses.

Surrounding Zoning and Land Use: To the west:

A (Agricultural) District, I-1 (Limited Industrial) District;

residence and open space.

To the north:

IG (General Industrial) District—City Zoning;

warehouse/distribution.

I-1 (Limited Industrial) District; residence and

agriculture.

To the east:

I-1 (Limited Industrial) District; construction sales and

residence.

RS10 (Single-Dwelling Residential) District—City Zoning;

single dwelling residences.

To the south:

RS7 (Single-Dwelling Residential) District—City Zoning;

residential.

Site Summary

Subject Property CUP activity is located on 4 parcels containing

approximately 12 acres.

1480 N 1700 Road contains approximately 1.083 acres

and has been developed with a residence.

1478 N 1700 Road contains approximately .445 acres and was developed with a residence. The structure is now

being used as an accessory farm structure.

The unaddressed parcels without street frontage contain agricultural uses and accessory farm structures.

Parking Requirements:

Total Parking Required: 12 spaces plus parking for farm stand

1 per 5 seats (or attendees) for event or assembly use - 30

attendees = 6 spaces
ADA 1 (for 1 to 25 spaces)

1 parking space for each camp-site –6 campsites = 6 spaces 1 parking space for each 200 sq ft of farm sales stand area

Total Parking Provided: Not noted on plan. The site plan shall be revised to note the

number of parking spaces that are required and the number which

are provided on site. The site plan shall show the location of

designated parking spaces.

# I. ZONING AND USES OF PROPERTY NEARBY

**Staff Finding** – The subject property abuts the city limits in several areas and is bounded by various zoning districts and land uses. The property is on the north side of North Street and the surrounding properties along North Street are zoned for single-dwelling residences (within the city limits) and agriculture (outside the city limits). These properties are developed with single-dwelling residences. The north portion of the subject property is bounded by Limited Industrial (outside city limits), and General industrial (within the city limits) zoning districts. A warehouse distribution facility is located to the north while the remainder of the industrially zoned property contains residences or agricultural uses. The land use and zoning of the area are illustrated in **Figure 1**.

# II. CHARACTER OF THE AREA

**Staff Finding** – The subject property is adjacent to North Street which was constructed with open ditches as permitted by the alternate City Street Standards. This portion of North Lawrence has a rural/urban character and there are several farm stands, gardens and other agricultural uses included with the predominately residential area. This area is heavily encumbered with the floodplain, including both the floodway and the floodway fringe, and also contains high quality soils. (**Figures 2 and 3**)

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

Applicant's response:

"The four properties are zoned "A" Agricultural. They are all Capability Class 1 soil ideal for agriculture in all ways. The location of the property in the river valley with a high water table makes it especially suited to horticultural agriculture and forestry. A portion of the largest property is in the floodway fringe; agritourism use of that portion would be in compliance with applicable regulations to the extent that this can be reasonably determined. A portion of the largest property is currently enrolled in the USDA's CRP Riparian Protection Program; agritourism use of this area would be in compliance with the terms of the CRP lease to the extent that this can be reasonably determined.

The main farm property has been used since 1997 as an intensively managed, integrated, sustainable small farm including production and sale of animal products and by-products, vegetables, fruits, herbs, nuts, forest products, animal feed and forage, bee products, and value-added processing of raw agricultural products produced on the farm, as well as use of such products by owner, other residents, guests, volunteers and staff. The training of students, volunteers and employees in skills and knowledge related to such agricultural production is an essential part of this operation.

The property surrounding the farm is mostly residential, agricultural production, or vacant agricultural land. Much of that land (to the west and north) is likely to remain vacant or agricultural because it is in the floodway/floodway fringe areas."

**Staff Finding** – A Conditional Use Permit (CUP) does not change the base, underlying zoning. The suitability of the property for agricultural purposes will not be altered with the granting of the CUP. The property is suitable for the uses to which it has been restricted.

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

**Staff Finding** –County Zoning Regulations were adopted in 1966; the southern portion of this property has been zoned A (Agricultural) since that time. The northern 9.8 acres were rezoned from I-1 to A in 1996. The property is currently developed with residential and agricultural structures and uses.

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

Applicant's Response:

"The restrictions that are to be removed are ones that most small-scale agricultural property owners don't know exist, and not infrequently violate. The activities proposed are ones that are commonly assumed to be acceptable and natural aspects of a small family farm operation and/or residence. Many of these activities are already carried on by nearby neighbors without the benefit of appropriate zoning or CUP.

Occasions for annoyance of neighbors based on removal of these restrictions will be proactively addressed by guidelines, orientation of visitors, and on-site monitoring by the landlord or designated farm participant. Pinwheel Farm already has General Policies applicable to all farm participants that will be part of the camping agreement signed by campers; these General Policies address most potential annoyances and safety concerns.

Neighbors will be provided with contact information and procedures for letting us know of any particular situations that arise, so that we may quickly work to resolve legitimate concerns. Most obvious annoyances that could occur are ones that we currently suffer from nearby neighbors with no recourse because they are normal activities of daily living. These include, but are not limited to:

- Occasional parking on the street and presence of unusual numbers of people due to special activities;
- Bright lights shining in our eyes outdoors or through windows at night;
- Loud or boisterous human activity including music, laugher, shrieks of happy children;
- A few additional people walking jogging biking, or walking dogs around the neighborhood;
- A few additional cars using North St. and connecting access roads."

Approval of the request will not alter the base zoning district. The proposed uses fall under the following categories listed in Section 12-319.4 Conditional Uses Enumerated, of the Zoning Regulations:

- Camping—Rooming, Boarding and Lodging Houses, and similar uses
- Events—Recreation Facility
- Farm Sales including products from other farms---Farmer's Market

Possible negative impacts on the nearby properties could include:

# 1) Parking on North Street

The property is located on, and takes access from, North Street which is classified as a collector on the major thoroughfares map. North Street is identified as N 1700 Road when it is outside the city limits. North Street is a narrow street with 20' of pavement (which is the minimum clear area which can be provided for emergency vehicles) and ditches on each side. Parking may create safety issues for vehicles exiting residential driveways on North Street and may obstruct emergency vehicles.

The applicant anticipates about 25 to 30 attendees at the events, although larger events, such as sheep shearing days, may occur. The number of attendees should be limited to 30 people and adequate parking should be provided for that number in addition to the parking provided for the camping. Parking requirements for event centers are based on square footage, when the events occur within a structure. Parking requirements for outdoor events are based on attendance with a ratio of 1 parking space per 5 seats (attendees). 6 parking spaces are required for 30 attendees. An overflow parking area should be designated on the site plan to accommodate larger events.

# 2) Camping

The impact of people residing in tents or RVs is greater than that of a mobile home, guest house, or home because of the additional exterior activity that is involved. Camping often involves exterior storage of materials, an outdoor living area with lawn chairs and ropes for drying towels or clothes and often an outdoor cooking area. Staff considered setting limitations on the length of time a camper could camp, to differentiate the camping use from a residence. The applicant pointed out that the impact would be the same whether you had one camper that stayed for 9 months or 9 campers that stayed for 1 month each. The number of campsites/campers should be limited and a size limitation placed on RVs to minimize the impact on the nearby properties.

#### 3) Events

Negative impacts could be created if events are too large for the parking to be accommodated on site, are noisy (amplified music), extend late into the night, or use exterior lighting which is not adequately shielded.

#### **CAMPING**

The applicant provided Camping Guidelines which are included as an attachment with this report. The camping guidelines indicate that the primary purpose for the camping use is to house short-term farm volunteers. Camping may also house visitors to the farm or farm events. The guidelines limit camping to 6 campsites, which would be a mixture of RVs and tents. There would be a maximum of 4 RVs or 4 tents, with the number of campers limited to 12 adults. The applicant indicated that 2 RVs may be there permanently; however, they may be vacant part of the time. When vacant they would still count toward the number of campsites.

To reduce negative impacts from the camping activity, staff recommends that the campsites be setback 15 ft from property lines adjacent to residences or residential zoning.

The impact of the campsites would be lessened with screening from the adjacent residences. The applicant indicated they would install vegetative screening along the west property line. Screening in the form of vegetation or fencing should be provided to screen the camping use from the adjacent residential uses to the west and south.

Small campers and tents would be more in keeping with the farm character and staff recommends that RVs be restricted to those 20' 30' or less in length.

Staff recommends that the camping area nearest North Street (Figure 3) be pulled back to maintain a setback of 50 feet from the right-of-way. The camping in this area shall be limited to 2 camping units to minimize the impact on the adjacent residences.

The following were taken from the Camping Guidelines, and should be made conditions of the CUP as they will serve to minimize negative impact of camping:

- No more than 4 self-contained camping trailers or RVs and/or up to 4 tents at a time, with a maximum of 6 units housing up to 12 adults at any given time.
- Vacant RVs or other camping units will count toward the number permitted on the site.
- Camping will be operated as an adjunct to farm operations, not as a stand-alone enterprise intended to make a profit.
- Camping will not be publicly promoted in any way, although it may be mentioned as a housing option in farm volunteer opportunity descriptions.
- Name, permanent address, phone numbers email address, etc shall be kept on file for each person using the camping facilities. A yearly report will be provided to Planning Staff which lists the number of campers, type of unit and dates of stay; the names and contact information shall not be included.
- Fire extinguishers shall be required in all camping units.

- No engines or gas generators will be used for power supply to campers on the farm, except for emergency use in the case of neighborhood failure.
- Bright lights will be shielded to prevent glare or light trespass to neighboring properties.
- Camping areas will be kept in a neat, safe and sanitary manner.
- Camping units in active use shall be placed in areas that are reasonably screened from view of street or neighbors.
- Adequate on-site parking will be provided to accommodate the campers.
- Campers must be properly tagged and roadworthy.

#### **EVENTS**

The small size of the events should reduce the negative impacts on the neighborhood. The following restrictions will further reduce any negative impacts:

- No sound amplification
- Hours of events limited to 7 AM to 9 PM Sunday through Thursday and 7 AM to 11 Pm on Friday and Saturday.
- If any events are proposed which would have more attendees, it is the applicant's responsibility to arrange for adequate parking so parking on North Street will not be utilized.
- The site plan shall show the parking location as well as an 'over-flow' area for parking with larger events.

**Staff Finding** – Approval of the request will allow for additional activity in the area which may result in negative impacts such as increased activity due to camping <del>and events</del>. The farm is adjacent to residential properties and special steps are necessary to minimize the impact of the additional uses on the nearby properties.

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

Applicant's Response:

- "I don't think there would be any benefit to the community from my request being denied, for two reasons:
- It is the community that is demanding the opportunities for activities for which I must get the CUP in order to provide.
- Others in the neighborhood and throughout the county are currently providing these opportunities without realizing they require a special CUP to do so legally.

The hardships imposed on my use of my land by denying the request would include:

 Restricting my pursuit of happiness through my peaceful enjoyment of outdoor living on my farm, and through sharing my passion for and knowledge of

- sustainable farming and the natural farm ecology with interested people of all ages.
- Significantly reducing my access to volunteers/interns during intense times such as lambing;
- Significantly diminishing the comfort of volunteers.
- Reducing my ability to extend hospitality to guests visiting the farm, especially
  out-of-town or international visitors. Instead of bringing the world and its
  money to Lawrence, I would have to travel and thereby take my money outside
  of the Lawrence community to meet such a diverse array of people interested
  in farming.

Denying the request would deprive the community of innumerable agritourism and agrieducational opportunities for all ages. In the long run, this would depress the number of trained sustainable farmers and home gardeners in the region, reducing the supply of fresh fruits and vegetables for consumption by Lawrence area residents."

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.

The approval of the CUP would provide temporary living facilities for farm volunteers and others interested in visiting the farm and would benefit the applicant's agritourism programs **as well as provide a low cost labor force for the farm**. A variety of events will be held, with the majority being agritourism in nature. Others may include outdoor weddings, spiritual meetings, or other similar events. The applicant indicated that the events were tied to the farm and were meant to provide education or appreciation of farm life.

Denial may benefit the surrounding property owners as negative impacts such as noise, lighting, and parking issues may be associated with the uses the additional activity associated with camping, may create negative impacts unless effective management techniques are utilized to minimize these impacts. Denial would prevent the land-owner from engaging in this form of agritourism and would reduce the amount of volunteer labor they could use.

**Staff Finding** – Denial of the Conditional Use Permit may negatively impact the community as a year-round market for farm products could not be established the production of organic products from this farm may be reduced. Denial would negatively impact the landowner as her agritourism programs would be curtailed which could limit the farm's production.

# VI. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's response:

"This request supports the overall vision of Horizon 2020 and other long-range planning efforts by contributing to the environmental health of the community, providing essential goods and services, supporting local businesses, providing jobs and training for local residents and protecting high-value agricultural soils."

**Staff Finding** –The proposal is in general conformance with the comprehensive plan. The requested uses would preserve the agricultural use of the land, and the high-quality agricultural

soils, by allowing the property owner to further develop an agritourism use which would not require development of the property or result in non-farm residential development.

#### STAFF REVIEW

While this is a CUP request for agriculturally zoned property, it is unique in that the property is across the street from a residential neighborhood within the city and abuts the city limits on two sides. The subject property is located within Service Area 2 of the Urban Growth Area. The applicant's goal is to continue farming in this location for the long term. If the property is annexed, it would be zoned UR and all agricultural activities which were permitted prior to annexation would be permitted to continue until development was proposed and rezoning to an appropriate zoning district was approved. The applicant has asked for guarantees that the City would not require annexation or that the rights to farm would never be limited. While this is not possible, it may be appropriate to include an *Urban Agriculture* use, with standards, in certain zoning districts of the Development Code. At the present time, the property is not required to annex and the farming activities are not limited.

Possible negative impacts which may occur from the proposed uses were reviewed earlier in this report and conditions recommended which would minimize these impacts.

The Farm Sales use was not discussed earlier as no adverse impacts are anticipated with this use. Currently, there are various farm stands along North Street and the applicant does operate a seasonal farm stand, as is permitted in the A District. The proposal is to operate a year-round rather than seasonal farm stand and invite other farmers to bring their products to the sale. This classifies as a Farmer's Market which requires a CUP. Parking must be provided for the farmer's market in relation to the size of structure or stand. The farmer's market would be considered a retail store and if a structure is used parking shall be provided at a ratio of 1 space per 200 sq ft. of floor area. Parking regulations have not been established for a farm stand and would vary with the size of the stand. Using the ratio for the retail use, 1 parking space would be required for each 200 sq ft of stand area. The applicant will need to note the anticipated size of the stand area and identify the required parking spaces on the plan. The commercial building codes would apply to any structure used for the Farmer's Market, but do not apply to stands, tents or mobile trailer units.

Parking: Required parking for the event use is one space per 5 seats for Auditorium, theater, gymnasium stadium, arena or convention hall or 1 space per 100 sg ft of building (Section 12-316-1 County Zoning Regulations). These events will occur outdoors; therefore, the parking requirement is calculated at the ratio of 1 space per 5 attendees, similar to the 1 space per 5 seats for events in buildings with fixed seating. As the number of attendees is expected to be about 25 to 30, 6 parking spaces are required for the event use. One parking space is required for each camping unit. The maximum number of camping units is capped at 6 units; therefore, 6 parking spaces must be provided for the camping use. The farmers market would require parking at a ratio of 1 space per 200 sq ft of floor area if a structure were used. The applicant indicated she would use a stand at this time. The zoning regulations do not provide a parking requirement for a farm stand. Per Section 12-316-2.06 of the Zoning Regulations, a parking requirement of a use with similar parking demand generation will be used. The stand would have the same traffic generation as a retail use, but parking would need to be calculated on stand area rather than floor area. 1 parking space is required for each 200 sq ft of stand area. The site plan will need to be revised to indicate the dimension of the farm stand being proposed and show the location of the required parking. If a structure is proposed for the farm stand at a later time, the approved CUP site plan would need to be revised. The total parking required is 12 spaces, in addition to the parking required for the *farm sales* use. If the number of total parking spaces is below 25, one ADA parking space is required.

Drives and parking areas are required to be graveled. Experimental, permeable pavement materials require the County Engineer's approval.

**Access:** The farm uses two entrances from North Street to make a circular drive, which reduces the need to back out onto North Street. One entrance is located on 1480 North 1700 Road, which is a separate parcel that has been developed with a residence. A right-of-way easement has been dedicated to allow cross access from this parcel to the farm; however, the existing drive was not constructed within the easement. To insure the circular drive remains for the use of the farm, the drive should be constructed on the right-of-way easement or the easement should be revised to include the drive location.

**Screening:** The two southernmost camping areas are in close proximity to nearby residences. (Figure 4). Camp sites in these areas need to be screened from view of the nearby residences and from the street right-of-way. This screening may be vegetation, fencing or a combination.

#### Water and Sewage:

The applicant is working with Richard Ziesenis, County Health Officer, on the water supply and sewage management. Richard indicated that the well water could be used but if more than 25 people are present for more than 60 days of the year, bottled water is required. He highly recommended that that bottled water be used to provide drinking water to the workers or visitors because well water quality is an unknown because it is not continually disinfected.

He also indicated that the existing privy could be used; however, he recommended a chemical toilet considering the odors and general cleanliness of a privy. He stated that the recommended rate for portable chemical toilet is 1 per 100 people. The Camping Guidelines indicate that the RVs could empty their sewage holding tanks at KOA or Clinton Lake. Small cassette type chemical toilets can be emptied into the pit privy or a household toilet or taken to KOA's dumping facility. The use of well water and the privy are acceptable except for events with more than 25 attendees. Bottled water and chemical toilets are required at these times. The privy will need to be shown and labeled on the site plan.

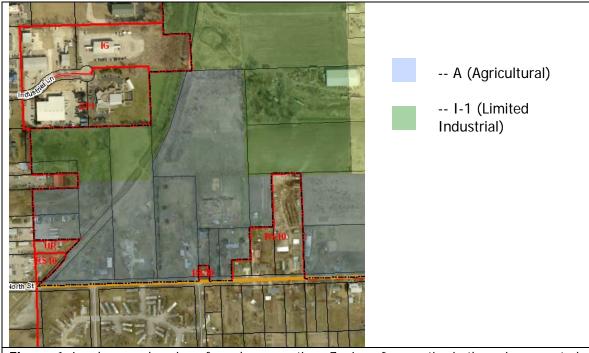
The lateral lines for the residence at 1480 N 1700 Road are located across the parcel lines. The County Health Officer indicated that either the lateral lines should be relocated onto the 1480 parcel or an easement could be dedicated which states that the property may be used for lateral lines for 1480 N 1700 Road for perpetuity, that no structures or other uses will be installed on the property, and it will be used strictly for sewage management. The applicant indicated that they would dedicate this easement prior to selling the property. As there would be no trigger to dedicate this easement in a real estate transfer, staff recommended that this easement be dedicated with this CUP; however, the County Health Officer indicated that recording an affidavit which states the requirement that the easement be dedicated prior to the sell of either property if the lateral lines are in use when the property is sold would be acceptable. This condition has been revised.

#### Time Frame:

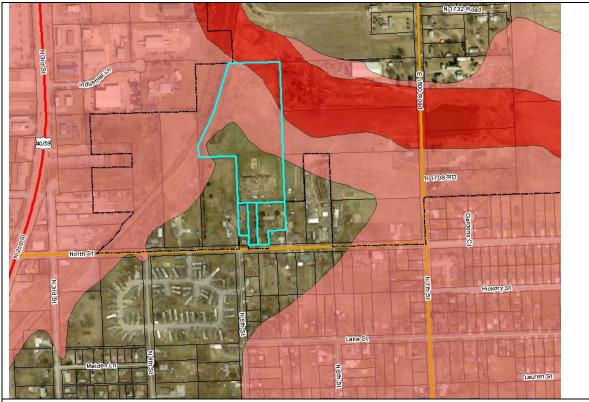
The applicant requested a 100 year approval period for the CUP with occasional reviews. Given the fact that the farm is adjacent to the city limits and is in Service Area 2 of the Urban Growth Area, Staff recommends that the CUP be approved for 10 years with a review in 5 years to determine if the use is still appropriate with the level of urbanization that has occurred. The 10 year approval period with 5 year administrative review is the standard time frame for recently CUPs. The Planning Commission indicated that a longer time frame may be appropriate for this use, and the applicant suggested a one-year probationary period for the use. The time frame has been revised to extend the term of the CUP to 20 years, and to require a 1-year review of the camping use followed by 5-year reviews thereafter.

#### Conclusion

The proposed CUP, as conditioned, complies with the County Zoning Regulations and the land use recommendation of *Horizon 2020*.



**Figure 1.** Land use and zoning of nearby properties. Zoning of properties in the unincorporated areas are shown in colors, zoning of properties within the city limits are labeled.



**Figure 2.** Floodplain in the area. Red denotes the regulatory floodway, pink denotes the regulatory floodway fringe.



Figure 3. High quality soils (class 1 and 2) highlighted in brown.



**Figure 4.** Existing residences in the area (Residence on the subject property shown in green). Proposed camping areas in yellow.

#### CONDITIONAL USE PERMIT REVISION

My original intent with this conditional use permit was to seek a new way to provide a) onsite housing for farm participants (esp. WWOOFers, Growing Grower apprentices/interns, etc.) in an affordable and environmentally friendly way and b) allow for occasional recreational use of the farm by myself, my family, and other farm participants. At the same time, I hoped to codify our long-range plans for activities that are currently permitted by right (or were when we started Pinwheel Farm) to ensure that we keep these rights regardless of changes to local regulations.

Since then we have added many things at the suggestion of others, including event hosting and a farmer's market. These things are just the next step up from what we are already doing as permitted-by-right activities. There seems to be broad community support for these activities, but they are really not the main focus of our request. We would like to defer asking for a conditional use permit for these activities until a later time, since we do not expect to begin such activities this season. We can either pursue these uses as an amendment to this CUP later, or we can submit a separate CUP at a later date. We are satisfied that we can continue to operate the farm adequately with an updated "temporary farm stand", and we can continue to host informal gatherings consistent with our constitutional right to peaceably assemble.

Camping, however, is both a need and a want that we apparently cannot legally satisfy without a CUP. We NEED to be able to provide on-site housing for farm participants in order to better carry out the farm's production and teaching missions. We WANT to be able to enjoy the natural beauty of the farm and its ecosystem during this nice weather by pitching a tent out under the stars. Therefore, we would like to focus our efforts on the camping aspects of the CUP.

In the first public hearing, it was clear that a few (but by no means all) neighbors would like to use our CUP to "right" what they consider to be "wrongs" about my property and activities. This is not the purpose of the CUP. I have always done my best to maintain my property and operate my farm in accordance with applicable regulations, while some of those complaining are in violation of various codes themselves. I don't believe it is appropriate to use the CUP to force extra restrictions on my property management when others are not in compliance with existing codes themselves.

Many of the concerns are things that I have been working on addressing long prior to submitting the CUP. Improvement of the "streetscape" has been on-going, esp. since I purchased 501 North St. and 1478 N. 1700 Rd. two years ago. Significant progress has been made in that time which was not mentioned in the hearing. This and other projects have been delayed by weather and by difficulty getting utility and other contract work done. Had the neighbors been amenable to listening, I would have been happy to let them know my plans at any time.

I do believe that the public hearing process has brought to light some serious issues that need dealt with through means other than the CUP. The street IS too narrow for parking

and for walking. "No parking" signs and sidewalks are needed. These issues are addressed informally in my landscaping goals, but they are really issues that need addressed for the whole street. My CUP cannot be expected to solve traffic problems associated with the two commercial/industrial businesses being operated on RS-10 zoned properties on the street; these non-conforming uses need to be addressed separately.

I want to stress that existing local regulations combined with the farm's General Policies are quite sufficient to prevent abuses of camping privileges. No nuisance will arise from our camping that we have not suffered from our past and current neighbors. The only conditions that should be placed on our camping are those pertaining to record-keeping, reporting, and limitation on number of units/people at any one time. Setbacks consistent with existing residential setbacks are quite sufficient. The site is already well-screened in most directions, and we are improving screening already to the west to deal with a neighbor who refuses to shield a security light.

We propose that the Planning Commission grant us a probationary CUP period from now until Nov. 15, for just the camping, with no specific requirements for infrastructure additional to what exists (privy and well water, alternative improvement of lanes and offstreet parking, etc.). Then see if any documentable problems arise from the people that would be living in my house, living in campers or tents instead. Then next winter we can submit a report and data showing what our experience has been. If there are no documentable problems, then we will be given a full 20 year CUP for the camping, with no additional conditions. If other conditions are needed to deal with real problems, then we can add them at that time. Let us be innocent until proven guilty.

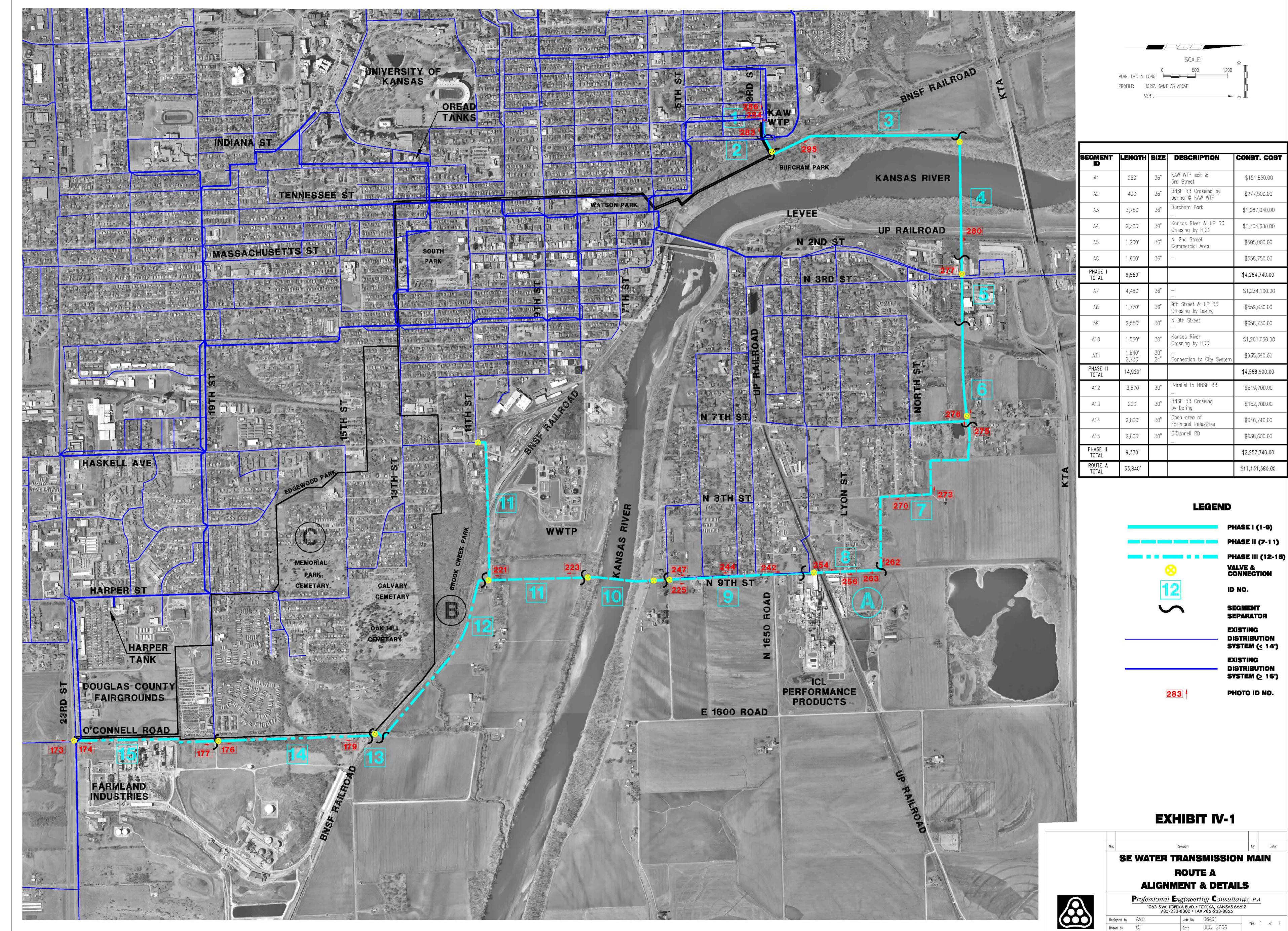
#### **CAMPING USES**

My last submitted site plan and site plan notes, to which I do not have access at present due to computer problems, remain appropriate to my intended use of the land for camping. I think it will help to add detail about the types of camping to be done.

RESIDENTIAL CAMPING for World-Wide Workers on Organic Farms (WWOOF) volunteers, Growing Grower apprentices/interns, and others will generally be in the shaded wooded area shown as the main camping area. Most RV camping would be here due to convenient access to the street and our limited use of internal combustion engines north of the main farm circle drive. Also this area is close to other farm residential uses for easy communication, access to services from the homes connected with the farm, access to main farm work areas, etc. Residential tent camping would also likely be in the secondary areas near the privy and the willow row, again for proximity to work areas and services.

SPECIAL USE CAMPING would be things like monitoring predator problems, supervising lambing, or providing security on the north portion of the farm if the pipeline construction comes to pass. This would be for specific needs which would dictate the location and duration of the camping use. This would often be in the pasture area, suing personal tents or a Pinwheel Farm camper.

RECREATIONAL CAMPING/SPIRITUAL RETREAT would be mostly short-term use of the pasture area, in tents. This would be done mainly by farm residents and occasionally by local farm participants who want to get a taste of "immersion" in the farm environment that is not otherwise possible as a day volunteer.



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Item 10 Attachment C CUP-2-1-10 Page 1 of 13

# STAFF REVIEW OF PROPOSED AMENDED CONDITIONS Provided by Applicant on April 26, 2010 Staff Review

The Applicant proposed changes to the conditions through a communication which was received on April 26, 2010 the day of the April Planning Commission meeting. The Planning Commission deferred taking action on this item to the May meeting and, as staff had not had time to thoroughly review the proposed amendments, directed staff to review and comment on the proposed changes.

The applicant indicated in materials submitted on May 18<sup>th</sup>, 2010 that she would like to remove the events and farm sales uses and pursue only the camping use with this CUP. The amendments were reviewed for all uses originally proposed; however, any conditions related to the farm sales and events have been struckthrough as the applicant is not interested in pursuing these at this time.

The review includes is arranged in the following manner:

- a. The condition as listed in the April, 2010 Staff Report
- b. The applicant's proposed amendment with new language shown as <u>underlined</u> text.
- c. Staff's comments in *italics*
- d. Revised condition with new language shown in **bold** print, and deleted text shown as struckthrough.

#### Condition No 1.

## a. As listed in April Staff Report:

The CUP approval is valid for 10 years with a review in 5 years to determine if the use is still appropriate with the level of urbanization that has occurred. The CUP approval will expire at the end of 10 years (July 1, 2020), unless an application for renewal is approved by the local governing body.

#### b. Applicant's proposed change

The CUP approval is valid for 100 years, with a review every 5 years to determine if the use continues to be beneficial to the community at large, and does not create any unreasonable disruption to immediate neighbors compared with other neighborhood businesses or with acceptable residential uses.

#### c. Staff review:

- The Planning Commission indicated at their April meeting that a longer approval period may be appropriate. Reviews would occur each 5 years, but the CUP approval could remain valid for longer than 10 years. Staff is comfortable with the 10 year time period, but is suggesting the longer time frame based on the Commission's comments. For added clarity, dates are noted in the condition along with the time frames.
  - -- As a point of clarification, the CUP approval and time frame does not apply if the property is annexed into the city. The activities may be permitted to remain if the property is zoned UR following annexation as the

purpose of the UR District is to provide a suitable classification for newly annexed land. Section 20-222(b) of the Development Code states that "The only principal uses allowed in the UR District are crop agriculture and any lawful uses(s) in existence immediately prior to annexation with the exception of billboard signs." The uses permitted with the CUP could remain if they were in existence immediately prior to annexation. Rezoning to another zoning district would require compliance with the regulations of that district.

- The applicant's proposed change includes a comparison of the impact of the uses approved with the CUP with the impact of other uses in the area in the 5 year reviews. It would be difficult for staff to evaluate the impact of various other uses on the surrounding area and then to compare these impacts with the impact of the uses permitted with this CUP. Staff does not recommend making this change.
- In response to the neighbor's concerns, the applicant suggested a probationary period of one year for the camping use to determine if the use is compatible with the surrounding area. This change was suggested after the Planning Commission meeting and Staff recommends the change. The applicant proposes removing any requirements related to sanitation and drinking water for this one year. As this could have an impact on the health, safety and welfare of the campers and residents of the property, staff does not support that change.

#### d. Revised Condition:

The CUP approval is valid for 40 20 years (July 1, 2030) with a review in 5 years (July 1, 2015) to determine if the use is still appropriate with the level of urbanization that has occurred. The CUP approval will expire at the end of 40 20 years (July 1, 2030), unless an application for renewal is approved by the local governing body. The camping use will be reviewed in 1 year from the date of approval (July 1, 2011) to determine if the use is compatible with the surrounding area.

#### Condition No 2.

#### a. As listed in April Staff Report:

The property owner shall execute a lateral line easement for the off-site lateral lines for 1480 N 1700 Road, per the County Health Official's approval, and the easement shall be recorded at the Register of Deeds prior to the final approval of the CUP.

#### b. Applicant's proposed change

The property owner shall execute a lateral line easement for the off-site lateral lines for 1480 N 1700 Road, per the County Health Official's approval, prior to the sale of either 1480 N 1700 Rd. or the land where the laterals are located, if the off-site lateral lines are still in service. The easement shall be recorded at the Register of Deeds. An affidavit stating this requirement shall be recorded with the Register of Deeds prior to the final approval of the CUP.

#### c. Staff review:

• The applicant indicated that dedicating the easement was cost prohibitive at this time as it would require a survey. The purpose of the dedication is that the sanitary sewer will be located on the property or made available to the property. As the property is under one ownership at this time, the lateral line being over the property line is not a concern; however, there is no trigger when property is sold to remind Planning that an easement is needed. I forwarded this proposed

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amendment to the Health Official and he indicated the affidavit would be acceptable.

• Revised Condition: The property owner shall execute a lateral line easement for the off-site lateral lines for 1480 N 1700 Road, per the County Health Official's approval, prior to the sale of either 1480 N 1700 Rd. or the land where the laterals are located, if the off-site lateral lines are still in service. The easement shall be recorded at the Register of Deeds. An affidavit stating this requirement shall be recorded with the Register of Deeds prior to the final approval of the CUP.

#### Condition No 3.

## a. As listed in April Staff Report:

The property owner shall relocate the eastern driveway within the dedicated right-of-way easement or the easement should be revised to include the drive. The driveway shall be relocated or the revised right-of-way easement recorded prior to final approval of the CUP.

## b. Applicant's proposed change

The property owner shall relocate the eastern driveway within the dedicated right-of-way easement, or the easement shall be revised to include the existing driveway, <u>prior to the sale of any of the properties served by the driveway. An affidavit stating this requirement shall be recorded at the Register of deeds prior to the final approval of the CUP.</u>

#### c. Staff review:

The applicant indicated that dedicating the easement was cost prohibitive at this time as it would require a survey. The purpose of the dedication is that the landlocked properties which are a part of this CUP can be accessed from North Street and that the traffic circulation shown on the CUP site plan is possible. As the property is under one ownership at this time, the driveway's location outside of the easement is not a concern; however, there is no trigger when property is sold to remind Planning that an easement is needed. As the driveway and access are an integral part of the CUP, Staff recommends that the correction of this easement remain a condition of approval.

d. Revised Condition: No change

#### Condition No 4.

## a. As listed in April Staff Report:

No more than 4 self-contained camping trailers or RVs and/or up to 4 tents at a time, with a maximum of 6 units housing up to 12 adults may be located on the site at any given time (exclusive of the permanent house on 1480 N 1700 Road). Vacant RVs or other camping units will count toward the number permitted on the site.

**b.** Applicant's proposed change: No change proposed

## Condition No 5.

## a. As listed in April Staff Report:

RVs or other camping units are limited to 20 ft or less in length.

## b. Applicant's proposed change

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RVs or other camping units are limited to <u>30</u> ft or less in length, <u>exclusive of hitches</u> <u>or carrying racks</u>.

#### c. Staff review:

- Using the following web site as a resource: <a href="http://www.rv-coach.com/rv">http://www.rv-coach.com/rv</a> types.html, the following information was obtained regarding the various types and classes of RVs, in addition with their sizes:
- Motorhomes are RVs which are motorized and do not require towing. There are 3 classes of motorhomes, A, B, and C. A is the largest with weights from 15,000 to 30,000 pounds and lengths from 30 to 40 feet. Class B is commonly known as a van conversion and is the smallest of the fully enclosed motorhomes. They generally weigh 6000 to 8000 pounds and are 17 to 19 feet in length. Class C are referred to as mini-motorhomes and are scaled-down versions of Class A motorhomes. They range in weight from 10,000 to 12,000 pounds and stretch from 20 to 31 feet in length.
- Towable trailers may be 10 ft to 35 ft long.
- Folding camping trailers are commonly referred to as tent or pop-up trailers. No size information was provided, but it was described as 'small sized'.
- 5<sup>th</sup> wheel trailers are similar to larger travel trailers, but they have an extension on the front of the box that rests on the tow vehicle for support. No size information was provided.
- Truck campers consist of a camper body loaded onto the bed of a standard pickup truck. No size range was provided.

The intent of this condition was to permit only smaller RVs which would maintain the rural character of the area. In Staff's opinion, a property with 4 large RVs would have more of a commercial campground appearance rather than a working farm. The applicant indicated that 2 of the RVs would be small. Staff recommends revising the condition to permit larger RVs without permitting the very large, Class A motorhomes.

#### d. Revised Condition:

RVs and other camping units are limited in size as follows:

No more than 2 RVs or other camping units which are longer than 20 ft. may be located on the site at any one time. The maximum size for any RV or camping unit which is 30 ft, exclusive of hitches or carrying racks be permitted.

#### Condition No 6.

#### a. As listed in April Staff Report:

Camping will be operated as an accessory use to farm operations, not as a standalone enterprise.

b. Applicant's proposed change: No change proposed

## Condition No 7.

#### a. As listed in April Staff Report:

Camping shall not be publicly promoted in any way, although it may be mentioned as a housing option in farm volunteer opportunity descriptions.

b. Applicant's proposed change: No change proposed

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#### Condition No 8.

#### a. As listed in April Staff Report:

The property owner shall provide an annual report to Planning Staff which lists the number of campers in each camping unit, the type of unit and dates of stay.

#### b. Applicant's proposed change

The property owner shall provide an annual report to Planning Staff which lists the number of campers in each camping unit, the type of unit, <u>location of campsite used</u>, and dates of stay. The report shall also list the square footage and location of both CUP-permitted and permitted-by-right farm stand used, and the number of parking spaces provided for the CUP-permitted farm stand (1 space per 200 sq. ft. is required.) This report shall be submitted electronically or in hard copy by Jan. 15 of each year commencing Jan 15, 2011.

c. Staff review: The applicant requested that the Farmer's Market and Outdoor events be deferred from the CUP request (See applicant's additional material, provided 5.18.10). It is not possible to defer uses from a CUP, but they can be removed from the CUP and the CUP could be amended to add the uses back at a later time. Staff recommends revising the condition to require that the camping space that was used be noted and also to set a due date for the report.

#### c. Revised Condition:

The property owner shall provide an annual report to Planning Staff which lists the number of campers in each camping unit, the type of unit, location of campsite used, and dates of stay. This report shall be submitted electronically or in hard copy by Jan. 15 of each year commencing Jan 15, 2011.

## Condition No 9.

- a. As listed in April Staff Report: Fire extinguishers are required in all camping units.
- **b.** Applicant's proposed change: No change proposed

#### Condition No 10.

- a. As listed in April Staff Report: No engines or gas generators may be used for power supply to campers on the farm, except for emergency use in the case of neighborhood power failure.
- **b. Applicant's proposed change**: No change proposed

#### Condition No 11.

#### a. As listed in April Staff Report:

Lights shall be shielded to prevent glare or light trespass to neighboring properties.

#### b. Applicant's proposed change:

Lights shall be shielded to prevent <u>unreasonable</u> glare or light trespass to neighboring properties.

#### c. Staff review:

The term 'unreasonable' is subjective and very difficult to enforce.

d. Revised Condition: No change

#### Condition No 12.

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#### a. As listed in April Staff Report:

Camping areas shall be kept in a neat, safe and sanitary manner.

## b. Applicant's proposed change:

Camping areas shall be kept in a <u>reasonably</u> neat, safe and sanitary manner.

#### c. Staff review:

The term 'reasonable' is a subjective term and enforcement would e difficult.

#### d. Revised Condition:

No change

#### Condition No 13.

## a. As listed in April Staff Report:

Camping units in active use shall be placed in areas that are reasonably screened from view of street or neighbors.

b. Applicant's proposed change: No change proposed

## Condition No 14.

## a. As listed in April Staff Report:

RVs or other vehicular camping units must be properly tagged and roadworthy

b. Applicant's proposed change: No change proposed

#### Condition No 15.

a. As listed in April Staff Report: No sound amplification is permitted

#### b. Applicant's proposed change:

No <u>electronic</u> sound amplification is permitted <u>that is readily audible from</u> <u>neighboring properties</u>, except for emergency/hazard warning devices.

#### c. Staff review:

If the sound is not readily audible from neighboring properties, the amplification should not have a negative impact. The addition of the emergency or warning devices is important so the use of these would not create compliance issues with the CUP.

#### d. Revised Condition:

No electronic sound amplification is permitted that is readily audible from neighboring properties, except for emergency/hazard warning devices.

## Condition No 16.

#### a. As listed in April Staff Report:

Events may occur between 7 AM to 9PM Sunday through Thursday and 7 AM to 11 PM on Friday and Saturday.

#### b. Applicant's proposed change:

Camping and events will observe quiet time between 9 pm and 7 am Sunday through Thursday, and between 11 pm and 7 am Friday and Saturday. Immediate neighbors who must sleep during other hours due to their job or school requirements may request special accommodations for other quiet times by contacting the property owner of record.

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#### c. Staff review:

Requiring a quiet time for camping is an additional tool for insuring compatibility with the surrounding neighborhood. Other quiet times may be set by the property owner in conjunction with the neighbors, but should not be made a condition of the CUP.

Events may bring a larger number of people to the property and a time limit would insure the use of the property would have similar or compatible hours with the nearby properties. It is understood that a farm event may start very early in the morning so a sunrise starting time would be appropriate. The ending time should be set at 9 PM on weeknights, and 11 PM on Friday and Saturday as noted in the original condition, with the exception of events which are noted in the CUP as requiring a different time frame, such as the event on Christmas Eve. (As the applicant indicated they are not pursuing the event or sales uses with this CUP, the condition related to those uses have been deleted.)

#### d. Revised Condition:

Camping will observe quiet time between 9 pm and 7 am Sunday through Thursday, and between 11 pm and 7 am Friday and Saturday.

Events may begin at Sunrise, but must conclude by 9 PM Sunday through Thursday and 11 PM on Friday and Saturday nights. An exception is made for Christmas Eve when Midnight in the Barn is observed.

