

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

January 29, 2008

Sue Hack, Mayor
Lawrence City Commission
City Hall
Lawrence, KS 66044

RE: APPROVAL OF REZONING AND PRELIMINARY DEVELOPMENT PLAN OF THE LINKS DEVELOPMENT

Dear Mayor Hack and City Commissioners:

The Land Use Position of the LWVL-DC is very supportive of preserving sensitive lands and avoiding hazardous building sites. We believe that the area proposed to be developed by the Links apartment complex and golf course is an example of a type of development that our Land Use Position cautions against, because of the many environmental problems and hazards that this site demonstrates, calling for a more critical analysis of the site and its limited development potential.

Because of the recommended approval by the planning staff and acquiescence by the Planning Commission, we believe that there is a critical problem of selective interpretation of the Lawrence Land Development Code by the staff which we fear will have a major negative impact on the City of Lawrence. The recommendation for approval, we believe, involves several misinterpretations, but the most serious is the interpretation of how and what “sensitive lands” are to be preserved in development design.

There is a section in the Code under Article 1101, **20-1101 Implementation of Sensitive Land Standards** that requires certain types of sensitive lands be preserved:

- a. Floodways;
- b. [Floodplain](#) outside the floodway, based on 100 year storm;
- c. Jurisdictional [Wetlands](#);
- d. [Stream Corridors](#);
- e. [Stand of Mature Trees](