#### Condition No 17.

#### a. As listed in April Staff Report:

If any events are proposed which would have more than 30 attendees, it is the applicant's responsibility to arrange for adequate parking so parking on North Street will not be utilized.

#### b. Applicant's proposed change:

The applicant will actively discourage parking by farm participants and event attendees on city streets where it is unsafe. The applicant will go through established procedures to encourage the city to install 'No Parking' signs in all neighborhood areas where the roads are too narrow for safe on-street parking. (If road is eventually widened and curbside parking accommodated, then it should be able to be used by all community members.

#### c. Staff review:

As the applicant is no longer pursuing the event/sales uses with this CUP this condition is no longer needed.

#### d. Revised Condition:

If any events are proposed which would have more than 30 attendees, it is the applicant's responsibility to arrange for adequate parking so parking on North Street will not be utilized.

#### Condition No 18.

#### a. As listed in April Staff Report:

Bottled water and a chemical toilet are required for events with more than 25 attendees.

#### b. Applicant's proposed change:

Bottled water and chemical toilets shall be provided for <u>each event where it can be</u> <u>reasonably predicted that</u> more than 25 attendees <u>are likely to need water and sanitary facilities</u>. Chemical toilets will be located at least 50' from North St. and at least 50' from neighboring residences.

#### c. Staff review:

The applicant explained that many of the events are 'drop-in' events and the attendees are not expected to stay long enough to require drinking water or sanitary facilities. Concern was expressed regarding the drinking water and sanitary facilities for the campers. The structure on 1480 N 1700 Road has a restroom and public water supply. This could serve the campers in addition to the privy and well water that is available on the other parcels. In the event that the structure is sold or otherwise not available to the campers, a chemical toilet and bottle water should be used when more than a certain number of campers are present. The County Health Official said that a privy and well water could be used as long as there were fewer than 25 users for less than 60 days—but that he would recommend the use of chemical toilets and a public water supply or bottled water.

The sanitary facilities at 1480 N 1700 Road and the well water and privy could serve the needs of a limited number of campers, but chemical toilets should be used if more than 10 campers (adults and children) using camping units without restrooms and holding tanks are on site.

Portions of the condition relating to events have been removed and the sanitary conditions related to camping have been added.

#### d. Revised Condition:

Bottled water and chemical toilets shall be provided for each event where more than 25 attendees are expected—with the exception of drop-in events where attendees would not be expected to remain on site throughout the duration of the event.

Chemical toilets should be used if more than 10 campers (adults and children) using camping units without restrooms and holding tanks are on site.

Chemical toilets will be located at least 50' from North St. and at least 50' from neighboring residences.

If the house at 1480 N 1700 Road is sold or no longer a part of this CUP, bottled water would be required anytime camping in units without a water supply or restroom facility is on site.

## Condition No 19.

#### a. As listed in April Staff Report:

Any development on a parcel which contains regulatory floodplain may require a Floodplain Development Permit from the Zoning and Codes Office.

b. Applicant's proposed change: No change proposed

#### Condition No 20.

Only the conditions that the applicant has proposed changes to are listed below:

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## a. As listed in April Staff Report:

The camping area in the regulatory floodplain shall be relocated. No camping is permitted within the regulatory floodplain.

## b. Applicant's proposed change

The site plan notes shall specify conditions for each camping zone, with special considerations for areas in the floodway fringe.

#### c. Staff review:

The applicant indicated that an area to the north, located in the center of the 4 pasture areas would be a suitable location for camping when the sheep are in the fields or for security purposes. The floodplain is a 'low-rise' floodplain in this area; however, staff has recommended 'no camping' in the floodplain as a cautionary measure. If camping were to be permitted within the floodplain it may be necessary to establish special conditions for that camping area, such as limitation on the number of tents or camping units permitted in this area, the creation of a contingency plan for campers in this area, etc. The August 2010 revised FEMA maps relocate the floodplain in this area further to the north; however, the proposed camping site remains within the floodplain. It is located near the edge of the floodplain (see Figure 1) per the 2010 revised maps; however, these maps have not been officially adopted. The camping area is shown with the current floodplain in

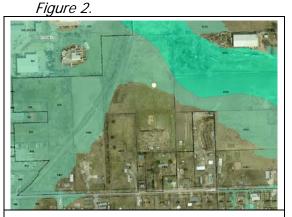


Figure 1. Floodplain in the area, per the 2010 revised FEMA maps. The yellow circle marks the proposed camping area within the floodplain.

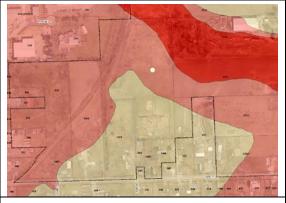


Figure 2. Floodplain in the area, per the current FEMA maps. The yellow circle marks the proposed camping area within the floodplain.

#### d. Revised Condition:

A note shall be added to the site plan which states "Camping may occur in the regulatory floodplain only in the area known as the 'key-hole' area, which is located at the intersection of the 4 rotational pastures. This camping shall be limited to no more than 2 camping units or tents." The applicant shall meet with the County Stormwater Manager and develop restrictions/regulations for this area which shall be noted on the site plan.

## Condition 20(iv)

#### a. As listed in April Staff Report:

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The parking requirements (6 for camping, 6 for events, and 1 per 200 sq ft of farm stand for the farm sales) shall be noted and the plan shall show the location and number of provided parking spaces as well as the designated overflow parking area for larger events.

#### b. Applicants proposed change:

The parking requirements (6 for camping, 6 for events, and 1 per 200 sq ft of <u>CUP-permitted</u> farm stand) shall be noted and the plan shall show the location and number of provided parking spaces <u>for camping and events</u>, <u>likely locations for farm stand parking</u>, as well as the designated overflow parking area for larger events.

#### c. Staff review

Specifying that the parking is for the farm stand which is approved with this CUP clarifies the condition.

The Farm stand, or Farmer's Market should be shown on the plan and an area where parking would be provided should be shown. It is important to show that parking is available and that customers can access the Farmer's Market safely.

(Portions of the condition which pertain to the farm sales and events uses are deleted)

#### d. Revised condition:

The parking requirements (6 for camping, 6 for events, and 1 per 200 sq ft of CUP-permitted farm stand) shall be noted and the plan shall show the location and number of provided parking spaces. as well as the designated overflow parking area for larger events.

#### Condition 20(v)

#### a. As listed in April Staff Report:

ADA accessible parking space shall be shown. If less than 25 parking spaces are provided, 1 ADA accessible space is required.

#### b. Applicant's proposed change:

The site plan notes shall specify that 1 ADA accessible space per 25 parking spaces will be provided in a location convenient to current event or farm stand locations.

#### c. Staff review

The Farmer's market use is the use which is the more permanent use with this CUP. An ADA accessible parking space should be shown where a Farmer's Market is proposed. ADA parking space must be installed in accordance with the ADA requirements and the surfacing must be paved with a material such as asphalt or concrete. This space must be shown on the plan. As there will be no farmer's market or farm sales with this CUP, no ADA parking is required.

#### d. Revised condition:

ADA accessible parking space shall be shown. If less than 25 parking spaces are provided, 1 ADA accessible space is required.

## Condition 20(vi)

## a. As listed in April Staff Report:

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The southern camping area shall be delineated to maintain a 50 ft setback from North Street right-of-way. A note shall be added that no more than 2 camping units will be permitted in this area at a time.

### b. Applicant's proposed change [and discussion]:

The southern camping area shall be delineated to maintain a 50 ft setback from North Street right-of-way. A note shall be added that no more than  $\underline{4}$  camping units will be permitted in this area at a time. [In most cases it will be highly desirable to keep non-tent camping units as close as possible to improved driveways; limiting southern camping area to 2 units effectively reduces the overall number of RV units to 2.]

#### c. Staff review

A 50 ft setback from North Street would assist in maintaining the character of the streetscape. A detailed sheet provided by the applicant shows 4 RVs located in the perimeter of the property and 1 RV located near North Street. As no more than 4 RVs would be permitted at any one time, there would be no need for the RV near North Street. (See Figure 3)

## d. Revised condition: no change



Figure 3. Camping detail. The T within a square denotes a possible tent location.

## Condition 20(vii)

## a. As listed in April Staff Report:

A 15 ft camping setback shall be provided from the property lines adjacent to residential zoning or uses.

#### b. Applicant's proposed change [and discussion]:

A  $\underline{10}$  ft camping setback shall be provided from the property lines adjacent to residential zoning or uses <u>not subject to this CUP.</u> [10' is the residential setback for a house. Since screening is required in addition to the setback, this is adequate to ensure that more privacy is maintained than with standard residential site plans.

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Part of the CUP area is used residentially; this area should not be subject to the setback requirement since the CUP residents have control over the camping use.]

#### c. Staff Review:

As shown in Figure 3, no camping is being proposed within the recommended 15 ft setback. This additional setback in addition to the screening is recommended to minimize any negative impacts the additional activity may have on neighboring properties.

c. Revised condition: No change

## Condition 20(ix)

## a. As listed in April Staff Report:

Show the area where screening will be provided, or currently exists, to screen the 2 southernmost camping areas from view of the adjacent residences and North Street.

## b. Applicant's proposed change:

The site plan shall show the location of long-term privacy screening for the southern camping area. Temporary screening strategically placed in other locations may be used until long-term screening has been established.

#### c. Staff review:

The plan should note which screening currently exists and which will be installed as a condition of this CUP. While landscaping may take a while to become established temporary screening methods may be utilized, but the type of screening proposed should be clearly noted on the plan. The purpose of the screening should be noted on the plan as well.

#### d. Revised condition:

The site plan shall show the location of screening which will be provided as a condition of this CUP, or which currently exists, to screen the southern camping areas from view of adjacent residences and North Street. If temporary screening is to be used while long-term screening is becoming established, the location must be shown and the type of screening must be noted on the plan.

## Condition 20(x)

#### a. As listed in April Staff Report:

A note shall be added which states: "All drives and parking areas, except the overflow area, shall be graveled unless the County Engineer approves the use of alternative surfacing materials."

#### b. Applicant's proposed change:

The site plan notes shall specify "All drives and parking areas, except the overflow area, shall be graveled unless the County Engineer approves the use of alternative surfacing materials."

#### C Staff review:

Minor wording change which doesn't affect the meaning. In addition, the Commission asked that the condition specify that the alternative surfacing materials shall be maintained and replaced as needed. The County Engineer approved the use

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of the experimental alternative paving materials for the new portions of the drive that had not been previously graveled.

#### d. Revised condition:

The site plan notes shall specify "All drives and parking areas, except the overflow area, shall be graveled unless the County Engineer approves the use of alternative surfacing materials. The County Engineer approved the use of alternative surfacing materials for the connecting drive between 1480 N 1700 Street and 501 North Street on the areas that had not been previously graveled. This area shall be delineated on the plan with a note that alternate surfacing materials shall be used in this area and these materials shall be maintained to support vehicles and function adequately.

## Condition 20(xii)—new proposed condition

## a. As proposed by applicant:

Facilities for auxiliary uses to camping and events such as picnic and outdoor cooking areas, play areas, walking trails, etc. will comply with all camping conditions, except that property line setbacks will not be required for trails.

**b.** This additional condition clarifies the auxiliary uses. Staff recommends the addition of this condition.

#### c. New condition:

Facilities for auxiliary uses to camping and events such as picnic and outdoor cooking areas, play areas, walking trails, etc. will comply with all camping conditions, except that property line setbacks will not be required for trails.

#### **REVISED CONDITIONS OF APPROVAL**

(Changes Shown)

Revisions to conditions based on review of applicant's proposed amendments and Planning Commission's recommendations. The number relates to the number of the condition in the previous Staff Report. Un-numbered conditions are new. Deleted text is shown as struckthrough and new text is in **bold** print.

#### (GENERAL PROVISIONS)

- The physical appearance of the structures near North Street (501 North Street and 1478 N 1700 Road) shall be improved and maintained, either through structural improvements, painting, cleaning or removal. The porches will not be used for the storage of equipment or other items. The property within 30 ft of North Street will be mowed to prevent excessive vegetation unless the property is registered as a natural landscape.
- 1. The CUP approval is valid for 10 20 years (July 1, 2030) with a review in 5 years (July 1, 2015) to determine if the use is still appropriate with the level of urbanization that has occurred. The CUP approval will expire at the end of 10 years (July 1, 2030), unless an application for renewal is approved by the local governing body. The camping use will be reviewed in 1 year from the date of approval (July 1, 2011) to determine if the use is compatible with the surrounding area.

#### (CAMPING)

- 6. Camping will be operated as an accessory use to farm operations, not as a standalone enterprise.
- 7. Camping shall not be publicly promoted in any way, although it may be mentioned as a housing option in farm volunteer opportunity descriptions.
- 8. The property owner shall provide an annual report to Planning Staff which lists the number of campers in each camping unit, the type of unit, location of campsite used, and dates of stay. This report shall be submitted electronically or in hard copy by Jan. 15 of each year commencing Jan 15, 2011.
- 9. Fire extinguishers are required in all camping units.
- 10. No engines or gas generators may be used for power supply to campers on the farm, except for emergency use in the case of neighborhood power failure.
- 11. Lights shall be shielded to prevent glare or light trespass to neighboring properties.
- 12. Camping areas shall be kept in a neat, safe and sanitary manner.
- 13. Camping units in active use shall be placed in areas that are reasonably screened from view of street or neighbors.
- 15. No electronic sound amplification is permitted that is readily audible from neighboring properties, except for emergency/hazard warning devices.
- \_\_ Camping will observe quiet time between 9 pm and 7 am Sunday through Thursday, and between 11 pm and 7 am Friday and Saturday.
- Camping for purposes other than volunteer workers for the farm shall be limited to two weeks. Camping for volunteer farm workers or interns shall be limited to two months.

Item 10 Attachment D CUP-2-1-10 Page 2 of 4

A safe water supply and adequate sewage management system shall be provided for the camping use approved with this CUP.

- 1) If the well water is tested and approved for human consumption it can be utilized for the camping use. The well water shall be tested annually. If the well water is determined to be unsuitable for human consumption, the property owner shall make publicly treated water available for the campers.
- 2) The privy may be used to serve the property owner and up to 6 additional campers (not in self-contained RVs). The restroom facilities at 1480 N 1700 Road may be used to satisfy this condition. In the event that the restroom facilities at 1480 N 1700 Road are not available, or more than 6 campers are present (not in self-contained RVs) a chemical toilet will be provided.
- No firearms are permitted on the property with the exception of those owned by the applicant.
- Fire rings or pits shall be established away from overhanging branches, rotten stumps, logs or dry grass and shall be circled with rocks or a metal fire ring. A 5 ft area cleared of vegetation shall be provided around the ring. Extra wood shall not be located within 5 ft of the fire ring. A shovel and water shall be available in case the fire gets out of control.

#### **CAMPING UNITS**

- 4. No more than 4 self-contained camping trailers or RVs and/or up to 4 tents at a time, with a maximum of 6 units housing up to 12 adults may be located on the site at any given time (exclusive of the permanent house on 1480 N 1700 Road). Vacant RVs or other camping units will count toward the number permitted on the site.
- 5. RVs or other camping units are limited to 20 ft or less in length. RVs and other camping units are limited in size as follows:
  - No more than 2 RVs or other camping units which are longer than 20 ft. may be located on the site at any one time. The maximum size for any RV or camping unit is 30 ft, exclusive of hitches or carrying racks.
- 14. RVs or other vehicular camping units must be properly tagged and roadworthy.
- 16. Events may occur between 7 AM to 9PM Sunday through Thursday and 7 AM to 11 PM on Friday and Saturday.
- 17. If any events are proposed which would have more than 30 attendees, it is the applicant's responsibility to arrange for adequate parking so parking on North Street will not be utilized.
- 18. Bottled water and a chemical toilet are required for events with more than 25 attendees.

#### **EASEMENTS**

2. The property owner shall execute a lateral line easement for the off-site lateral lines for 1480 N 1700 Road, per the County Health Official's approval, and the easement shall be recorded at the Register of Deeds prior to the final approval of the CUP prior to the sale of either 1480 N 1700 Rd. or the land where the laterals are located, if the off-site lateral lines are still in service. The

Item 10 Attachment D CUP-2-1-10 Page 3 of 4

easement shall be recorded at the Register of Deeds. An affidavit stating this requirement shall be recorded with the Register of Deeds prior to the final approval of the CUP.

3. The property owner shall relocate the eastern driveway within the dedicated right-of-way easement or the easement should be revised to include the drive. The driveway shall be relocated or the revised right-of-way easement recorded prior to final approval of the CUP.

#### **FLOODPLAIN**

19. Any development on a parcel which contains regulatory floodplain may require a Floodplain Development Permit from the Zoning and Codes Office.

#### SITE PLAN

- 20. Applicant shall provide a revised site plan with the following changes:
  - i. The limits of the regulatory floodplain shall be shown.
  - ii. The camping area in the regulatory floodplain shall be relocated. No camping is permitted within the regulatory floodplain. A note shall be added to the site plan which states "Camping may occur in the regulatory floodplain only in the area known as the 'key-hole' area, which is located at the intersection of the 4 rotational pastures. This area shall be clearly delineated on the site plan. This camping shall be limited to no more than 2 camping units or tents." The applicant shall meet with the County Stormwater Manager and develop restrictions/regulations for this area which shall be noted on the site plan.
  - iii. The area proposed for the farm sales, whether a structure, farm stand or mobile unit, should be more clearly marked on the plan.
  - iv. The parking requirements (6 for camping, 6 for events, and 1 per 200 sq ft of CUP-permitted farm stand) shall be noted and the plan shall show the location and number of provided parking spaces. as well as the designated overflow parking area for larger events.
  - v. ADA accessible parking space shall be shown. If less than 25 parking spaces are provided, 1 ADA accessible space is required.
  - vi. The southern camping area shall be delineated to maintain a 50 ft setback from North Street right-of-way. A note shall be added that no more than 2 camping units will be permitted in this area at a time.
  - vii. A 15 ft camping setback shall be provided from the property lines adjacent to residential zoning or uses.
  - viii. The proposed farm sales area shall note the expected size of the stand and show the parking spaces being provided. Parking is required at a ratio of 1 space per 200 sq ft of stand area. The number of parking spaces required and provided shall be included in the parking summary on the plan.
  - ix. Show the area where screening will be provided, or currently exists, to screen the 2 southernmost camping areas from view of the adjacent residences and North Street. The site plan shall show the location of screening which will be provided as a condition of this CUP, or

which currently exists, to screen the southern camping areas from view of adjacent residences and North Street. If temporary screening is to be used while long-term screening is becoming established, the location must be shown and the type of screening must be noted on the plan.

- x. A note shall be added which states: The site plan notes shall specify "All drives and parking areas, except the overflow area, shall be graveled unless the County Engineer approves the use of alternative surfacing materials." The alternative pavement materials are experimental in nature. The drive utilizing the alternative pavement materials shall be maintained and upgraded to insure that it can function adequately. If it is determined that the alternative pavement materials are not able to function adequately, this area of drive will be graveled.
- \_\_ Facilities for auxiliary uses to camping and events such as picnic and outdoor cooking areas, play areas, walking trails, etc. will comply with all camping conditions, except that property line setbacks will not be required for trails.
- xi. The privy shall be shown and labeled.





## RECEIVED

MAY 07 2010

City County Planning Office Lawrence, Kansas

4/28/10

To Whom it may Concern I am firmly opposed to the Camping area at 501-503 Morth Street. It has and will lower the value of personal property in the emmediate area but also will be a hugh blight in the neighborhood Net to mention what kind of laborers or what sort of merals they will have with regard to this you give this your of Mrs Darothy J Embers

LITHO IN U.S.

OPS PORM 2170 8

RECEIVED

MAY 24 2010

City County Planning Office Lawrence, Kansas

May 22, 2010

Lawrence-Douglas County Metropolitan Planning Commission

Re: Conditional Use Permit Pinwheel Farm 1478 North 1700 Road

We are writing in regard to the request for the Conditional Use Permit for the above property. We own 17 acres that joins this property on its North border and we travel on North 1700 Road to get to our property. We have a few concerns about this permit and we would like you to consider them.

"Camping" – who will be camping and will it be in campers, tents or can you just bring your sleeping bag? Is there to be a limit on the number of campers and how long they can stay? Will they be allowed to have fires at their campsites? There is quite a large brushy area to the back of this property and that could pose a danger to other property owners.

"Parking" - We assume that the number of cars would increase with this permit and we're not sure where all of these would park. North 1700 Road (North Street) is extremely narrow and is difficult to negotiate traffic coming/going as it is. With the request for "events", we think this could intensify the problem.

With these concerns in mind, we think it would be appropriate for representatives from the planning commission to visit this sight and understand firsthand what some of the problems might be.

Gary and Kristin Black 621 Tennessee Lawrence, KS. 66044

RECEIVED

MAY 2 4 2010

City County Planning Office
Lawrence, Kansas

Those living adjacent to Pinwheel Farm (the Lowther property) and in the North Lawrence neighborhood are quite familiar with Ms. Lowther's method of operation. Some have lived near her property for many years. With this in mind, this specific list of requested conditions should be given considered if any form of her current business proposal is to be taken seriously or expanded. We appreciate the City and County staff and Commission Members consideration in this matter, and assume that the voice of so many who are directly affected will not go unheard. The undersigned property owners agree with this conditions request list and are those who live in close proximity to the property in question or who live nearby.

## **Community Conditions Request**

## 1) Clean Up Blight

The community would like to request that no conditional use permit be considered for any portion of the proposed Pinwheel farm project expansion <u>until all clean up</u> conditions and structural problems are dealt with. The continued deterioration of the Lowther property has a negative effect on the visual appeal of the homes around it and can potentially contribute to decreased value for surrounding properties if the same type of operation is allowed to expand. The clean up conditions requested are as follows:

- Removal of unsafe, blighted farm structure as it faces North Street
- Renovation of structure that is within city limits if it is to be inhabited by human beings. Maintenance of property should meet with all residential building codes as required by the City of Lawrence (plumbing, electric, gas, structural)
- Upgrading and repairing lateral lines and septic system with appropriate size being installed to handle the additional people she has suggested could use her home if needing showers and laundry. Testing on existing lateral and tank to be certain there is no leakage of feces into the soil
- Permanent removal and maintenance of all noxious, poisonous or illegal plants and weeds; Refer to Kansas Agricultural Noxious Weed Control Article 13-/2-1319 through 2-1332
- Removal of large piles of animal feces. If used as fertilizer should be out of sight of all neighbors
- Removal and proper disposal process used when handling dead animal carcasses with no burying of rotting farm animals on or near neighbors
- Moving and re-establishing a new gravel driveway entrance large enough for the vehicles she suggests to pull in with turn around room and head room particularly as required by ADA.
- Location of a farmer's market stand to be out of sight of any neighbors
- Overall clean up, repair, and building code violations attended to in regard to the private residence of Ms. Lowther.
- Removal of mosquito attracting water puddles and areas or objects with standing water. These areas allow for breeding of mosquitoes bringing potential for mosquito borne illness to surrounding neighbors
- Removal of debris piles

- Removal of any piles of wood products and wood materials that can harbor termites (Ms. Lowther has already indicated the presence of termites in at least one of her structures)
- Treatment for the removal of termites to prevent spreading to nearby properties
- Construction of an off street parking area provided for visitors coming to events (should be out of sight of the neighbors and should follow ADA guidelines in anticipation of visits by disabled adults and children)
- Safe, sanitary, permanent sewage and water services for those who come to her events in order to prevent water born diseases (check with County Health Inspector to determine whether bottled waters and portable toilets can be used semi-permanent and permanently (weeks, months, years). It is believed that portable toilet facilities are for temporary use.
- Soil sample testing as well as well water sample testing on her property to ensure the safety of workers and visitors.

NOTE: After the completion of all clean up, structural repair, and code compliance, the community asks that the following concerns be addressed before and if any expansion occurs

## 2) Consideration of Agro-tourism Regulations

The community requests that Ms. Lowther abide by regulations put upon all agro-tourism business owners in regard to the safety and proper operation of such an endeavor. Most agro-tourism businesses must comply with several general regulations. These include but are not limited to, zoning ordinances, business license, sales tax collection and remittance, and *The Americans with Disability Act*. In consideration for those (adults and children) who visit such agro-tourism events and who might also live with disability, we ask that Ms. Lowther abide by these requirements. In consideration for those who volunteer but who also might live with any form of disability, we ask that Ms. Lowther abide by these requirements. According to Pinwheel Farms own words as presented on their website we ask that Ms. Lowther abide by these requirements, "NOTICE OF NON-DISCRIMINATION- Pinwheel Farm does not discriminate on the basis of race, religion, gender, national origin, disability, sexual orientation, economic situation or life circumstances. Pinwheel Farm strives to avoid gender-based roles and stereotyping in all its activities."

According to ADA the following terms are defined and are readily available to all and are appropriate to the physical make up of a business such as proposed at the Lowther property:

Facility is defined as

All or any portion of buildings, <u>structures</u>, <u>site improvements</u>, complexes, equipment, <u>roads</u>, <u>walks</u>, <u>passageways</u>, <u>parking lots</u>, or <u>other real or personal property located on a site</u>.

Site is defined as

A parcel of land bounded by a property line or a designated portion of a public right-of-way.

Vehicular Way is defined as

A route intended for vehicular traffic, such as a street, driveway, or parking lot.

Walk is defined as

An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts.

ADA Regulations Potentially Effecting Proposed Lowther Business

Toilet Facilities: If toilet rooms are provided, then each public and common use toilet room shall comply with  $\underline{4.22}$ . If bathing rooms are provided, then each public and common use bathroom shall comply with  $\underline{4.23}$ . Accessible toilet rooms and bathing facilities shall be on an accessible route.

Storage: If fixed or built-in storage facilities such as cabinets, shelves, closets, and drawers are provided in accessible spaces, at least one of each type provided shall contain storage space complying with 4.25.

Shelves or display Units: allowing self-service by customers in mercantile occupancies shall be located on an accessible route complying with 4.3.

Accessible Buildings: Each addition to an existing building or **facility** shall be regarded as an alteration. Each space or element added to the existing building or facility shall comply with the applicable provisions of 4.1.1 to 4.1.3

Areas of rescue assistance: shall comply with <u>4.3.11</u>. A horizontal exit, meeting the requirements of local building/life safety regulations, shall satisfy the requirement for an area of rescue assistance.

Parking Spaces: Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles shall be part of an accessible route to the building or **facility** entrance and shall comply with 4.3. Two accessible parking spaces may share a common access aisle (see Fig. 9). Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions. Appendix Note

Signage: Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility (see 4.30.7). Spaces complying with 4.1.2(5) (b) shall have an additional sign "Van-Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

Vertical Clearance: Provide minimum vertical clearance of 114 in (2895 mm) at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 4.1.2(5)(b), provide minimum vertical clearance of 98 in (2490 mm) at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

Passenger Loading Zones: Passenger loading zones shall provide an access aisle at least 60 in (1525 mm) wide and 20 ft (240 in)(6100 mm) long adjacent and parallel to the vehicle pull-up space

Outdoor ramps and approaches: shall be designed so that water will not accumulate on walking surfaces.

Gates, including ticket gates: shall meet all applicable specifications of 4.13.

Hardware for accessible storage facilities: shall comply with  $\underline{4.27.4}$ . Touch latches and U-shaped pulls are acceptable.

NOTE: If after all clean up and structure problems are resolved, and all ADA regulations are attended to, the community requests consideration be made for all of the following

3) Abide by all County Zoning and Conditional Use Permit Regulations
The community requests that Ms. Lowther be required to abide by all zoning and conditional use permit regulations. Those that are of specific concern to adjacent property owners and those taken directly from the County's files are as follows:

One or more mobile homes shall be allowed as an accessory use to a farm so long as they are occupied by a family related by blood, or marriage, to the occupant of the main dwelling, or by a person or persons employed on the farm (Ms. Lowther's occupants are not employees, they are volunteer workers as determined by Ms. Lowther and by a phone conversation with Douglas County offices. If they receive a salary they are employees and would be required to fulfill other requirements). This mobile home must be at least 150 feet from another dwelling, and must be provided with a water supply and sanitary sewage facilities, and may not be used as a rental income property.

SECTION 19 - 1. Conditional Uses and Conditional Use Permits
SECTION 19 - 1.01. 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 19-4 below, when found to be in the interest of:

-the public health (as indicated by every surrounding neighbor...there are sanitary health concerns due to the blighted condition and manner in which owner keeps property) -safety (communicated concerns of neighbors in regard to the transient movement of people living on property and the structural conditions in which they live, safety issues effecting volunteer workers, visitors to the property, and the surrounding homeowners due to the deteriorated condition of property, and past decision making in regard to these conditions)

-morals and general welfare of the community may be permitted, except as otherwise specified, in any district from which they are prohibited.

NOTE: For the reasons already listed, we suggest that this conditional use permit would <u>not</u> be in the interest of the neighbors' public health, safety, or general welfare. Despite any previous progress regarding clean up, ADA, zoning and codes, the community asks the following:

## 4) Permit No Volunteer Workers Camping in Tents or Campers

Tents and drivable (mobile) devices bring uncertain, unstable, and inexpensive living conditions that downgrade the area, provide safety concerns for those who want to live in the devices and those living around them, and most certainly depreciate the value of the well-kept surrounding homes. The entire community of North Lawrence has and continues to obtain grant funding through CDBG grants. One purpose of these funds is to eliminate blight while at the same time maintaining the small town integrity of the area. The community is working hard to make that happen and see temporary structures with campers and fabric or plastic tents and campsights such as those already seen on the Lowther property previously as adding to the problem of blight, as does the entire Lowther property itself. This is the manner in which Ms. Lowther has always kept her property and most likely the manner she will choose in the future. However, here are a few alternative living situations the community can accept and are those that Ms. Lowther could provide for her volunteer workers should expansion permission be granted:

- Renovation of one of the structures facing North Street
- Build a permanent farm home and/or barn with loft quarters
- Add an addition to existing permanent residential structure
- KOA campgrounds are nearby and provide attractive, well-kept, safe and clean facilities that can be used by those who want to stay for weeks or months.
- In general, the community does not prefer any living quarters other than residential homes, in particular those with negative visual appeal such as what Ms. Lowther now provides to the area. The community believes that any tents, campers or campsights on the Lowther property will be of blighted condition and suggest the use of already existing, nearby facilities elsewhere. As an alternative, and in an attempt to explain at the first City Planning meeting, there is an already existing mobile home park nearby with sanitary sewer and water. The mobile home park is just across the street and can provide opportunity for living quarters within walking distance of the Lowther property.

NOTE: The community has no objection to Ms. Lowther or her own children camping on their own land, however they request that she abide by any existing laws regarding camping in the City or County.

NOTE: If all other requests have been addressed, the community requests the following

## 5) Request for a City and County registration

The community requests City and/or County officials keep record of individuals who are staying in the area and working temporarily such as those individuals working at Pinwheel Farm.

Reasons for Requesting Registration:

The City of Lawrence already has something similar in place referred to as the "Transient Merchant License procedure." The word "transient" is defined in the Webster dictionary as, "one who stays for only a short time or "transient laborers" and is not necessarily making reference to personal moralities or beliefs, the religious backgrounds, educational credentials, or the lives that such individuals live elsewhere. The City of Lawrence has well-known problems with homelessness and Ms. Lowther is known to have, on numerous occasions, permitted the homeless to live on her property. Although her human concern for others is very admirable, it puts all others in a situation of uncertainty and again effects public health, safety, and general welfare. A published Journal World story of one particular incident such as this has been submitted to the Planning Commission and should be considered as a very likely scenario in the future.

In many previous instances, Pinwheel Farms is known to have allowed individuals residency and volunteer status without background knowledge and without supervision. In doing so, have brought instability and unnecessary concern and worry to the community. The Pinwheel Farm has acknowledged previous volunteers online and within their own blog communications have addressed previous problems with "expatriates" or those residing there temporarily. According to the Pinwheel Farm (Lowther) online blog/site:

"People being people, the farm has had a few bad experiences.

"Expatriates" are people who have at one time had a beneficial relationship with Pinwheel Farm, but who have been banned from presence or participation at the farm for cause. In most cases these are people who, through deliberate actions or negligence, have incurred significant debts to the farm or caused significant expenses, in excess of their contributions, that remain unpaid. A few have been banned for verbal or physical violence against the landowner and/or property of the farm. A list of expatriates with brief histories is available to landowner, partner(s), stewards or staff, and to others on a need-to-know basis only.

It is not Pinwheel Farm's intent to maintain a punitive relationship with these individuals, but rather to set healthy boundaries and prevent further abuse of Pinwheel Farm resources until restitution is made and a positive relationship can be restored. Individuals may be proposed for addition or removal from the list of expatriates by the landowner, partner(s), stewards or staff. Such changes will be considered by these parties.

If an individual refuses a request from Pinwheel Farm staff to vacate the premises for violation of the General Policies, and the aid of law enforcement officers is required to escort the individual off the property, that person will immediately be considered an expatriate."

The WWOOF Registry was mentioned by the City Planning Staff and by Ms. Lowther as being a valuable indicator of human characteristics of individuals working at or who want to do volunteer work at Pinwheel Farm. However, the WWOOF is merely a database of names of those who are interested in pursuing organic farms. The community has reviewed the WWOOF registration form online and find that anyone can register with this program for a small fee.

The Kansas Bureau of Investigation (KBI) has established a website to facilitate public access to information about persons who have been convicted of certain sex, violent and drug offenses, as set forth in the Kansas Offender Registration Act (K.S.A. 22-4901 et seq.). The KORA is meant to make communities aware of individuals past behavior and to protect the adults and children who are permanent residents. So, this request is not based merely on the unfounded fears of a few individuals, but on the realistic concerns of human beings (citizens, law makers, enforcement officers, and the court system) at the city, state, and national level.

Sadly in today's society, communities need to be aware of non-resident individuals who are here temporarily to work or do volunteer work, but who have no **permanent local address** (no matter how good the intentions of those individuals). Procedures at the federal, state, and city level are in place to do just that and are intended to keep people safe. The individuals who were present at the original City Planning meeting certainly displayed an appreciation for becoming organic farmers, but they do not necessarily represent who will be working with Ms. Lowther in the future: next week, next month, or next year. We ask that the Commission consider the population of persons who may potentially be living there as a general and broad category (undetermined in the future).

## Nearby and Adjacent Property Owners Who Agree With These Requests

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Jeff Campbell	Etta marie Elson
Herb Mason	Make Sandy
Jessica Mason	Vall sandler
Roger Page	Donna Sanders
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James Akegons	Runged X- Honduson
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M. Land & Bodan	Reggy Caffman
Richard Bryant Rich Mische	Patty Coffman
The Dean Stewart,	Charles & Coffman &
Fred M. Inggard	
Terry Cineal	Magine C. Islagher
Jarrell Jones	Eller M. Muys
Devely Jensen	C7B Chasles Bullenger
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Ray Walland	Vant All
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## Nearby and Adjacent Property Owners Who Agree With These Requests

Diane Lamblin	Maney S. Wilk
Sand Chall.	Jan Long
Beverla L. Cates	Dei done
Richard O. Cates	
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Yaluf Sampbell	Julian
Boys Dunbasell f	albert Terry
David & Higgins	Florence J. Faler
Doge A. Higgin	Longer Fal
Shirley Danjoy	DelBert Gongfellow
Mary a. Cook	Virginia Song Ellow
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# Nearby and Adjacent Property Owners Who Agree With These Requests

Zeal Boy & President NLIA	
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	129

----Original Message-----

From: lsccleaning@sunflower.com [mailto:lsccleaning@sunflower.com]

Sent: Thursday, May 20, 2010 9:25 PM

To: Mary Miller

Subject: Pinwheel Farm

Dear Commissioners,

Thank you for taking the time to read this.

Reasons why as property owner next to Natalya Lowther. Not to allow her to have a conditional use permit.

- 1) Absolutely no camping in any form. Tent, RV, pop ups for any length of time.
- 2) She must clean up her property and keep it that way. Along with a yearly clean visit.
- 3)No 100 years on any permits given to her.
- 4) She must have her septic and lateral lines inspected, Bring them up to codes, and fix any problems.
- 5) If she must have these woof workers, She must provide them a place to live, with water and sewer. and only allow 8 workers with background checks.
- 6) She has never came to us and talked about any of this at any point. She usually does what she wants Regardless of how we feel as neighbors or the neighborhood. JUST LOOK AT HER PLACE IT SPEAKS FOR ITSELF.
- 7)She must allow for soil samples on her land for the new water line. as well for safety concerns. And allow for the Northeast sector plans. IF SHE DOSENT AGREE WITH THE SAMPLES AND PLANS THEN NO PERMITS WILL BE GIVEN..

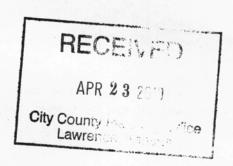
Once again thank-you for you time. And please take to heart our concerns on this matter, as it affects all of us in some sort of way.

Last note: I feel this is more about the water line and Northeast sector plan, and how it will affect her and operations. She knows she will be annexed into the city, This is her greatest fear and she will do anything to stop it.

Thank You Mrs L. Campbell 1474 n.1700 rd.

# NORTH LAWRENCE IMPROVEMENT ASSOCIATION

LAWRENCE, KANSAS



April 20, 2010

To the Lawrence-Douglas County Planning Commission,

The North Lawrence Improvement Association and North Lawrence residents do not want camping on the Pinwheel Farm or any parking or backing up off of North Street at all. This would be unsafe as North Street is very narrow.

There are also many safety concerns related to having campers. The KOA Campground is a mile down the road and could provide safe, sanitary conditions for those who want to work at Pinwheel Farm.

Speaking as a voice for the people of North Lawrence, we are against the requested conditional use permit and ask that the Commission reject the proposal made by property owner, Natalya Lowther.

Thank You,

Ted Boyle

President of NLIA

Zed Boy6

From: Jan Newcomb [mailto:janknewcomb@yahoo.com]

Sent: Monday, April 26, 2010 7:56 AM

To: Mary Miller

**Subject:** Pin Wheel Farm

Please support Pin Wheel Farm. They are not only providing fresh food but recreation and most importantly education. Teaching others how to grow vegetables, raise animals and how to be kind to the environment are things a community can be proud of. Please allow the farm's conditional use permit. Setting up a handful of tents on twelve acres will only improve the farm and your community. Supporting Pin Wheel Farm is a win win situation for Lawrence and it's citizens.

Sincerely, Jan Newcomb Rich Hill, MO **From:** Amber [mailto:wheresamber@gmail.com]

**Sent:** Sunday, April 25, 2010 11:49 PM **To:** City Hall email; Scott McCullough

Subject: In regards to Apr 26 Planning Commission Meeting

To whom it may concern;

I am writing in support of the Conditional Use Permit (2-1-10) request made for Pinwheel Farm by Natalya Lowther.

I volunteered at Pinwheel Farm for two weeks in June of 2008. During this time I spent many hours exploring Lawrence and supporting it's beautiful businesses. Over the course of those few weeks, I spent roughly \$200 on gifts, food, and other items. I plan to visit the farm soon and looking forward to spending more money in the town. I feel that Lawrence is a beautiful place and deserves to have money go into it.

During my time at Pinwheel Farm I would have loved the chance to set up my tent and relax. I simply cannot understand why someone would be prohibited from allowing friends to camp on their land if they own it and pay taxes. I've volunteered at several farms and all the fellow volunteers I have met are kind, hard-working, honest folks. These range from agriculture students who wish to have real-world experiences to retired people wishing to travel and help others. Many of the volunteers I have met have lived in big cities for most of their lives and don't have much connection with nature. Living in tents gives these people a way to truly connect and live with nature, while still protecting them from the harsh aspects the elements. Historically, living in tents and camper vans [wagons] is a common aspect of life. During war time soliders would, and still do, set up non-permanent structures. Settlers traveling west from the east coast would make the trip in wagons. Today many parents take their children camping to reconnect with nature. Many families and retired couples purchase camper vans to see our great country and explore it freely. I cannot see why a property owner would be denied the ability to let people camp and stay in RVs if it is such a common and accepted activity.

I understand Pinwheel Farm is also asking for the ability to hold spiritual, family and educational events, as well as, to hold a small farmer's market. Pinwheel Farm is a beautiful place that presents countless learning opportunities to all those interested. Our current break-neck pace of life has left many people feeling isolated and disconnected from the spiritual side of living. I feel the ability to connect with nature and to gather with one's community allows the feeling of grace to touch people. Also, the American general public is becoming more interested in sustainable and 'green' living. However, many don't know where to turn to get information or support. Pinwheel is an excellent place to meet those needs. I feel that being able to hold a small farmer's market would give the community surrounding the farm a base to gathering, share and interact. This would foster a greater sense of community, self-reliance and safety. Also, it would give area residents a chance to share excess produce from gardens, swap recipes and enjoy the company of others.

In conclusion, I fully support the Condition Use Permit requested for Pinwheel Farm on the basis of community and personal need.

Kind regards, Amber Prosceno 707 Fallon Avenue Wilmington, DE 19804 302-545-8184 wheresamber@gmail.com

From: Sarah Archibold [sarah.archibold@gmail.com]

Sent: Saturday, April 24, 2010 12:07 PM

To: Mary Miller

Cc: natalyalowther@hotmail.com

Subject: supporting Pinwheel Farm supports Lawrence economy and local agriculture

Dear Ms. Miller,

I am writing in support of Natalya Lowther's request for a conditional use permit for her farm. Natalya and her farm are an asset to the Lawrence community and just the kind of business enterprise that we should be encouraging in Lawrence and nationwide. She has been very active in small farm education and training, She welcomes people to her farm not just from Lawrence, but from communities near and far who come to learn more about small-scale sustainable farming. This is a good, positive thing for Lawrence! Visitors to Pinwheel Farm learn about what a great place Lawrence is and spend their dollars at Lawrence businesses while they are visiting. Those visitors go back home and tell their friends about what a great place Lawrence Kansas is! It would be a shame to stifle the growth of such a place, and for local government to limit Natalya's opportunities. Please support Pinwheel Farm and Natalya Lowther's open and honest business practices and allow her to continue her hard work toward becoming another much needed full time, small town, local farmer!

Sincerely,

Sarah Busse 17482 26th St. Lawrence KS 66044

From: Dan Bentley [dan66044@yahoo.com]

**Sent:** Sunday, April 25, 2010 10:08 PM

To: Mary Miller

Cc: natalya lowther

Subject: Natalya Lowther

I am Natalya's (next to) near neighbor to the south. My property does not adjoin hers but I can see her property from the back yard. I support anything that Natalya wants to do on her farm. As far as I'm concerned she has shown nothing but good will and good sense in all her activities. At a time that our society desperately needs sustainability in agriculture and culture she is leading the way with her teaching farm. If she wants for people to camp on her property I'm sure she will do it with the utmost of care and consideration for the neighbors. Please accept Natalya's request. I'd be glad to talk with anyone about this. Daniel Bentley, 517 Lake Street, Lawrence Ks. phone number 785-842-4418

From: Kirsten Bosnak [moonfarm@sunflower.com]

**Sent:** Sunday, April 25, 2010 8:03 PM

To: Mary Miller

**Subject:** In support of CUP for Pinwheel Farm

Hello, Mary --

My name is Kirsten Bosnak. I have lived in Lawrence for more than 20 years. I'm a KU graduate and have made my living at the university for 14 years. I work at the Kansas Biological Survey doing outreach.

I moved to North Lawrence in 2004, partly for the excellent soil, the same soil that feeds Pinwheel Farm. Natalya Lowther is my neighbor and my friend. I have known her and her farm for about 10 years, and in that time, I have known Natalya to be single-minded and determined in living out her dream of working a functioning farm that feeds people and provides an opportunity for people of all ages to learn about where our food comes from.

This time of year, I go to Pinwheel Farm two or three times a week to fill a sack with assorted greens or pick up some lamb. I know this food is of very high quality and contributes to my health. When Natalya first moved to the farm, the noise and view of I-70 was very intrusive. Over the years, those sights and sounds have been replaced by the trees she has intentionally allowed to grow at the back of the land and by the calls of red-winged blackbirds. Visiting the farm is a joy.

The location of Pinwheel at the very edge of the city puts it in an excellent position to provide both food and education. I have been personally acquainted with some of the volunteers there and know them to be idealistic, hardworking and goal-oriented. They speak of how much they learn from Natalya, and I know the farm depends on their contributions of knowledge and energy.

I hope the commission will permit the special uses Natalya requests — volunteer camping, events, and a small market. I also would like to see the farm continue its operation as usual, including these uses, if the city spreads out around the land on which the farm sits and the farm comes within city limits in the future.

I appreciate your consideration.

Kirsten Bosnak

646 Walnut St.

856-5745

From: Madeline Campbell [orangemom95@gmail.com]

Sent: Sunday, April 25, 2010 11:48 PM

To: Mary Miller

Cc: natalyalowther@hotmail.com

Subject: Pinwheel Farm Public Hearing

Mary Miller, Planner,

For the past three or four years we have been going to Pinwheel Farm for visits on our annual trips from Calgary, Alberta Canada. We have come to love Lawrence and hope to continue coming. The close proximity of the farm to the main shopping area has made our visits even better. We shop, go to the wonderful aquatic park, I get tattooed, and we eat. All this we have come to truly value. The ability to camp would greatly decrease our financial burden and allow us to continue to visit. We are able to work on the farm, visit with dear friends, explore the great farmers market, go to the library and enjoy all the other joys that Lawrence offers. There are so many wonderful opportunities that are not available here that we love and would dearly love to continue to enjoy.

Thank you for your time, Madeline Campbell Calgary, Alberta

From: Craig Comstock [craig\_comstock@yahoo.com]

**Sent:** Sunday, April 25, 2010 8:33 PM

To: Mary Miller

Cc: Natalya Lowther

Subject: Pinwheel Farm Support

Hi Mary (and Natalya),

I just wanted to write in my support of Natalya and Pinwheel Farm. I have attended several workshops there which were VERY well organized and VERY helpful. I hear there may be some concerns about the camping portion of Natalya's CUP. Given the organized nature in which the workshops I have attended were managed I would have no concerns about the safety and good-neighborliness of any camping activity.

Thanks and much support and kudos for Natalya's efforts.

-Craig

**From:** greg dowdle [gregdowdle@hotmail.com]

Sent: Sunday, April 25, 2010 11:34 PM

To: Mary Miller

Subject: pinwheel farms conditional use permit

April 25, 2010

To the Lawrence-Douglas County Metropolitan Planning Commission,

I'm am writing to you in support of the conditional use permit at 1478 North 1700 Rd. that Ms. Lowther of Pinwheel

Farms has requested. My family has lived directly south of Pinwheel Farms across North Street at 770 North 5th St. since 2003. We have never had any sort of problem or concern with her or anyone that has worked at her farm. We have bought farm products from her many times and haven't seen anything that would concern us about her operation. I believe approving this permit would make this farm more productive and benefit not only the people that are there to learn about farming but the community and the city of Lawrence as well.

Thankyou Gregory Dowdle

The New Busy think 9 to 5 is a cute idea. Combine multiple calendars with Hotmail. Get busy.

From: Maryam Hjersted [mhjersted@yahoo.com]

**Sent:** Sunday, April 25, 2010 11:07 PM

To: Mary Miller

Cc: natalialowther@yahoo.com

Subject: CUP for Pinwheel Farm

#### To Whom It Concerns,

I write in earnest support for the approval for Pinwheel Farm to be able to pursue it's much needed educational activities. I own a home in North Lawrence, and believe the highest use for this entire area is to grow food. It will someday become a vital component in the self-sustaining food supply for our city. All efforts aimed at educating people on the methods of growing food and keeping small livestock should be applauded and supported. This knowledge is being lost as this generation of farmer's children have given up any idea of an economically viable future in farming. There is a very steep learning curve, and the knowledge needed, the discipline instilled, is usually cultivated over a lifetime of growing up within the farming culture. Most of us grew up without that education, well outside the culture of farming We as a community are having to seek out those with the experience, the willingness to teach, and the land on which to learn. This is evident in the growing number of gardener's groups and the sense of urgency felt by so many that it is time to learn to grow our own food. Growing numbers can no longer afford the cost of food shipped across the country. Growing your own vegetables, is an empowering act to reduce the fear of going hungry due to poverty or failures in food supply lines. "Food Not Lawns" is such an important national movement, and the city should support this movement as well it its educational efforts as part of its long range preparedness as we approach the possibility of a peak oil crisis.

Natalia offers our community a resource which is precious and should be regarded with respect and gratitude. Those who speak against it out of fear are, I believe, over reacting, and some are being unkind and making personal attacks. This is not a good way, not a just way, and certainly not a wise way to respond to a hard working woman who has only our best interests at heart. Please consider her requests and give them your approval. Let time tell whether any of the expressed fears are just, and reevaluate at that time if necessary. Fear "of what might happen" is not a fair basis upon which to make a decision, when the activities for which she request permission are neither dangerous nor threaten the safety or peace of anyone outside the four corners of her land. Land ownership carries with it the rights of egress, and the pursuit of one's interests upon that land. Though it has been proven that it is the basic human condition is to make "fear based decisions." Let's not let her good positive aspirations be sacrificed based simply on the "fear based projections" of others most probably are unfounded. Sincerely, Maryam Hjersted



**From:** johnny koch [johnnykoch1978@yahoo.com]

**Sent:** Monday, April 26, 2010 3:23 AM

To: Mary Miller

Subject: support for the pinwheel farms Conditional Use Permit

This is to show my support for the pinwheel farms Conditional Use Permit. I think that it would only help our community in more ways than one. The local economy, local businesses local education, to name a few. I have been following this for a little while and frankly the people that oppose this do so without facts. First the kinds of people that will visit pinwheel farms are educated people, collage students, future farmers, agriculturists, and seasoned farmers. If you have any doubt as to how this collaboration of farmers and agriculturists can be beneficial watch the documentary "food inc." it may enlighten you on why supporting local farming is just the right thing to do for our community and our future.

John, Koch

From: namaste [namastem@yahoo.com]

Sent: Monday, April 26, 2010 3:10 AM

To: Mary Miller

Subject: support Pinwheel farms' Conditional Use Permit

This letter is to support Pinwheel farms' Conditional Use Permit. I feel that it will only help the community in more ways than one. First it will bring in revenue, second it will help educate the community on organic foods, self sustainable farming. There are many other benefits that will come from this. As for the rumors of homeless, degenerates and the like using this farm as a refuge, that simply is not the case the kinds of people that will come and stay are collage students future farmers seasoned farmers, and other agriculturists. The need for this kind of system is great, to have a collaboration of farmers future farmers and anyone interested in agriculture is supremely beneficial to the whole community, it would not only bring in revenue from the people coming to visit but would greatly help local farmers with new ideas, different views on farm life, which in full circle helps the entire communities economy. In short to support this permit will support the local farmers, local businesses, and ultimately the economy.

Namaste, Manney

From: smacfamily@aol.com

Sent: Monday, April 26, 2010 8:34 AM

To: Mary Miller

Subject: support for Natalya Lowther and Pinwheel farm

I am writing this in support of Natalya Lowther and all of the growers in the area. I believe that farms like her's are a true treasure. They provide safe, healthy food in a time where food sources are suspect at best. It is important to support all of our local farms as they are the first line of defense in our food safety. Running a farm is very different than any other type of business. You need to be hands on all year long. You need to be flexible with your plans and able to think and react quickly to solve problems. Your livelyhood depends on the weather. It can keep you working in the field until late at night to plant or harvest before the weather will prevent you from working or destroy the crop you have tended all season. Farmers are among the hardest working, most dedicated people around. They sincerely care for the earth and the people that they feed. Lawrence is fortunate to have wonderful farms providing great food for the residents. I hope the city will see this and support all of the local Lawrence area farms. Work with the farmers, they are the life of your city.

Sincerely, Sheri McNeil

From: Stephanie Thomas [springcreekcsa@yahoo.com]

**Sent:** Monday, April 26, 2010 8:36 AM

To: Mary Miller

Subject: Pinwheel Farm and camping

#### Greetings,

I am a local organic farmer, and want to make a comment about Natalya Lowther's request to allow farm participants to camp at her farm.

As a small farmer, I can only afford a very limited amount in labor dollars, and hire two part-time apprentices each year through Growing Growers. I depend on a crew of 8 volunteers to take up the slack, and in exchange, I offer them training in growing fruits, vegetables and meat using organic and sustainable methods. We farm on 20 acres, right next to the Baldwin City Spring Creek Lake 2 miles south of the city. There are often groups that camp there overnight or even for entire weekends. Some of those are organized camps (Boy Scouts, Discover, etc.), but many are just high school kids or college students on a long, early spring or fall weekend. In 9 years we have never had any problems on our adjoining property from campers.

Natalya's potential campers are there for experiential training in an organized and structured program, and are unlikely to be interested in any sort of activities that would cause concern for the local community. One of the first things people learn after a day on the farm is that you don't have any energy for a night-life! These are students of natural growing and farming who need a place to stay a night or two on someone's personal property. In my experience with volunteer farm workers, I expect that her guests will treat the camping area as an extension of Natalya's own house and home. As a farmer whose operation is of similar size as Natalya's, I can say without a doubt that I could not afford to put up a house for volunteers, and don't have the space in my own house. From the volunteers' perspective, they are not getting paid anything more than meals and seconds, and are donating their time for the training. I see no harm that can come from them pitching a tent for a short time.

Sincerely, Stephanie Thomas Spring Creek Farm 1841 N. 150 Rd. Baldwin City, KS

From: Catlady [catsrme@mts.net]

**Sent:** Monday, April 26, 2010 8:48 AM

To: Mary Miller

Subject: Pinwheel Farm Conditional Use Permit Public Hearing

Mary Miller, Planner:

Hi. I am writing about the application for Natalya Lowther to have visitors and casual helpers to Pinwheel Farm being allowed to camp on her property.

I have an interest, not despite my living so far from Lawrence, but rather because of the distance. I would like to, in fact plan to, visit Natalya. I know that she is very busy with her farm and her outside job, so staying with her in her home could be an added burden. However, knowing that I could bring a tent, to stay close to her while giving us both the freedom to come and go would be very attractive. I also know that she often has volunteer workers at her farm – again, needing to house those people would be an added burden that would negate any help given. I don't believe that allowing Natalya to permit tenting on her property witll turn it into any sort of camping free-for-all; but it will make it possible for her to continue to be a viable economic contribution to Lawrence. And certainly, making a visit to Pinwheel Farm attractive will also help the local economy, as I would definitely like to explore your city, and shop. One business that I'm looking forward to visiting is the Yarn Barn, which I understand is close to Pinwheel Farm, and a business that I have dealt with long distance in the past, but would like to see and shop at in person.

I also know that Pinwheel Farm supplies local businesses with fresh produce, and that is also great for an economy that is looking more and more to locally produced goods of any kind. I am also a business owner, retail, and am aware of the current trends regardless of where one lives. People are looking to keep costs down whenever possible (having volunteer labour staying on the farm reduces production costs) and to reducing carbon footprints in every way possible (again, saving the travelling to and from the farmsite by the volunteer labourers as well as having local produce that can be purchased close to the source, without added delivery driving certainly fill this desire).

I hope that my comments will assist you in understanding that Pinwheel Farm is a very important component in Lawrence, and anything you can do to help it prosper and grow will ultimately be good for Lawrence as well.

#### Anne C.

Crafting is my passion; Cats are my obsession.

From: Avery Walker [dirtclodmusic@yahoo.com]

**Sent:** Monday, April 26, 2010 9:08 AM

To: Mary Miller Subject: pinwheel farm

I urge you to allow camping at Pinwheel Farm, and anything else Natalya requests to allow her to improve her farm. Because of the consolidation of farms that has occurred over the last couple generations, there are fewer people who grew up on farms than ever before. If we are to increase our food security and strengthen our local economy by increasing the number of small farms in the area, the next generation of farmers will have to come from a non-farming background. Natalya is a knowledgeable farmer and a patient teacher. Allowing apprentices to camp at Pinwheel Farm will increase the number of people she can teach about farming, with less potential for nuisance than exists with other business activities that are already allowed in north Lawrence. Enabling young people to learn about farming is good for our society, our environment and our economy.

thank you,

Avery Lominska

RECEIVED

APR 26 2010

X = North Laurence resident

On Sat, Apr 17, 2010 at 4 49 unity, Planning Officem wrote:

Dear Friends......I am asking Would be significant that will support our North Lawrence neighbor, Natalya Lowther, to get permission to use her farm for a small farmers market, to allow camping there for the volunteer farm workers who help her and to hold small events. That's it, in a nutshell.....not sure if she is growing nuts there, but she sure is feeling nuts dealing with the county restrictions! I would like to help her. I need signatures of support. You can read all of the details below if you want. Or, you can just scroll to the bottom and fill in your name and any comments of support. I need these names by April 24th! Thanks, Iris

PETITION FOR CONDITIONAL USE PERMIT SUPPORT FOR CAMPING AND OTHER ACTIVITIES AT PINWHEEL FARM

Pinwheel Farm (1480 N. 1700 Rd., a.k.a. 5th and North St.) owner Natalya Lowther has applied for a Conditional Use Permit (CUP) to secure her farm's freedom to conduct traditional farm-related activities that are no longer allowed on land zoned A "Agricultural". Specific uses requested include camping, hosting of events, and a small "farmers' market".

The proposal will be discussed and hopefully voted on by the Planning Commission on Monday, April 26, at 6:30 at City Hall. We encourage you to attend and support this CUP, or to sent more detailed comments to the Planning office prior to that date. If you have questions or concerns, or would like to arrange a site visit, feel free to contact Natalya Lowther. We value input from our community.

A few neighbors and NLIA have expressed concerns about traffic, on-street parking, "strangers", and privacy. We believe that our farm-focused, small-scale approach will allow us to carry out our planned activities without adversely affecting the neighborhood. The overall impact of these uses will be much less than if we developed the land in a conventional residential manner consistent with existing zoning—even if all we did was replace existing houses (501 North St. and 1478 N. 1700 Rd., which we acquired in 2006) with larger ones.

Pinwheel Farm has extensive policies and guidelines to ensure that all farm uses, not just the proposed CUP uses, are conducted in a manner that helps maintain a secure, safe, and pleasant neighborhood environment. Pinwheel Farm is committed to preserving our natural resources, providing healthy food to the community, and preserving and teaching traditional, sustainable living and farming skills.

Pinwheel Farm is working with low-impact, highly permeable wood-based paving alternatives that will use sustainable wood waste instead of gravel or concrete for paving parking and lanes. Pinwheel Farm is adamant that gravel and concrete (required by County regulations for parking and lanes) are not appropriate paving materials for most of our purposes. Wood-based paving will minimize the CUP activities' environmental impact in terms of preserving Class 1 soil, managing stormwater, and avoiding the dust that gravel paving causes. Wood will degrade to enrich the soil over time if we take a lane out of use, while gravel will stay in the soil forever.

The time frame of this request is for 100 years. Pinwheel Farm would like to be a Century Farm someday! To remain a viable farm business rewarded more by the lifestyle than by a high-paying job, Pinwheel Farm needs to know what rights it will have not just now but in the very long-term future.

Some details of the requested uses:

1. Camping would provide both short and long-term temporary housing for farm volunteers and family members in a manner that will create a minimum loss of permeable soil surfaces to absorb stormwater while allowing volunteers to more fully appreciate and understand the farm's fascinating ecosystem. Instead of using permanent mobile homes or constructed guest house (both legal without the CUP) to

house helpers, then having those buildings around when no one is using them, tents and campers can be put away.

Pinwheel Farm is part of the World-Wide Opportunities on Organic Farms program (WWOOF) which matches itinerant volunteers with host farms needing free labor in exchange for learning opportunities, food, and shelter. WWOOFers contribute to the local economy in many different ways. Pinwheel also is a host farm for the regional Growing Growers apprenticeship program, and has more informal volunteers as well.

Camping would be limited to a maximum of 12 adults housed in at most 6 units, consisting of up to 4 self-contained RVs/campers and/or up to 4 tents. Conventional housing setbacks will be followed along property lines. Units would be scattered in strategic places around the farm depending on the purpose of the camping (predator control, lambing supervision, volunteer housing, etc.) While it would be allowed year-around, there would be fewer people camping during cold weather.

Many people are surprised to learn that in 2006, Natalya was threatened with a \$500/day fine for possessing a camper on her own land (zoned Agricultural). She was using it as office space, a rest area, and for occasional farming-related overnight stays. What a shame to not be able to fully enjoy the natural beauty of the farm and its wildlife!

- 2. Events such as weddings, picnics, educational workshops, tours, etc. are not explicitly allowed by existing Agricultural zoning regulations. Having them specifically allowed by the CUP will help establish guidelines for parking, etc. to ensure that the neighborhood is not adversely affected. Most events hosted at the farm will be relatively small (less than 25 participants) and will be farm-related educational programs.
- 3. A temporary farm stand is allowed on agricultural land, but only selling the products produced on that land. Pinwheel Farm would like to allow a few other farmers and gardeners from the North Lawrence and further north area to sell their products along with our own. Since we don't have a grocery store on this side of the river, this could give North Lawrence residents easier access to healthy, local agricultural products including meat, eggs, vegetables, fruit, etc. This would also allow us to be a pick-up point for a multi-farm CSA (Consumer-Supported Agriculture food subscription service) in the future, if desired.

We, the undersigned, support Pinwheel Farm's Conditional Use Permit for camping, events, and a farmers' market.

1. NAMEJessi Asmussen Signature Jessi Asmussen	
ADDRESS 1832 New Hampshire, Lawrence, KS, 66044	
Phone 785 E-mail:mellowfields@gmail.com	
COMMENTS:	
2. NAMETrish Jackson Signature Trish Jackson	
ADDRESS _1736 Brook St,	Lawrence, KS, 66044
Phone 785-760-5445 E-mail: gardentrish@gmail.com	
COMMENTS:This CUP will only enrich our community and Iris' neighborhood!	

3. NAME _Melissa Forester SIGNATURE Melissa Forester
ADDRESS1226 Delaware St. #13Lawrence, KS, 66044
Phone _7853934268 E-mail:
COMMENTS: There is a need to support local growers who are trying to develop the local food system Lawrence is in need of. The World Wide Opportunities on Organic Farms organization and the Growin Growers Program are both excellent programs and Lawrence would benefit from this.
4. NAME Amber Lehrman SIGNATURE Amber Lehrman
ADDRESS2409 Brookside Dr, Lawrence, KS, 66047
Phone _7858422686 E-mail:iailehrman@yahoo.com
COMMENTS:I strongly support this request. We need more farms willing to openly teach how to gr food in a low impact, sustainable way. Better access to farmer's markets makes it easier for more peo to enjoy delicious food grown locally and will keep more of our food dollars in the local economy.
5. NAME _Georgia Palos Shiney SIGNATURE > SIGNATURE >
>
> ADDRESS, > Lawrence, KS, 66044
> > Phone 785 979 7453 E-mail:georgiapalos@gmail.com
>
> COMMENTS:
>
> 6. NAMEJustin Henry Shiney SIGNATURE >JS
>
> ADDRESS, > Lawrence, KS, 66044
> Phone _7855508810 E-mail:j@shiney.com
>
> COMMENTS:
7. NAME _Sondra Beverly SIGNATURE _Sondra Beverly
ADDRESS _2607 Orchard Lane_, Lawrence, KS, 66049
Phone _785-830-8234 E-mail: sgbeverly@gmail.com
COMMENTS:Natalya is an outstanding member of the Douglas County community. She is doing innovative things on her farm, and sharing her knowledge and experience with others. She will respect the rights and needs of neighbors as she carries out these plans.
8. NAMEAnn Renée' HollSIGNATURE Renee Holl
ADDRESS, Lawrence, KS, 66044

Phone 785-840-5056 E-mail: reju@sunflower.com

	rt this sustanable business and encoura her well planned community efforts	age
9. NAME Jane W. Gibson SIGNAT	UREJane W. Gibson	
ADDRESS1845 Learnard Ave	, Lawrence, KS, 66044	
Phone _7858388974_ E-mail:	janegibsonis@gmail.com	
Farm could offer can help secure the for sustainable small-scale agriculture	ng needed a farmers' market and the other opportur farm into the future. Pinwheel Farm is working to be e, already preserving a healthy way of life and impar in our urban area. I urge the City Commission to se e Permit.	ecome a model ting its
10. NAME Iris Wilkinson SIGNATU	JRE Iris Wilkinson	
ADDRESS 410 Elm, Lawrence, KS, 6	66044	
Phone 785-841-7050 E-mail: zzwilk@	Qaol.com	
places for farmers to sell their wares is store!) and we need opportunities to t	support what Natalya Lowther is doing with Pinwheel here in North Lawrence (especially since we do not leach people how to produce food. Of course, people y are staying there for special events! Please supp Permit!	have a grocery e should be
NAME	SIGNATURE	
ADDRESS	, Lawrence, KS, 66044	
Phone E-mail:		_
COMMENTS:		
	SIGNATURE	
	, Lawrence, KS, 66044	
COMMENTS:		-

Re: FW: [Isn-garden] Iris needs support for a petition

From: jdrumm7@juno.com (jdrumm7@juno.com)

Sent: Tue 4/20/10 9:38 PM

To: natalyalowther@hotmail.com



We, the undersigned, support Pinwheel Farm's Conditional Use Permit for
> camping, events, and a farmers' market.
>
> NAME Jean Drumm SIGNATURE
>
> ADDRESS 233 N. 4th Street Lawrence, KS, 66044
>
> Phone 785-841-6067
>
>
> COMMENTS: Please let this space be used for good efforts on the part of farmers!

Penny Stock Jumping 2000%
Sign up to the #1 voted penny stock newsletter for free today!
AwesomePennyStocks.com

¥	We, the undersigned, support Pinwheel Farm's Conditional Use Permit for camping, events, and a farmers' market.
	NAME Greg Dowdle SIGNATURE
	ADDRESS 770 N 5th 55- , Lawrence, KS, 66044
	Phone 785-218-6758 E-mail: gregdow de @ Human com
	COMMENTS:
×	NAME JOSHUA DONDLE SIGNATURE fol Loudle
	ADDRESS 2113 HARVARD ADT D , Lawrence, KS, 66044
	Phone 785-393-0400 E-mail: joshdowdle@gmail.com
	COMMENTS:
X	NAME Jerry Dowdle SIGNATURE Jerry & Judle
,	ADDRESS 770 N. 519 St , Lawrence, KS, 66044
	Phone 185 - 760 - 0254 E-mail: Hourse & Sunflower
	COMMENTS:
X	NAME Aviel Dowdle SIGNATURE Mill Gull
	ADDRESS 170 N M M , Lawrence, KS, 66044
	Phone #185 393 133 E-mail: wieldaviel Camail Com
	COMMENTS:

X	We, the undersigned, support Pinwheel Farm's Conditional Use Permit for camping, events, and a farmers' market.
	NAME Jessica Conner SIGNATURE (Justice Commen
	ADDRESS 520 North St., Lawrence, KS, 66044
	Phone 785-248-1213 E-mail: jmcnnr joshjess @ yahoo. Com
	COMMENTS:
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A	NAME HOWARD HIT SIGNATURE HOWARD THE BE
	ADDRESS 7 42 W 5 Th , Lawrence, KS, 66044
	Phone 785 842 - 5922 E-mail:
	Phone 185_8/2 E-mail:
	COMMENTS: Per fectly reasonable represt-approve it;
1	A collection
~	NAME PUISE ESTESIGNATURE RUTCHER COST
	ADDRESS 735 N 5 Lawrence KS 66044
	CA12 d = 51
	Phone Of S- DOW E-mail: O Clother asunflower Com
	COMMENTS: It's fine with me + more gardening
	15 always better!
	NAME SIGNATURE *
	ADDRESS, Lawrence, KS, 66044
	Phone E-mail:
	COMMENTS:

We, the undersigned, support Piny events, and a farmers' market.	wheel Farm's Conditional Use Permit for camping,
	SIGNATURE SIGNATURE
	assachusetts st., Lawrence, KS, 66044
Phone 8/7 - 257 - 8793 E-mail:	em Campo
COMMENTS: Let the	ean Campo
NAME DAK. Lerman	SIGNATURE
	, Lawrence, KS, 66044
Phone 8219 - 650 - 5465 E-mail:	: )lermsse kuredu
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NAME	SIGNATURE
ADDRESS	, Lawrence, KS, 66044
Phone E-mail:	
COMMENTS:	
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ADDRESS	, Lawrence, KS, 66044
COMMENTS:	

We, the undersigned, support Pinwheel Farm's Conditional Use Permit for camping, events, and a farmers' market.
NAME NAN RENBARGER SIGNATURE NONTREWEST
ADDRESS 577 E 300 Rd OVEN brook, Lawrence, KS, 66044
Phone E-mail: Verbenamaging Qyahos, com COMMENTS: Let people spond a neght under the
stars!
NAME SIGNATURE &
Phone 785-341-4911 E-mail: Das on Mekwedi
COMMENTS: Students would be to camp at this farm.
NAME Marin Massa SIGNATURE SIGNATURE
ADDRESS 1193 E. 596 , Lawrence, KS, 66044
Phone 785 - 748 wis E-mail: Vin@inorbit. com
COMMENTS: Sunds greaf!
NAME James EFrin Hans SIGNATURE Smilth C-the
ADDRESS 1012 EMERY RN #F10 , Lawrence, KS, 66044
Dhama 706 But 23112 But
Phone 785-841-3342 E-mail:

events, and a farmers' market.
NAME Avery Lomins to SIGNATURE on 2
ADDRESS 2307 Union By Lawrence, KS, 66044
Phone 785 - 842 - 1696 E-mail:
COMMENTS:
NAME Carolina M Proudroot SIGNATURE SIGNATURE
ADDRESS 040 Colleg Blev. , Lawrence, KS, 66044
Phone 9/8 -972-7460 E-mail: Carolinal Proud Foot
COMMENTS:
NAME Jennifer Kongs SIGNATURE Jampel
ADDRESS 940 Connecticut, Lawrence, KS, 66044
Phone 785 249 4159 E-mail: jennifer kongs og meil.
COMMENTS: This is a GREAT small bus,
development idea //
NAME Construction Shooks SIGNATURE Cart St. On
ADDRESS 110 E 7th St. Lecoupton KS 66050, Lawrence, KS, 66044
Phono 265 002 2021 P (C) Lawrence, KS, 66044
Phone 785 - 887- 3926 E-mail: Info @ Circlehr. Com
COMMENTS

We, the undersigned, support Pinwheel Farm's Conditional Use Permit for camping,

events, and a farmers' market.	
NAME Jamene Brooks-Kieffer SIGNATURE	semene Soche Kill
ADDRESS 507 Arizona St	
Phone 786-832-8953E-mail: jamene 6@ 56	calobal, net
COMMENTS:	
. 1	
NAME Chis & Leonze Sund SIGNATURE	lins neudolvor
ADDRESS 1579 New Harry	sly re Lawrence, KS, 66044
Phone 745-441-556 & mail:	
COMMENTS:	
NAME LARIA MALLES GIONATURE -	2. 3 1/1/1/a-
NAME Karen MOTHELS SIGNATURE _ ADDRESS 1102 W. ZZNO TEND.	em e wa
Phone 785 - 82 - 0925 E-mail: <u>Xi+m</u> 2-166	Sunflower, com
COMMENTS:	
	1
NAME Flavon Silber SIGNATURE	Mr. Sil
	Charles 100
ADDRESS 1329 Maple Lw.	, Lawrence, KS, 66044
Phone 785 - 550 - 4261 E-mail:	
COMMENTS: I like to sleep in a	tent.

We, the undersigned, support Pinwheel Farm's Conditional Use Permit for camping,

To the Lawrence-Douglas County Metropolitan Planning Commission,

We are writing in reference to the recent request for a conditional use permit at 1478 North 1700 Rd. Our family has lived next to Ms. Lowther, the owner of the property, for many, many years and is quite accustomed to the manner in which she keeps her property, the process she uses in trying to communicate or attend to concerns of the neighborhood, and the aggressive methods she uses to have her own personal interests met. Due to this pre-existing knowledge, we have developed a list of concerns related to her request for a conditional use permit.

- 1) The only access in and out of the property is a poorly kept dirt/gravel driveway. This driveway is narrow and passes just to the west of a residential home, approximately five yards away. Intensified traffic and the coming and going of many vehicles greatly disrupt the rights of the property owner living five yards from this driveway.
- 2) We live just southeast of the Lowther property at 517 North St. and have been at this location for 33 years. Because we have lived at this location for so many years we know that the Lowther property was once a well-kept ranch style family home with cut grass and groomed trees. Since Natalya Lowther moved into this location it has become increasingly run down. The Lowther property (home, two other residential structures, fencing, and landscaping) is in very poor condition and has deteriorated greatly over the years.
- 3) There are two structures located to the front of the Lowther property, facing North Street and are within the city limits of Lawrence. Ms. Lowther is referring to them as a long term farm residence and a farm structure. In fact, both are in such poor condition that no one should occupy either of them and neither is safe enough for human beings to enter. We are attaching a photograph for the Commission to gain a better understanding of the extreme condition. We are under the impression that Ms. Lowther has "volunteers" living in these quarters at this current time.
- 4) Ms. Lowther works long hours away from her property as described in a recent Lawrence Journal World article. She spends time driving a bus and is not on her property enough to manage the work of others. We believe that there is no way for Ms. Lowther to enforce all of the rules she has listed on her submitted paperwork.
- 5) There is a nearby campground known as KOA. Here they run background checks on temporary residents, providing a safe situation for others living in the area. Ms. Lowther makes no mention of conducting criminal and background checks on the individuals she wants "camping" on her property. In this case, we believe any camping on the Lowther property will in fact be a homeless encampment of people looking for a free place to stay and calling themselves "farm volunteers."

- 6) Ms. Lowther describes the agro-tourism liability waiver as a way to protect herself. She does not address the issue of responsibility when one of her "volunteer farmers" hurts, breaks, or does even greater harm to nearby residents. Who is responsible then?
- 7) What about potential visitors to her property who have disability? How can she possibly provide safe sanitary toilet conditions for people who are in wheelchairs or using other assistive devices?
- 8) Ms. Lowther mentions facility use at KOA (shower and laundry) but she has obtained no permission for this kind of access.
- 9) Ms. Lowther describes large groups of people on her property, some year round, with children. How will she provide safe, sanitary and healthy conditions for the children in particular?

These are but a few of our concerns. We request that the Planning Commission take all of these things into consideration. We greatly appreciate the protection and security of our neighborhood and the role the Commission plays in keeping it that way.

Although we do have deep concern and completely reject the idea of having a campsite such as the proposed, we do welcome the growing of produce, the raising of animals and other lifestyles that show an appreciation for nature and the land.

Thank You.

David and Joyce Higgins



## **Mary Miller**

From: Barbara Higgins-Dover [bhigginsdover@gmail.com]

Sent: Wednesday, April 21, 2010 4:17 PM

To: Mary Miller Subject: one more item

Ms. Miller

Here is one more point of interest the commission might want to consider....

Natalya Lowther mentions a liability waiver and how she is protected under that program with no responsibility or need to purchase protection for her proposed agrotourism business....I searched and found the information about this issue and it tells a slightly more complicated story suggesting that all business owners purchase liability policies especially since harm, death or injury could come to surrounding (off site) neighbors as a result of her operations and or her workers. And I bet that her homeowners insurance policy agent would not allow it at all.

Here is the link to that information http://www.kansasagritourism.org/Liability/Pages/default.aspx

You might want to attach that information to the Higgins packet as well.

--

Barbara Higgins-Dover MS. Ed. bhigginsdover@gmail.com

## **Mary Miller**

Barbara Higgins-Dover [bhigginsdover@gmail.com] From:

Sent: Wednesday, April 21, 2010 3:15 PM

To: Mary Miller

a few more images Subject:

DSCF3413.JPG; DSCF3412.JPG; DSCF3410.JPG; DSCF3411.JPG Attachments:









DSCF3413.JPG (1 DSCF3412.JPG (1 DSCF3410.JPG (1 DSCF3411.JPG (1

MB) MB)

Ms. Miller

Here are a few images of the homes surrounding the Lowther structure. I think it is easy to see why the residents fear loss of property value if this conditional use permit is granted. The commissioners only have to compare surrounding property and the care that is given to them with the Lowther property.

thanks again

Barbara Higgins-Dover MS. Ed. bhigginsdover@gmail.com









# RECEIVED<sup>April</sup>

APR 22 2010

Owners of Record: David D. and Diane L. Hamblin

509 North Street Lawrence, KS 66044 City County Planning Office Lawrence, Kansas

To Members of the Metropolitan Planning Commission Concerning CUP 2-1-10

First of all, thank you for your interest in public opinion on conditional use permits. Unfortunately, I will not be present at the meeting on April 26<sup>th</sup> as my mother is seriously ill in northern California and I will be out of town. I was present at the NLIA meeting on April 12, 2010 to discuss this proposal.

I have lived at 509 North St. for ten (10) years. This is the property directly in front of Pinwheel Farm to the south which fronts onto North St. I have no objections to education farm activities (eg. Sheep shearing) or the selling of farm products, as many other North Lawrence residents participate in similar activities. I have definite objections to allowing camping and RV's of any kind on Pinwheel Farm properties.

The one major good that has been associated with this CUP application, has been a major clean-up of said properties that has not happened in ten (10) years.

Now for my input. There have only been a few instances with halfway cooperation from my neighbor, Natalya Lowther. For ten (10) years I have heard the comments; not enough time, not enough money. Most of us have the same issues. She has offered perennial plants if I wanted them. She has invited me to farm potlucks. I have allowed wires attached to the back side of the west privacy fence for grapevines. After trimming trees once from the 6 ft. privacy fence which separates our homes, north and south, she made a huge wood-chip pile on the easement property between my property line and her driveway. It spilled over onto my lawn and attracted insects. When I asked her to move it as it would be a "haven" during termite swarm season, she said, "The termites were here first." Fortunately, she did remove most of it two weeks later.

About 1½ years ago she had a landscape company chemically eradicate all vegetation between North St. and her sign (about 30 ft.). She said she did not have time to control weed growth. Then she brought in large round bales and left them along the drive. When I mentioned it was a fire hazard as motorists flip cigarette butts and trash along North St., there was no reply. The round bales remain along the drive. I am also often reminded to not spray lawn to cause "drift" to her farm. There is a beautiful old oak tree along the drive. I rake my oak leaves 5-6 times a year and put them in containers for city recycle, she has asked to use them for sheep bedding but will not rake her side of the fence. The tree is on her property. I refused. These are just a few of my personal examples.

Now my objections to camping. The main proposed thorough fare to the camping area is 25 ft. from my property line and less than 75 ft. from my home. Said driveway has always been a huge mud hole or dust alley. I have a right to a quality backyard environment. I spend almost every day in my backyard. I acquired a small dog in September of 2009, which necessitated fencing a portion of my yard to keep sheep and county dogs out (no leash laws) and give my dog some freedom.

Then there is the problem of temporary portable toilets. How far will they be located from my home? And what of water well facilities? Is the well safe? The proposal states it will be used at your own risk. And showers, etc. – KOA is about one mile away. Is the well located at 1478 or 1480? I already have a fly and mosquito problem in warm weather due to the close proximity of farm animals. I do not need additional problems of dust, odor, and/or noise and dogs so I would be unable to enjoy my outdoor space.

North St. is a narrow, two lane roadway without sidewalks. If a large vehicle is passing another, one must take the shoulder. The large ruts along the street attest to this. When I walk my dog I stand on the shoulder when two vehicles are present. RV's and campers would only make the situation worse. As for the proposed "no backing into North St." – is there a proposed turn-around?

Let's be realists. Pinwheel Farm is not in the "country." It is in Douglas County on the very edge of expanding city limits. If the structure at 1478 (now deemed uninhabitable) is brought up to code, will it be annexed into the City? It sits between 501 North St. (city) and 509 North St. (city).

This is not a feasible CUP!

Thank you,

Diane L. Hamblin 509 North St.

Lawrence, KS 66044-5367

Email: hokeydory789@yahoo.com

Phone: (785) 842-9681

# Memorandum City of Lawrence Planning & Development Services

TO: Planning Commission

FROM: Scott McCullough, Director

CC: Lynne Braddock Zollner, Historic Resources Administrator

Date: For May 2010 PC Meeting

RE: TA-7-20-09 - Written Interpretations, Appeals of Administrative

**Decisions, and Adaptive Reuse Development Code Revisions** 

The Planning Commission reviewed TA-7-20-09 at their August 24, 2009 regular meeting and deferred the item in order to submit the code sections related to Adaptive Reuse to the Historic Resources Commission (HRC) for input. The HRC reviewed language related to Section 20-501 of the Development Code at their January 21, 2010 and April 15, 2010 regular meetings. After discussion, as noted in this memo, the HRC recommended approval of the proposal at their April 15, 2010 meeting with the support of representatives of the Old West Lawrence neighborhood association.

#### **Summary of HRC process**

At the HRC's direction, Staff met with representatives of the Old West Lawrence (OWL) neighborhood on March 4, 2010. OWL's main desire was to have the code restrict the use of Adaptive Reuse to a very narrow degree in OWL, which also affects its use citywide in Single Dwelling Residential districts. The proposed language limits Adaptive Reuse in single-dwelling districts except where a structure was originally constructed for a non-single-family use and when same structure is not converting from Detached Dwelling to Adaptive Reuse. The language removes access to a process that affords an owner the ability to request any use in even a large structure in a single-dwelling residential zoning district unless it was originally built and used for non-residential purposes.

History has demonstrated that the Adaptive Reuse process has not been widely used and there has not, until the initiation of the text amendment to fix a minor wording matter, been public outcry to "fix" the code or narrow its scope. Staff's first reaction to OWL's request for reducing Adaptive Reuse in Single Dwelling districts was that it is too restrictive. However, a review of the permitted uses in these zoning districts yields that many of the uses that would be appropriate for a historic structure – house museum, bed and breakfast, private dining – are permitted via special use currently and, in any event, the ability to request rezoning of property exists for owners to change to a use

not permitted in the Single Dwelling districts. Therefore, staff believes the proposed language to limit its use in Single Dwelling districts is appropriate. The Multi Dwelling districts and non-residential districts remain more flexible in their potential use of Adaptive Reuse.

At the August 24, 2009 Planning Commission meeting, staff accepted a revision to Section 20-1310 Written Interpretations that was presented by the League of Women Voters of Lawrence-Douglas County. The comment was to provide a timeframe by which the Planning Director must render a written interpretation once an application was made. The language has been revised to reflect the comment. The amendment is being returned to the PC for a recommendation in order to forward the amendment to the City Commission for their consideration.

**Action Requested:** Move to recommend approval of TA-7-20-09 and forward to the City Commission for their consideration.

Attach: May 2010 proposed language

April 15, 2010 HRC packet April 15, 2010 HRC minutes January 21, 2010 HRC packet January 21, 2010 HRC minutes August 24, 2009 PC minutes August 24, 2009 PC staff report

Communications

#### 20-501 ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY

- (1) Special Use approval may be granted in any Zoning District for an Adaptive Reuse provided the property is <u>listed individually or as a contributing Structure to a historic district</u> listed, as a Landmark or as part of an Historic District, in one or more of the following: the Lawrence Register of Historic Places; the Register of Historic Kansas Places; or the National Register of Historic Places.
- (2) Only Pproperties that meet criteria (i) or (ii) below and one the additional or more of the following criteria below are encouraged eligible to pursue Adaptive Reuse:
  - (i) <u>W</u>when such use can facilitate active renovation or restoration of the property <u>and when the request for the Adaptive Reuse is submitted prior to the renovation or restoration commencing</u>; <u>(the first part of this language is not new but moved to become an actual criteria)</u>.
  - (ii) When such use can maintain an otherwise adequate property that has an existing Adaptive Reuse Special Use Permit.
  - (iii) When the property is located in a nonresidential Zoning District;
  - (iv) <u>When</u> the property, though <u>is</u> located in a <u>single-dwelling</u> residential <u>Zoning District</u>, <u>and the structure</u> was built <u>primarily</u> for a <u>non-residential use</u> <u>any use other than Detached Dwelling</u> that has been substantiated through archival records, tax records, City directories, or other physical evidence <u>and when the property is not being converted from Detached Dwelling to Adaptive Reuse;</u>
  - (v) When the property is located in a multi-dwelling residential Zoning

    District and where the Structure on the property was built for any
    use other than Detached Dwelling that has been substantiated
    through archival records, tax records, City directories, or other
    physical evidence or where the Structure on the property has a
    minimum of 4,000 square feet of Gross Floor Area in living space.
    (Square footage shall include all finished living space excluding porches
    and garages).
- (3) Adaptive Reuse of a property shall not include a reduction in area or dimension of the existing Front Yard or Exterior Side Yard;
- **(4)** Adaptive Reuse of a residentially-designed Structure shall maintain the residential quality and character of the property;
- (5) Adaptive Reuse of a Building shall maintain the architectural character of the historic property, as established by the Historic Resources Commission, and the historic context within the neighborhood environs;
- (6) Prior to public hearing of an application for a Special Use for Adaptive Reuse by the Planning Commission, an the Special Use application shall first be reviewed and approved a recommendation made by the Lawrence Historic Resources Commission at a regular meeting of the Lawrence Historic Resources Commission and, when applicable, the State Historic Preservation Officer. Mailed notice of the Historic Resources Commission's meeting shall be provided pursuant to Section 20-1301(q)(3).

- (7) In addition to the Special Use review procedures of Section 20-1306, the following criteria shall apply:
  - (i) conformance with the regulations for redevelopment established in Chapter 22 of the City Code, as determined by the Lawrence Historic Resources Commission when the project is on the Lawrence Register of Historic Places;
  - (ii) compliance with the Secretary of Interior Standards for Rehabilitation, as determined by the Historic Resources Commission and/or State Historic Preservation Officer, when a State or National Register property is involved; and,
  - (iii) adherence to other criteria established in this Development Code, as appropriate to the use proposed, when so determined by the Planning Director or the Historic Resources Administrator.
- (8) After the appropriate approvals have <u>recommendation has</u> been <u>made</u> granted <u>pursuant to Section 20-501(6)</u>, the Special Use application shall be scheduled for public hearing before the <u>Historic Resources</u> <u>Planning</u> Commission.
- (9) The recommendations of the Historic Resources Commission and the Planning Commission will be forwarded to the City Commission for consideration.

#### **20-1703** ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY

Conversion of a designated local, State or national historic landmark Structure <u>listed individually</u> or as a contributing <u>Structure</u> to a historic district in the National, State or local register to another specified use, with the intent of preserving the <del>landmark</del> listed <u>Structure</u>.

#### 20-1310 WRITTEN INTERPRETATIONS

#### (a) Application Filing

Applications for written interpretations of this Development Code shall be submitted to the Planning Director.

### (b) Planning Director's Review and Decision

Following receipt of a complete application for a written interpretation, the Planning Director shall: (1) review and evaluate the application for compliance with this Development Code and consistency with the Comprehensive Plan and any other relevant documents; (2) consult with other staff, as necessary; (3) request additional information or documentation, as necessary, and (4) render a written interpretation within 30 calendar days following receipt of a complete application.

#### (c) Form

The interpretation shall be provided to the applicant in writing and be filed in the official record of interpretations.

#### (d) Official Record of Interpretations

An official record of interpretations shall be kept on file by the Planning Director. The record of interpretations shall be available for public inspection from the Planning Director during normal business hours.

#### (e) Appeals

Appeals of the Planning Director's written interpretation may be taken to the Board of Zoning Appeals in accordance with procedures of Section 20-1311. If the appeal results in a change of interpretation, the new interpretation shall be filed in the official record of interpretations maintained by the Planning Director. Staff review/reports required by the Development Code shall not be considered a written interpretation of the Development Code and are not appealable to the Board of Zoning Appeals.

## 20-1311 APPEALS OF ADMINISTRATIVE <u>ORDERS, REQUIREMENTS,</u> DECISIONS<u>, OR</u> <u>DETERMINATIONS</u>

#### (a) Authority and Applicability

Unless specifically provided for otherwise in this Development Code, the Board of Zoning Appeals is authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of the provisions of this Development Code. Staff review/reports required by the Development Code and considered by the Planning Commission at a public hearing shall not be considered an order, requirement, decision or determination and shall not be appealable to the Board of Zoning Appeals. The Planning Commission is not an "administrative official" for purposes of this Development Code and the Board of Zoning Appeals shall have no jurisdiction to consider an appeal from any action, determination or failure to act by the Planning Commission. Development Review Procedures of Article 13 of the Development Code are not administrative orders, requirements, decisions or determinations and the Board of Zoning Appeals shall have no jurisdiction to consider an appeal from any of the development review procedures.

#### (b) Application Filing

Appeals of administrative decisions shall be filed with the Planning Director. The appeal shall be filed within 10 Working Days after the administrative official's <u>order, requirement,</u> decision, <u>or determination</u>. Appeals may be filed by any person aggrieved, or by any officer of the City, or any governmental agency or body affected by any decision of an administrative official.

#### (c) Effect of Filing

The filing of <u>an</u> a complete application for an appeal of administrative <u>order, requirement,</u> decision, <u>or determination</u> stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the Board of Zoning Appeals, after the appeal is filed, that, because of facts stated in the certification that (a) a stay would cause immediate peril to life or property or (b) the situation appealed from is transitory in nature, and therefore, an appeal would seriously interfere with enforcement of this Development Code. In each instance, the official whose decision is being appealed shall place in the certificate facts to support the conclusion. In such case, proceedings will not be stayed other than by a restraining order, which may be granted by the Board of Zoning Appeals or by a court of record.

#### (d) Record of Administrative Decision

The official whose decision is being appealed shall transmit to the Board of Zoning Appeals all documents constituting the record upon which the action appealed is taken.

#### (e) Public Hearing Notice

Newspaper and mailed notice of the Board of Zoning Appeals' public hearing on the appeal shall be provided in accordance with Section 20-1301(q). A copy of the notice shall also be mailed to each party to the appeal and to the Planning Commission at least 20 days before the date of the hearing.

#### (f) Review and Decision

- (1) The Board of Zoning Appeals shall hold a public hearing on the appeal and, following the close of the public hearing, take final action based on the procedures and requirements of this section.
- (2) In exercising the appeal power, the Board of Zoning Appeals has all the powers of the official from whom the appeal is taken, and the Board of Zoning Appeals may reverse or affirm wholly or in part or may modify the decision being appealed.
- (3) If the Board of Zoning Appeals determines that it is necessary to obtain additional evidence to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain the needed evidence and to reconsider the decision in light of that evidence.

#### (g) Approval Criteria; Findings of Fact

The Board of Zoning Appeals may reverse an order, requirement, decision, or determination of any administrative official only when the Board of Zoning Appeals finds substantial, factual evidence in the official record of the application that the administrative official erred. The decision of the Board of Zoning Appeals shall be supported by written findings of fact prepared by the Board of Zoning Appeals.

#### (h) Filing and Mailing of Decision

Every decision or determination by the Board of Zoning Appeals shall be:

- filed in the office of the City Clerk not more than seven (7) Working Days following the date of hearing; and
- (2) mailed to the applicant and all other parties who have made a written request for notification not more than seven <u>(7)</u> Working Days following the date of the hearing.

#### (i) Date of Effect

Decisions on appeals become effective on the date the Board of Zoning Appeals makes its decision.

#### (j) Appeals

Within 30 days of the date of effect of the Board of Zoning Appeals' decision, any person aggrieved by such decision may maintain an action in District Court to determine the reasonableness of the final decision.

# Memorandum City of Lawrence Planning & Development Services

TO: Historic Resources Commission

FROM: Scott McCullough, Director

CC: Lynne Braddock Zollner, Historic Resources Administrator

Date: For April 15, 2010 HRC Meeting

**RE:** TA-7-20-09 - Adaptive Reuse Development Code Revisions

The HRC reviewed language related to Section 20-501 of the Development Code at its January 21, 2010 regular meeting and deferred the consideration for additional public comment and with direction for staff to complete minor edits to the language.

Staff met with representatives of the Old West Lawrence (OWL) neighborhood on March 4, 2010. OWL's main desire is to have the code restrict the use of Adaptive Reuse to a very narrow degree in OWL, which also affects its use city-wide in Single Dwelling Residential districts. Staff committed to drafting language to meet their desire (attached). This language limits Adaptive Reuse in single-dwelling districts except where a structure was originally constructed for a non-single-family use and when same structure is not converting from Detached Dwelling to Adaptive Reuse. The language removes access to a process that affords an owner the ability to request any use in even a large structure in a single-dwelling residential zoning district unless it was originally built and used for non-residential purposes.

History has demonstrated that the Adaptive Reuse process has not been widely used and there has not, until the initiation of the text amendment to fix a minor wording matter, been public outcry to "fix" the code or narrow its scope. Staff's first reaction to OWL's request for reducing Adaptive Reuse in Single Dwelling districts was that it is too restrictive. However, a review of the permitted uses in these zoning districts yields that many of the uses that would be appropriate for a historic structure – house museum, bed and breakfast, private dining – are permitted via special use currently and, in any event, the ability to request rezoning of property exists for owners to change to a use not permitted in the Single Dwelling district. Therefore, staff believes the proposed language is appropriate to limit its use in Single Dwelling districts. The Multi Dwelling districts and non-residential districts remain similar in the eligibility criteria for using Adaptive Reuse.

The language and discussion of the changes proposed will be presented to the HRC at the April meeting. Staff desires a recommendation from the HRC to forward to the PC for additional processing prior to submitting to the City Commission for consideration.

#### 20-501 ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY

- (1) Special Use approval may be granted in any Zoning District for an Adaptive Reuse provided the property is <u>listed individually or as a contributing Structure to a historic district</u> listed, as a Landmark or as part of an Historic District, in one or more of the following: the Lawrence Register of Historic Places; the Register of Historic Kansas Places; or the National Register of Historic Places.
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  - (i) <u>W</u>when such use can facilitate active renovation or restoration of the property <u>and when the request for the Adaptive Reuse is submitted prior to the renovation or restoration commencing</u>; <u>(the first part of this language is not new but moved to become an actual criteria).</u>
  - (ii) When such use can maintain an otherwise adequate property that has an existing Adaptive Reuse Special Use Permit.
  - (iii) When the property is located in a nonresidential Zoning District;.
  - (iv) <u>When</u> the property, though <u>is</u> located in a <u>single-dwelling</u> residential Zoning District, <u>and the structure</u> was built for a non-residential use <u>any</u> <u>use other than Detached Dwelling</u> that has been substantiated through archival records, tax records, City directories, or other physical evidence <u>and when the property is not being converted from Detached Dwelling to Adaptive Reuse</u>;
  - (v) When the property is located in a multi-dwelling residential Zoning District and where the Structure on the property was built for any use other than Detached Dwelling that has been substantiated through archival records, tax records, City directories, or other physical evidence or where the Structure on the property has a minimum of 4,000 square feet of Gross Floor Area in living space. (Square footage shall include all finished living space excluding porches and garages).
- (3) Adaptive Reuse of a property shall not include a reduction in area or dimension of the existing Front Yard or Exterior Side Yard;
- (4) Adaptive Reuse of a residentially-designed Structure shall maintain the residential quality and character of the property;
- (5) Adaptive Reuse of a Building shall maintain the architectural character of the historic property, as established by the Historic Resources Commission, and the historic context within the neighborhood environs;
- (6) Prior to public hearing of an application for a Special Use for Adaptive Reuse by the Planning Commission, an the Special Use application shall first be reviewed and approved a recommendation made by the Lawrence Historic Resources Commission at a regular meeting of the Lawrence Historic Resources Commission and, when applicable, the State Historic Preservation Officer. Mailed notice of the Historic Resources Commission's meeting shall be provided pursuant to Section 20-1301(q)(3).

- (7) In addition to the Special Use review procedures of Section 20-1306, the following criteria shall apply:
  - (i) conformance with the regulations for redevelopment established in Chapter 22 of the City Code, as determined by the Lawrence Historic Resources Commission when the project is on the Lawrence Register of Historic Places:
  - (ii) compliance with the Secretary of Interior Standards for Rehabilitation, as determined by the Historic Resources Commission and/or State Historic Preservation Officer, when a State or National Register property is involved; and,
  - (iii) adherence to other criteria established in this Development Code, as appropriate to the use proposed, when so determined by the Planning Director or the Historic Resources Administrator.
- (8) After the appropriate approvals have <u>recommendation has</u> been <u>made</u> granted <u>pursuant to Section 20-501(6)</u>, the Special Use application shall be scheduled for public hearing before the <u>Historic Resources</u> <u>Planning</u> Commission.
- (9) The recommendations of the Historic Resources Commission and the Planning Commission will be forwarded to the City Commission for consideration.

#### 20-1703 ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY

Conversion of a designated local, State or national historic landmark Structure <u>listed individually</u> or as a contributing <u>Structure</u> to a historic district in the National, State or local register to another specified use, with the intent of preserving the <del>landmark</del> listed Structure.

## HISTORIC RESOURCES COMMISSION AGENDA MEETING- APRIL 15TH 2010--6:30 PM ACTION SUMMARY

Commissioners present: Williams, Smith, Antle, Foster, Wiechert

Commissioners excused: Veatch, Myers Staff present: Braddock Zollner, Parker

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#### ITEM NO. 1: ACTION SUMMARY

Action Summary from the March 25, 2010 meeting deferred to the May 20, 2010 Historic Resources Commission meeting.

#### ITEM NO. 2: COMMUNICATIONS

Ms. Braddock Zollner stated she received additional communication regarding 901 New Hampshire Street and 1700 Tennessee Street.

No abstentions from agenda items by Commissioners.

ITEM NO. 3: Adaptive Reuse Development Code Revisions

#### STAFF PRESENTATION

Scott McCullough presented the item and explained Adaptive Reuse to the Commission. He said Staff and the neighborhood groups were in agreement and asked for the Commission's recommendation to the Planning Commission.

Commissioner Antle asked Mr. McCullough if he had seen the memo written by Todd Thompson.

Mr. McCullough stated he had seen the memo from Mr. Thompson. He said Mr. Thompson had asked for a revision in Item 2. He asked the Commission to recommend the Development Code revisions with the change requested by Mr. Thompson.

#### **PUBLIC COMMENT**

James O'Malley, 626 Ohio street, thanked Mr. McCullough and the Planning Staff. He said the revisions to the Development Code will help promote the preservation of single family homes.

#### **ACTION TAKEN**

Motioned by Commissioner Antle, seconded by Commissioner Smith, to recommend the adoption of language as drafted in the Adaptive Reuse Development Code Revisions.

Motion approved unanimously 4-0

# Memorandum City of Lawrence Planning & Development Services

TO: Historic Resources Commission

FROM: Scott McCullough, Director

CC: Lynne Braddock Zollner, Historic Resources Administrator

Date: For January 21, 2010 HRC Meeting

**RE:** Adaptive Reuse Development Code Revisions

The attached City of Lawrence Development Code language is provided for your review. Also provided are attachments related to the August 24, 2009 Planning Commission packet where the commission considered revisions to Sections 20-501 and 20-1703, Adaptive Reuse of Designated Historic Property, of the Development Code. The PC version intended to only clarify certain parts of the language and correct a simple error in language as the 2006 Development Code was adopted.

The Adaptive Reuse code standards permit the consideration of virtually any use in any zoning district, through the special use process, to facilitate the active renovation or restoration of a property. It can be viewed as one tool in the development toolbox to "save" historic properties where the underlying zoning district may not permit a certain use for the property.

This land development vehicle has been used only a few times and each time substantial public input was provided. The attached letter from James O'Malley dated August 24, 2009 does a fair job of summarizing the history and approvals of those properties that have used the code to reuse historic structures.

One of the main concerns of opponents of the PC version of the code language is the degree of flexibility in using this code section for historic structures and whether recent applications have not met the spirit and intent of the code to facilitate renovation or restoration of a property, but instead has been used as a vehicle to gain approval of a use that otherwise is not permitted in the underlying zoning district.

Currently the code *encourages* certain types of projects to use the Adaptive Reuse standards. The version before the HRC, revised from the PC version, takes into account the testimony provided at the August PC meeting to more substantially revise the substance of the code to make the guidelines actual *criteria* that must be met in order to be eligible to use this vehicle of the code. The new language would be narrower to thwart potential abuse of its use and to provide neighborhoods with expectations about

what qualifies as an Adaptive Reuse. The consequence of creating narrow criteria is potential missed opportunity to preserve historic structures that do not meet the criteria but that may be worthy of preservation.

The language and discussion of the substantive changes proposed will be presented to the HRC at the January meeting. Staff desires a recommendation from the HRC to forward to the PC for additional processing prior to submitting to the City Commission for consideration.

#### 20-501 ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY

- (1) Special Use approval may be granted in any Zoning District for an Adaptive Reuse provided the property is <u>listed individually or as a contributing Structure to a historic district</u> listed, as a Landmark or as part of an Historic District, in one or more of the following: the Lawrence Register of Historic Places; the Register of Historic Kansas Places; or the National Register of Historic Places.
- (2) <u>Only</u> <u>P</u>properties that meet one or more of the following criteria are encouraged <u>eligible</u> to pursue Adaptive Reuse when such use can facilitate active renovation or restoration of the property:
  - (i) the property is located in a nonresidential Zoning District;
  - (ii) the property, though located in a residential Zoning District, was built for a non-<u>single-family</u> residential use that has been substantiated through archival records, tax records, City directories, or other physical evidence;
  - (iii) the Structure on the property, regardless of Zoning District or historic use, has a minimum of 4,000 square feet in living space. (Square footage shall include all finished living space excluding porches and garages).
- (3) Adaptive Reuse of a property shall not include a reduction in area or dimension of the existing Front Yard or Exterior Side Yard;
- (4) Adaptive Reuse of a residentially-designed Structure shall maintain the residential quality and character of the property;
- (5) Adaptive Reuse of a Building shall maintain the architectural character of the historic property, as established by the Historic Resources Commission, and the historic context within the neighborhood environs;
- (6) Prior to public hearing of an application for a Special Use for Adaptive Reuse by the Planning Commission, an <a href="mailto:the-special-use">the Special Use</a> application shall first be reviewed and <a href="mailto:approved-appro
- (7) In addition to the Special Use review procedures of Section 20-1306, the following criteria shall apply:
  - (i) conformance with the regulations for redevelopment established in Chapter 22 of the City Code, as determined by the Lawrence Historic Resources Commission when the project is on the Lawrence Register of Historic Places;
  - (ii) compliance with the Secretary of Interior Standards for Rehabilitation, as determined by the Historic Resources Commission and/or State Historic Preservation Officer, when a State or National Register property is involved; and,

- (iii) adherence to other criteria established in this Development Code, as appropriate to the use proposed, when so determined by the Planning Director or the Historic Resources Administrator.
- (8) After the appropriate approvals have <u>recommendation has</u> been <u>made</u> granted <u>pursuant to Section 20-501(6)</u>, the Special Use application shall be scheduled for public hearing before the <u>Historic Resources</u> <u>Planning</u> Commission.
- (9) The recommendations of the Historic Resources Commission and the Planning Commission will be forwarded to the City Commission for consideration.

**20-1703** ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY
Conversion of a designated local, State or national historic landmark Structure <u>listed individually</u> or as a contributing <u>Structure</u> to a historic district in the <u>National</u>, <u>State or local register</u> to another specified use, with the intent of preserving the <u>landmark</u> listed <u>Structure</u>.

# PLANNING COMMISSION REPORT Regular Agenda -- Public Hearing Item

PC Staff Report 08/24/2009

ITEM NO. 6: TEXT AMENDMENT TO CHAPTER 20 DEVELOPMENT CODE (SDM)

**TA-7-20-09**: Consider an amendment to Sections 20-501, 20-1310, 20-1311, and 20-1703 of the City of Lawrence Land Development Code to revise standards related to Adaptive Reuse of Designated Historic Property, Written Interpretations, and Appeals of Administrative Decisions. Initiated by the Planning Commission on July 20, 2009.

**RECOMMENDATION:** Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendments to Sections 20-501, 20-1310, 20-1311, and 20-1703 of the City of Lawrence Land Development Code to the City Commission.

Reason for Request:

The Planning Commission initiated this amendment on July 20, 2009 in order to clarify the various types of appeals and their effect on land use applications processed through the public hearing process and to correct an error related to processing applications under the Adaptive Reuse of Designated Historic Properties.

#### **RELEVANT GOLDEN FACTOR:**

• Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Adoption of new regulatory tools, one of which is the zoning regulations, is an implementation step in Chapter 13 of *Horizon 2020*, the City/County Comprehensive Land Use Plan.

#### PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No written comments received to date.
- Staff has met with LAN representatives and Chamber members to generally discuss a number of different text amendments in process.

#### **KEY POINTS**

• These amendments stem from recent recognition that these code sections need to be reviewed to determine their impact to applications considered by the Planning Commission.

#### **OVERVIEW OF PROPOSED AMENDMENT**

This amendment revises three concepts in the Land Development Code (four different code sections).

1. Adaptive Reuse of Designated Historic Properties – the code is proposed to be revised to correct a clear error. Section 20-501(8) requires, "After the appropriate approvals have been granted, the Special Use application shall be scheduled for public hearing before the Historic Resources Commission." The "appropriate approvals" in this case refers to approvals noted in Section 20-501(6), which states, "prior to public hearing of an application for a Special Use

for Adaptive Reuse by the Planning Commission, an application shall first be reviewed and approved by the Lawrence Historic Resources Commission and, when applicable, the State Historic Preservation Officer." 20-501(8) should be revised to replace Historic Resources Commission with Planning Commission. The former code included the correct version of this process and it appears that a change was inadvertently made with the adoption of the 2006 Land Development Code.

This amendment includes a revision that would require mailed notice of the Historic Resources Commission's consideration of the Adaptive Reuse request, a requirement that does not exist at this time.

Staff also proposes to revise the definition of Adaptive Reuse of Designated Historic Property to better align with the language found in Section 20-501, which states that a structure or property within an Historic District is eligible for this land use classification.

- 2. Written Interpretations Staff proposes to clarify that staff reports to the various committees and governing bodies staffed by the Planning Office shall not be considered written interpretations. Staff reports simply provide information on how a request complies with the code. While staff reports convey code standards to various commissions and committees, they are not intended to be a vehicle by which a code interpretation is made. Staff reports typically do not include a full analysis of a specific code standard or what justification staff used to interpret a code section; the reports simply state what code is being employed in the circumstance. When a request for a written interpretation is made, staff fully analyzes the code and prepares an interpretation grounded in sound planning theory, historical context, and the code itself. It is only after this full analysis and written determination that an appeal can or should be eligible to be brought before the Board of Zoning Appeals.
- 3. Appeals of Administrative Orders, Requirements, Decisions, or Determinations Staff finds it necessary to clarify that staff reports and the process used by the Planning Commission to review applications considered by them are not eligible to be appealed to the BZA. There have been instances in the past where a person believed to be aggrieved has attempted to appeal a staff report or a finding in the staff report. In these instances, a staff report is not an administrative decision. A staff report simply provides information and opinion on how a request complies with the code and does not put forth any order, requirement, decision, or determination to anyone or for any application. The intent of the Development Code language, and the language in the state statutes on which it is based, appears to imply that the public hearing process through the Planning Commission is not appealable since other appeal avenues exists to appeal such decisions.

Examples of orders, requirements, decisions, and determinations that are completed administratively and would be appealable to the BZA include the following:

- Denying or revoking a building permit
- Issuing a Stop Work order on a building permit
- Issuing an order to comply with a site plan or any other Development Code standard
- A determination made on a zoning compliance request (liquor license or auto dealership for example)
- A decision on certain types of administratively reviewed and approved application types – floodplain development permit for example

Examples of actions that are not appealable to the BZA include the following:

- Any decision, recommendation or process action taken by the Planning Commission or any other advisory body to the City Commission staffed by the Planning Office (CCH, Building Code Advisory Boards, Historic Resources Commission, etc.)
- Staff reports provided to the advisory boards.
- Decisions and actions of the City Commission
- Staff reports provided to the City Commission
- Any action or decision outside of the scope of the Land Development Code

#### **CONFORMANCE WITH HORIZON 2020**

Horizon 2020 does not speak directly to these amendments, as they are meant to clarify existing regulations and standards. However, the plan does support Adaptive Reuse of historic structures:

"The Plan encourages the identification, protection and adaptive reuse of the wide diversity of historic buildings, structures, sites and archeological sites that can be found in Lawrence and Douglas County."

#### CRITERIA FOR REVIEW & DECISION-MAKING

Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It states that review bodies shall consider at least the following factors:

1) Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and

**Staff Response:** The proposed amendments correct a typographical error in Section 20-501 and clarify standards and regulations related to what qualifies for code interpretations and appeals to administrative decisions. These clarifications are needed to insure that applications being processed through the public hearing process can not be stayed while an appeal to a staff report is filed. Staff has argued in the past that a party can not appeal information in a staff report and this language clarifies this position.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (Sec. 20-104).

**Staff Response:** Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Adoption of new regulatory tools, one of which is the zoning regulations, is an implementation step in Chapter 13 of *Horizon 2020*, the City/County Comprehensive Land Use Plan.

#### PROPOSED LANGUAGE:

See Attached.

Attachments: Proposed Language

# ITEM NO. 6 AMENDMENTS TO DEVELOPMENT CODE; ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY (SDM)

#### TA-7-20-09:

Consider Text Amendments to various sections of the City of Lawrence Land Development Code to (1) correct language regarding Adaptive Reuse of Designated Historic Property in section 20-501, and (2) revise language in sections 20-1310 and 20-1311.

#### STAFF PRESENTATION

Mr. Scott McCullough presented the item.

Commissioner Harris inquired about one of the requests from the League of Women Voters to add some time condition for the Planning Directors determination.

Mr. McCullough said he was comfortable with that and suggested a 30 day time period.

Commissioner Finkeldei asked when it talks about preserving the architectural character of a historic property does that mean inside and outside.

Mr. McCullough said as established by Historic Resources Commission.

Commissioner Harris inquired about the comment from the League of Women Voters regarding lack of appeal.

Mr. McCullough said he did not fully understand the comment and wasn't sure if they were mixing the two sections.

Commissioner Harris said she did not fully understand the comment either.

#### **PUBLIC HEARING**

Mr. David Carter, Vice President of the Old West Lawrence Association, commented on three specific aspects of the Code.

20-501(6) - He thanked them for adding the provision of mailed notification to neighbors.

20-501(2) - He felt the wording 'not necessary to meet criteria' makes criteria meaningless.

20-1311 - He urged the Commission to not change the appeals section.

Mr. McCullough said section 20-501(2) as written today does not require that those criteria be met. He thought the language was pulled in from the former code. Staff's point was to clarify to applicants or neighbors that those are not set criteria and that they do not have to be met for an Adaptive Reuse.

Ms. Karen Kressin, 626 Ohio Street, objected to relaxed standards for Adaptive Reuse. She felt the threshold size requirement should be clarified as mandatory and increased. She suggested 5,000-6,000 square feet, counting only the two traditional living floors 1<sup>st</sup> and 2<sup>nd</sup>. She felt that adaptive reuse should only be available to structures that need it and limited to prospective projects. She gave examples of when the Adaptive Reuse has been used.

Commissioner Finkeldei asked if the Adaptive Reuse has been used 3 times.

Ms. Kressin replied yes.

Commissioner Finkeldei asked if a historic church is turned into an apartment would that be an Adaptive Reuse.

Mr. McCullough said it could be a number of uses.

Mr. Jim O'Malley, 626 Ohio Street, said the proposed change to 20-501(2) would make a fundamentally flawed and poorly drafted ordinance worse. He felt it would allow more intense uses in residential neighborhoods. He felt that Adaptive Reuse should be limited to 'at risk' properties. He noted that among the goals of Horizon 2020 is preservation of existing residential neighborhoods and this amendment would contradict that role. If felt if the amendment is adopted Old West Lawrence and other historic districts won't really be zoned RS5 anymore, they'd be zoned whatever the City deems appropriate for each property and historic districts would be subject to spot zoning.

Commissioner Rasmussen asked if Mr. O'Malley if he felt a staff report should be appealable.

Mr. O'Malley said it refers to a determination by the Director and it is a matter for a court to decide what it means.

Mr. Dale Slusser, 627 Ohio Street, said he appreciated the change about notification. He expressed concern about 'broad' text. He did some research and found that Adaptive Reuse in residential neighborhoods is 'outside the norm.'

Mr. John Nitcher, 608 Louisiana Street, said he initially disagreed with staffs assessment but now he understands the reasoning. He said the language before the proposed amendment would allow an expansive reuse. This may be an opportunity for the city to correct a real flaw in the part of the ordinance. He suggested leaving the language as is but replace 'are encouraged to' to 'may.'

Mr. McCullough said to this point staff haven't sought Historic Resources Commission involvement because we haven't changed the content of the section but if we do then we can go to the Historic Resources Commission for their opinion.

Ms. Katie Nitcher, 608 Louisiana Street, said that the adaptive reuse should just be on the main floor and second floor, not basement or attic.

#### **COMMISSION DISCUSSION**

Commissioner Finkeldei suggested sending it to Historic Resources Commission. He said he wants a Code that protects historic properties without increasing intensity of use. He suggested looking at a tier system.

Commissioner Moore agreed that it should go to Historic Resources Commission for their thoughts on it.

Commissioner Harris agreed with keeping a threshold and not including the attic or basement. She did not like using this tool to increase density in residential neighborhoods. She inquired about appeals process.

Mr. McCullough said in general staff reports are not appealable to the Board of Zoning Appeals. Public hearings are an avenue to voice disagreement with staff reports.

Commissioner Rasmussen asked if staff gave thought to making criteria mandatory by design.

Mr. McCullough wanted to give the Code flexibility. The proposed language was meant to clarify that it is encouraged and not required.

Commissioner Harris said she was in favor of having more clear language because the way it is written now the criteria does not have any weight.

## **ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to defer indefinitely.

Motion carried 8-0, with Student Commissioner Shelton voting in the affirmative.

#### 20-501 ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY

- (1) Special Use approval may be granted in any Zoning District for an Adaptive Reuse provided the property is listed, as a Landmark or as part of an Historic District, on one or more of the following: the Lawrence Register of Historic Places; the Register of Historic Kansas Places; or the National Register of Historic Places.
- (2) While it is not necessary to meet the following criteria to request a Special Use Permit for an Adaptive Reuse, Pproperties that meet one or more of the following criteria are encouraged to pursue Adaptive Reuse when such use can facilitate active renovation or restoration of the property:
  - (i) the property is located in a nonresidential Zoning District;
  - (ii) the property, though located in a residential Zoning District, was built for a non-residential use that has been substantiated through archival records, tax records, City directories, or other physical evidence;
  - (iii) the Structure on the property has a minimum of 4,000 square feet in living space. (Square footage shall include all finished living space excluding porches and garages).
- (3) Adaptive Reuse of a property shall not include a reduction in area or dimension of the existing Front Yard or Exterior Side Yard;
- (4) Adaptive Reuse of a residentially-designed Structure shall maintain the residential quality and character of the property;
- (5) Adaptive Reuse of a Building shall maintain the architectural character of the historic property, as established by the Historic Resources Commission, and the historic context within the neighborhood environs;
- (6) Prior to public hearing of an application for a Special Use for Adaptive Reuse by the Planning Commission, an application shall first be reviewed and approved by the Lawrence Historic Resources Commission at a regular meeting of the Lawrence Historic Resources Commission and, when applicable, the State Historic Preservation Officer. Mailed notice of the Historic Resources Commission's meeting shall be provided pursuant to Section 20-1301(q)(3). Any appeal of the Lawrence Historic Resources Commission's decision shall be decided by the City Commission prior to the public hearing of an application for a Special Use for Adaptive Reuse by the Planning Commission.
- (7) In addition to the Special Use review procedures of Section 20-1306, the following criteria shall apply:
  - (i) conformance with the regulations for redevelopment established in Chapter 22 of the City Code, as determined by the Lawrence Historic Resources Commission when the project is on the Lawrence Register of Historic Places;
  - (ii) compliance with the Secretary of Interior Standards for Rehabilitation, as determined by the Historic Resources Commission and/or State Historic Preservation Officer, when a State or National Register property is involved; and,

- (iii) adherence to other criteria established in this Development Code, as appropriate to the use proposed, when so determined by the Planning Director or the Historic Resources Administrator.
- (8) After the appropriate approvals have been granted <u>in Section 20-501(6)</u>, the Special Use application shall be scheduled for public hearing before the <u>Historic Resources Planning</u> Commission.

#### **20-1703** ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY

Conversion of a designated local, State or national historic landmark Structure, or a structure or property that is part of an Historic District, to another specified use, with the intent of preserving the landmark or structure or property within the Historic District.

#### 20-1310 WRITTEN INTERPRETATIONS

#### (a) Application Filing

Applications for written interpretations of this Development Code shall be submitted to the Planning Director.

#### (b) Planning Director's Review and Decision

Following receipt of a complete application for a written interpretation, the Planning Director shall: (1) review and evaluate the application for compliance with this Development Code and consistency with the Comprehensive Plan and any other relevant documents; (2) consult with other staff, as necessary; (3) request additional information or documentation, as necessary and (4) render a written interpretation.

#### (c) Form

The interpretation shall be provided to the applicant in writing and be filed in the official record of interpretations.

#### (d) Official Record of Interpretations

An official record of interpretations shall be kept on file by the Planning Director. The record of interpretations shall be available for public inspection from the Planning Director during normal business hours.

## (e) Appeals

Appeals of the Planning Director's written interpretation may be taken to the Board of Zoning Appeals in accordance with procedures of Section 20-1311. If the appeal results in a change of interpretation, the new interpretation shall be filed in the official record of interpretations maintained by the Planning Director. Staff review/reports required by the Development Code shall not be considered a written interpretation of the Development Code and are not appealable to the Board of Zoning Appeals.

## 20-1311 APPEALS OF ADMINISTRATIVE <u>ORDERS, REQUIREMENTS,</u> DECISIONS<u>, OR</u> <u>DETERMINATIONS</u>

#### (a) Authority and Applicability

Unless specifically provided for otherwise in this Development Code, the Board of Zoning Appeals is authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of the provisions of this Development Code. <u>Staff review/reports required by the Development Code and</u>

considered by the Planning Commission at a public hearing shall not be considered an order, requirement, decision or determination and shall not be appealable to the Board of Zoning Appeals. The Planning Commission is not an "administrative official" for purposes of this Development Code and the Board of Zoning Appeals shall have no jurisdiction to consider an appeal from any action, determination or failure to act by the Planning Commission. Development Review Procedures of Article 13 of the Development Code are not administrative orders, requirements, decisions or determinations and the Board of Zoning Appeals shall have no jurisdiction to consider an appeal from any of the development review procedures.

#### (b) Application Filing

Appeals of administrative decisions shall be filed with the Planning Director. The appeal shall be filed within 10 Working Days after the administrative official's <u>order, requirement</u>, decision, <u>or determination</u>. Appeals may be filed by any person aggrieved, or by any officer of the City, or any governmental agency or body affected by any decision of an administrative official.

#### (c) Effect of Filing

The filing of <u>an</u> a complete application for an appeal of administrative <u>order, requirement,</u> decision, <u>or determination</u> stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the Board of Zoning Appeals, after the appeal is filed, that, because of facts stated in the certification that (a) a stay would cause immediate peril to life or property or (b) the situation appealed from is transitory in nature, and therefore, an appeal would seriously interfere with enforcement of this Development Code. In each instance, the official whose decision is being appealed shall place in the certificate facts to support the conclusion. In such case, proceedings will not be stayed other than by a restraining order, which may be granted by the Board of Zoning Appeals or by a court of record.

#### (d) Record of Administrative Decision

The official whose decision is being appealed shall transmit to the Board of Zoning Appeals all documents constituting the record upon which the action appealed is taken.

#### (e) **Public Hearing Notice**

Newspaper and mailed notice of the Board of Zoning Appeals' public hearing on the appeal shall be provided in accordance with Section 20-1301(q). A copy of the notice shall also be mailed to each party to the appeal and to the Planning Commission at least 20 days before the date of the hearing.

#### (f) Review and Decision

- (1) The Board of Zoning Appeals shall hold a public hearing on the appeal and, following the close of the public hearing, take final action based on the procedures and requirements of this section.
- (2) In exercising the appeal power, the Board of Zoning Appeals has all the powers of the official from whom the appeal is taken, and the Board of Zoning Appeals may reverse or affirm wholly or in part or may modify the decision being appealed.
- (3) If the Board of Zoning Appeals determines that it is necessary to obtain additional evidence to resolve the matter, it shall remand the appeal to

the official from whom the appeal is taken, with directions to obtain the needed evidence and to reconsider the decision in light of that evidence.

### (g) Approval Criteria; Findings of Fact

The Board of Zoning Appeals may reverse an order, requirement, decision, or determination of any administrative official only when the Board of Zoning Appeals finds substantial, factual evidence in the official record of the application that the administrative official erred. The decision of the Board of Zoning Appeals shall be supported by written findings of fact prepared by the Board of Zoning Appeals.

#### (h) Filing and Mailing of Decision

Every decision or determination by the Board of Zoning Appeals shall be:

- (1) filed in the office of the City Clerk not more than seven (7) Working Days following the date of hearing; and
- (2) mailed to the applicant and all other parties who have made a written request for notification not more than seven Working Days following the date of the hearing.

#### (i) Date of Effect

Decisions on appeals become effective on the date the Board of Zoning Appeals makes its decision.

#### (j) Appeals

Within 30 days of the date of effect of the Board of Zoning Appeals' decision, any person aggrieved by such decision may maintain an action in District Court to determine the reasonableness of the final decision.

626 Ohio Street Lawrence, KS 66044 Jan. 20, 2010

Historic Resources Commission Lawrence, KS

#### Dear Commissioners:

I want to thank the Planning Staff for their efforts to improve the adaptive reuse ordinance. For the most part, the proposed amendments in the January staff report are a step in the right direction.

Requiring mailed notice to neighboring landowners of Historic Resources Commission review of adaptive reuse applications is a positive step. Neighbors should get actual notice of the earliest stage of review of proposed changes in the use of nearby properties that could lower their property values and quality of life.

Some of the proposed changes to subsection (2) are also positive.

The history of the adaptive reuse ordinance shows that subsection (2) (iii) was drafted to allow flexibility in the use of unusually large structures in historic districts—houses that are so large that they are difficult to use as single-family residences. It was intended to be an extraordinary remedy for extraordinary structures, and has only been applied to such structures. Only three adaptive reuse permits have been issued since the ordinance was adopted in 1993. All three are unusual structures:

- 1) 805 Ohio, aka the old Simmons Hospital, had more than 7,000 square feet and had been on the market for a long time without attracting a buyer. The adaptive reuse ordinance was applied to allow apartments.
- 2) 643-645 Tennessee had more than 6,000 square feet and had long been used as an apartment house. The adaptive reuse ordinance was applied to allow a Bed and Breakfast, arguably a *less* intensive use than its prior use as an apartment house.
- 3) The Castle Tea Room is another large, unique property that was already in nonresidential use when the adaptive reuse ordinance was applied to allow additional restaurant and outdoor event use.

The current version of the ordinance provides that adaptive reuse is *encouraged* for structures with at least 4,000 square feet of living space in historic district. The current language leaves open the possibility that smaller structures are eligible for adaptive reuse even though it is not encouraged.

That interpretation of the ordinance would effectively eliminate single family residential zoning in the Old West Lawrence Historic District because any owner could seek adaptive reuse to put apartments, duplexes, B & Bs, and other uses in any house of any size in the district.

Making the 4,000 square foot minimum a requirement for eligibility for adaptive reuse would prevent widespread introduction of uses inconsistent with single family residential zoning in Old West Lawrence under the guise of adaptive reuse

However, the addition of the phrase "regardless of . . . historic use" to subsection (2)(iii) could be interpreted allow investors to expand the living space in a house to meet the 4,000 square foot threshold for adaptive reuse. For example, an investor could acquire a modest-sized two-story house with a 1,200 square foot footprint and 2,400 total square feet of living space, finish 1,600 square feet in the attic and basement, then say the house has 4,000 square feet and so is eligible for adaptive reuse.

There are many such houses in Old West Lawrence. The proposed language has the potential to riddle Old West Lawrence with apartments and duplexes. That is not the way to preserve historic Old West Lawrence—resident homeowners tend to take better care of their properties than do owners of investment properties. This loophole should be closed.

The adaptive reuse ordinance is intended to allow flexibility in the allowed uses of houses that are so large that it is a hardship to owners to use them as single family residences. Investors should not be allowed to create their own hardship and then seek adaptive reuse to remedy that hardship.

There are at least two simple ways to amend subsection (2) (iii) to avoid this problem:

- 1) Raise the minimum size to 6,000 square feet of above-grade living space.
- 2) Keep the 4,000 square foot minimum, but exclude basement and attic space from the definition of living space. That would be consistent with "gross living area," one of the standard measures of living space for real estate appraisals.

Either alternative would limit the extraordinary remedy of adaptive reuse to unusually large structures like 805 Ohio and 643-645 Tennessee, in keeping with the intent of the adaptive reuse ordinance.

Yours truly,

James J. O'Malley

# Written Statement on Proposed Text Amendments to Development Code Sections 20-501, 20-1311, and 20-1703

SUBNITION @ AVG. 24 PC MB.

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Submitted by James J. O'Malley 626 Ohio Street Lawrence, Kansas August 24, 2009

#### 20-501(6)

The proposed change to 20-501(6) should be adopted.

Current Code language requires mailed notice to neighboring landowners of Historic Resources Commission review of adaptive reuse applications, albeit not very clearly. Moreover, due process requires that actual notice be given to neighboring landowners. Including all stakeholders in all stages of the adaptive reuse review process is good government, good sense, and protects neighboring landowners' due process rights.

#### 20-501(2)

However, the proposed change to subsection (2) should be rejected. It makes a fundamentally flawed ordinance even worse.

The history of the ordinance makes clear that adaptive reuse was intended to apply to unusual, large houses whose size made them hard to use as single family homes. The ordinance has always been interpreted as applicable only to unusually large houses. (See the history of the adaptive reuse ordinance at the end of this statement.)

20-501 currently gives the Planning Director the power in historic districts to allow *any* use in houses with more than 4,000 square feet of living space, and to waive *any* use standards for such uses. 20-501 has no meaningful standards limiting that power.

The lack of standards and the unfettered discretion given to an unelected official denies due process to historic district residents, who cannot look to the Code to determine what uses might or might not be allowed on larger properties in their neighborhoods. The lack of standards could also subject the City to equal protection claims. Either way the City decides on an adaptive reuse application, it has no Code language with which to justify its decision.

By making size irrelevant for adaptive reuse, the proposed amendment works a radical and ill-advised change in the scope of the ordinance. Eliminating size as a threshhold requirement would make the unconstitutional, unfettered, standardless discretion applicable to *any* property in a historic district.

The proposed change would make subsection (2) meaningless. If adaptive reuse is encouraged for some properties, but not others, logic dictates that it should be harder to get adaptive reuse for a property that is not in the "encouraged" category. If the proposed amendment is adopted, adaptive reuse would be equally available for encouraged and non-encouraged properties. That makes no sense. Standards are needed for both categories, and stricter standards are needed for non-encouraged properties.

Under the proposed amendment, the Director would effectively have the power to rezone historic districts one property at a time to allow duplexes, apartments, boarding houses --in other words, to put Old West Lawrence back into the shabby state it was in the 60s and 70s, when it was riddled with duplexes, apartments, and other nonconforming uses.

On my block, the 600 block of Ohio Street, there is one house that is shabby looking—and it is a grandfathered-in apartment house. That is hardly an unusual pattern. Homeowners tend to keep their properties up better than absentee landlords. Allowing more of such uses will not preserve older neighborhoods—it is likely to make them worse.

The proposed amendment would be contrary to the Comprehensive Plan. Horizon 2020 encourages preservation of the City's existing residential neighborhoods. (See pp. 5-1 and 5-14.) The proposed amendment would turn adaptive reuse into a tool to rezone historic residential neighborhoods one property at a time. That would also constitute spot zoning, which is viewed with disfavor by the courts.

Moreover, the proposed amendment would conflict with section 20-1501(b) of the Development Code, which states that the City's policy is to bring nonconforming uses into compliance with existing regulations over time. The proposed amendment would enable the creation of new nonconforming uses throughout the City's historic districts.

#### 20-1703

The proposed change to the definition of adaptive reuse in 20-1763 should be rejected. That definition should remain unchanged. It is the scope of the adaptive reuse ordinance that should be amended, to restrict it to landmark properties. The proposed amendments make the adaptive reuse ordinance such a wild card in zoning that it should be restricted to unusually historic buildings of unusual size.

#### 20-1311(a)

The proposed change to 20-1311(a) should be rejected because it would violate state law.

K.S.A. 12-759 provides that "any order, requirement, decision or determination made by an administrative official" in the enforcement of zoning is appealable to the Board of Zoning Appeals.

The statutory language is broad. It says "any" decision or determination. It does not exclude decisions or determinations made in connection with a matter reviewable by the planning commission. It is not limited to final orders or decisions. The state legislature knows how to draft a statute limiting appeals to specific types of decisions when it wants to. See K.S.A. 60-2102.

The proposed change would conflict with K.S.A. 12-759 by attempting to limit the kinds of decisions and determinations that are appealable to the BZA. Only the state legislature can do that.

# 20-1311(c)

The proposed change to 20-1311(c) should be rejected as bad policy. It would give the Planning Director the final say (short of going to court) on whether an appeal to the BZA stays

proceedings before the Planning Commission, by eliminating the BZA's current power to override the Director.

Allowing a matter that is on appeal to the BZA to continue before the HRC, Planning Commission, or City Commission makes no sense. If HRC, Planning Commission, or City Commission review of a project continued during the appeal, and the appeal was successful, all the time spent by the HRC, Planning Commission, or City Commission in reviewing the project would be wasted.

The BZA is a quasi-judicial body. Like a court, it should have the power to decide whether appeals to it stay the proceedings that are being appealed. The Planning Director is an administrative official, not a quasi-judicial body, and should not have that quasi-judicial power.

Note also that K.S.A. 12-759 states that in exercising its powers to hear and decide appeals, the BZA "shall have all the powers of the officer from whom the appeal is taken." This would include the power to decide whether the appeal stays Planning Commission review proceedings.

# History of Lawrence's Adaptive Reuse Ordinance

# Origins: 805 Ohio B & B Proposal

The City's adaptive reuse ordinance was drafted in 1992 when David Kimbrell sought permission to put a restaurant with seating for 38 and a 10-12 bedroom bed and breakfast and at 805 Tennessee, in the Old West Lawrence Historic District, which is zoned single family residential. The house was one of the largest in Lawrence, with more than 7,000 square feet. It was run down, though structurally sound.

Neighborhood concerns about the obvious incompatibility of the proposed use with the single family residential zoning of the neighborhood and the lack of standards in the draft ordinance delayed the project, and David Kimbrell dropped the proposal.

Unfortunately, the draft ordinance lived on, and was approved by the City Commission in January 1993.

See Group Plans Inn in Historic District, Lawrence Journal-World, June 9, 1992; City to Examine Code for Historic Homes, Lawrence Journal-World, July 3, 1992; City Retools Code on Uses for Historic Homes, Lawrence Journal-World, July 8, 1992; Developer Drops Plan for BB Inn, Lawrence Journal-World, July 8, 1992; Commission Seeks Public Comment on Taxi Vouchers, Lawrence Journal-World, Jan. 6, 1993 (all available on the Lawrence Journal-World's online archives).

My research indicates that only three adaptive reuse SUPS have been granted in the nearly 17 years since the ordinance was enacted. Applications for two others were filed, one in 2007, and one in 2009, but both were withdrawn after drawing significant neighborhood opposition.

# 641-645 Tennessee B & B

The ordinance was first applied in 1993 to allow a bed and breakfast at 641-645 Tennessee Street, also in Old West Lawrence. Although the area was zoned single family residential, the property had been used as an apartment house since 1936. There was no neighborhood

opposition to the proposal to change the use from apartments to a B & B, and it was approved unanimously by the City Commission.

See Lawrence Journal-World, May 21, 1993; Rural Rezoning Issue Heads to Planning Commission, Lawrence Journal-World, May 24, 1993; Planners, Lawrence Journal-World, May 27, 1993 (all available on the Lawrence Journal-World's online archives).

It is important to note that the property was unique – a very large brick house that had been used as an apartment house for decades, plus an accessory structure also used as a dwelling.

Also, there is no longer any need to seek adaptive reuse to put a B & B in an RS-5 single family residential district. A regular SUP is all that is necessary.

Note also that the B & B went out of business in 1999, partly because B & B use put the house in a higher tax bracket. See A Lawrence Bed and Breakfast Is Closed After the Owner Grew Frustrated With Taxation and Regulations on the Enterprise, Lawrence Journal-World, Jan. 17, 1999.

# 805 Ohio, Part 2: Multiple Unit Dwelling

In 1994, Dan Riedemann requested an adaptive reuse of 805 Ohio to permit several apartments for up to ten years to help pay for restoration of the structure, which was deteriorating, as the house was vacant and had not sold after more than a year on the market.

Neighbors and City officials had the same concerns that had arisen over the previous adaptive reuse proposal for the property – the open-endedness of the adaptive reuse ordinance, and whether the proposed use was compatible with the single family residential zoning of the district.

The end result was that temporary rental units were allowed, subject to stringent, site-specific conditions. Owner occupancy was required, and the house was to revert to single-family use within 10 years. Annual progress reports and city inspections were required.

See Approval for Apartment, Lawrence Journal-World, June 16, 1994; Planners Say No to 805 Ohio, Lawrence Journal-World, June 23, 1994; Historic House Faces Uncertain Future, Lawrence Journal-World, July 17, 1994; Apartment Plan Approved for 805 Ohio, Lawrence Journal-World, July 20, 1994 (all available on the Journal-World's online archive).

The time was later extended by the City Commission, and the apartments are still in use.

It is important to note that 805 Ohio is a truly unique structure that was house was huge,

- The house is huge. The *Journal-World* called it a "mammoth," a "brick goliath," and one of the biggest houses in the city, with more than 7,000 square feet.
- The house was vacant, had been on the market for approximately two years, and was deteriorating cosmetically, though not structurally.

At the Lawrence City Commission meeting on August 15, 2006, addressing the request to extend the permit for 805 Ohio, Mary Miller of the City's Planning Staff summarized the history of the adaptive reuse ordinance:

"Originally the City Commission was leery of the Adaptive Reuse UPR and felt that it might be a 'loophole' to achieve higher density without rezoning. There had been no Adaptive Reuse UPR's since 805 Ohio. The UPR had not been seen as setting a precedent, due to stringent, site-specific conditions which were applied. Conditions were also recommended for this UPR which would make it site-specific and prevent it from setting a broad precedent." (Meeting Minutes on City website.)

# Castle Tea Room: Restaurant and Outside Events

The next adaptive reuse that was approved was for the Castle Tea Room on the 1300 block of Massachusetts Street in 2007. The owners sought permission to use the property as a private dining restaurant with outdoor events (such as wedding receptions, I assume). It was approved by the City Commission in June 2007. *Lawrence Journal-World*, June 16, 2007 available on the *Lawrence Journal-World's* online archives).

It is important to note that like 805 Ohio and 641-645 Tennessee, the property is a very large, unique structure.

# 637 Tennessee: Accessory Dwelling Unit Application

In 2007, the new owner of 637 Tennessee (former Girls' Achievement Place) sought adaptive reuse permission for an accessory dwelling unit. The area is zoned RS-5 Single Family Residential, and accessory dwelling units are not allowed in RS-5 districts.

Where accessory dwelling units are allowed, they must be for only one person, cannot be more than 940 square feet, and owner occupancy of the house is required.

The staff report recommended waiving all those requirements.

There were procedural irregularities in the review process and significant neighborhood opposition to the proposal. After the matter was deferred several times from the Planning Commission Agenda, the house was sold to buyers who didn't care whether there was an accessory dwelling unit, and the issue became moot.

# 603 Tennessee: B & B Application

In 2009, the new owner of 603 Tennessee sought adaptive reuse for permission for a bed and breakfast. B & Bs are allowed in RS-5 districts through special use permits, subject to use specific standards in the Code. The staff report recommended approval of a B & B that was neither owner-occupied nor subject to state licensing, contrary to the use specific standards in the Code, on the ground that the adaptive reuse ordinance gives Planning "flexibility" in applying the Code.

The Adaptive Reuse application was withdrawn after neighboring landowners appealed the Code interpretation in the staff report and the administrative decision not to give neighboring landowners notice of the HRC hearing. An application for a regular SUP for a B & B that complied with Code was then filed.

# League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

August 23, 2009

Mr. Greg Moore, Chairman

Members

Lawrence-Douglas County Planning Commission

City Hall

Lawrence, Kansas 66044

RECEIVED

AUG 24 2009

City County Planning Office Lawrence, Kansas

RE: ITEM NO. 6: TEXT AMENDMENT TO CHAPTER 20 DEVELOPMENT CODE, ADAPTIVE REUSE MODIFICATIONS.

Dear Chairman Moore and Planning Commissioners:

There are two current amendments to the Land Development Code Adaptive Reuse Special Use provisions that we believe need close examination as to the consequence of these changes before adopting these as they now read. The proposed amendment wording is in **bold italics**.

The first proposed change to Section 20-501 includes new wording at the beginning of this section 20-501(2) which outlines qualifying criteria for Adaptive Reuse.

This first proposed amendment reads, "...while it is not necessary to meet the following criteria to request a Special Use Permit for an Adaptive Reuse..." followed by the existing four criteria.

Any one of these four existing criteria would have allowed property which is a Landmark in an Historical District that meets these criteria to qualify for an Adaptive Reuse. The proposed statement added as an amendment <u>removes</u> these as four <u>limiting criteria by rendering them unnecessary</u>.

In the same Adaptive Reuse sections is an already existing provision, Section (20-501(7)(iii), which reads, "Adherence to other criteria established in this Development Code, as appropriate to the use proposed, when so determined by the Planning Director or the Historic Resources Administrator."

Effect of this proposed amendment. Both of these sections applied together, (20-501(2) and 20-501(7)(iii), would appear to lift the existing Land Development Code regulations on landmark property in the Historic District, as determined by the Planning Director or Historic Resources Administrator.

The second amendment, a modification of the definition of Adaptive Reuse in Article 17 TERMINOLOGY, eliminates the landmark requirement by further expanding what characteristics would be required of property to allow it to qualify for Adaptive Reuse. [the wording changes are in italics] This reads as follows:

"20-1703 ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY. Conversion of a designated local, State or national historic landmark Structure or a structure or property that is part of an Historic District, to another specified use, with the intent of preserving the landmark or structure or property within the Historic District."

The effect of these two amendments together: This proposed wording of these two amendments would permit any property, historic or not, including vacant land or existing structures, to qualify for Adaptive Reuse as long as they are located in an Historic District. The type of Adaptive Reuse can be what the Historic Resources Administrator approves and the Planning Director determines is appropriate, and with what restrictions, if any. This creates great uncertainty and could make Historic Districts an undesirable classification, with the opposite effect from that originally intended. We ask that you reconsider these amendments and/or add provisions that would be more restrictive so as to better define what is intended to be permitted in Historic Districts to qualify as Adaptive Reuses.

Sincerely yours,

Milton Scott Vice President Alan Black, Chairman Land Use Committee

alan Black

LWV8-23-09pcItem 6 Adaptive Reuse LTR2.wpd

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

August 23, 2009

Mr. Greg Moore, Chairman Members Lawrence-Douglas County Planning Commission City Hall Lawrence, Kansas 66044 RECEIVED

AUG 2 4 2009

City County Planning Office Lawrence, Kansas

RE: ITEM NO. 6: TEXT AMENDMENT TO CHAPTER 20 DEVELOPMENT CODE, MODIFICATION TO THE APPEALS SECTIONS 20-1310 AND 20-1311

Dear Chairman Moore and Planning Commissioners:

New importance of Written Interpretations.

These text amendments to Sections 20-1310 and 20-1311 clarify what can be appealed to the Board of Zoning Appeals (BZA) in terms of planning staff code interpretations. These wording changes make it clear that staff interpretations of the Subdivision Regulations and Zoning Code of the Lawrence Land Development Code (LDC), as they appear in staff reports and recommendations to the Planning Commission and City Commission, are not appealable to the BZA. [Amendments are in bold italics.]

This means that if questions arise as to staff interpretations, the only method to clarify such interpretations through the BZA is after the fact as a formal request to the Planning Director for a Written Interpretation. This provision, currently in the Land Development Code, Section 20-1310, has no listed time limit on how long it can take for the Planning Director to release his Written Interpretation. This situation could effectively result in Section 20-1310 not being applicable to staff interpretations of the LDC under any circumstances because of the lack of a time frame within which such interpretations must be released.

Lack of appeal to BZA for discontinuance of stays.

A second troubling aspect of this clarification of the Appeals sections is that in the event that the Planning Director determines that an appeal to the BZA of a Written Interpretation "would cause immediate peril to life or property or (b) the situation appealed from is transitory in nature, and therefore, an appeal would seriously interfere with enforcement of this Development Code..." A stay of further action until it is appealed to the BZA will not be enforced unless the Court reverses the discontinuance of the stay. What is being eliminated with this amendment is the ability of the BZA, as well as the Court, to reverse the discontinuance of the stay.

This current amendment regarding discontinued stays, combined with the lack of a time requirement within which the Written Interpretation must be written, effectively means that under these new circumstances a request for a Written Interpretation can essentially have no significance to any current Code provisions as they affect the administration of the Land Development Code. It could take years for a Written Interpretation to be adopted, with no need for haste, and once it is written it could be difficult to appeal.

We ask that you carefully consider the consequences of these amendments to Sections 20-1310 and 20-1311 before you adopt them as written here.

Thank you for considering these issues.

Sincerely yours,

Milton Scott Vice President Alan Black, Chairman Land Use Committee

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LWV8-23-09pe Item 6 Appeals modifications LTR3b.wpd

# ITEM NO. 9: Adaptive Reuse Development Code Revisions

Mr. McCullough presented the item.

Commissioner Marvin asked Mr. McCullough to explain the language of the revisions.

Mr. McCullough explained the language and the 4000 square foot criteria.

Mr. McCullough stated the criteria have existed since the early 90's. He said the issue came up again within a boarding house meeting. He said within any code there was the potential of loopholes.

# **PUBLIC COMMENT**

Jim O'Malley submitted letters to the Commission from neighbors in the area. He said potentially any home in old west Lawrence could be converted into a duplex, apartment, boarding house, or restaurant. He said that was a threat to the historic integrity of old west Lawrence and that would not encourage the preservation of historic property. Mr. O'Malley said resident owners take better care of their homes than landlords and historically the adaptive reuse ordinance had only affected Old West Lawrence. He said since 1993 four out of five applications for adaptive reuse were in Old West Lawrence. Mr. O'Malley said three out of the four structures were very large and adaptive reuse was needed for huge houses. He said 4000 square feet was not large enough and was inappropriate for adaptive reuse. He said he reviewed the historic district map and there were 100 contributing structures and 40–53 contributing structures had 4000 square feet or could be expanded to 4000 square feet. Mr. O'Malley said one half of the old west Lawrence historic district could be made into duplexes and that would not encourage owner occupancy.

Marci Francisco stated it was difficult to pick a square footage for homes in a neighborhood and make it fit all cases. She said criteria three was not clear that said 'a structure regardless of the zoning district or the historic use has to have so much square foot living space'. She said that means a structure would have to be a residential property.

Gwen Klingenberg said she was concerned about notification. She said the Old West Lawrence neighborhood was notified on Tuesday and there was not time to study the plan. She said Kirk McClure is the LAN representative and had been waiting for the plan to show up on an agenda for some time. She said the Commission needed to find a better way to notify the neighborhoods.

Commissioner Meyer asked Mr. McCullough if the proposed language change was to be approved or recommended by the Historic Resources Commission.

Mr. McCullough said the Historic Resources Commission was not the decision making body of a special use permit. He said the Commission was only making a recommendation to the Planning Commission.

Ms. Braddock Zollner said the Historic Resources Commission only made decisions on state law review and not local government use permits. She said a locally listed property would not have a state law review.

Commissioner Williams said there were also historic uses of property that would not be desirable to go back to like gas stations and other commercial uses.

Ms. Braddock Zollner said adaptive reuse historically had been the foundation of historic preservation. She said it was typically used for larger structures and the adaptive reuse was one of the most important tools for historic structures.

Commissioner Sizemore asked Ms. Braddock Zollner if the 4000 square feet for adaptive reuse projects was still a good cut off point or if it should be raised.

Ms. Braddock Zollner stated the number had been used under twenty times in the past twenty years. She said there was no issue with the 4000 square foot cut off.

Commissioner Meyer asked Staff if there was an issue with the amount of time the public had to review the issues.

Ms. Braddock Zollner stated there would be two other public hearings regarding the issue. She said the public can go online to the City's website and sign up to receive all agendas for the City Commission, Planning Commission, Board of Zoning Appeals, and the Historic Resources Commission.

# **ACTION TAKEN**

Motioned by Commissioner Meyer, seconded by Commissioner Marvin, to defer Item #9 to the February 18<sup>th</sup>, 2010 Historic Resources Commission meeting.

Motion approved unanimously 5-0

# ITEM NO. 6 AMENDMENTS TO DEVELOPMENT CODE; ADAPTIVE REUSE OF DESIGNATED HISTORIC PROPERTY (SDM)

#### TA-7-20-09:

Consider Text Amendments to various sections of the City of Lawrence Land Development Code to (1) correct language regarding Adaptive Reuse of Designated Historic Property in section 20-501, and (2) revise language in sections 20-1310 and 20-1311.

#### STAFF PRESENTATION

Mr. Scott McCullough presented the item.

Commissioner Harris inquired about one of the requests from the League of Women Voters to add some time condition for the Planning Directors determination.

Mr. McCullough said he was comfortable with that and suggested a 30 day time period.

Commissioner Finkeldei asked when it talks about preserving the architectural character of a historic property does that mean inside and outside.

Mr. McCullough said as established by Historic Resources Commission.

Commissioner Harris inquired about the comment from the League of Women Voters regarding lack of appeal.

Mr. McCullough said he did not fully understand the comment and wasn't sure if they were mixing the two sections.

Commissioner Harris said she did not fully understand the comment either.

#### **PUBLIC HEARING**

Mr. David Carter, Vice President of the Old West Lawrence Association, commented on three specific aspects of the Code.

20-501(6) - He thanked them for adding the provision of mailed notification to neighbors.

20-501(2) - He felt the wording 'not necessary to meet criteria' makes criteria meaningless.

20-1311 - He urged the Commission to not change the appeals section.

Mr. McCullough said section 20-501(2) as written today does not require that those criteria be met. He thought the language was pulled in from the former code. Staff's point was to clarify to applicants or neighbors that those are not set criteria and that they do not have to be met for an Adaptive Reuse.

Ms. Karen Kressin, 626 Ohio Street, objected to relaxed standards for Adaptive Reuse. She felt the threshold size requirement should be clarified as mandatory and increased. She suggested 5,000-6,000 square feet, counting only the two traditional living floors 1<sup>st</sup> and 2<sup>nd</sup>. She felt that adaptive reuse should only be available to structures that need it and limited to prospective projects. She gave examples of when the Adaptive Reuse has been used.

Commissioner Finkeldei asked if the Adaptive Reuse has been used 3 times.

Ms. Kressin replied yes.

Commissioner Finkeldei asked if a historic church is turned into an apartment would that be an Adaptive Reuse.

Mr. McCullough said it could be a number of uses.

Mr. Jim O'Malley, 626 Ohio Street, said the proposed change to 20-501(2) would make a fundamentally flawed and poorly drafted ordinance worse. He felt it would allow more intense uses in residential neighborhoods. He felt that Adaptive Reuse should be limited to 'at risk' properties. He noted that among the goals of Horizon 2020 is preservation of existing residential neighborhoods and this amendment would contradict that role. If felt if the amendment is adopted Old West Lawrence and other historic districts won't really be zoned RS5 anymore, they'd be zoned whatever the City deems appropriate for each property and historic districts would be subject to spot zoning.

Commissioner Rasmussen asked if Mr. O'Malley if he felt a staff report should be appealable.

Mr. O'Malley said it refers to a determination by the Director and it is a matter for a court to decide what it means.

Mr. Dale Slusser, 627 Ohio Street, said he appreciated the change about notification. He expressed concern about 'broad' text. He did some research and found that Adaptive Reuse in residential neighborhoods is 'outside the norm.'

Mr. John Nitcher, 608 Louisiana Street, said he initially disagreed with staffs assessment but now he understands the reasoning. He said the language before the proposed amendment would allow an expansive reuse. This may be an opportunity for the city to correct a real flaw in the part of the ordinance. He suggested leaving the language as is but replace 'are encouraged to' to 'may.'

Mr. McCullough said to this point staff haven't sought Historic Resources Commission involvement because we haven't changed the content of the section but if we do then we can go to the Historic Resources Commission for their opinion.

Ms. Katie Nitcher, 608 Louisiana Street, said that the adaptive reuse should just be on the main floor and second floor, not basement or attic.

# **COMMISSION DISCUSSION**

Commissioner Finkeldei suggested sending it to Historic Resources Commission. He said he wants a Code that protects historic properties without increasing intensity of use. He suggested looking at a tier system.

Commissioner Moore agreed that it should go to Historic Resources Commission for their thoughts on it.

Commissioner Harris agreed with keeping a threshold and not including the attic or basement. She did not like using this tool to increase density in residential neighborhoods. She inquired about appeals process.

Mr. McCullough said in general staff reports are not appealable to the Board of Zoning Appeals. Public hearings are an avenue to voice disagreement with staff reports.

Commissioner Rasmussen asked if staff gave thought to making criteria mandatory by design.

Mr. McCullough wanted to give the Code flexibility. The proposed language was meant to clarify that it is encouraged and not required.

Commissioner Harris said she was in favor of having more clear language because the way it is written now the criteria does not have any weight.

#### **ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to defer indefinitely.

Motion carried 8-0, with Student Commissioner Shelton voting in the affirmative.

# PLANNING COMMISSION REPORT Regular Agenda -- Public Hearing Item

PC Staff Report 08/24/2009

ITEM NO. 6: TEXT AMENDMENT TO CHAPTER 20 DEVELOPMENT CODE (SDM)

**TA-7-20-09**: Consider an amendment to Sections 20-501, 20-1310, 20-1311, and 20-1703 of the City of Lawrence Land Development Code to revise standards related to Adaptive Reuse of Designated Historic Property, Written Interpretations, and Appeals of Administrative Decisions. Initiated by the Planning Commission on July 20, 2009.

**RECOMMENDATION:** Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendments to Sections 20-501, 20-1310, 20-1311, and 20-1703 of the City of Lawrence Land Development Code to the City Commission.

Reason for Request:

The Planning Commission initiated this amendment on July 20, 2009 in order to clarify the various types of appeals and their effect on land use applications processed through the public hearing process and to correct an error related to processing applications under the Adaptive Reuse of Designated Historic Properties.

#### **RELEVANT GOLDEN FACTOR:**

• Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Adoption of new regulatory tools, one of which is the zoning regulations, is an implementation step in Chapter 13 of *Horizon 2020*, the City/County Comprehensive Land Use Plan.

# PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No written comments received to date.
- Staff has met with LAN representatives and Chamber members to generally discuss a number of different text amendments in process.

#### **KEY POINTS**

• These amendments stem from recent recognition that these code sections need to be reviewed to determine their impact to applications considered by the Planning Commission.

#### **OVERVIEW OF PROPOSED AMENDMENT**

This amendment revises three concepts in the Land Development Code (four different code sections).

1. Adaptive Reuse of Designated Historic Properties – the code is proposed to be revised to correct a clear error. Section 20-501(8) requires, "After the appropriate approvals have been granted, the Special Use application shall be scheduled for public hearing before the Historic Resources Commission." The "appropriate approvals" in this case refers to approvals noted in Section 20-501(6), which states, "prior to public hearing of an application for a Special Use

for Adaptive Reuse by the Planning Commission, an application shall first be reviewed and approved by the Lawrence Historic Resources Commission and, when applicable, the State Historic Preservation Officer." 20-501(8) should be revised to replace Historic Resources Commission with Planning Commission. The former code included the correct version of this process and it appears that a change was inadvertently made with the adoption of the 2006 Land Development Code.

This amendment includes a revision that would require mailed notice of the Historic Resources Commission's consideration of the Adaptive Reuse request, a requirement that does not exist at this time.

Staff also proposes to revise the definition of Adaptive Reuse of Designated Historic Property to better align with the language found in Section 20-501, which states that a structure or property within an Historic District is eligible for this land use classification.

- 2. Written Interpretations Staff proposes to clarify that staff reports to the various committees and governing bodies staffed by the Planning Office shall not be considered written interpretations. Staff reports simply provide information on how a request complies with the code. While staff reports convey code standards to various commissions and committees, they are not intended to be a vehicle by which a code interpretation is made. Staff reports typically do not include a full analysis of a specific code standard or what justification staff used to interpret a code section; the reports simply state what code is being employed in the circumstance. When a request for a written interpretation is made, staff fully analyzes the code and prepares an interpretation grounded in sound planning theory, historical context, and the code itself. It is only after this full analysis and written determination that an appeal can or should be eligible to be brought before the Board of Zoning Appeals.
- 3. Appeals of Administrative Orders, Requirements, Decisions, or Determinations Staff finds it necessary to clarify that staff reports and the process used by the Planning Commission to review applications considered by them are not eligible to be appealed to the BZA. There have been instances in the past where a person believed to be aggrieved has attempted to appeal a staff report or a finding in the staff report. In these instances, a staff report is not an administrative decision. A staff report simply provides information and opinion on how a request complies with the code and does not put forth any order, requirement, decision, or determination to anyone or for any application. The intent of the Development Code language, and the language in the state statutes on which it is based, appears to imply that the public hearing process through the Planning Commission is not appealable since other appeal avenues exists to appeal such decisions.

Examples of orders, requirements, decisions, and determinations that are completed administratively and would be appealable to the BZA include the following:

- Denying or revoking a building permit
- Issuing a Stop Work order on a building permit
- Issuing an order to comply with a site plan or any other Development Code standard
- A determination made on a zoning compliance request (liquor license or auto dealership for example)
- A decision on certain types of administratively reviewed and approved application types – floodplain development permit for example

Examples of actions that are not appealable to the BZA include the following:

- Any decision, recommendation or process action taken by the Planning Commission or any other advisory body to the City Commission staffed by the Planning Office (CCH, Building Code Advisory Boards, Historic Resources Commission, etc.)
- Staff reports provided to the advisory boards.
- Decisions and actions of the City Commission
- Staff reports provided to the City Commission
- Any action or decision outside of the scope of the Land Development Code

# **CONFORMANCE WITH HORIZON 2020**

Horizon 2020 does not speak directly to these amendments, as they are meant to clarify existing regulations and standards. However, the plan does support Adaptive Reuse of historic structures:

"The Plan encourages the identification, protection and adaptive reuse of the wide diversity of historic buildings, structures, sites and archeological sites that can be found in Lawrence and Douglas County."

#### **CRITERIA FOR REVIEW & DECISION-MAKING**

Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It states that review bodies shall consider at least the following factors:

1) Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and

**Staff Response:** The proposed amendments correct a typographical error in Section 20-501 and clarify standards and regulations related to what qualifies for code interpretations and appeals to administrative decisions. These clarifications are needed to insure that applications being processed through the public hearing process can not be stayed while an appeal to a staff report is filed. Staff has argued in the past that a party can not appeal information in a staff report and this language clarifies this position.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (Sec. 20-104).

**Staff Response:** Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Adoption of new regulatory tools, one of which is the zoning regulations, is an implementation step in Chapter 13 of *Horizon 2020*, the City/County Comprehensive Land Use Plan.

# **PROPOSED LANGUAGE:**

See Attached.

Attachments: Proposed Language

From: Todd Thompson [todd.thompson@trqlaw.com]

Sent: Monday, April 12, 2010 2:49 PM

To: Scott McCullough Subject: Adaptive Reuse

Scott:

We are in receipt of the revised draft of the Adaptive Reuse text amendment. Thank you for incorporating many of the suggested revisions; I think the members of OWL Association are generally quite pleased.

It has been noted that subsection (2)(iv) lacks the suggested inclusion of the word "primarily" right after "built." Was this an oversight, or was the request considered and rejected? The inclusion of "primarily" would make it clear that houses built primarily for single family use, but which included servant's quarters or an incidental or accessory use (such as an office) would not be eligible. There are houses in Old West Lawrence with maid's quarters (typically a small second story room off the back stairs), so we believe this loophole needs to be closed. What are your thoughts?

Todd N. Thompson

Thompson Ramsdell & Qualseth, P.A.

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P.O. Box 1264

Lawrence, KS 66044-2083

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EMAIL: todd.thompson@trqlaw.com

# Memorandum City of Lawrence Planning & Development Services

**TO:** Planning Commission

FROM: Scott McCullough, Director

Date: For May 26, 2010 Planning Commission Meeting

RE: Boarding House Text Amendment Update – TA-6-17-09

On August 24, October 26, and December 16, 2009 the Planning Commission considered language revising the Lawrence Development Code as it relates to Boarding Houses. The Planning Commission forwarded a recommendation to approve the December 16, 2009 version of the language. On February 2, 2010 the City Commission considered the PC's recommendation and voted 4-1 to return the text amendment to the Planning Commission for further study on the following matters.

- 1. Simplify the standard related to limiting building additions to 20% of the existing structure.
- 2. Review the parking standard and consider a standard that requires 1 space per bedroom with variances possible when larger structures are converted to boarding houses.
- 3. Discuss the processing issue of permitting boarding houses as a "permitted use" or a "special use."

On March 24, 2010 the Planning Commission considered revised language attempting to address the City Commission's direction. After public testimony and discussion, the PC deferred the item but did not provide unified direction on revising the proposed language. The PC minutes are attached.

Staff understands that there are many values at play depending on one's perspective. Staff believes the goals should be better defined before drafting additional language. Staff believes the different goals can be framed as follows, but not in any priority order:

- 1. Historic Preservation If preserving historic structures, which can be too large to reasonably be used for single-dwelling purposes, is the goal of the amendment, then standards can be drafted that require congregate living only in structures listed individually or as a contributing structure to a historic district. Restricting the congregate living use to only listed structures limits their proliferation and provides a means to preserve historic structures.
- 2. Reduce negative externalities / Maintain diverse housing stock If reducing the impact to the neighborhood and maintaining a diverse housing stock are the

goals, then the standards should limit, or even cease, their proliferation and limit the nature of the use on site. Staff can think of several ways to achieve this.

- a. Distance requirement establish a distance of some level by which congregate living structures must meet to reduce their impact of concentration and limit the potential of "every structure turning into a boarding house" as some have suggested.
- b. Require a minimum number of bedrooms in order to apply more restrictive parking standards, as discussed in March, to arrive at the same goal as in "a" and to implement one of the draft Oread Plan policies of maintaining a diversified housing stock.
- c. Require a special use permit to analyze the individual merits of each structure.
- d. Reduce on-site intensity by limiting the number of bedrooms to better align with the definition of "family."
- 3. Encourage their use If the goal is to recognize the merits of congregate living and encourage their use, then the existing Development Code need not change.

# DISCUSSION

# Oread Overlay Zones

Public comment has suggested that because many of the issues related to boarding houses are specific to the Oread neighborhood, the issues should be accommodated in the proposed overlay zones outlined in the Oread neighborhood plan. It should be noted, however, that the overlay zones may not be completed for some time. If there are code related issues now, then they should be addressed now and not in the future, as the overlay zones are dependent on future budget authority, staff resources, and public process. Congregate living is just one aspect of what staff hopes can be accomplished through the overlay zoning process.

# Nonconforming Properties

A new topic in this discussion has emerged related to nonconforming properties in the Oread neighborhood. As part of the neighborhood plan discussions, staff and the City Commission discussed the situation that many nonconforming properties exist in the area, yet the scope of this matter is unknown. While multi-dwelling and boarding house uses are permitted in the RM32 district, for example, it is apparently commonly known that many properties do not meet standards such as parking or building and fire codes. There has been recent discussion about finding a way to encourage properties to come into compliance with the Development Code and other city codes in a fashion that is economical for the property owners. In order to establish a program, the scope of the nonconformities needs to be understood. The draft Oread neighborhood plan advocates for an expansion of the rental registration program to "uncover" the scope in order to work with owners to bring properties into compliance. However, there may be another way, specific to boarding houses, to achieve this goal as outlined below.

a. If it is believed that the boarding house use is an important housing choice for students, but that saturation of such uses would at some point be detrimental to the Oread neighborhood, then the code could be

revised to establish a time period by which the city would accept new congregate living applications and then after that period the use would be removed from the Development Code. Married to this code revision would be a program that could give owners the ability to bring the structure and property elements (such as parking) up to code over an extended period of time, 3-5 years for example, upon site plan approval. This would provide a mechanism for non-legal structures and properties to begin to come into compliance with the codes and would likely establish a high enough number of congregate living structures that would be reasonable for the university's/community's needs.

# City Commission direction

While the PC should discuss these issues, the PC has been tasked with specifically reviewing the City Commission issues. Staff requests that the PC review each specific issue and make a recommendation on each one so that the text amendment can be resubmitted to the City Commission with a recommendation.

Attachments: City Commission minutes of February 2, 2010 – please see page 10 for beginning of Boarding House item

March 24, 2010 Staff Memo March 24, 2010 PC minutes

Proposed Language for the March 24 PC work session



City Offices PO Box 708 66044-0708

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6 East 6<sup>th St</sup> 785-832-3000 FAX 785-832-3405 CITY COMMISSION

MAYOR ROBERT CHESTNUT

COMMISSIONERS MIKE AMYX ARON CROMWELL

MICHAEL DEVER

February 2, 2010

The Board of Commissioners of the City of Lawrence met in regular session at 6:35 p.m., in the City Commission Chambers in City Hall with Mayor Chestnut presiding and members Amyx, Cromwell, and Johnson present. Dever, participating electronically via telephone, was absent during the consent agenda vote due to technological issues.

Bill Mitchell, Lawrence, asked that consent agenda item No. 8 be pulled for separate discussion.

# **CONSENT AGENDA**

DAVID L. CORLISS CITY MANAGER

As part of the consent agenda, it was moved by Amyx, seconded by Cromwell to approve minutes from the City Commission meeting of January 5, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx**, **seconded by Cromwell** to receive minutes from the Board of Zoning Appeals meetings of November 5, 2009 and December 3, 2009; the Historic Resources Commission Action Summary from July 16, 2009, August 20, 2009, September 17, 2009, and October 15, 2009; the Planning Commission meetings of November 16-18, 2009, and December 14 – 16, 2009. Motion carried unanimously.

As part of the consent agenda, it was moved by Amyx, seconded by Cromwell to approve claims to 432 vendors in the amount of \$1,776,518.05 and payroll from January 17, 2010 to January 30, 2010 in the amount of \$1,822,722.90. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve the Drinking Establishment Licenses for On the Border Mexican Grill & Cantina, 3080 lowa; Pachamama's, 800 New Hampshire; Eldridge Extended, 201 West 8<sup>th</sup>; Old Chicago, 2329



lowa; and the Sidewalk Dining & Hospitality License for the Mad Greek, 907 Massachusetts.

Motion carried unanimously.

As part of the consent agenda, it was moved by Amyx, seconded by Cromwell to concur with the Mayors recommendation and reappoint Theresa Marcel Bush and Robert Farha to the Citizen Advisory Board to additional terms that will expire March 1, 2013; reappoint Kevin Chaney and Doug Dillon to the Contractor Licensing Board to additional terms that would expire December 31, 2013; reappoint Pete Easterwood to the Fire Code Board of Appeals to an additional term that would expire January 31, 2013; and reappoint Alan Wiechert to the Historic Resources Committee to a term that would expire March 1, 2013. Motion carried unanimously.

Ordinance No. 8487, authorizing the possession and consumption of alcoholic beverages at the Lawrence Public Library on Wednesday, February 17, 2010, from 5:00 p.m. to 7:00 p.m. as part of the Lawrence Chamber of Commerce Mixer, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to adopt the ordinance. Aye: Amyx, Cromwell, Chestnut, and Johnson. Nay: None. Motion carried unanimously.

Ordinance No. 8407, designating as a landmark on the Lawrence Register of Historic Places, 1515 University Drive, the Fernand Strong House, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to adopt the ordinance. Aye: Amyx, Cromwell, Chestnut, and Johnson. Nay: None. Motion carried unanimously. **(2)** 

Ordinance No. 8408, designating as a landmark on the Lawrence Register of Historic Places, 1204 Oread Avenue, the Ecumenical Christian Ministries Building, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to adopt the ordinance. Aye: Amyx, Cromwell, Chestnut, and Johnson. Nay: None. Motion carried unanimously.

Ordinance No. 8409 designating as a landmark on the Lawrence Register of Historic Places, 714 Mississippi Street, the John Robert Greenlees House, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to adopt the ordinance. Aye: Amyx, Cromwell, Chestnut, and Johnson. Nay: None. Motion carried unanimously.

As part of the consent agenda, it was moved by Amyx, seconded by Cromwell to adopt Resolution No. 6875, ordering the transfer of reserve funds in the amount of \$80,000, from the Capital Improvements Fund to the Library Fund for operations for the 2010 budget year. Motion carried unanimously.

As part of the consent agenda, it was moved by Amyx, seconded by Cromwell, to initiate a Text Amendment TA-1-2-10 to Sections 20-403, 20-601(b) and 20-601(b)(1) of the Development Code for hotel/motel/extended stay use to become an allowed use in IL (Limited Industrial) Zoning. Motion carried unanimously.

(6)

As part of the consent agenda, it was moved by Amyx, seconded by Cromwell to approve a request by Paul Werner Architects, on behalf of the owner, Boardwalk Apartments, LC, for a variance from City Code 19-302(1)(B) which states that "apartment houses having twelve living units or less shall have a water meter for each living unit, unless the installation of a single meter for all units is applied for by the owner and approved by the City Commission.

Motion carried unanimously.

(7)

As part of the consent agenda, it was moved by Amyx, seconded by Cromwell to approve a request by Dan Hermreck Residential Design, on behalf of the owner of the property at 1223 Ohio Street, Odyssey Rentals, LLC, for a variance from 19-214B of the city Code which states that a private sanitary sewer service line shall not be located in a city public right of way for greater than 15 feet. Motion carried unanimously.

(8)

As part of the consent agenda, it was moved by Amyx, seconded by Cromwell, to authorize the distribution of a Request for Qualifications for the design, administration, and project inspection of the Lawrence Public Library roof and adopt Resolution No. 6876, authorizing the issuance of General Obligation Bonds for \$500,000. Motion carried unanimously.

Commissioner Dever was present, via electronically.

Bill Mitchell, Lawrence, pulled consent agenda item No. 8 for separate discussion. He said he was told by Michelle Leininger, City Planner, that Text Amendments did not require notification of affected neighbors or neighborhoods, and wanted to know if that was true.

Scott McCullough, Director of Planning, said the process to initiate text amendments was in the City's Development Code and involved being initiated by the City Commission in the case of a public desire or request to initiate text amendments. Staff did not mail notice after the initiation to property owners as it was not a specific property rezoning, but a policy issue in the development code, the text amendments were advertised in the newspaper, and included on public agendas for the Planning Commission.

Mitchell said that he had an issue with that policy because it was a change of use within a zoning district, which seemed like the equivalent of a change in zoning district. He said he understood not wanting to make notification for minor corrections to the ordinance, but substantial corrections such as bars and mixed use needed notification. Zoning was all about uses and any projected use change should require notification of the effected neighbors. In this case, every notification near every MU district should be timely informed just as with proposed zoning changes. He asked the City Commission for notification, not only in this case, but in other cases where uses were changing within a zoning district.

Mayor Chestnut said the City Commission would take that idea under advisement and could be reported during the City Manager's report. He said it would appropriate to understand

the code as far as initiating text amendments as well as text amendment notification and then

make some decision.

A Lawrence citizen said about a year ago, they had this discussion with respect to a

specific rezoning of a property. Neighbors at that time were concerned about the uses such as

a bar, a gun shop, and sex shop and other types of uses and were assured, at that time, that

those types of uses would not be possible under the current conditions. Clearly, it was possible

simply by having something on a consent agenda.

Mayor Chestnut said the City Commission was initiating the consideration of this item to

go to the Planning Commission and nothing was being approved or binding.

The citizen said that he understood, but it seemed it was a substantive issue that

needed to go beyond the consent agenda with considerable discussion because they spent a lot

of time discussing this issue and they were assured no special exceptions were needed

because everything had to be uniform, but apparently they were wrong and needed to have a

different process for discussion.

Vice Mayor Amyx said comments from the last speaker referenced a specific site at

the west end of KU and asked if those uses were not allowed at that site and were conditions of

approval.

McCullough said staff could check and it might be conditional zoning and was accurate

at that time that bars were not an allowed uses in the MU district and no reason necessarily to

condition out of that use.

Vice Mayor Amyx said he was troubled with things being directed at the Oread

neighborhood which also had far reaching implications throughout the community. He said he

suggested waiting on this item until it could be considered all at one time.

Mayor Chestnut asked if Vice Mayor Amyx wanted to move this item to a regular

agenda.

Vice Mayor Amyx said the item could be moved to the regular agenda, but honestly this item needed to be considered the same time as the Oread neighborhood plan because the request was coming from Oread for the consideration of conforming uses.

Mayor Chestnut said he was not clear how many MU (mixed-use) districts were in the community.

Scott McCullough said they were discussing a text amendment for the MU district and had a request to rezoning to MU in the near future.

He said Jayhawk Bookstore was adopted as an MU district last year and as the staff memo noted, a recommendation was being made to the City Commission, designating portions of the Oread neighborhood, one being an MU District, along 14<sup>th</sup> Street and included to Drinking Establishments, the Hawk and Wheel. He said those owners expressed interest in maintaining that use at that location, but understood the zoning district, as it stood today, had limitations in terms of bar use, and initiated this amendment to the City Commission to consider, going to have that public process and, analyzing whether or not a bar should be allowed via special use permit, had been their initial request.

Mayor Chestnut said a majority from the Commission was needed to initiate a text amendment and a consensus was needed. He said he recommended deferring this text amendment, placing the item on the regular agenda only because the City Commission needed information on the impacts. He said he read the request application, but did not notice the special use permit portion which merited more discussion before initiating the process.

Commissioner Cromwell said if the text amendment was passed by the City Commission at this time, the text amendment would go before the Planning Commission and at that point, public comment and discussion would be received and then come back to the City Commission.

Mayor Chestnut said yes, the City Commission would just be initiating the process. If the majority of the City Commission did not want to initiate this text amendment, then the text amendment would not go anywhere. Commissioner Johnson said he was okay with initiating the process because through

that process, there would be opportunity for public comment and more information from staff.

Commissioner Dever said he was comfortable with at least moving forward with the

presentation and understood there was no action needed, but that the City Commission was

simply following procedure.

Vice Mayor Amyx said in going through the process for the Oread Neighborhood Plan,

and if the majority of the City Commission was in favor of initiation, it was critical to take into

consideration that this text amendment was going to be an important part of the entire plan. He

said this particular use has been a concern because of its non-conforming use at that location

for years.

Mayor Chestnut said the City Commission could initiate this text amendment, but also

specify notification.

McCullough said he agreed and staff would make appropriate notice.

Vice Mayor Amyx said as long as there was a notification process and understood that

other items would come before the City Commission. He said he did not want others saying no

notification was made for the initiation of this Text Amendment. He said this discussion would

be equally important as when application was made by bar owners or others to change their

zoning.

Mayor Chestnut said he would entertain a motion to initiate Text Amendment, (TA-1-1-

10) to add some uses to the MU District, but also stipulate proper notification of neighborhood

organizations within the normal radius of the properties in questions.

David Corliss, City Manager said given there was only one location with MU zoning, he

thought full notification was appropriate. He said by allowing the text amendment, the change in

use was being allowed, but not giving that property specific notification in that area. He said it

was good to take a look at the notification on all zoning matters. He said the City Commission

should direct staff to provide rezoning notification for the text amendment hearing.

Vice Mayor Amyx asked if notification included the Oread neighborhood.

McCullough said staff provided a newsletter to the Lawrence Association of Neighborhoods with our text amendment list anyway and would pay special attention to making sure the two amendments were initiated to the notification area and the appropriate notice at the Jayhawk Bookstore site.

Vice Mayor Amyx asked if the request from Mr. Warner was site specific.

McCullough said that the MU district was being discussed for other areas of the City that presumably included bars that would be new development or re-development, so in his opinion this was not just contained within the Oread neighborhood.

Mayor Chestnut said it was a point well taken that it was initiated by some of the property owners that were in the area and seemed appropriate to notify that area. He said he did not want to set a precedent to notify everyone about everything, but this issue merits notification.

Vice Mayor Amyx said he appreciated the notification process, but did not think this text amendment was appropriate at this time until they established what as going in to those neighborhoods.

Mayor Chestnut said the City Commission had never denied the initiation of a text amendment going through the process.

Moved by Johnson, seconded by Cromwell, to initiate a Text Amendment TA-1-1-10 to Sections 20-403, 20-509(3), and 20-524 of the Development Code for MU (Mixed Use) Districts Bars & Restaurants, and direct staff to follow notification procedures for the text amendment hearing at the Planning Commission. Aye: Chestnut, Cromwell, Johnson and Dever. Nay: Amyx. Motion carried. (11)

# **CITY MANAGER'S REPORT:**

During the City Manager's Report, David Corliss said the Taser Use Report indicated that the use of tasers by the Lawrence Police Department continued to be appropriate;

Congress authorized that poverty levels remain unchanged at least through March 1, 2010; the 2<sup>nd</sup> and Locust construction schedule was updated; the City's use of web technology was reviewed by local governments (Johnson & Shawnee Counties); the Utility Department facilitated water/wastewater treatment research; the city's twitter followers reached 1,000; the annual report from the Lawrence Douglas County Metropolitan Planning Organization's accomplishments and activities planned for 2010; and, the market for recyclable materials improved significantly. (11)

#### **REGULAR AGENDA**

Consider authorizing the City Manager to execute the revised Land Agreement and revised Job Creation Credit Agreement with LWC Partners, LLC

David Corliss, City Manager, said this item was previously considered and staff came back with a revised lease agreement and job creation credit agreement. Staff believed the agreements clarified the language and the City was not going to take any affirmative steps to have language in the lease that made it possible for the tenant to claim that the property was exempt from taxation. There was a state law that allowed for properties at airports to receive an exemption if deemed an essential part of airport operations. It was an operation of state law, it was nothing the City was affirmatively doing and did not want to participate in that discussion with State officials. If the airport received a tax exemption, then the job creation credit, where the airport received a reduction in their rent, would be eliminated. The revised credit agreement was acceptable to the tenant partnership, Doug Compton and Hawkeye.

Mayor Chestnut called for public comment.

After receiving no public comment, Vice Mayor Amyx said those agreements cleared up the City Commission's concerns and should move ahead.

Commissioner Dever said it was important the City Commission received their answers about what would be anticipated for the group and appreciated the information and time to look at it.

Mayor Chestnut said in researching this item and realized the City Commission learned a lot more about land lease use on airports, municipal ownership, and tax abatements. He said the City had a better agreement than the initial agreement.

Moved by Johnson, seconded by Cromwell to authorize the City Manager to execute the revised Land Agreement and revised Job Creation Credit Agreement with LWC Partners, LLC. Motion carried unanimously. (12)

Consider approving Text Amendment TA-6-17-09 to various sections of the city of Lawrence Land Development Code to review standards related to "Boarding House." Adopt on first reading, Ordinance No. 8482, for text amendment TA-6-17-09 various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House."

Scott McCullough, Director of Planning and Development Services, said the current code allowed boarding houses and cooperatives in most, if not all, of the multi-family, and residential zoning districts. Boarding Houses were permitted with site plan approval and were defined as a dwelling unit where meals or lodging were provided for compensation and were limited up to 12 sleeping rooms and 24 occupants if parking and other standards such as set backs and height and lot coverage were upheld. For practical purposes, boarding houses could be equated to single-family structure that allowed up to 12 rooms or 24 occupants. There was a parking code requirement of 1 ½ spaces for 2 lawful occupants or .75 spaces for 1 occupant; it was a yield of 6 spaces for 8 occupants.

Through the decades, a lot of site planning was not practiced and many of the "boarding houses" flew under the radar, for example, the City did not have rental registration and they were not site planned, which changed in the early 2000's when the City modified the definition of "family", and paid more attention to the distinction between single-family, 3 person limit definition and 4 unrelated people in multi-family/multi-dwelling units. This caused the landlords and investors to pay more attention to the code and start asking for approval of boarding houses because that allowed more than four people to live in one structure. The appraisers' office

identified 17 boarding houses in Oread neighborhood and 25 city-wide. A majority of those

boarding houses approved were in the Oread District, but had gone east of Massachusetts

Street and North of 6th Street.

It was predominately an Oread issue due to the zoning around the campus. A lot of

other Multi-dwelling residential districts (RM) areas were developed with apartment complexes

versus a lot of single family structures that have been converted to boarding houses. The staff

report had a table that demonstrated most converted from an apartment unit and converted to a

boarding house type of use.

To give an idea of what a site plan looked like for a boarding house, he showed a plan

with a typical 50 x 117 foot lot, which had 6 occupants with 5 parking spaces and had an

addition of approximately 436 square feet, but the majority of board houses did not have

additions associated, they were simply trying to come into compliance or convert from an

apartment structure to a boarding house.

Another site plan that was approved on a 50 x 117, parking in the rear, the original foot

print of the house was doubled. When you comparing the two site plans, the site plans were

equal in terms of the total amount of square feet at the end of the day and in terms of

occupancy, both were around 5 or 6 occupants and both met parking, this did comply with code

today, so this gained approval through the site plan process.

The text amendment was initiated by the Planning Commission in May of 2009 and was

running concurrently with the Oread Neighborhood Plan, that was a conscious decision in that

staff believed, at the time, the text amendment was of such importance to the requesters which

were the Oread Neighborhood representatives that it should go ahead with of the Oread

Neighborhood plan if at all possible, in fact, catching up with each other and the Planning

Commission recommended approval of the Oread plan last week. There were city wide

implications although it was predominately an Oread issue.

The main issues discussed through several Planning Commission meetings was the

conflict apparent between the definition of "family" and limiting that to four unrelated persons in

multi-family district and this use which was the only use that gets away from that definition so

boldly, and have a typical range of 6 to 12 occupants.

He said parking standard might encourage boarding houses because the parking

standards were less restrictive than apartment units. Staff talked about the area dedicated to

trash facilities, were lacking in the code, but recently attempted to fix that lack of facilities in the

code. He said they also talked about the behavior associated with communal living versus

independent living and the impacts, uncharacteristic building additions that might be code

compliant but viewed by some people as harmful to the Oread neighborhood, and the benefits

that a boarding house could bring. Many of the boarding houses that were approved were

brought into code compliance, in terms of life safety issues, fire code, building code, access,

and those types of things. He said they discussed boarding houses as a way of addressing

demolishing by neglect, because they were new investment and a redevelopment into the

community.

He said through the Planning Commission hearings, there were a stakeholder meeting

between the October and December Planning Commission meeting. Several options were

discussed.

Option 1 – No recommendation on the original staff report, but provided options such as

deleting the use altogether and relying on other multi-family types of uses to meet the need for

the Planning Commission to consider;

Option 2 – Status quo; the code existed, did not come with a lot of standards, a lot were

site planned and understood there were impacts to the community.

Option 3 - Look at the definition and bring that from 12 bedrooms and 24 occupants

down to something much closer to the definition of family, which was 4, down to 6 or 8.

Option 4 – Similar to Option 3, but look at creating use standards for the boarding house

use.

The Planning Commission went with Option 4 four stating they did not want to get rid of

boarding houses all together and needed standards. In October, staff brought back a frame

work that re-defined, that would permit by right, boarding houses up to 6 bedrooms or 6

occupants, but required a special use permit if that threshold was exceeded. Staff restricted

parking to 1 space per occupant and looked at limiting deck size. The Planning Commission

was split on this language and could not determine whether the language could be supported

and deferred it and sent staff back to the drawing board. That was when a stakeholders meeting

was held and came back in December with this language; which went from a "special use

permit" to "by right with no special use permit required" and "no limit to the number of bedrooms

or occupants." Staff created a parking concept of 1 space per bedroom for new structures and a

ratio for converting structures, which was meant to encourage the use of existing structures to

remedy some of the demolition by neglect, to get at larger structures in the Oread

neighborhood, and increased the deck size. Staff came up with a concept to limit physical

expansion.

The Planning Commission recommended approval 6-2 with this version and staff was

asking the City Commission to adopt on first reading, Ordinance 8482, if appropriate.

Mayor Chestnut asked if it was covered decks and covered patios or covered decks and

patios because it seemed ambiguous.

McCullough said the intention was covered decks and covered patios.

Mayor Chestnut said if a person had an existing space that had concrete and put a

covering over that space, he asked if a building permit was needed.

McCullough said he had to double check on that answer.

Mayor Chestnut said on the parking requirements, he said the requirements were less

as the bedrooms expanded.

McCullough said there were some very large structures on some very small lots in

established neighborhoods, there was no room to get enough parking in the alley and staff

needed to create some lessening of restrictions for that physical reason. There was also

discussion that based on some of the code requirements for fraternities and sororities, that the

more people living at a fraternity or sorority, the less likely everyone had or drove a car, if

choosing to live near campus.

Vice Mayor Amyx said regarding the site plans, he asked how different those plans

would look by the proposed language change.

McCullough said the site plan with the smaller edition would likely meet the new code,

because it was approximately 20% of the existing building. The other site plan would not meet

the proposed code and would have to be substantially reduced down to a 20% level, where now

it was 100% or more of the existing structure.

Vice Mayor Amyx said the addition would be shrunk down to the 20% of the existing

floor space.

McCullough said yes and instead of this footprint, it would be much smaller.

Mayor Chestnut said regarding that 20%, he asked if there was anything on the

limitations. The footprint of the existing structure, relative to the lot, there was no consideration

for saying that if 20% would take more than the lot size, the density of existing structure.

McCullough said it was complex, the way staff attempted to address the issue of getting

outside the established character was a ratio of the existing structure. Another way to look at it

was looking at the block and say a person could go to an average of the block floor area. There

are different ways to maintain character of any one area.

Commissioner Dever said this issue was complicated on a number of levels, as far as a

city operation, he asked what McCullough believed was the biggest benefit to this change and

what was the main benefit to the City and the community.

McCullough said this was a request to look at the code by a specific neighborhood

group, so staff set out to address their concerns, which took several different turns as

discussions took place. If a concern existed for building additions or boarding houses that were

out of character with the neighborhood, this current version of the proposal addressed that

issue. The Planning Commission felt like the parking requirements for new construction were

aligned with apartments in terms of residential uses. There was probably a benefit in the code

requirements that helped preserve historic structures or large historic structures in environs.

Limiting the deck square feet was an attempt to get at the behavior issues. It was important to

note that all of the behavior issues that were identified were not addressed with a development

code.

Commissioner Dever said it was listed as a viable way to preserve large historic

structures and was that the number one reason to do something along those lines.

McCullough said it depended on who was asked because staff had heard that statement

from the Oread Neighborhood Association as 1 or 2 on their list of concerns.

Commissioner Dever said regarding the requirements of the new structure, under the

code, to improve the potential compliance and safety of the property, he asked what was meant

by a higher level of safety and how this changed the current way of meeting the code with the

new designation.

McCullough said staff had found several times a non-conforming/non-legal boarding

house was discovered either through code enforcement means or because an owner wanted to

make the boarding house legal and comply with the code. After they get through the process it

was made to comply with the code. Often times that involved sprinklers in the structure or fire

access out of different rooms that did not exist today and could involve any number of building

code related issues and other life safety issues.

Commissioner Cromwell asked about the clarification of inspection requirements, both

the initial turning it into a boarding house and the on going, with respect to boarding houses,

apartments, and rental houses and how those compare.

McCullough said the rental registration program was applicable only to single-family

zoning districts. Staff did not inspect, on a regular basis, any multi-dwelling structures and any

multi-dwelling zoning district. The way we discover those boarding houses was often times

because a fire happened, so our inspectors discover the use. Sometimes it was through a

building permit process, for renovation of a bathroom and staff received more information

discovering it as a boarding house that was not approved and were out of compliance at that

time and work to bring their boarding house into compliance. He said boarding houses were

discovered in many ways and staff did not discover boarding houses as well. There were

probably a number of boarding houses that were non-conforming at this time.

Commissioner Cromwell said there were also a number of homes that were chopped up

into rooms that were classified as apartments.

McCullough said correct, both through the process and not through the process.

Vice Mayor Amyx said in May 2009 the Planning Commission was asked to consider the

development code as it pertained to boarding houses and whether or not changes should occur

to standards related to boarding houses. He said if the City Commission disagreed, he asked if

all of this had to go back to the Planning Commission.

McCullough said the text could be modified. The City Commission's options were to

approve, deny, or send the text amendment back to the Planning Commission for modification.

Vice Mayor Amyx said if the City Commission had a difference of opinion on the 20%, he

asked if it would be considered a substantial change and discussion needed to take place by

the Planning Commission, but staff would find what it would take to do that.

McCullough said yes.

David Corliss, City Manager, said the distinction would be if it was a substantive change,

it needed to go back to the Planning Commission, but if it was more of a clarification change,

such as covered patios and covered decks, it would only be a clarification of the code and did

not think it needed to go back to the Planning Commission.

Mayor Chestnut called for public comment.

Susan Adams, Lawrence, said many subjects concerned the Oread neighborhood, some

subjects were parking, population density, low to moderate income designation, lighted

pathway, economic development, housing, historic value, city codes, landowners, tenants,

students, families, owner occupied homes, businesses, KU, and law enforcement. She said her

comments would be concentrated on the issues of parking and congestion.

Competition for street parking was exasperated by inadequate parking provided for

residents of Margaret Amini and KK Amini Scholarship Halls and inadequate parking available

for GSP Hall, and Corbin Hall residence. The University of Kansas needed to be at the table for

City's discussion concerning many aspects of the Oread neighborhood to address KU's

responsibilities for which parking accommodation agreements might already be documented

from the Good Neighbor and Interlocal Agreements which were developed when properties

were purchased by KU for the development of the Amini Scholarship Halls.

Although adding population density to the Oread neighborhood might be considered a

green option, because it allowed more students easier walking access to campus thus reducing

automobile use for the KU destination, there might be no automobile prohibitive clauses in rental

agreements, scholarship Hall residence agreements, nor dorm residence agreements nor any

closer access to vital amenities such as grocery stores.

Mathematically, the parking availability on the streets was less than the parking

demands which already existed. Not only impacting neighborhood residence, but also

businesses owning parking spaces off the street, but find that their clients and customers could

not park in their privately owned and maintained spaces because already dense living had prompted residence to illegally use the business owner's private parking.

Approving the reduction of the off-street parking spaces required per residence was not acceptable. The congestion in part, caused by street parking added to unsafe conditions for pedestrians, bicyclist and automobile drivers throughout the Oread neighborhood. So unsafe were the streets, that a member of the KU student senate was requesting more than a half million dollars for a safer pathway from campus to downtown.

In addition, the Oread Hotel, from which the planned pathway route begins, was added to the Oread neighborhood, the clientele of the hotel might prefer a safe method of walking to downtown establishments which included less congestion along the pathway.

In conclusion, the City should not approve requiring less off street parking for either new or existing boarding houses or congregate living facilities.

Candice Davis said she lived in the Oread neighborhood and was on the Oread Neighborhood Association Board. She said she was one of the people who attended the stakeholder meeting mentioned earlier. She said there were 3 property owners who lived in the neighborhood and 6 boarding house owners. She said they did not agree with the changes that evolved out of that meeting and were frankly, fairly surprised.

One of the goals of the Oread Neighborhood Plan was to maintain and encourage owner occupancy this has been especially difficult by the escalating number of boarding houses or congregate living units. Since the 1990's, the number of requests for boarding houses had gone up over 1000%. Prior to this, the neighborhood and owner occupants had been reasonably protected by the ruling that stated that no more than 4 unrelated individuals could live in a single dwelling unit known as a house. Single Family zone area, as you know, allow no more than 3 unrelated individuals to live in a house. Boarding houses used to be where owners rented out rooms and provided meals for the renters. Students not only lived with a resident supervisor, but lived with families. She said could a person imagine the likelihood of out of control

behaviors, excessive drinking, and wild parties under those conditions. Students also did not own cars. Years later, as society changed, boarding houses seemed to fade out. After all, in today's world, who wanted to live with students and cook for those students? However, about 10 years ago, a resurgence of boarding house applications began and morphed into what we know today.

The code for boarding houses should have been altered or studied, at that time, to discuss the use and the impact on neighborhoods, but it did not happen. Today they were seeing dwelling units that once housed 4 unrelated individuals, now housing double that number and in some cases even more. The once subdued boarding house had now become a residence for groups of undergraduates that generally know each other and had some kind of affiliation with a social living group on campus. Boarding houses not only housed students, but also popular off campus locations for parties or open saloons. There was often outdoor deck and patio space for outdoor gatherings, drinking and celebration.

She said on her block, on Louisiana Street, the house across the street was a moderate sized home that was divided up into 3 units and rented and there was never a problem. She never complained and they were civilized and reasonable neighbors. Now, since it became a boarding house 4 or 5 years ago, there were a lot of parities, disruption, trash, and noise. She said she called the police several times and her property had been vandalized.

She said for the City's information, the street sign at the corner of that house was no longer at that location and someone had taken the sign and it was an historic street sign. She said who wanted to live next door to a situation like that? Certainly that kind of activity did not encourage owner occupancy. It placed stress on the neighborhood, and used many City resources to address the disruption, higher crime, parking problems and ensuing blight.

The higher density that was allowed in boarding houses or congregate living and the lower parking requirement than other housing types favors one type of rental unit over another, the boarding house. Individuals wanting to buy older homes in the neighborhood were now

being priced out of the market as home prices rise due to the income generating potential of a

boarding house.

The amendments before the City Commission were very problematic and unfair and

should be revised in keeping with the goals of the Oread Neighborhood Plan, which was largely

accepted. A moratorium should be placed on all boarding house applications until this matter is

resolved.

Vice Mayor Amyx said what was the current owner/occupancy in Oread neighborhood?

Davis said approximately 10% and at one time, the owner/occupancy was much more.

If there were no owner/occupancy, the neighborhood would lose stability and some oversight,

and a lot of big problems and expenses that would be transferred to the City.

Kyle Thompson, President of the Oread Neighborhood Association, said he and his wife

moved into the Oread neighborhood in 1988, their two sons grew up in their home which was on

the national historic register. In 1988, 10 of the 22 houses on our block were owner occupied.

The other houses were mostly rentals and divided into several apartments. There was more

noise in the Oread than in their previous neighborhood but they adjusted. Now only four homes

on our block were owner occupied.

In the last few years, a number of houses on our block have been converted into

boarding houses, legally or illegally. This has led to an increase in big parties, noise, urinating

in their yard, trash and parking problems. With the increase in boarding houses and many

unresponsive tenants they had to call the police often both during the week and on the

weekends.

The Oread neighborhood has always included a diverse group of people living in the

neighborhood with various income levels, families, couples and singles, owner occupants and

renters. Residence included professors, assistant professors and other working people,

graduate students and under graduates. Some renters help, the owner occupants add stability

to the neighborhood and some did the opposite.

The boarding house text amendment makes the highest economic use of every property in that neighborhood a boarding house thanks to the financial incentives provided by the relaxed parking standards and more homes would be converted to boarding houses. What landlord would keep a house, a single-family, or a few apartments when he/she could tear out 2 or 3 kitchens and bathrooms, add bedrooms, rent to more people, and make more money? Only those landlords that had a high level commitment to the quality of life in the Oread and Lawrence that valued Lawrence's history and did not believe professors would group together to rent a boarding house.

He said this text amendment that allowed every home in their neighborhood to become a boarding house, ultimately creating a neighborhood of undergraduates seeking places to party close to downtown and the football stadium. The proliferation of boarding houses would create more of the externalities that were discussed repeatedly over the last few months, trash, noise, urination in public, underage drinking, blight, and parking problems. Those externalities plus fewer classic apartments for rent in the Oread would force the diverse population to leave the neighborhood. The City should not favor boarding houses over apartments by relaxing parking standards through this amendment.

He said the proponents of the boarding houses indicated a lot of the houses in the neighborhood were built as boarding houses, but most of the houses were built for families that had servants and maids. He said their house was built by a doctor and his wife and believed they had a maid and no children. Their house was actually a boarding house in the 1930's, but he was sure in those days a lot of students did not have cars or party every weekend and was a lot different atmosphere. He said hopefully, the City Commission would send this item back to the Planning Commission.

John Pultz, Lawrence, said they lived in their home for 13 years. He said he spoke in part as someone who lived across the street from 2 boarding houses and was a block that was not like the 1200 or 1300 block of Ohio, but a block that had an mixture of owner occupied of

tenant and rentals who were not undergraduates, but professionals, working couples, single parents, over the years he lived at that location. He said his concern was the addition of boarding houses consistently throughout the Oread neighborhood could destroy a fragile neighborhood. The neighborhood was exciting and had diversity, but had a very fragile fabric and it was something that was taken up in the Oread Neighborhood Plan that the City Commission would be asked to consider in a couple of weeks where it stated that families play a role in the long term health of the neighborhood, families could bring an increase level of stability and contribute to the diversity of the character of the area.

He said he was concerned that families as well as his family would not be happy staying in or moving into a neighborhood that was full of boarding houses. He said when staff was talking about boarding houses as being improvement of existing dense houses that might apply to parts of Oread, there were other neighborhoods, parts of Oread where boarding houses had drastically expanded the capacity of structures.

He said one concern was the capital invested in making a boarding house and if a family wanted to buy a house and take it another direction that investment of the bathrooms and bedrooms would be hard to reverse. He said with trends and market forces changing, it seemed too bad to get locked into a certain direction. He said he was also concerned about the reduction of diversity by the growth of board houses. Boarding houses appealed to undergraduates and did not serve the needs of other populations. An Oread neighborhood full of boarding houses would be a neighborhood full of undergraduates. He said if the same large houses were split into nice apartments it might house single parents, graduate students, working couples, and young professionals. There was a kind of sameness that resulted from this housing option.

Recent news reports suggested that young creative types, the types of residents that an ambition City like Lawrence wanted to attract, wanted to live in walkable zones and Oread was

such a neighborhood. He said he thought the City would benefit by finding a way to maintain

Oread's potential to serve a diverse population of residents.

In addition, houses rented to groups of students were more likely to be sites of large

alcohol fueled parties, complete with noise and trash and more so than houses broken up into

apartments. Large houses attracted undergraduates that wanted to have parties and they did

not need more residencts that kept people awake at night or attract people sitting on porches

when coming home from the bars at 2:00 a.m.

He said he urged the City Commission to send this proposal back to the Planning

Commission with instructions for its members to find a zoning or planning solution to large

structures that made them more compatible with goals for the neighborhood stated in the

forthcoming Oread Neighborhood Plan.

Dennis Brown, President of the Lawrence Preservation Alliance (LPA), said for as long

as anyone could remember the number one problem in the Oread neighborhood had been

parking. Boarding houses, while not new in Lawrence's history, had seen a recent resurgence

since the 4 unrelated persons rule was passed. Of all the uses that made up the mixed use in

Oread neighborhood the one use struggling the most was single-family homeownership, the one

proliferating was boarding houses. It did not make sense then to relax the parking standards

currently in place for boarding houses that was creating an incentive for a use that did not need

it at the expense of one that did.

He said that LPA did not believe the boarding houses should be discontinued as a use.

A moratorium was probably in order, particularly in the Oread Neighborhood. They did not

believe that boarding houses had caused the parking problems in Oread and would not call all

boarding houses party houses, but new the best way to stabilized historic older neighborhoods

was with year round resident homeowners.

Boarding houses could provide for a repaired structure, but could not strengthen

community. There were places for boarding house, but too many in any given block could

threaten the investments of individual resident homeowners that deserved better.

A revised Oread Plan had just passed the Planning Commission and the Historic

Resources Commission. In lieu of changing existing zoning, the plan relied on the concept of

urban conservation overlay districts to essentially determine what should go where from light to

medium to high density, not to totally segregate uses, but to proportion those uses.

He said LPA believed that planning tools should be used that encourage single-family

dwelling homeownership in the 2 historic districts and in the medium density overlays and that

large rental projects including boarding houses should be encouraged in the high density

overlay near the university.

Design standards, including stricter parking requirements, could limit the number and

size of boarding houses in the median density and historic districts where single-family

homeownership could be increased. Not eliminate, but limit.

Relaxing the parking requirements in the high density overlay, might encourage the

preservation of larger, older structures in those areas. He said for instance, 1232 Louisiana,

which was now demolished without even an attempt to salvage. LPA would have considered a

boarding house outcome for 1232 Louisiana as a good solution, if they could just wind back the

clock 3 or 4 years on the demolition by neglect that occurred at that location. In that particular

case, relaxed parking requirements would have been necessary for a boarding house in that

location to have worked.

The community needed to protect the investment of the few single family homeowners

that were left in the historic districts in median density overlays and not increase the threat to

those homeowners, by relaxing the parking requirements for boarding houses on neighboring

properties.

Betty Alderson, Lawrence, said she would like to encourage the City Commission to not decrease the required parking. She said 8 people living in a house could very easily mean 16 cars. She lived in a single-family zoned area, theoretically there were only 3 people living the house next door, but there were 5 cars at that location every night and 2 of those cars consider the street in front of her house their private parking lot. She said they were turning their City streets into public parking lots for those multiple used homes.

She said she watched over the years the changes in the 1960's when houses became very disreputable, ownership and demolition by neglect, but that situation had changed and the Oread neighborhood was to be congratulated for encouraging single families to move into that area and to repair and refurbish. She said her experience with realtors marketing single family homes to investors for student rentals was that they might look alright on the outside, but the inside was a shamble and a young couple could not be found to pay the price and investor would pay and redo the house so that it was livable, college students did not care. She said one of the tools was to make sure if there were a lot of people living in a house, they had a place to park their cars. She said saying the college student was close to campus and would walk did not mean they were not going to have a car nor did it mean their significant other was not going to live with them. It was the reality of the society in which everyone lived. She said she encouraged the City Commission to take a long hard look at decreasing any of the parking regulations that was something that was a City concern and it was enough of a concern in her neighborhood where she constantly called the police because she could not get out of her driveway.

Elise Higgins said it was very difficult to make policies that satisfied the huge variety of stakeholders in this issue, but wanted to talk about students, as stakeholders, and how to better work with the City Commission to offer input and find some common ground solutions to the housing problems. She said she would like to address the lack of student input in this process

and the fact that undergraduate students at the University of Kansas had become synonymous with wild partying.

One part of this partying problem that was identified by the community and by the City was that fraternities and sororities use boarding houses to funnel out their residence and subsequently host parties. She said she did not deny this was a problem, but accusing the groups was not a solution to that problem. There were students who were willing to communicate about this issue and together, they could come to an agreeable solution. The Pan-Hellenic Association and the Interfraternity Council and the National Latino Fraternal Organization had visible leadership with accessible contact information on the KU Website and other KU resources. Those student leaders responsive, conscientious and good people and must be included in stakeholder meetings. She said she would make an effort to always attend stakeholder meetings. She said she realized students were a transient population, but those leadership structures and her position as Community Affairs Director at the University of Kansas transcend graduation cycles.

A lack of communication between permanent residents, City leadership, and students had created an ugly situation where bording houses were considered to be threats and boarding house residents were considered to be irresponsible and alcoholics. As a boarding house resident, she objected to that characterization and it was unfair. She said she knew there were obnoxious students who hosted obnoxious parties, but to generalize their behavior to all student residents of the Oread Neighborhood and boarding houses in general was harmful. She said she lived in a boarding house with 4 other people, 3 of whom were undergraduates and included her self. One of those undergraduates was a brilliant chemistry major on her way to graduate school. One was the founder of the Classic's Club at KU and spoke fluent Latin and one taught special needs children to play musical instruments and none of those women deserved the verbal abuse that was directed at boarding house residents that had came out of those discussions.

Often the problem of those un-kept party houses was between negligent landlords and tenants, one which this amendment did not do anything to address recognizing it might be within the scope of this discussion, but she wanted to talk about how landlords violated City Code and kept their houses in a state of disrepair and how that contributed far more to the negligence than any short term behavior by those residents.

There were also some legal solutions to partying problems that had not been addressed, such as, the house party ordinance that the City Commission adopted this summer. Landlord issues aside, there were some substantial benefits to keeping boarding houses in Lawrence and not instituting any type of moratorium. One of the benefits was that it kept large historical structures economically viable in a financial climate that would otherwise argue for those boarding houses being demolished. Other benefits were that it promoted space efficiency and a walkable eco friendly lifestyle and satisfied a demand for a growing undergraduate student population. Students at KU did deserved efficient, accessible safe house, just as permanent residence deserved security and recognition of their stewardship roles in the Oread Neighborhood.

She said safeguards must be in place to ensure that any increases and mortgage payments that might result from this bill from increased parking regulations of increased parking regulations or increased trash space regulations would not be passed along to students and that students that would be able to continue to live in houses which were found to be not meeting City code in the middle of the year. Students had been living in large houses on this campus for over 200 years and now over 2,000 students lived in the Oread Neighborhood and was a problem that was not new and was not going to go away any time soon without a genuine effort to get all the parties involved at the table, including students. She looked forward to increased and regular communication with the City Commission and the City Manager's office and Neighborhood Association Leaders and urged the City Commission passing those amendments in order to incorporate student input.

John Hoffman said he lived at the south end of Oread Neighborhood, near Tennessee

and 16<sup>th</sup> Street and was speaking as a resident and owner/occupant and also as a landlord. He

also owned rentals around his home and saw things from several different directions. He said

he was representing himself, but also the interest of students in the area.

He certainly wanted to maintain Oread as an interesting heterogeneous neighborhood

as any neighborhood should be. It seemed the most vocal people were those who were not

students which were understandable because students did not tend to get involved in issues like

this, but on the other hand, virtually 90% of the residents of the neighborhood were students

and deserved to have their interest protected also.

If students wanted to live near campus, their options were fairly limited and the university

did not provide anywhere near enough housing to house as many students that would like to be

near campus and students get pushed out to the apartments on the edges of town. Housing

near the campus in those boarding houses was an option and it seemed the city should be

helping to provide.

He said he was glad to see in the language of the changes, the word "congregate living"

rather than "boarding house." He said there were no boarding houses by the classical definition

in Oread Neighborhood and at the very least, liked to see that language changed so that the

language of the law did reflect the reality.

He said Oread Neighborhood varies tremendously in different parts of the neighborhood.

There were sections where there were owner/residents and graduate students, a mix of

residences. On the south end of Oread where he lived, it was not true anymore, from 14th on

south, about 3 blocks along Tennessee and Kentucky Street there were very few owner

occupants and were not even a whole lot of apartment type building left. The reality was if

talking about maintaining the Oread Neighborhood as an owner/occupant neighborhood, it was

not anymore in his area. He said he tried to sell two of his homes to owner/occupants, but could

not, due to safety reasons and finally sold both his homes to a couple of landlords. He said he

sold one of his homes on Kentucky that a couple of years later was turned into a rental.

He said he liked the idea of trying to increase the student density around the university

because he hated to see more agricultural ground eaten up on the edges of town as housing

spread out. Increasing density everywhere in the City was one option to try to deal with that

issue.

Also, he said noise was a problem, but had changed tremendously since changes were

made on how Police reacted when called.

James Dunn, landlord and resident in the Oread Neighborhood, said many of his tenants

were not students and were people that were employed in the community. He said the area

where he owned property, the block on both sides was boarding houses.

He said the 4 unrelated rule worked well and he was able to have off-street parking

available. He said he appreciated a mixed neighborhood of owner/occupants, tenants,

students, working people, and a variety of folks.

Bill Mitchell, Lawrence, said neighborhoods in general would be done a grievous

disservice if this change was implemented. He said he did not know how many such

disservices the City could bear before coming extinct, but the City was on its way of finding out.

Downtown had become Aggieville Way and the Oread neighborhood would further render

uninhabitable and reduce on-site parking.

KT Walsh, Vice President of the East Lawrence Neighborhood Association, said

regarding the issue of relaxing the parking, for example, the East Lawrence Neighborhood had

a big historic home turn into a boarding house at 1211 Rhode Island, where 8 young men lived

and were dedicated to drinking and the police were called often. The landlord lived in Prairie

Village and was unresponsive. She said she respected Higgins insights, but her experiences

were that boarding houses were party houses.

Janet Gestner, Lawrence, said she lived in Oread for 10 years and put a lot of their

money and sweat equity into fixing their home. She said it was a wonderful neighborhood and

was a treasure that was often overlooked and looked as a place to use the resources for

different folks to make money and a lot of times had been the sacrificial lamb and a place where

backs had been turned on in the zoning regulations that occurred over the years and a lot of

different factors that made it hard for families to live in.

She said this issue was brought up by the neighborhood by coming to the City

Commission and the City. It seemed ironic that something Oread was seeking to try to help the

neighborhood had gradually become something they did not support any longer and infill would

be actually a negative for the neighborhood.

She said safety improvements with the boarding houses and its inspections would be an

improvement. She said there seemed to be a huge absence of features to make safe housing

in Oread since it had been very carefully excluded from a lot of the other rules that applied in the

other neighborhoods and also did not have rental registration. A lot of those things brought

safety to those old homes which was ironic since this was one of the neighborhoods with the

mostly denser older homes where a lot of fires took place and folks were at danger. She said

she suggested looking at what would really help the neighborhood instead of trying to find a

justification for something such as the congregate livings or boarding houses that might have

minimal good points.

Lastly, it took a lot of commitment to live in a neighborhood like Oread and was a bit of a

battle every single day. She said she did not know if anyone could appreciate that comment,

unless they lived in Oread.

She said Hoffman who spoke previously, was talking about the area where he lived was

exactly the reason for a lot of other blocks to become what Hoffman was describing and

certainly because the City had turned its back on certain blocks and made them unlivable, that

was why those blocks were the way they were.

She said it seemed this text amendment would harm the existing boarding houses or reverse, but she was not catching that and were simply talking about the future.

Gwen Klingenberg, President, Lawrence Association of Neighborhoods, said regarding the issue of congregate living was not just Oread. Oread was a unique place that was once again taking the heat the rest of the community would probably see and become a testing ground. For instance, Planned Unit Development (PUD) which would be affected by the ability to have boarding houses. She lived in a PUD where she had 9 people living in that area and there were over 9 cars that were parked around that curve. She said parking was an issue and if allowing the congregate living to change the parking rules, then everyone else would want equality. In order to stop a slippery slope, they needed to consider the parking limitations.

She said out of curiosity, she looked up other PUD's and noticed the street to the north of the Mayor was a PUD and there were large houses across the street from the Mayor. It would not be spot zoning for any of those houses to become part of the PUD and become a boarding house across the street and was not affecting one neighborhood or could affect several neighborhoods.

She said another issue was the adaptive reuse that was allowing large homes in single-family neighborhoods to expand and use bigger change uses for instance, congregate living. She said now they were talking about, not only multiple family zoning, but single family zoning that could also be requesting more than the 4 people in PUD or more than 3 people in single-family and fought hard for those designations in those neighborhoods.

The large houses that were being re-adaptive for boarding houses seemed to be alright with most of the neighborhoods, but the large footprint additions to the single-family homes in those neighborhoods were taking away some very valid and very important policies in Horizon 2020 which was to protect the integrity neighborhoods to maintain the footprint of neighborhoods and the housing types and sizes within those neighborhoods which this text

amendment would change that. On top of that it was changing their ability to have affordable

housing.

She said as for the codes not dealing with behavioral issues, the codes had a way of

being able to help eliminate large behavioral issues by maintaining some of the unrelated living

conditions and by size.

She said LAN hoped the City Commission would seriously reconsider and make sure to

take care of the unintended problems that would be attached and had not discussed.

Jim O'Malley, Lawrence, said he had a brief observation from Old West Lawrence in that

encouraging increased density in the older neighborhoods with smaller lots, narrower streets,

and limited parking was often bad policy. The boarding houses in Oread provided good

example of what economist called "negative externalities", cost that imposed on non-parties or

to a transaction. The transaction was between the boarding house owners and their tenants,

the non parties were the neighbors and the cost were the overload of available parking, noise,

traffic disruption. He asked that the City Commission give that idea due consideration and to

what extent the City Code should encourage this use.

Tony Baccus, Lawrence, said he lived on Massachusetts Street where it was very loud

and would not ask the City Commission to consider any traffic calming because he moved into

that environment. He said capitalism was a moral issue and needed to be checked and keep an

eye on each other. He said he appreciated the codes and oversights.

He said they had completely remodeled at least 6 homes that were now fully up to code.

A number of houses they worked on were headed down. He said by putting \$500,000 into a

home, it would no longer be destroyed because it was worth too much money. He said he was

not saying there were not lots of problems, but they needed to mandate behavior and if

someone was misbehaving, that person needed to taken into line. He said times had changed

and needed to figure out how to manage this area so it did not become a blighted mess.

Fidela Bowman, property owner of some of those boarding houses in the Oread Neighborhood, said a person could find plenty of articles on the internet regarding the Oread Neighborhood showing issues surrounding parking, noise and excessive partying. At that time the evil doers were the apartment complexes, now the Oread Neighborhood Association had found a new target which was boarding houses. The boarding houses were accused of being noisy, taking up too many parking spaces, and the students were the entity to drive away. She said most of the boarding houses had resulted in saving and preserving old structures as well as contributing to the community and the neighborhood.

The concept of boarding houses, mixed use, located next to the university and the downtown area, with the correct high density zoning went hand to hand with the Traditional Neighborhood Design Study. She said she had attended many HRC and Planning Commission meetings regarding this boarding house item. She said turning the neighborhood into owner/occupancy was a concern. She said she heard during a Planning Commission meeting, a Planning Commissioner suggesting offering financial incentives to individuals in the Oread Neighborhood. She said the lots were not vacant or abandoned lots or houses and did not agree with this land grab philosophy proposal. Most of the properties had changed hands the past three years and small investors, such as she, had purchased those houses as rentals located in high density areas with intent to remodel and expend those home as needed in the future. To limit the full potential use of those properties seemed unfair and arbitrary.

She said she believed all the properties should be held to the same standard instead of focusing solely on boarding houses which she believed those issues would be addressed with the overlay district if implemented correctly. She said she was outraged when owners were treated differently based on occupancy.

She said she was usually against adding additional rules because there were so many already and they were difficult to enforce, but since the Planning Department had worked hard to figure out a compromise, she was willing to accept it and move forward.

Carol Von Tersch, Oread Neighborhood, said this problem had been growing and intensifying in the Oread Neighborhood for the last few years and the Neighborhood Association had been coming to the City repeatedly asking for relief, help, or assistance with this problem. She said they had received terrific help with the noise ordinance and the party house ordinance, but the burden to get those enforced, still fell on neighbors who were functioning as a police force, in a sense, in making the calls and reporting problems to the City. When the neighborhood had asked for relief in the last couple of year, it had primarily been for relief from this perceived problem of the boarding houses. They had asked the City for a moratorium on board houses until it could be fully investigated and discussed by all the stakeholders. What they had gotten in the last 6 to 8 months, since asking for this assistance from the City, they had gotten a text amendment that accomplished 4 things.

- The previous limitation to 4 unrelated individuals in a house was now dead, if this text amendment was adopted;
- The 20% provision for adding to properties flied in the face of old principles of historic preservation in a neighborhood where a person was committed to preserving the historic character;
- 3. It exacerbated the parking problems; and,
- 4. With this growing tendency toward boarding houses, the owner occupancy were going to give up an leave the neighborhood and all of the associated problems would be left up to the City Commission to resolve because of the different neighborhood would be presented.

Beth Reber, Lawrence, said having grown up in the Oread neighborhood and moving back to that neighborhood when she purchased that home on Kentucky, she knew what she was kind of what she was getting herself into, but in the last 15 years, it had gotten increasingly worse.

There should be a way to preserve the houses that were too big for families and congregate living was a viable option, but did not want a proliferation of boarding houses to take over the neighborhood and the pure and simple reason people want boarding houses was to make money. She said she was wondering why there was any language in the text amendment at all about those homes being able to expand because then that was not the purpose of preserving those structures anyway and 10% or 20% was the entire square footage of the house, not just the ground floor. It could be a huge addition and if they had to provide more parking, which everyone wanted, they would concrete the backyard and put in parking which made the neighborhood ugly as well.

She said parking was going to get worst.

She said as far as boarding houses making houses safer because those types of houses had to go through inspection process was crazy because those houses should be going through inspection anyway which could be taken care of with the rental registration or a blight study.

She said they needed to come up with a better plan of how to best utilize those large houses and that most of the people spoken who owned their houses were older and when they were all gone, what was going to become of their houses and most likely would become boarding houses.

Serena Hern said in 2002, they purchased a home at 11<sup>th</sup> and Ohio. The house was unspeakably bad. The person that did the inspection for the three houses that were torn down for the scholarship halls said those properties at the 1300 block of Ohio were in much better shape than 1121 Ohio.

She said they told the City they wanted to turn the house at 11<sup>th</sup> and Ohio back to single-family housing because they liked restoring houses to the way they originally looked and City staff said the only way it could be done was to be zoned boarding house. She said the houses that she bought on Ohio Street were designed as very large houses. The City passed an ordinance that single-family housing was limited to 4 non-related persons. She said most of the

houses built in the Oread Neighborhood were not 4 bedroom houses, but larger. She thought

the provision was placed in the code to help encourage people when they were significantly

restoring the house, the City would be involved and the City would have purview over what was

going on and bring it up to code. The look of Old West Lawrence was its old houses.

She said she spent millions of dollars on her houses on Ohio Street to bring those

houses up to code. The other thing was the constant reference to the fact that this

neighborhood was a single-family neighborhood.

She said if doing more research the City would probably find that the Oread

Neighborhood was always owner occupied, boarders, coops, and boarding clubs. She said she

had a lot of sorority/fraternity kids that lived in her houses and was the same as it had been

years and years ago.

James Hicks, Lawrence, said in the last 4 years, they sold 48 of their homes and the rest

of the homes were on the market because the changes in the regulatory environment lead him

to fear they were on a path that would lead to declining property values, abandonment, and

blight. People were so busy arguing about it that they were forgetting a simple principle in

economy, which were green and ripe or ripe and rotten and Lawrence was rushing towards

rotten because the City was not allowing the capital to flow right.

Commissioner Cromwell said if he had an 8 bedroom boarding house, he asked how

many parking spaces were required currently.

Scott McCullough said 6 parking spaces were required.

Mayor Chestnut said his family owned property in the Oread neighborhood at 1646

Tennessee and one of the houses that were taken out for the scholarship halls was one of their

houses. He said he was having trouble supporting the recommendation for a couple of reasons.

First, he had discomfort with the 20% and the language around covered decks and

patios in particular that seemed a little bit undefined as far as having a footprint of the

foundation that was pretty easy to measure, but as far a covered decks and patios that could

get expansive especially because there really were not any consideration to the lot size and that seemed to be problematic. An expansion could be made to where 90% of the lot was filled.

Also, there was a tradeoff in that he agreed with the concept of making it a use by right, but then when going to the situation in the current language where the number of bedrooms were not limited, that was a conflict to him. He said if having a use by right, parameters were needed and not having any limitation on the size and it would go back through administrative review and seemed like possibilities of some things that would come through that they really would not see that could be significant in size.

He said he agreed with getting the students involved, but one stakeholder that was not discussed was the University. The University was not under any parking requirements and knew that some of the dorms and others created some of this problem as well. He said the City needed to find out how to dialogue with the University realistically about what was going on.

The concept of having more bedrooms there was less likelihood of everyone having a vehicle, but it seemed there was a conflict when having one space per occupant for new construction, but something less than that for converted construction and understood some of that was by lots because of the configuration. He said whoever was around that particular situation was going to have a real problem. There was this balance that had been a discussion forever about financial viability and that was the big issue. He said revitalization and investment should be encouraged, but also the cost of the externalities that created that for everyone else around and there was that balance to figure out, but he could not support the current language because permitted by right, with no limitation on the expansion of the number of bedrooms and the 20% existing floor area which included covered decks and patios and the lesser parking spaces that went up with the size of the structure would create some permitted use by right through administrative review that were going to be real problems. He said he like the language back in October which talked about permitted by right up to 6 bedrooms and 6 occupants and some type of special use permit that exceeded that and the 1 space per occupant. He said he

guessed that would create some issues that they could talk through at some point with making that challenge a financial viability, but it seemed it gravitated to a place where they were creating a wide birth that could be significant.

He said he appreciated that it had been a congregated living neighborhood for a long time and should continue to support that type of neighborhood, but did not know if a moratorium was the right way to go. He said discussion took place about what happened on the front end, which was delete boarding house all together which was not reasonable and the status quo was not reasonable because there were tons of non-conforming uses right now. The goal was to try and bring as many properties into conformance as possible and if maintaining the status quo, was to continue to have lots of non-conforming use, but he did like the option of moving it closer to possibly having some restrictions on the size and where by right there would be a certain size and anything above that would be by special use permit and that was going to be dictated by the structure. If there was a 5,000 square foot house that had a large lot, six bedrooms would not be reasonable and would be reasonable to go above that, but some of those, by right, with not having any restrictions on bedrooms, they could end up with something that could be really overloading a lot, especially because coverage was not part of this and there were a lot of those nuances and he was getting back to the externalities that could be damaging to the neighbors. He said he would like to see a set of rules, but this was not the set of rules he wanted.

Commissioner Cromwell agreed that the language in the text amendment created in October was better. He said it seemed strange to go backward on parking, but liked the idea of congregate living. It was infill in a lot of ways and preservation of older homes and there were some fantastic examples of preservation that occurred which would not have been done otherwise.

He said they did need a set of rules that was workable and doable to bring a lot of those old houses that were congregate living, boarding houses, and apartments, but were underground. By bringing those in by confirmation, it would be come of a safer, more

maintained property. There were properties where no one would call a plumber or roofer out to

maintain their property for fear of having their property turned in. He said this was a safety

concern for students. He said the City Commission needed to throw this text amendment back

to planning to address.

He said he also found that 20% number interesting when saying 20% of existing floor

area livable space or unlivable space with a 2 foot crawl space. He said the footprint of the

building should be used because it was much easier measuring that footprint.

He said staff might need to look at an overlay when getting closer to the university and

an idea that needed more investigation as to whether there should be some relaxation of the

parking requirements and allow those special cases to come about and address those cases as

they came up.

A lot of people had discussed behavioral problems and blight which the City allowed

blighted homes to go to long before addressing. He said they should also focus on parking and

expansion and bringing folks into the fold that were currently non-conforming.

Commissioner Johnson said he was for remodeling and retrofitting property to make

property better in the area and by not adopting the text amendment, a person erred on the side

of going another direction. He said when talking about the externalities and the costs, it could

be looked at from a neighborhood or the City as a whole. He said this type of use made perfect

sense for this area. He said one person said it was 10% owner occupied and 90% not. This

was a neighborhood of congregate living, boarding house properties. Several years ago, the

City stated no more that 3 unrelated individuals could live in a single family residence which had

consequences which pushed people, students, unrelated people out of those single-family

neighborhoods and those students need housing somewhere.

Also, the University was not providing the housing and students were going off campus

and people build apartments miles and miles away from campus, but yet those neighborhoods

come in and the City Commission heard from those neighborhoods that did not want those

apartment complexes. They also heard the City needed affordable housing, walk-ability, and no .

sprawl.

A developer had to take on an investment to build apartment complexes to house

students which was a demand in this community whether liking it or not, this was a university

town and the student population was different now than years ago and somewhere that housing

for students needed to be taken care of. Individuals had gone into a neighborhood and

provided housing for substantially less, providing a need and was footsteps from campus and

downtown. It was not the answer the owner/occupants wanted to hear, but when looking at City

at large, and housing students, this made sense to house students next to campus. What had

been worked through the last several months was a good compromise that allowed for the

encouragement of using existing structure and not tear it down to keep its historical perspective

and this was a good compromise.

The parking was a problem whether those boarding houses were there or not and as a

result, students were driving miles and miles across town to campus. He said he agreed with

the Mayor that the University had a stake in this problem and would like the university to provide

more parking. He said he supported the text amendment and moving forward.

Mayor Chestnut said he supported the congregate living because it had been there a

long time, but for him it was what came out.

Vice Mayor Amyx said sometimes a neighborhood initiating a request, opened up a can

of worms. The Planning Commission and Planning Staff thought this request was coming from

the neighborhood and now the City Commission was left to deal with an entire set of brand new

rules that a whole lot of people were not happy with including the City and Planning

Commission.

He said he wanted to thank the people that had made investments in boarding houses

because of the existing housing stock and the investment of private dollars in a lot of cases. He

said with the changes from the Planning Commission, he had concerns going forward. He said

the rules set now allowed for the expansions to happen, but did not meet some of the

requirements.

He said parking was an issue and there needed to be an arrangement or wording

change that allowed for a variance of some kind to the existing code. He said there might be

places where properties could not be developed because it was too large and the return on the

investment was too great, but if there was a variance opportunity, that some could receive, that

would take care of that problem. He said one space per bedroom seemed to be reasonable for

parking, but if the Planning Commission wanted to look at a change in language that would

allow for variances to protect those homes was good.

He said regarding the 20% of the existing floor area including livable space, unlivable

space, and covered decks and patios, made no sense. He said regarding trash receptacles, the

City had ordinance dealing with trash.

He asked McCullough how many votes it took to override the Planning Commission.

McCullough said to do something contrary to the Planning Commission took 4 votes.

Mayor Chestnut said if the City Commission had some specific direction, he would rather

have a stakeholder group get involved. He said the university had some issues they were

creating as far a parking was concerned. He said it seemed they were considering this in a

vacuum because following right behind this issue, the Oread Neighborhood Plan, and it might

provide some other answers because there was a very high likelihood that some of this might

not apply to the entire neighborhood. It might be going through different areas and saying more

density of less density because even in the public comment they had the character of the

neighborhood across 4 or 5 blocks changed dramatically.

Vice Mayor Amyx said this neighborhood had dramatic changes. He said if sending the

text amendment back to the Planning Commission, he suggested sending it back as one unit

with the text amendment and the neighborhood plan.

Commissioner Dever said most communities had elected to discourage boarding houses for safety reasons. Those structures were demolished and new infill apartments were put into place. There were structures that had been destroyed and new building occurred and that was the way things happened. This area had always been an intense land use and many people living in smaller structures or boarding houses and was not an unusual or new thing. He said he did not want to encourage demolition of structures because there were buildings suitable for renovation and people that had done a good job of rehabilitating buildings. He said his major issue was not agreeing with changes that had taken place and specifically allow by right a person to add to their building to a lot that might not be suitable for that addition. He said there were a lot of reasons not to add additional built areas to already small lots which were a flaw

He said there were other unintended consequences and this parking issue would become exacerbated and move to other parts of the community. The closer living near a University, most students would walk and less likely to use a car. He said overall he was not in favor of approving the text amendment in its current form, but needed to do something to try an encourage preservation of existing buildings that were suitable and allowing people who wanted to make a viable business from this prospect to prosper, without harming the community and the neighborhood.

that needed to be fixed.

Mayor Chestnut said it seemed there was some consensus, other than Commissioner Johnson, to refer back to the Planning Commission the 20% floor plan expansion. In particular, the livable and unlivable, covered decks and patios did not seem particular popular to expand.

He said regarding parking requirements, he concurred with Vice Mayor Amyx on wanting a standard and a process to a variance to the standard. It seemed that the standard should be one parking space per bedroom, but realizing the City would have situations on specific lots where that space would not work. He said instead of trying to address parking standard in the

code that the Commission go through the process of trying to vet that issue out. He said they were focusing on the area of the Oread neighborhood, but it would apply across the City.

McCullough said the only other think he heard was a little bit of direction on process, whether it was "by right" or with "special use permit" if there was a threshold or not.

Mayor Chestnut said he liked the idea of "by right" to some level, but if it was "by right" no matter how much, that was an issue. He said it would be nice to know how many structures had 6 bedrooms or under.

Vice Mayor Amyx said that could be part of the additional information the City Commission could receive back from the Planning Commission regarding the new threshold.

Commissioner Dever said the Mayor covered those items that needed some type of clarity that would alleviate the "by right" versus "unintended consequences" of the action itself.

Commissioner Johnson said for the record, he did not know why it was up to the City Commission to try to peg a number. The site conditions, the size of the structure, and parking requirements would naturally restrain that number.

Mayor Chestnut said he agreed in principle the way it was with the 20% and the patio, they could end up with a structure that covered 97% of the lot.

McCullough said the reason the SUP was proposed, had to do with the behavioral issue, if the use was appropriate in a site specific area versus the site characteristics because to date, the parking was the controlling standard for limiting the number of bedrooms and occupants.

Vice Mayor Amyx said when looking at the parking requirement there was an importance in saving those large structures and that might be the only way to do it.

**Moved by Cromwell, seconded by Amyx**, to refer Text Amendment (TA-6-17-09) to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House" back to the Planning Commission. Aye: Amyx, Chestnut, Cromwell, and Dever. Nay: Johnson. Motion carried. (13)

The City Commission recessed at 9:35 pm for 10 minutes.

<u>Receive City Auditor's comparison of accumulated infrastructure depreciation ratio for</u> Lawrence and similar communities

After returning from recess at 9:45, Michael Eglinski, City Auditor, presented the staff

report. He said the conclusion of his report indicated that Lawrence was less likely, than many

other cities, to face big expenditures to replace infrastructure in the near term.

Commissioner Johnson said he looked at the cities the auditor compared and when

Eglinski looked at infrastructure roads, he suggested paying attention to similar climates and

material used.

Eglinski said Public Works was putting together more specific street information.

Mayor Chestnut called for public comment.

After receiving no public comment, the City Commission received the report.

(14)

Receive City Auditor's Solid Waste performance audit report

Michael Eglinski, City Auditor, presented the staff report. He said the reason for the

report was because the City provided solid waste services to everyone in the community. He

said the financial condition of the solid waste utility had been declining in recent years. In 2008,

with the audited data, the City's expenses were about \$750,000 more than the City's revenues.

The key issues of the performance audit addressed:

• Data on recycling rate and customer satisfaction;

Use of "task incentive"; and,

Managing costs and good solid waste practices.

He said the way he looked at the recycling estimate was

• Used the EPA standard equation for recycling rate;

Adjusted for imports/exports of waste;

Obtained data on calendar year basis; and,

Reports data in tons.

To improve recycling estimates, backyard composting should be excluded to be consistent with EPA guidelines; conversion factors needed to be tested for appropriateness; and, the City should develop a clear documentation of the method of calculations.

He said with the citizen satisfaction data, he received national data, using the same questions and methodology and saw how Lawrence stacked up against the national data and Lawrence was above the national average.

He said the City received complaints on how the City compensated some of the collection employees. He said if eligible employees completed their task in a safe and timely manner to their supervisor's satisfaction, the employee was released for the day even if it was less or more than 8 hours. The main benefit was giving incentive to finish routes quickly and completely and the main risk was to go to fast. He said there were several pros and cons to this benefit.

In order to manage this incentive, written policies, adequate supervision, safety programs, and monitoring hours were important. The City practiced all of those things, but did not track actual hours. The employees clocked in and out on time cards and the City had a record of when they came in and the end of their day, but the cards were stored and the data was not put into a system. He pulled records for 2008 and calculated hours worked and for the year it was a little over 6 hours.

He said cost issues of recent years were adding staff, health insurance increased, equipment cost increased and relatively low and constant landfill fees.

He said good practices implemented in Lawrence were the composting program, household hazardous waste program, enterprise funding, community outreach, employee relations and incentive programs, and safety and workers compensation programs. Also, good practices to consider were automated collection, use of technology for routing and vehicle/driver performance monitoring, providing volume-based pricing options for residents, and benchmarking and measuring/reporting on performance measures.

Other recommendations were to write overtime policies, review equipment depreciation

assumptions, charge enterprise operations for solid waste services, and write policies on

providing free solid waste services.

Vice Mayor Amyx asked about the average hours worked and the overtime. He said was

the overtime coming from Saturdays and Holidays.

Eglinski said yes. The majority of overtime was on the weekend for non-exempt

employees. He said it was important to recognize that not all staff were on the incentive

program and was mainly the residential collection crew.

Vice Mayor Amyx said between 2004 and 2005, he asked what happened because the

City went from \$300,000 in net revenues to below.

Eglinski said the costs grew faster than the revenues. The things that were driving the

cost were some of the personnel cost and equipment cost and the revenues were not growing

as fast as those cost.

David Corliss, City Manager, said the City spent down the fund balance which was a

conscience choice.

Vice Mayor Amyx said what the City paid for the total amount of overtime in 2009.

Eglinski said \$160,000. The gap could not be closed with reducing overtime. He said

staff deferred some equipment replacement in this period. The last two years, equipment was

added with that 10 year life time and reduced their expenses.

Commissioner Dever asked Eglinski to explain the Friday incentive concept.

Eglinski said if an employee was working Mon-Fri, under this incentive, and the

employee arrived on time that day and worked 7 hours, the employee could go home. If coming

to work on Tuesday 10 minutes late, then the employee could not go home even if the work was

completed early and also, on Friday, the employee had to stay the 8 hours.

Commissioner Dever said he tried to find a gap in the negative trend in expenditures.

He said he saw depreciation was a major cost, but did not see the depreciation making up the

entire amount.

Eglinski said it was fair to say it was not a single item, but a mix of personnel costs and

the normal inflationary pressures were there just like any other service. The things that were

growing faster than inflation were some of those personnel cost, such as health insurance, and

the depreciation or equipment cost was growing faster than inflation. The revenues had

relatively small increases on an annual basis.

Commissioner Cromwell said there was a simple way to fix that graph by raising waste

fees by 15% and that would wipe out that negative trend very easily, but hopefully the City could

find some more creative solutions. It was interesting to note how little the actual disposal fees

come into play for the overall budget. He asked about the percentage of waste fees.

Eglinski said it was 15% of the budget.

Commissioner Cromwell said it was surprisingly small and could all expect those fees to

go up, unfortunately, supply and demand would dictate those fees. He said the City had some

of the lowest disposal rates in the country and from that point of view they were seeing health

cost to continue to go up, along with personnel costs, and infrastructure was aging a bit. The

City would have some cost that would continue to put pressure on that graph to continue that

trend to be even greater. He said the City needed to look at ways of helping with that issue. He

said when the City came to a point of replacing equipment, he suggest that the City was

replacing it with automated systems because there was a potential to save in personnel which

was our number one cost.

He said the City picked up tires, appliances, and mounds of trash and were not charging

for that extra trash and the City was paying for it in personnel which were reflected in the graph.

He said he liked the recommendations for improvements.

Mayor Chestnut said the health care cost impacted everyone in the community. There

was not anything unusual about what happened in solid waste versus anyone else because it

was a uniform increase across the board. That five year doubling was something all budgets

absorbed.

He said there was obviously a dynamic in investment that happened around 2005 and

2006 where the City had a lot of equipment invested and went up by 7 full time employees over

a period of 2 years. It would appear there was a program that upped the ante as far as what

was done in personnel.

Eglinski said 2 of the 8 that were added were in the recycling portion of the program.

Mayor Chestnut said that equipment investment was not necessarily for automation, but

replacing the fleet. He said part of the issue was the City was running a little light for a while

because the City was getting way behind in the equipment replacement program and then the

City made a large investment.

Eglinski said they had not changed to basic collection much and had the semi

automated rear loaders that had a hydraulic system that dumped the trash.

Mayor Chestnut said the solid waste rates were looked at, but there were no

comparisons. He said if the City had not changed their rates for a long time with the growth and

number of customers. He said that was not part of the scope of the audit, but something to

follow up with staff.

Eglinski said when staff drafted the rate memorandum every year it typically included a

comparison with the number of area cities and Lawrence was one of the less expensive.

Mayor Chestnut said the City needed to look at overtime comprehensively across all

departments because it would appear there were differences. He said since overtime was not

well documented, he suggested a review and a consensus about how overtime was handled

and if it was appropriate to handle overtime differently by department.

Eglinski said the current City policy was to pay overtime after 40 hours, but including vacation, holidays, and sick days in getting up to the 40 hours, but the Citywide policy had an exception for other departments as needed. He said his concern in the audit was less with specific method, but the City did not have a policy and providing overtime could not be on a consistent basis without a policy.

Corliss said he wanted to emphasis that he was proud of the work the employees did in the solid waste division, but it did not mean the City did not want that department to be accountable or look for improvement.

He said there were financial challenges in the solid waste division and had a deficit of expenditure over revenue in 2008 of a half million dollars and thought staff made significant progress in reducing the gap in 2009. He said he was as anxious as many of the City Commissioners in finalizing the 2009 books. He said staff thought there would be better news regarding that gap.

He said the City Commission mentioned the landfill rates and staff had initial inquiries with the new owners of the landfill. He said he did not want to go into negotiations with putting Eglinski's report down and saying the City had relatively low landfill rates, but the City did. He said the City was going to have discussions with the new owners and would not go away from those discussions from saving money.

He said regarding the issue of overtime, staff was working on overtime in 2009 where they were seeking to look at how to keep track of time and attendance as an organization and to improve the City's overtime practices. Staff had spent a considerable amount of time moving toward the merit compensation system for City employees and was now in the second year. He said staff made a significant transition with health care last year and now with completely changing the City's ERP, that backbone of how staff kept track of so much in the information systems, staff was making recommendations to implement a new time and attendance software and concurrent had a full deep clean into all of the City's compensation policies, but primarily in

the area of overtime. He said he wanted to make some changes to the City's overtime practices

in conjunction with the discussion with employees. He said the City Commission would see

progress on the entire organization. Staff had a selected vendor to make that complete change

to enterprise resource planning software.

In general he supported the recommendations in the audit and the recommendation for

charging enterprise operations for solid waste services needed to go through the City's budget

process. The City could charge the Water and Wastewater Facility, solid waste costs and they

could charge the solid waste facility's water cost, but staff needed to get a hold of where that

was in the organization. He said he supported the City Auditor's recommendations, appreciated

his work, and look forward to continued success in a very challenging service.

Mayor Chestnut called for public comment.

Laura Routh, Lawrence, said as proposed by the audit, she strongly supported the City's

implementation of full cost accounting for all solid waste services. She said she believed the

City also needed to conduct additional review of commercial solid waste service fees. In terms

of what the City was charging businesses for collection management of garbage, she did not

have a strong sense the City had a handle on how the rates compared to other communities,

but also to the private sector and worried the City was subsidizing a lot of waste that did not

intend to.

She said pay as you throw or variable pricing for residential solid waste services was

long over due. The former solid waste director had been an opponent of this idea, but it was

something that had become fairly standard in many communities and was certainly standard in

the private sector in many areas of the country and given the balance of residential versus

commercial customers, the City needed to take a look at what was being charged for unlimited

amounts of trash which was what the current system was setup to do and should not be

rewarding, but implement variable pricing.

Hubbard Collinsworth, Lawrence, said he would like the City Commission to consider the

price of the City's disposal rate and how long that landfill would be available and should the City

look for another landfill.

Brian Sifton, Lawrence, said he would like to emphasis the benefits of one of the

recommendations made by Eglinski which was analyzing the cost and benefits of implementing

a residential volume based collection system. He said residential volume based collection

caused residents to face the marginal cost of disposing of their garbage. Under the current

monthly fee system, if throwing one bag of garbage away, that person would be subsidizing the

person next door that threw away 20 bags of garbage. While paying for garbage removal by

volume or bag, might seem kind of foreign it was similar to many other services and utilities the

community paid. Water was purchased by the gallon, electricity was purchased by the kilowatt

hour and natural gas was purchased by cubic foot.

By coupling efforts to increase recycling participation with price and garbage removal by

the unit, the City could benefit from price signals, incentivizing people to reduce their garbage

and increase their recycling behavior.

He said Lawrence did have a curbside recycling program and applauded the efforts to

preserve the private markets for recyclers. As much as he was in favor of increased waste

reduction and recycling activities, he thought supporting the entrepreneurs that had provided the

City their curbside recycling services for so long was in line with the City's values. He said if the

City set a goal of increasing wastewater reduction and recycling activities, one needed to be

realistic about the efficacy of the proposal. In the recycling survey that was conducted in 2008,

only 16% of responded stated they would be willing to pay \$15 a month which was currently

about the monthly rate for curbside recycling.

Daniel Poull, member of the Sustainability Advisory Board, said if there was any

increase in demand in service reflected in the chart.

Eglinski said he chart showed the difference between the revenue and the City's cost.

As the City added customers and increased the rates, the revenues had gone up, but the gap

has grown.

Poull said the system was not paying for itself with the increase in customer demand.

He asked if it had to do with the way the City was expanding the increased length of routes and

asked that it be studied.

Mayor Chestnut said the department did good work and was a very valued service. He

said he appreciated the comment about pay as you throw and it needed to be a policy issue for

City Commission discussion. There would be contrasting opinions in the community, but it was

appropriate. He said one thing needed was a lot better information, such as landfill rates and

getting some of that historical information on the City's rates, residentially and commercially,

and how the City was benchmarking against other communities. He said the City Commission

needed to make that decision relative to changing into more of a pay as you throw model

because that was a significant policy shift.

Commissioner Johnson said he was in favor of a task incentive type system, but

intuitively it looked a little rich. He said it looked like there were potentially some savings, but it

was based off of an average of 6 hours in an 8 hour day and coupled that with overtime. He

said aside from the policy, he thought there was a great system working, but obviously the trend

was not as far as the costs.

Vice Mayor Amyx said he liked the incentive program, but those trucks needed to get in

and out to areas to do its job and avoid competition on the roadways. He said he had a hard

time with paying overtime on a daily basis when employees were not working 40 hours.

Commissioner Cromwell said he mentioned increased automation and recycling which

would help with personnel cost. He said he would echo concerns about the 8 hours per day

triggering overtime. He said the City needed to look at where those little gains could be made in

order not to raise rates on the community.

He said he would like to start discussions about a "pay per throw" program which would involve research and setting up meetings to begin those discussion. He said staff needed to look at what other communities were doing and borrow from the best of those communities.

Commissioner Dever said the audit showed the satisfaction that many communities had with their solid waste programs. He said it also showed that Lawrence had one of the most liberal or accepting policies out there and showed the City had the room to charge for some of those ancillary services beside the weekly collections. It also shed some light on this community experiencing relatively low disposal cost and the City needed to be considering what those fees would be in the future. He said the automation might be part of the long-term solution. He said also if the City was going to talk about recycling, they needed to talk about waste reduction first and the only way to encourage waste reduction was to charge for what was being disposed of. He said with the dual incentive of the City helping to sponsor or encouraged private recyclers along with traditional cost of having to pay for additional disposal could encourage waste and overall cost reduction for the community.

Mayor Chestnut said the City Commission wanted to provide some direction and this might be through the Sustainability Advisory Board to talk about a public dialogue and "pay as you throw" and discuss models from other communities.

He said further analysis of safety and workers compensation issues was critically important along with an analysis of the City's solid waste structure in getting comparative data. Other important factors discussed were a full cost of accounting system because there were internal cost that needed identified to see if it was appropriate.

Finally, any ERP system was going to want documentation on processes, policies and procedures first. Staff needed to get a comprehensive view of the city's pay practices by department. He said the City Commission spent a lot of time in the budget process in looking at the Memorandums of Understanding for the Police and Fire/Medical and it was laid out and when going into the other City department, there was not much understanding or visibility as to

what happened between department to department. It appeared the overall City document did

not speak to what was happening and that information was needed in order to move into any

type of automated pay system. It would be appropriate for the Commission to look at those pay

practices which would probably be centered around overtime.

Commissioner Cromwell said he was also interested in the comparison of the

commercial roll-off pricing.

Mayor Chestnut said he would like to look at residential, commercial, the entire gamut.

Vice Mayor Amyx said an item was brought up about the amount of space at the current

landfill and asked if the County was involved in providing the landfill service.

Corliss said in Kansas counties were the designated jurisdiction for sanitation practices

and when the City had to follow different State law mandates concerning sanitation planning,

staff had to do it at a County level which was done in the past. He said he did not know where

that planning process was, but clearly there were unincorporated county participants in the

landfill as well.

Vice Mayor Amyx asked if the County was involved in the cost of the fees at the landfill.

Corliss said the County could negotiate something separate. The County did not provide

sanitation services in unincorporated areas and there were private haulers. It was a contract

with the City and HAMM landfill and it had not been adjusted accept for a couple of surcharges

in quite some time. He said he believed the County was involved in those discussions, but it

ultimately came down to a negotiation between the City and the landfill. While the landfill might

want to raise prices, the City also provided a significant volume for the landfill. He said he did

not know how much negotiating power he had, but he had to have some in order to make up for

it somewhere in the budget.

Eglinski said the agreement the City was operating under with HAMM was three parties

which were County/City and the landfill.

Corliss said the County's role was not as a customer.

Commissioner Dever said the City Commission needed to make sure to examine the City's policy for miscellaneous disposal.

Vice Mayor Amxy said a year ago, he had asked the City Commission to visit with staff about an idea involving student moving out time. He said May through July was move out time for students, the hours were still at the 6 hours per day even with the mountain of stuff that setout at the curb.

Corliss said it might be something to explore, but students moved out at the end of July beginning of August. The code allowed the City to charge additional cost for properties that had a large amount of sanitation. He said there was some thought in the past that charging for additional trash was worthy of consideration, but was not "pay as you throw" as it was known in other communities. There was also the desire to recycle some of those things. A lot of things that people put out had value and it was not the best way to exchange it at the curb site or with a whole bunch of trash.

## Receive recycling matrix report

Tammy Bennett, Assistant Public Works Director, said in July the City Commission set a goal of facilitating a public discussion on increasing recycling and possibly doing a pilot program. City staff took that opportunity to develop a matrix of options. The Sustainability Advisory Board has been interested in increasing recycling opportunities for an extended period of time. Staff developed matrix options, pilot program possibilities to do a pilot curb side program and submitted to the City Commission, through a City Manager's Report, in September, a draft letter version of that information as an update to the City Commission's Goal Statement. At the same time they submitted it to the sustainability advisory board and they looked at the draft version in September. Staff invited the curbside recyclers and representatives from local recycling processing centers to that meeting and that discussion lasted for several meeting and there was not clear consensus.

The Sustainability Advisory Board was not excited about the 12 month pilot program of a

subscription service. The board had an idea of their own that they vetted out over the three

month period to do a public private partnership that would focus on education and outreach on

supporting the curb side recyclers in this community.

There were several advantages to the system the Sustainability Advisory Board was

recommending and staff was in support. It did support the local companies and gave people

choice of whether wanting to choose to have curb side, who they wanted to have curbs side

with, and whether they preferred to drop-off their recycling on their own.

She asked direction from the City Commission on whether to proceed on the

Sustainability Advisory Board recommendation.

Mayor Chestnut called for public comment.

Laura Routh said she was a member of the Sustainability Advisory Board for 5 years

and had been banging her head on this issue the entire time.

She said she wanted to extend her appreciation to Tammy Bennett, Public Works Staff,

City's Waste Reduction and Recycling Division Staff because they did a tremendous job. She

said she respectfully disagreed with the proposal as put forth by the advisory board and staff.

The proposal was a continuation of the status quo and she was not in support. There

was not enough information to justify the proposal and there was no real data, no real planning

to get a handle on what type of trash was generated, where, how it was being handled, and how

curb side haulers that were currently in operation were managing materials.

The current system was subscription based which data research showed was inefficient

and did not maximize participation. It was reliant on unaccountable end points. There were

people picking up recycling all over town and driving the materials to places where the City had

no real role in vetting or insuring accountability. The two primary end points were Wal-mart and

12<sup>th</sup> and Haskell and Wal-mart shut down for a couple of months a year or so ago without any

notice to the community and 12th and Haskell had a fire last week that put that business on the

front page of the newspaper. She asked if that was the best this community could do and was it

the system the community wanted to adopt which was the status quo, but she thought the

community could do better.

She said the proposal did not do what it needed to do to reward citizens who chose to

recycle. She said she paid \$18 a month to put out 7 containers of curb side recycling because

she had to sort by material type which was required by most of the haulers in the community.

The proposal as it was structured was window dressing on a not very good system and

she was grateful the community had good curb side haulers in the community, but she did not

think it was sufficient to really get the City to where it needed to go in terms of waste reduction

and recycling.

She said providing bins did not make sense and asked if the City was going to buy 7

bins per household for every resident that signed up with a private curb side hauler. She said if

the City was advertising, she asked what if the hauler made a bad decision about how they

were managing materials.

She did not think the proposal provided accountability and knew that staff and the

advisory board had settled on registration of curbside haulers which was the biggest block

because she thought the City needed licensure. She said if the community was going to have

curbside haulers privately operating in the community that function as the City's program,

accountability was needed. She asked why the City did not require private curbside haulers to

have insurance or a least be bonded for accountability whereby they formally committed and

agreed to recycle the materials collected.

She said she was not opposed to public private partnerships and welcomed the idea

because it worked well in some communities, but it had to be done in a rational way with

planning. The community needed to engage in long-range integrated solid waste management

planning because the City did not have a plan right now.

She said by leaving curbside recycling entirely up to the private sector and failing to

honestly assess the limitations of the current system, the City was abdicating its responsibility

and asked the City not to ignore the opportunity that existed with the audit, with change in staff,

with City Commission attention to "pay as you throw", and the financial situation of the solid

waste department, this was the time to do long-range planning. She said any kind of real

curbside program was going to fall flat.

She said for a long time the City acted like they had cheap landfill fees and waste

reduction and recycling was just an afterthought, but she thought that would change soon and

questioned whether or not the City was really ready.

If the City was going to spend public money on improving recycling, she asked that the

money be spent on planning and assessment first and not advertising and recycling bins.

Mike Strang, representing Two Rivers Company, said they just added a recycling

division to their company in the past 12 months. He said he carried insurance because Two

Rivers had been in business for almost 15 years and did a lot of landscaping, mowing, and

snow removal. He said their income justified paying an exorbitant amount for insurance, but if

the City started requiring those companies to carry insurance, there would be no profit.

As far as the City Commission was planning, he thought it was great as long as there

was accountability of where those products were going. He said what the backup plan was if a

place burned or closed down.

Craig Shultz, Lawrence, said he worked for a company in Wellsville Kansas called

Central Fiber Corporation. He said Central Fiber was a recycling company in that they

processed between 30 and 50 million pounds of wastepaper a year which was 20 miles away

from the City of Lawrence. He said his company turned those products into things such as

cellulose insulation, hydro seeding mulch, alternative daily landfill covers, industrial fibers, and

other various products of those types. He said they were excited to be part of future

discussions as a possible source or solution for a part of the City's waste stream. Everything they made was called a "green product" and had been making this product for 25 years and had a positive environmental impact and their goals were to take as much wastepaper and prevent it from going into the landfill. He said they hoped to be part of future conversations so the City had a place for their wastepaper to go and be able to continue to employ local residents and create more jobs in the area.

Commissioner Cromwell said he thought it was time to act now, but also study things for the future. He said there was some amount of power of accountability in this registration program because it would have a consistent image and a marketing program across the City. He said if signing up for a recycling service and the company did not deliver a promised service, that was fraud and against the law.

He said he would like to see more drop-off locations studied because first of all there was a lack of knowledge. Also, he would like research done on different containers. There were companies that offered single stream and separated recycling bins that could be located throughout the City and that could be a great thing in conjunction with a great curbside program they were able to offer folks who did not want to pay \$15 a month and would rather recycle. He said they would also benefit curbside recyclers in that they would have closer opportunities to take their products as well. He said the matrix was great and it was a wonderful place to start and not an end point, but a starting point. He said he would like the City to move forward in the discussion towards implementing the recommendations from the Sustainability Advisory Board.

Commissioner Johnson said he echoed a number of Commissioner Cromwell's comments. He said he did not mind the idea of looking at licensure. The reason he liked the concept of licensing over just registering was that it gave the City a little bit of teeth for curbside recyclers and their accountability. He said licensing was required for contractors and there was a matter of safety and other issues. He said he asked what it would cost the City to implement this idea.

Vice Mayor Amyx said he appreciated the work and overall discussions by members of the advisory board in coming up with a recommendation. He said it was important to recognize the public/private partnership concept was the best way to go because the people were in place to carry out the basic function.

Commissioner Dever said this was an important topic and the Sustainability Advisory Board did a good job of analyzing this issue over and over again. He said they always came to the same conclusion about doing better, but he was not sure how much could be done right now given the deficit in solid waste and the state of the economy. He said the City needed to take steps into legitimizing processes for recycling in this community. He said the City was blessed with Wal-Mart providing a recycling center and also needed to consider a recycling center might not be around in the future. He said the fact the City had a program, like the Wal-Mart Recycling Center and other recycling vendors showed the community wanted to recycle. He said the City needed to move forward to get those private haulers to work and the City Commission needed to discuss how it was going to be paid for, what it would look like, and it if was going to moved forward, costs needed to be discussed. He said the City needed to do more than what was done in the past with using the resources that were already in place.

Mayor Chestnut said he thought registration should be looked at versus licensure. He said the City was moving into a situation where there was some endorsement between the City and the haulers. However, they might create a situation where if someone was hurt or property was damaged, the haulers were not going to be the first place the community looked to, but would look to the City. He said for the protection of the City, the Commission needed to talk about some possible minimum licensing requirements and insurance might be a part of that licensing. He said he would like to see some discussions with the private haulers to talk about what was reasonable and what might work and licensing requirements, realizing the haulers might not like some of the requirements, but needed to think of this issue in terms of what was best for the City.

The uniform bins might not work for the private haulers. Everyone had a different system and an investigation of what was needed and how it would be used. The City could end up investing in a lot of uniform bins and not having haulers having the equipment to haul those types of bins. Also, discussion was needed on the cost of any type of bins. He said what was being proposed seemed fairly minimal as far as some of the messaging and marketing, licensure or registration.

Corliss said months would be involved for a number of those items such as how the City would pay for recycling. Some of the items involved in the registration and marketing were minimal. The report indicated that staff wanted to come back with an implementation plan which was the next step and work with the existing recyclers.

Mayor Chestnut said first, what would that registration/licensure look like; did it make any sense to have uniform bins; and would the City carry any liability.

Commissioner Dever said he wanted to make sure the City invited individuals that were a party to this issue in a study session.

Commissioner Cromwell said it was important to publicize the great things the City was already doing. (16)

#### <u>Receive draft Resolution No. 6877, on establishment of a Task Force on growing the</u> Retail Economy

David Corliss, City Manager, said there were previous discussions regarding an additional emphasis of looking at the retail economy, not only the downtown area, but the entire community. The recitals to the Resolution mentioned why establishing a Task Force on the growing retail economy was important.

Section 3 of the Resolution tried to layout the three questions which were 1) what did the City have; 2) what were the best practices and tools; and, 3) what did the community want to do or change. It would be very valuable for the community to have that first questioned answered. There were a lot of communities that studied their retail economy and looked at their economy a

lot more than the Lawrence community. He said Lawrence was unique among communities on

how we approach it from a land use standpoint and it was not a Planning Commission item and

if there were comprehensive plan issues that needed to be process through a different avenue.

He said this community had the resources to help on this issue and there were other interested

parties in serving on this group.

Mayor Chestnut said a lot of the downtown issues had application across the

community. Some of the security, panhandling and a lot of other issues were in other parts of

the community.

Mayor Chestnut called for public comment.

Beth Johnson, Lawrence Chamber of Commerce, said they were excited to be a part of

that task force and agreed the people involved should be expanded across the community and

not just to downtown to work in conjunction to strengthen every part of the community.

Hubbard Collinsworth said he echoed Johnson's comments, especially East and North

Lawrence.

Vice Mayor Amyx said the entire community worked with downtown in a number of

ways. He said if they were truly looking at a task force and a December 2010 deadline, he

wanted to make sure everything was in place to approve.

Commissioner Johnson said he liked the draft Resolution and appreciated it covered the

entire City, but did not want to get away from a Downtown Task Force. He said he wanted to

make sure this Resolution was not replacing the Downtown Task Force.

Vice Mayor Amyx said if a smaller subset group made up of the task force on the

growing economy could be an option.

Commissioner Johnson said he was looking at something more broad such as Police

representation. He said he started writing down who should be part of the downtown task force

and it was not necessarily retail businesses.

Commissioner Cromwell said this was a fantastic opportunity to study retail and had a

serious lack of some aspects of retail in town and this provided a broad look at that retail. He

said this task force would be different from the downtown task force.

Commissioner Dever said he concurred with two task forces, but hoped the task forces

did not get confused over their roles. He said he was in favor of moving forward.

Mayor Chestnut said one of the reasons it was a good idea was because this idea

sprung from looking at the pull factor and there was a lot of work to do and the City Commission

spent a lot of time on economic development in industrial and made a lot of progress which was

attributed to staff and the Chamber of Commerce. He said the scope of the downtown task

force should be defined because some of the things such as Tax Increment Financing and

Neighborhood Revitalization Acts would have application downtown, but they needed to

consider those policies citywide.

Moved by Johnson, seconded by Amyx, to adopt Resolution No. 6877 to establish a

task force on growing the retail economy. Motion carried unanimously.

(17)

Mayor Chestnut recommended that Commissioner Johnson come up with some bullet

points and provide staff feedback on the outline and proceed from that point.

Commissioner Johnsons said he could work with the City Manager.

Receive report on state legislative items

David Corliss, City Manager, said there were clear legislative policy statements for

annexation bills. He said the staff report indicated new pieces of legislation staff wanted to bring

to the City Commissions attention and as appropriate, receive any direction the City could

provide.

He said he was on the Kansas Water Authority and they spent a lot of time on that issue

over the past year as they had prepared a reservoir roadmap and there were a lot of issues. He

said they did not know if House Bill 2428 was going to move because it was tabled last week.

There were a lot of issues associated and obviously a very important issue for Kansas and important for Lawrence. Clinton Lake was a very valuable water supply and he wanted to do things to protect the lake. He said that bill would likely receive additional discussion during the legislative session. House Bill 2515 preempted the authority of municipalities to adopt residential fire sprinkler system requirements and residential structures.

Previously, staff was going to be considering the new addition of the international residential code that would have a number of requirements and one of those requirements was for residential sprinklers. It did not mean that staff's consideration of it through trade board and City Commission's view meant they would adopt it. They were recommending that staff opposed this bill, not because the City thought they were going to adopt residential sprinkler requirements, but it was really a home rule question of where was that decision made and was it made in the City Commission Chambers or on the 3<sup>rd</sup> Floor of the State House. He said he was concerned about the drafting of this legislation and there might be situation where the City might want to require a sprinkler in a residential subdivision, for example if it was far removed from fire protection activities. Even if the City did not want to adopt what the residential code stated, that decision needed to be made by local municipalities and not the State Legislature.

The final bill was Senate Bill 405, this bill allowed, but not required, municipalities to publish legal notices via the internet as opposed to the statutory requirement that existed in State law for a number of years where legal notices were published in a local newspaper of general circulation. The City Commission was provided information on how much the City paid in legal notices last year which was not an inconsiderable amount of money, and the pros and cons of the legislation. He said he worked this issue five years ago, but it did not move and did not know if it would move this year, but it had not been killed yet. He said the City was continuing to use the internet for notice and dissemination of information and Lawrence was joined by a lot of other communities in thinking it might be a viable means for posting legal notices in the future.

Finally, there was the issue of at what threshold of candidates for City Commission

should State law or perhaps a local charter ordinance require a primary election. The law was

changed at the last session as far as City Commission elections. Staff's recommendation was

not really to participate in discussions of this bill. The League was opposing the bill because

they did not think the law needed to be clarified. The bill was likely to remain non-uniform so it

would be available for a Charter Ordinance, if at the end of the legislative session, the City

Commission wanted to create the City's threshold. Staff would continue to monitor this bill and

at the end of the legislative session, inform the City Commission of the outcome and take the

City Commission's direction as to whether or not they wanted to change that threshold for a

primary.

Vice Mayor Amyx said regarding Senate Bill 422, two years ago this item came up at the

last minute. He said it was a good idea that the City Commission schedule a time to discuss

this legislative item regarding elections and whether or not the City would charter out and give

direction on how the primary would be held.

Corliss said there was a cost in conducting the primary election. The City paid for the

cost of a primary election if it was the only one required.

Vice Mayor Amyx said the school district had to do their own.

Corliss said the School District did not have constitutional home rule authority so

whatever the State law ended up with, that was what the School District had to follow.

Mayor Chestnut called for public comment.

Ralph Gage, Lawrence Journal World, said he wanted to speak to the issue of Senate

Bill 405 and noted there was a House Bill 2562 that had been introduced that dealt with the

same issue. He said he felt he was in hostile territory because of the long history the City

Manager had working against public notice. He said he admired Corliss' tenacity, but in this

case, Corliss' abilities were misused against what was really a public interest.

He said he wanted to talk about three elements related to this topic, but only two of

those elements were covered in staff's material presented to the City Commission. One

element was the mention of the City's website, it was a nice site, but it received virtually no

traffic. He said he would provide material to the City Commission offering a comparison of

website traffic.

The real issue which was the second issue mentioned in the staff report, was money.

He said he offered a dollar amount that was presented the City Commission. He said when

dollar volume discounts were applied to the City's spending on public notice advertising the

actual amount to the City was \$46,389.57 rather than something in access of \$50,000. He said

to put in another way it was .000294 of the total \$157 million the City budgeted for 2010. He

said of that \$46,000 spent, he questioned how much would really be saved once staff cost,

service space, maintenance and all the other items that went into maintaining websites and

archiving material were taken into consideration.

He said he was tempted to mention public transportation costs in connection with this

issue, but in a democracy public notice was more important than public transportation and it was

dirt cheap in comparison.

The publication the Journal World provided was a valuable service and there was no

reason that newspapers should not be paid for that service, just as any other provider of goods

and services to the City.

In terms of the public notice he wanted to provide the City Commission with additional

background information. First in Kansas, the charges for public notice were tied to classified

rates and in fact the rates to the City for public notice were less than what would be paid as an

individual if placing a classified ad. Those rates had not been changed since 2004 and it could

not be said for City taxes or many other service fees the City charged. He said the Journal

World was not trying to exploit or take advantage of what was a statutory requirement.

Those revenues were vital to smaller papers around the State. The Kansas Press Association estimated that 50 newspapers might close if those bills were enacted and those revenues were denied to those publications. He said that was at least 50 cities that might be without one of the cornerstones of a community as an unintended consequence of looking at those revenues.

The third element was not included in the City's staff report which was what service the Journal World was charging the City for, and why it was important. It was a way of officially and formally to notify the community about important activities, activities that might affect citizens individually or collectively in the community. Those would be law suits, elections, land use issues, zoning changes, action of all the agencies and subdivisions of governments. It was letting citizens know where there money was being spent. This publication provided a transparency and enabled the community to participate in overseeing the actions of government. It was not unlike the way they provided televising of those meetings which was done at no charge, but everything could not be free.

When a notice was published in the newspaper it was guaranteed as fact. The newspaper publication provided a verifiable public record through sworn affidavits of publication that had been accepted for decades by the court system. There was no similar provisions related to official city websites and no assurance those notices on the web would stand up in court. Newspapers provided a permanent record that could not be altered, hidden, manipulated, hacked, or lost due to server crashes or changes in technology.

He said he could go on and realized that \$50,000 was \$50,000, but if those bills were passed, in part through the City Commission's endorsement, what the citizenry would be losing was a check and balance that had been part of the democratic system for hundreds of years and would be done for what amounted to chump change in the overall context of a multi-million dollar City budget. He submitted those were flawed measures that were being put forth for political reasons and for no other reason. He said he urged the City Commission not to adopt

staff's recommendation, but in fact alter that letter and endorse the status quo because those

laws had served the state well for many years.

Hubbard Collinsworth, Lawrence, said he echoed Gage's comments, but added if there

was anyway if electronic data could be non corruptive if archived correctly.

Mayor Chestnut said the answer was no.

Commissioner Johnson said Gage brought up some good points. The point that stood

out was the question of the legality of the notification. He said he could appreciate the City

trying to save money and had to look everywhere. He said \$50,000 might not seem like a lot,

but it added up. He said he would lean toward taking no position or supporting the status quo

on Senate Bill 405.

Corliss said staff was looking for direction on the fire sprinkler bill, understanding that

staff would bring that primary election back to the City Commission at the conclusion of the

session. The two major bills were the position on Senate Bill 405 and its House parallel

regarding internet posting which this law would make it legal and then the home rule issue

regarding the fire sprinkler question.

Vice Mayor Amyx said whatever the Commission had to do in opposition to that fire

sprinkler question it remained at the City level. Regarding the election, there would be a clear

path to follow depending on what the State determined. As far as Senate Bill 405, personally he

thought the Journal World had done a good job in making the public aware of the notices. He

asked if the City or the Journal World had the actual number of households that were connected

to the internet.

Gage said he did not have a specific number. He said what they took for granted in

Lawrence, certainly was not true across the State. There was study on the use of the internet

that was released in December 2009 which estimated that more than 30% of Americans did not

have access to the internet and those were mainly Senior Citizens and people who were in a

lower economic stratum. Even in areas of Western Kansas, the recovery act was allocating

millions of dollars to upgrade technology so that citizens in Western Kansas would enjoy the

same internet access the Lawrence community.

Vice Mayor Amyx said as far as he was concerned, the City could stay with the status

quo.

Commissioner Cromwell said the views were fine, but as far as Senate Bill 405, the

world was changing and how people received information was changing. Newspaper

subscriptions were down, however visits to newspaper websites were up and it was not the City

Commission's job to worry so much about what was going on in Western Kansas which was for

the State and local municipalities to worry about Lawrence, but overall there was not enough

information to endorse a change in the status quo and would probably take that off his list.

Mayor Chestnut said it sounded like the consensus was that there was full support of a

statement regarding basically position to have home rule authority on the International Fire

Code, but a consensus not to take a position on the Senate Bill 405 which addressed the

notification of legal notices on the internet versus in print.

Commissioner Dever said he agreed. He said he did not ramble with the concept what

happened if all of the digital data disappeared, but that means of storage was acceptable for a

lot of different organizations for everyday use, but was not willing to do away with public

notification.

Mayor Chestnut said he agreed on House Bill 2515. He said he would like to see where

the Senate Bill went, but there were a lot of moving parts across the State relative to the

impacts and did agree that in consideration if this were to be passed, through the Kansas

Legislature, they needed before taking any steps to look at data storage and how that worked

because he recognized as a printer and publisher of electronic media at Allen Press, the cost

involved in starting legacy data was starting to become massive. He said there was a

consensus that the City Commission did not want to weigh in on that issue directly.

He said on the other two bills, staff would keep the City Commission apprised of those bills. Once the City figured out where Senate Bill 422 went, then the City Commission would bring that issue back up after the session was over. (18)

#### **PUBLIC COMMENT:**

#### **FUTURE AGENDA ITEMS:**

02/09/10 **CONSENT** 

- Approve Special Use Permit SUP-12-11-09 to expand Research Services in portions of existing buildings located at 645-647 Massachusetts Street. The proposed use is located on portion of Lot 15 and all of Lots 17 and 19 Massachusetts Street. Submitted by Barber Emerson, LC, for GCB Holdings, LC, property owner of record. Adopt on first reading, Ordinance No. 8488, for Special Use Permit (SUP-12-11-09) to expand Research Services in portions of existing buildings located at 645-647 Massachusetts Street. (PC Item 2; approved 7-0 on 1/25/10)
- Approve Rezoning Z-12-30-09 for approximately 8.71 acres from RS7 (Single-Dwelling Residential) to RMO (Multi-Dwelling Residential-Office), located at 3312 Calvin Drive. Submitted by Landplan Engineering, for Grace Evangelical Presbyterian Church, property owner of record. Adopt on first reading, Ordinance No. 8489, for rezoning (Z-12-30-09) of approximately 8.71 acres from RS7 (Single-Dwelling Residential) to RMO (Multi-Dwelling Residential-Office), located at 3312 Calvin Drive (PC Item 1; approved 7-0 on 1/25/10)

#### **REGULAR**

 Conduct public hearing to consider the vacation of two easements (pedestrian, access and utility easement) located in Briarwood Addition, as requested by Pamela Mayfield, Mike Polk and Nancy L. Borer, and Steven J. Freeman and Stephanie S. Freeman. *This item continued from* 01/26/10 CC Meeting.

**ACTION:** Conduct public hearing and approve Order of Vacation, if appropriate.

Reconsider approving Rezoning Z-7-11-09, for approximately 10.97 acres, located on the SE corner of Inverness and Clinton Parkway, 4300 W. 24<sup>th</sup> Place, from RSO (Single-Dwelling Residential Office) to RM15 (Multi-Dwelling Residential). Submitted by BG Consultants Inc, for Inverness Park LP, property owner of record. *This item was originally heard by Planning Commission on 9/21/09. City Commission returned this item on 12/15/09 for additional consideration.* Adopt on first reading, Ordinance No. 8462, for rezoning Z-7-11-09, of approximately 10.97 acres, located at 4300 W. 24<sup>th</sup> Place, from RSO (Single-Dwelling Residential Office) to RM15 (Multi-Dwelling Residential). (PC Item 3; approved 6-1 on 1/25/10)

**ACTION**: Approve Rezoning (Z-7-11-09) of approximately 10.97

acres, located at 4300 W. 24<sup>th</sup> Place, from RSO to RM15 and adopt on first reading, Ordinance No. 8462, if appropriate.

02/16/10 · Anticipated date to receive Planning Commission recommendation on Lawrence Community Shelter SUP extension at 944 Kentucky.

Receive letter from Bert Nash Community Mental Health Center regarding program cuts. Authorize amendment on contract with Bert Nash Community Mental Health Center to reflect three homeless outreach workers. *This item* 

was deferred from 01/26/10.

 Anticipated date to receive Planning Commission recommendation on Lawrence Community Shelter SUP to relocate the shelter to 3701 Franklin Park Circle.

Approve request from the Public Health Board to amend Resolution No.
 4957 and increase the Board membership from five to seven people.

 Receive staff memo regarding possible annexation of Westar Energy Center and adjacent properties. Additionally, staff is working on a memorandum discussing possible annexation of the Miller/Wells acres area.

#### **COMMISSION ITEMS:**

02/23/10

04/06/10

TBD

Moved by Amyx, seconded by Johnson to adjourn at 12:07 a.m., February 3, 2010.

Motion carried unanimously.

	APPROVED:
ATTEST:	Robert Chestnut, Mayor
Jonathan M. Douglass, City Clerk	_

#### **CITY COMMISSION MEETING OF FEBRUARY 2, 2010**

- 1. Ordinance 8487 2<sup>nd</sup> Read Alcohol @ Library Feb. 17, 2010
- 2. Ordinance 8407 2<sup>nd</sup> Read Historic Register, 1515 University, Fernand Strong House.
- 3. Ordinance  $8408 2^{nd}$  Read Historic Register, 1204 Oread Ave, Ecumenical Christian Ministries Bldg.
- 4. Ordinance 8409 2<sup>nd</sup> Read Historic Register, 714 Mississippi, John Robert Greenlees House.
- 5. Resolution 6875 transfer \$80,000, from the Capital Improvements Fund to the Library Fund for 2010 budget year.
- 6. Text Amendment TA-1-2-10 Sections 20-403, 20-601(b) and 20-601(b)(1) Development Code for hotel/motel/extended stay use to allowed use in IL (Limited Industrial) Zoning.
- 7. Variance Apt that has 12 units or less water meter fore each unit.
- 8. Variance Private sanitary sewer line not located in ROW greater than 15'.
- 9. Resolution 6876 Lawrence Public Library, General Obligation bonds for \$500,000.
- 10. Text Amendment TA-1-1-10 Sections 20-403, 20-509(3), and 20-524-Development Code for MU (Mixed Use) Districts Bars & Restaurants
- 11. City Manager's Report.
- 12. Revised Land Agreement & revised Job Creation Credit Agreement with LWC Partners.
- 13. Ordinance 8482 1<sup>st</sup> Read, TA-6-17-09 "Boarding House."
- 14. City Auditor's compare infrastructure depreciation.
- 15. City Auditor's Solid Waste performance audit report
- 16. Recycling matrix report.
- 17. Resolution 6877 Task force growing the retail economy
- 18. Report on State legislative items

# Memorandum City of Lawrence Planning & Development Services

**TO:** Planning Commission

FROM: Scott McCullough, Director

Date: For March 24, 2010 Planning Commission Meeting

**RE:** Boarding House Text Amendment Update – TA-6-17-09

On August 24, October 26, and December 16, 2009 the Planning Commission considered language revising the Lawrence Development Code as it relates to Boarding Houses. The Planning Commission forwarded a recommendation to approve the December 16 version of the language (attached). On February 2, 2010 the City Commission considered the PC's recommendation and voted 4-1 to return the text amendment to the Planning Commission for further study on the following matters.

- 1. Simplify the standard related to limiting building additions to 20% of the existing structure.
- 2. Review the parking standard and consider a standard that requires 1 space per bedroom with variances possible when larger structures are converted to boarding houses.
- 3. Discuss the processing issue of permitting boarding houses as a "permitted use" or a "special use."

In discussion, a couple of the city commissioners supported a hybrid of the October and December language. Commissioner comments and suggestions include:

- 1. Simplifying the 20% rule.
- 2. Restore a limit as to the number of bedrooms allowed in such a house.
- 3. Include only one parking standard in the code. One space per bedroom appeared reasonable.
- 4. Consider a standard that would allow reduced parking when large structures on narrow lots would benefit from renovation resulting from conversion to a boarding house.
- 5. The University of Kansas and student stakeholders should be involved.

Based on these comments, staff has drafted a new version of the amendment for discussion at the March 24 work session to address the comments above as noted.

- 1. Simplify the 20% rule.
  - a. This was revised to use as a baseline the building footprint at grade. For example, if a dwelling occupies 1,000 sq. ft. of property at grade,

regardless of how many sq. ft. are contained within the three-dimensional structure, then the two-dimensional footprint could not increase greater than 200 sq. ft., regardless of how many additional sq. ft. of floor area is included in multiple stories.

- 2. Restore a limit as to the number of bedrooms allowed in such a house.
  - a. Staff believes that an 8 bedroom boarding house is sufficient in almost every situation. This allows a doubling of the limitation established with the Family definition and also allows an avenue for variances if a large structure permits additional bedrooms and parking and other code elements can be met. Staff believes the limitation should be included in the use standards instead of the definition of Congregate Living so that an avenue for variance exists for unique situations.
- 3. Include only one parking standard in the code. One space per bedroom appeared reasonable.
  - a. The language has been revised to require one parking space per bedroom to be consistent with other forms of residential uses and recognizing that a variance can be requested for situations where it can be justified to relax the parking standards when a large structure exists on a small lot.
- 4. Consider a standard that would allow reduced parking when large structures on narrow lots would benefit from renovation resulting from conversion to a boarding house.
  - a. Staff is of the opinion that the code already permits variances to be requested when unique circumstances exist for a property. Designating one type of residential dwelling use over others to afford relaxed parking standards creates an inequitable advantage for that use if the goal is for diversity in the housing stock. Large structures can be renovated with other residential uses, such as multi-dwelling uses or mixed uses, as well as boarding houses. With this stated, staff has provided code language at the direction of the City Commission that relaxes parking when structures greater than 4,000 square feet would benefit from additional bedrooms but where the lot is too narrow to provide the code required parking. A typical scenario would be that a large structure exists on a 50' wide lot where only 5 parking spaces can be provided. A structure 4,000 square feet or larger would remain capped at 8 bedrooms but could construct those 8 bedrooms with only 5 parking spaces.
- 5. The University of Kansas and student stakeholders should be involved.
  - a. This memo has been forwarded to the Community Affairs Director for the University of Kansas Student Senate and also to the Office of the Chancellor at the University of Kansas.
- 6. Consider the processing issue of permitting boarding houses as a "permitted use" versus a "special use."
  - a. Staff is of the opinion that if congregate living facilities are limited to 8 bedrooms, then the potential for negative land use impacts does not rise to the level of requiring a special use permit process. If left unrestricted as to the total number of bedrooms, then externalities may present themselves and considering a congregate living request through a special use permit process, where adjacent owners are able to provide input on the request, would be helpful in determining whether a request is compatible within a neighborhood.

The revised language essentially can be summarized in the following table.

How permitted	By right with use standards
Maximum number of bedrooms	Eight (8)
Parking required	One (1) space per bedroom except if structure over 4,000 sq. ft. then a minimum of 5 spaces are required for an 8 bedroom house
Limits on expansion	20% of building footprint
Limitation on deck size	Uncovered decks and patios limited to 20 sq. ft. per bedroom
Refuse	Trash receptacle required whether or not it is used immediately

Staff is of the opinion that while Congregate Living uses can be beneficial to the community, they also can create a framework for incompatibility with certain types of land uses if their intensity is left unrestricted. As mentioned previously, it is one of the few land uses that is permitted by right that is not regulated by the limitation contained in the definition of Family. This land use demands mitigation, in staff's opinion, if it is to remain in the Development Code. The revised text mitigates negative externalities by bringing the intensity of the use in closer alignment with the definition of Family and also treating it in a more equitable fashion compared with other multi-family residential uses in terms of parking.

It should be noted that, if approved, this amendment would create legal nonconforming status for those boarding houses and cooperatives that have been approved through the site planning process or through the typical method of determining legal nonconforming status. These standards would be effective for proposals submitted after the effective date of the adopting ordinance.

One indirectly related issue that has been discussed is the treatment of structures that have not been approved through the site planning process and that exist (by permitting more than 4 unrelated persons to occupy the structure) in non-legal nonconforming ways – deficient building standards, noncompliant parking on site, etc. The claim has been that the definition of Family is new to the code and that an amnesty period is required to bring these properties into conformance with the current standards. However, attached is the 1966 version of the zoning ordinance to refute comments made by some that the definition of Family is new to the code. The definition of Family has included a cap of 4 unrelated persons since 1966. Instead, it appears that many structures have been used or converted in noncompliant ways at the owners' choosing over the years and recent discussions have highlighted the implications for owning a nonlegal noncompliant structure.

Staff has received public comment since the City Commission meeting. Those comments are attached. Additional comments received will be forwarded in the March packet. Also attached are Lawrence Planning Commission minutes from 1925 demonstrating that the impacts of boarding houses have been discussed as early as the 1920s.

Attachments: Proposed Language for the March 24 PC work session

City Commission minutes of February 2, 2010 – please see page 10 for

beginning of Boarding House item

1966 Zoning Code 1925 PC Minutes

Public Comments since February 2<sup>nd</sup> City Commission meeting

PC Minutes 3/24/10

Work session for the following Text Amendment:

#### ITEM NO. 8 AMENDMENTS TO DEVELOPMENT CODE; BOARDING HOUSES (SDM)

**TA-6-17-09**: Reconsider Text Amendments to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House." *This item was originally heard by Planning Commission on 12/16/09. City Commission returned this item on 2/2/10 for additional consideration.* 

#### **STAFF PRESENTATION**

Mr. Scott McCullough presented the item and went over the memo from the staff report.

Commissioner Harris asked if this would affect a good patch of the East Lawrence neighborhood that has single-family homes now but has been rezoned to multi-family.

Mr. McCullough said yes, anywhere that has that unique issue. It needs to be a city-wide set of standards. He discussed nonconformities in the area and said there have been some discussions about the structures that do not comply with the definition of family. He said that staff felt this amendment never set out to address that issue and should not address that issue. There is existing language in the code that deals with non conforming structures.

Commissioner Carter asked staff to comment on the letter sent by Lawrence Preservation Alliance that suggested wording on parking and limitations on expansion.

Mr. McCullough said City Commission directed staff to establish one standard for parking on existing and new construction.

Commissioner Rasmussen asked what type of restrictions there are on the expansion of other types of residential buildings.

Mr. McCullough said setbacks, Design Review Guidelines, impervious surface, lot coverage, and standards applicable to all uses.

Commissioner Rasmussen asked if he had a home and wanted to expand in size, as long as he met setback requirements and height restrictions could he do that.

Mr. McCullough said that was correct.

Commissioner Rasmussen inquired about the restriction 20% rule.

Mr. McCullough said the building footprint was discussed at the City Commission level. A few Commissioners thought that was an appropriate way to look at expansions.

Commissioner Rasmussen asked if there was a loophole where it could be expanded by 19% and then another 20% on top of that.

Mr. McCullough said staff sought to close that loophole with the language in section 20-546(3)(iv)(b):

A site plan for a Congregate Living use is not eligible for approval if the building footprint, measured at grade, of an existing Structure proposed to contain the use has been expanded greater than 20% within three years of submitting the site plan application for the Congregate Living use.

Commissioner Rasmussen said if he was trying to get around the language he would expand his house by 19% and build a big deck and then seek to turn it into a boarding house.

Mr. McCullough said decks would be a standard looked at when an application is turned in for a boarding house. If the deck exceeds the 20 square feet per bedroom they would need to remove a portion of the deck or seek a variance.

Commissioner Rasmussen suggested language that says limited to not more than 8 bedrooms.

Commissioner Harris gave the example of a 5 bedroom house where 3 bedrooms could be added to turn it into a congregate living house for 8 people with only 5 parking spaces.

Mr. McCullough said it could be done if the capacity to put all 8 parking spaces on the property was not possible, but that it would have to be shown and justified. He said the structure would have to be greater than 4,000 square feet to have the parking issue looked at.

Commissioner Hird asked if an expansion from 5 bedrooms to 8 bedrooms was limited by the 20% rule.

Mr. McCullough said yes.

Commissioner Finkeldei asked if congregate living would be limited to 8 bedrooms no matter how big the structure is.

Mr. McCullough said yes.

Commissioner Finkeldei gave the example of an old rundown 14 unit apartment building that might forever stay rundown because it will not be given the chance to be revived due to the limitation of 8 bedrooms.

Mr. McCullough said that congregate living is not the only option and there are other uses that the Code allows in RM districts. He said the number 8 that staff came up with wasn't necessarily brought about by City Commission. City Commission made overtures about putting a maximum back in and staff used that as an opportunity to bring forth a recommendation that linked it to the behavioral issues and the definition of family.

#### **PUBLIC HEARING**

Mr. Rob Farha, Crimson Properties, felt there should be credit for an on-street parking spot. He also felt there should be 5 parking spots with 7 bedrooms.

Mr. Dennis Brown, Lawrence Preservation Alliance President, agreed with Commissioner Rasmussen's comment about the language stating 'not more than 8 bedrooms.' He said the parking standards should be one space per bedroom. He said 20% of livable space is the best way to go and he wondered about the difference between footprint and livable space. He inquired about the parking standard minimum for a 4,000 square feet structure and asked if that was before the 20% expansion.

Mr. McCullough said the difference between livable square feet and building footprint is based on different math equations because the footprint looks at the two-dimensional square feet of where the building hits the grade, not taking into account how many stories it is or whether there is livable space in the basement. He said the idea on parking was for an existing 4,000 square foot structure to accommodate hardship, not something that creates a hardship. He said staff can work on the language if the Commission would like.

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods President, said this is a citywide issue. She said they supported Special Use Permits for large Historic Properties. She felt that no structures should be expanded to become boarding houses. She was concerned about the loss of affordable housing. She said they supported one parking space per bedroom, to maintain the definition of family, and maintain nonconformities.

Commissioner Hird asked if an existing house could expand more than 20% if it didn't impact the footprint.

Mr. McCullough said with the current language yes, if it went up.

Mr. James Hicks discussed the history of the Oread Neighborhood as being originally built with boarding houses.

Ms. Candice Davis said the goals in the neighborhood plan include a variety of housing types with diversity of residents. She felt they should concentrate on a variety of housing types. She felt that boarding houses should be a minimum of 6 bedrooms with a maximum of 8 bedrooms. She said an 8 bedroom boarding house should have a Special Use Permit. She did not want all the houses to be boarding houses because it would negate the definition of family. She would also like a registered agent for each boarding house to address behavior issues.

Commissioner Rasmussen asked how it would be handled with just Special Use Permits and would there be specific restrictions.

Mr. McCullough said that many Special Use Permits come with use standards.

Ms. Marci Francisco, 1101 Ohio Street, felt that mixed uses should be preserved. She felt that there needed to be a minimum of bedrooms or size to be a boarding house because if any house with 5 bedrooms can be a boarding house then there wouldn't be any more single-family homes. She felt there should be parking standards for larger houses with overlay districts. She felt they should match the higher density on the plan with areas for boarding houses.

Ms. Carol von Tersch felt there should be a minimum of 6 bedrooms for congregate living and without a minimum it would create amnesty for property owners who have not complied with the law.

Mr. David Holroyd asked about the minimum occupancy required.

Mr. McCullough said it would be in the Building Code standard and that he did not have that in front of him. He said congregate living structures are considered one unit.

Commissioner Finkeldei inquired about setting a minimum of bedrooms.

Mr. McCullough said there are many different goals such as behavior issues, saving historic structures, housing types, definition of family, and parking. He said the definition of congregate living is 5 bedrooms.

Commissioner Finkeldei asked Mr. Farha about the first house he did and if he got a parking variance.

Mr. Farha said he did get a variance.

Commissioner Finkeldei suggested managing thru parking standards rather than number of bedrooms.

Mr. Farha was concerned about what would happen to 5 bedroom boarding houses.

Ms. Francisco said nowhere else in the city is it okay to have 5 unrelated people living together.

Mr. McCullough said this is no different than any time a Text Amendment is done that changes standards and creates non-conformities.

Ms. Francisco wondered if City Commission or Planning Commission could initiate variances for existing boarding houses for those that would not comply with standards.

Mr. McCullough said typically variances are requested by the owner and he did not believe it could be initiated by the governing bodies but that it's an issue that can be looked at.

Commissioner Singleton said those that are in compliance should be protected and rewarded.

Commissioner Harris said there is a place for congregate living in the Oread neighborhood but not if that means losing single-family houses. She felt that congregate living was not appropriate outside of the area near campus. She said she had mixed feelings about using larger structures for congregate living. She said if the house has 5 bedrooms then it shouldn't be expanded unless parking can be provided. She also felt that there needed to be a registered representative for the larger houses.

Commissioner Singleton liked the idea of a Special Use Permit process. She felt there needed to be a designated resident dealing with complaints, one parking space per bedroom, and protection for current registered houses.

Commissioner Rasmussen said he liked the idea of putting a floor on the number of units. He said he didn't know why the floor wouldn't be 5 to tie in with the definition of family. He did not think it was necessary to have a cap on the number of units. He said he was not sure about one parking space per bedroom, possibly .75 spaces per bedroom. He agreed with Commissioner Harris about congregate living being around the university, not throughout the entire city.

#### NO ACTION TAKEN

# Proposed Language - March 24, 2010 PC

### 20-402 RESIDENTIAL DISTRICT USE TABLE

14								Base 2	Zoning D	istricts						·
P = F S = S * = S	Accessory Permitted Special Use Itandard Applies Ise not allowed	RS40	RS20	RS10	RS7	RS5	RS3	RSO	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	Use-Specific Standards (Sec. 20-)
RES	IDENTIAL USE GROUP															
	Assisted Living	S	S	S	S	S	S	Р	Р	Р	Р	Р	Р	Р	Р	
	Boarding Houses and Cooperatives Congregate Living	1	_	-	-	-	_	1	P <u>*</u>		P <u>*</u>	P <u>*</u>	P <u>*</u>	-	P <u>*</u>	<u>20-546</u>
Living	Dormitory	-	_	-	-	-	_	-	-	_	_	_	_	Р	_	
dr Li	Fraternity or Sorority House	_	_	-	-	-	_	_	_	-	_	_	_	Р	_	
Group	Group Home, General [11 or more]	S	S	S	S	S	S	S	S	S	S	S	S	Р	S	
	Group Home, Limited [10 or fewer]	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	- 1	Р	

#### 20-403NONRESIDENTIAL DISTRICT USE TABLE

- = Use no	tted al Use ard Applies ot allowed	CN1	CN2	MU	00	CD	Base 2	Coning [	S S	IBP	II.	9I	SO	GPI	H	Use-Specific Standards (Sec. 20-)
RESIDEN	TIAL USE GROUP			D										0	0	
	Assisted Living Boarding Houses & Cooperatives Congregate Living	-	-	P <u>*</u>	-	-	-	-	-	1	-	-	-	S	S -	<u>20-546</u>
Group	Dormitory	-	-	_	_	-	_	-	_	_	_	_	_	-	Р	
Living	Fraternity or Sorority House	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Group Home, General (11 or more)	S	S	S	S	S	S	S	S	-	-	_	-	-	Р	
	Group Home, Limited (10 or less)	Р	ı	Р	1	ı	1	ı	1	1	ı	-	-	1	-	

#### 20-546 CONGREGATE LIVING (NEW SECTION)

#### (1) Purpose

The purpose of these use-specific standards is to ensure that Congregate Living uses are compatible with other land uses in the districts in which they are permitted. These use-specific standards are intended to preserve the housing stock in established neighborhoods, encourage the rehabilitation of neglected structures, and recognize that the majority of Congregate Living uses will occur in neighborhoods near the University of Kansas campus and/or in established higher density neighborhoods where compatibility with the neighborhood character is a public value.

#### (2) Applicability

The use-specific standards of this section shall apply to any Congregate Living use or structure.

#### (3) Standards

- (i) A Congregate Living use shall be permitted only with site plan approval.
- (ii) A Congregate Living use shall be limited to eight (8) bedrooms.
- (iii) A Congregate Living use shall provide one (1) parking space per bedroom. In cases where a structure greater than 4,000 square feet exists on a lot too narrow to accommodate the code-required parking, the Planning Director may reduce the parking amount required by code to no less than five (5) spaces.
- (iv) Limitations on Expansion
  - **a.** A Structure containing a Congregate Living use shall not be enlarged greater than 20% of its existing building footprint, measured at grade, for the life of the Congregate Living use.
  - **b.** A site plan for a Congregate Living use is not eligible for approval if the building footprint, measured at grade, of an existing Structure proposed to contain the use has been expanded greater than 20% within three years of submitting the site plan application for the Congregate Living use.
  - **c.** This section does not apply to expansions in building footprint occurring prior to \_\_\_\_\_ (the effective date of this section).
- (v) Uncovered decks and patios shall be limited to twenty (20) square feet of area per bedroom.
- (vi) A trash receptacle area compliant with the Development Code, the City Code, and amendments thereto, and with policies established by the Solid Waste Division of the City shall be designated on the site plan and either used or reserved for use on the site to accommodate waste generated by the residents.

#### 20-902 OFF-STREET PARKING SCHEDULE A

Unless otherwise expressly stated in this article, Off-street Parking Spaces shall be provided in accordance with the minimum ratios of the following, Schedule A.

Use Category	Minimum Number of Vehicle Parking Spaces Required	Minimum Number of Bicycle Parking Spaces
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Use Category	Minimum Number of Vehicle Parking Spaces Required	Minimum Number of Bicycle Parking Spaces						
RESIDENTIAL <u>USE GROUPS</u>								
HOUSEHOLD LIVING								
Accessory Dwelling Unit	See 20-534 for standards							
Attached Dwelling								
Cluster Dwelling	2 per Dwelling Unit							
Detached Dwelling								
Duplex	1 per bedroom	None						
Manufactured Home								
Manufactured Home, Residential- Design	2 per Dwelling Unit							
Mobile Home	2 per Dwelling Unit (1 may be							
Mobile Home Park	located in common area)							
Multi-Dwelling Structure	Multi-Dwelling Structure 1 per bedroom, + 1 per 10 units (visitors and guests)							
Non-Ground Floor Dwelling 1 per bedroom								
Work/Live Unit	1 per Dwelling Unit							
Zero Lot Line Dwelling	2 per Dwelling Unit							
Home Occupation, Type A or B	See 20-537 for standards							
GROUP LIVING								
Assisted Living	1 per independent living unit; 0.5 per Assisted Living unit	None						
Boarding Houses and Cooperatives Congregate Living	1.5 per 2 lawful occupants 1 per bedroom (See also Section 20-546)	1 per 4 auto spaces						
Dormitory and Scholarship Halls	1.5 per 2 .75 per lawful occupants	1 per 4 auto spaces						
Fraternity and Sorority Houses	1.5 per 2 .75 per lawful occupants	1 per 4 auto spaces						
Group Homes, General	1 + 1 per employee	None						
Group Homes, Limited	2 per Dwelling Unit	None						

#### 20-1701 GENERAL TERMS

Boarding House	A Dwelling or part thereof where meals and/or lodging are provided for compensation for one (1) or more persons, not transient guests, and where there are not more than 12 sleeping rooms, nor sleeping space for more than 24 people.
Congregate Living	A Dwelling where 5 or more unrelated residents share kitchen facilities and/or bathing rooms and/or communal living areas and where lodging is provided for compensation for persons who are not transient guests. Congregate Living is commonly referred to as a lodging house, boarding house, rooming house, or cooperative but is not typically considered a Dormitory, fraternity or sorority house, Assisted Living, Extended Care Facility, Group Home or similar group living use.

#### **Family**

(1) A person living alone; (2) two or more persons related by blood, marriage, or legal adoption; (3) in an RS Zoning District, a group of not more than three persons not related by blood or marriage, living together as a single Housekeeping Unit in a Dwelling Unit, as distinguished from a group occupying a Dormitory, Boarding House Congregate Living, ledging house, motel, hotel, fraternity house or sorority house; or (4) in a Zoning District other than RS, a group of not more than four persons not related by blood or marriage, living together as a single Housekeeping Unit in a Dwelling Unit, as distinguished from a group occupying a Dormitory, Boarding House, Congregate Living, ledging house, motel, hotel, fraternity house or sorority house.

#### 20-1731 GROUP LIVING

Residential occupancy of a Dwelling Unit by other than a "Household" and providing communal kitchen/dining facilities. Typical uses include occupancy of fraternity and sorority houses, Assisted Living, Boarding Houses and Cooperatives Congregate Living.

From: Robbie Farha [mailto:knobbiewheel@yahoo.com]

Sent: Saturday, May 22, 2010 11:41 PM

To: Scott McCullough

Subject: Re: FW: May 24 & 26, 2010 Planning Commission Agenda Items

Scott, thank you for the notice. It was to my understanging that the next PC discussion on this topic would be in June so let me fill you in on what has happened on the ONA side.

In our April meeting, by a majority vote, we passed a motion to draft a letter to the City and your department that we felt that TA-6-17-09 should be withdrawn. Since we thought the next discussion was in June, a side note was added to the motion to review the letter at our May 27th meeting which is obviously after the May 26 PC discussion.

I have attached the "draft" letter that will be voted on May 27. Since the new board was elected in Feb., the attendance has been 25-60 in attendance as opposed to the 8-10 people present at previous board meetings.

I would ask that the PC discussion on TA-6-17-09 be deferred to the June agenda. If this is not possible, I will not be present but will have representation from our group as I will personally be out of town May 23 thru late May 27.

Thank you for your patience in this matter. Rob Farha 785-550-4658 (I will have my cell phone available if you have any questions)

#### --- On Thu, 20/5/10, Scott McCullough <smccullough@ci.lawrence.ks.us> wrote:

From: Scott McCullough <smccullough@ci.lawrence.ks.us>

Subject: FW: May 24 & 26, 2010 Planning Commission Agenda Items

To: "Scott McCullough" <smccullough@ci.lawrence.ks.us>, "'kthompson@sunflower.com'"

<a href="mailto:kthompson@sunflower.com">kthompson@sunflower.com</a>, "candicedavis@sunflower.com" < candicedavis@sunflower.com">kthompson@sunflower.com</a>, "candicedavis@sunflower.com">kthompson@sunflower.com</a>, "candicedavis@sunflower.com"

"'tersch@sunflower.com'" <tersch@sunflower.com>, "'Jon davis'" <jdavis@sunflower.com>,

"'jeff@hatfieldappraisals.com'" <jeff@hatfieldappraisals.com>, "'Rob Farha'" <knobbiewheel@yahoo.com>,

"'Paul Werner'" <paulw@paulwernerarchitects.com>, "'aaronpaden@mac.com'" <aaronpaden@mac.com>,

"'maf@sunflower.com'" <maf@sunflower.com>, "'rainbowworks1@yahoo.com'"

<rainbowworks1@yahoo.com>

Date: Thursday, 20 May, 2010, 4:57 PM

Please see link below to the May PC agenda. Boarding houses will be discussed as Item no. 12 on May 26. A memo is included in the packet. Please let me know of any questions.

**Scott McCullough**, Director - <a href="mailto:smccullough@ci.lawrence.ks.us">smccullough@ci.lawrence.ks.us</a> Planning and Development Services | <a href="mailto:sww.lawrenceks.org">www.lawrenceks.org</a> City Hall, 6 E. 6<sup>th</sup> Street P.O. Box 708, Lawrence , KS 66044-0708 office (785) 832-3154 | fax (785) 832-3160

Mayor Mike Amyx Commissioners Chestnut, Cromwell, Dever, and Johnson Dave Corliss – City Manager Scott McCullough – Planning Director Lawrence – Dg. County Planning Commissioners

May 27, 2010

RE: TA-6-17-09

Dear representatives of the City of Lawrence,

Through several meetings over the proposed text amendment (TA-6-17-09), Mr. Scott McCullough has stated on several occasions that the boarding house issues, which created this text amendment, were initiated by the Oread Neighborhood Association (ONA). Over the past few months, the views of the ONA have changed.

At this time, the Oread Neighborhood Association would ask that TA-6-17-09 be withdrawn for consideration. The ONA has come to the conclusion that there are no other viable uses for these large structures. A new text amendment that takes this fact into consideration should be drafted so the historic character of the neighborhood can be preserved.

Thank you for your time and consideration of the ONA views on this subject. Please feel free to contact myself or the Board of Directors with any questions.

Sincerely,

Robert J. Farha Vice-President of Oread Neighborhood Association Greg Moore, Chairman, and Members of the Lawrence-Douglas County Planning Commission

#### RE: BOARDING HOUSE TEXT AMENDMENT - GOAL SETTING

Thank you for your continued work on a text amendment to address the Congregate Living Use. I am writing to share my thoughts after reading the memorandum from the planning director.

There are already established goals, both in Horizon 2020 and the existing Oread Neighborhood Plan, that set the framework for your discussion. If you want different goals, I hope you would change Horizon 2020 or adopt a new Oread Neighborhood Plan rather than set independent goals. In proposed wording for the amendment, the statement was made that "The purpose of these use-specific standards is to ensure that Congregate Living uses are compatible with other land uses in the districts in which they are permitted." That purpose should also be considered.

We are having this discussion because the lower parking standards for boarding houses favor the development of that use over other uses in the Oread Neighborhood. Maintaining the existing housing stock, maintaining a variety of housing types, and historic preservation are established goals. "Recognizing the merits" of Congregate Living uses would be a new goal, however the only unique advantage to the community identified in the study session was the installation of sprinklers. Renovation of existing housing stock is beneficial; we have been seeing more renovations for boarding houses only because the reduced parking standards encourage that use.

Congregate Living uses are not inherently any more dense, or any more "green" than other multi-family uses unless food is prepared communally. Developers of boarding houses have even argued that they are reducing the number of residents when they request variances for reduced parking. It is only easier to get by without having a car if meals are provided along with lodging. If we want large historic properties to be preserved, we should allow for a variety of multi-family uses so that the use made is the best match for the existing structure.

Although parking may not be a concern if there are only a few properties on a block that do not provide adequate parking space for their residents, it becomes an issue as the number of individuals with cars and without adequate parking space increases. University Housing promised to build a parking lot when the second Amini scholarship hall was built; it didn't happen. Instead, the University asked for Louisiana St. to be vacated between 13<sup>th</sup> and 14<sup>th</sup> Streets, and the bicycle lane on that block was replaced with on-street parking.

There are problems with parking on the 1000 block between Kentucky and Tennessee where several boarding house uses now exist. Residents who have to use the street parking for the houses on the west side of Kentucky and the east side of Tennessee cross two lanes of those arterials, often without walking to the street corners – not good planning. The owner of an office (the zoning is RMO) on the block arrives an hour early in the morning to check if cars need to be towed off the property to allow for parking for business clients. These parking problems are not caused by students parking to attend the University, they are caused by the parking standards.

I ask you to please require one parking space per bedroom for congregate living uses, consistent with other multi-family uses, unless the use includes structured meal plans.

marci francisco

Greg Moore, Chairman, and Members of the Lawrence-Douglas County Planning Commission c/o City Hall, Lawrence, Kansas

RE: Item 12 – TA Boarding House

Thanks you for your considerations on the Boarding House Text Amendment.

I am concerned that if 5 person boarding houses are allowed that a perverse incentive would be created. One of the oft-stated goals is to preserve the very large historic structures in the Oread and surrounding neighborhoods by allowing them to be used as boarding houses. I think a boarding house is a reasonable use of theses very large houses.

Tony Backus and Serina Heard have stated that they spent \$1 million on 1121 Ohio, which has 8 tenants. My question is, why would someone spend that kind of money on a really large house, when an investor could spend a smaller amount on a smaller house which could house 5 tenants?

I believe that by allowing any house in the neighborhood to be used as a boarding house could undermine the preservation of the very large structures.

Thanks You,

Kyle Thompson Oread Neighborhood Association Board member

## League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

May 23, 2010

Mr. Greg Moore, Chairman Members Lawrence-Douglas County Planning Commission City Hall Lawrence, Kansas 66044



#### RE: ITEM 12: TEXT AMENDMENT; LAND DEVELOPMENT CODE; BOARDING HOUSE (SDM)

Dear Chairman Moore and Planning Commissioners:

The League of Women Voters of Lawrence-Douglas County wrote you last October in support of the proposed changes to create the new category of "Congregate Living" to replace the Boarding House designation. We continue to believe that requirements for one parking space per occupant and identification of a trash area on the site plan are appropriate for a use that allows for more occupants than the four per dwelling unit that would otherwise be allowed in multiple-family zoned districts.

We believe that the staff request for clarification of the goals is a reasonable approach. We suggest, however, that since the text amendment will apply to the use throughout our community, the staff could help by noting the already existing goals within *Horizon 2020* that should be considered. Because this use is being developed to a greater extent within the Oread Neighborhood, it may be helpful to also consider the goals for that neighborhood, but it will be helpful to clarify which goals are part of *Horizon 2020* and which relate to the neighborhood plan.

We are highlighting some of the goals and policies within *Horizon 2020* that we believe should be considered, recognizing that although the amendment is limited to multi-family districts, the Oread Neighborhood has low, medium and high-density land uses within its boundaries:

#### STRATEGIES: RESIDENTIAL DEVELOPMENT

- A mixture of housing types, styles and economic levels should be encouraged for new residential and infill
  developments.
- The character and appearance of existing residential neighborhoods should be protected and enhanced.
   Infill development, rehabilitation or reconstruction should reflect architectural qualities and styles of existing neighborhoods.

RESIDENTIAL LAND USE GOALS AND POLICIES Low-Density Residential Land Use GOAL 3: Neighborhood Conservation Policy 3.2: Protect Existing Housing Stock includes statements to "Preserve existing dwelling units" and "Consider the development of alternate standards for the rehabilitation of existing residential structures." Policy 3.3: to Encourage Compatible Infill Development calls to "Utilize development regulations to ensure compatibility of different housing types within neighborhoods" and to "Discourage concentrations of high-density multiple-family infill within neighborhoods" and Policy 3.7: to "Involve Neighborhood Residents."

GOAL 6: Policy 6.1 is to **Use Appropriate Transitional Methods** c.2.b. More intensive residential uses should have perimeter setbacks that are equal to or greater than the perimeter setbacks of the abutting low-density residential uses.

Medium- and Higher-Density Residential Land Use GOAL 1: Criteria for Location of Medium- and Higher-Density Residential Land Use Policy 1.1: Consider Land Use Relationships "Development proposals shall be reviewed for compatibility with existing land uses."

#### HISTORIC PRESERVATION

Goal 3: Encourage the Development of Traditional and Nontraditional Economic Incentives and Adaptive Reuse Alternatives for Historic Structures calls to "Develop additional zoning regulations which facilitate the adaptive reuse of historic resources and to develop additional economic incentives."

We fail to understand the merits of congregate living that justify the promotion of this particular housing type. Both *Horizon 2020* and the Oread Neighborhood Plan call for the encouragement of a mix of housing types. If the parking standards for congregate living were changed to be consistent with other multi-family development it would promote variety rather than encourage this one type. Since the congregate living use is in conflict with the city's overall policy of limiting occupancy of dwelling units within multi-family zoning districts to no more than four unrelated individuals, there should be other requirements to offset the negative externalities of congregate living.

We are also concerned that the city would choose to address the historic preservation of large structures through the congregate living amendment rather than additional changes to the land development code for adaptive reuse that are being considered at this time. The process for an adaptive reuse would allow for the closer examination of each particular case. If such a change were to be adopted it could mitigate the concern for timeliness in the adoption of the overlay districts in Oread.

A concern to give more time for nonconforming properties to conform to code has been raised that we understand has been compared to the adoption of the requirement for sprinkler systems in fraternities, sororities and boarding houses. We would argue that the requirement for sprinklers was a new requirement rather than applying to properties that were out of conformance with an existing code. We do agree that properties that were developed under existing codes and in fact contribute to the mixture of uses in the Oread Neighborhood should be allowed by right to continue the use.

Thank you for your work and for your consideration of this issue.

Sincerely yours,

Milton Scott
Vice President

Alan Black, Chairman Land Use Committee

alan Black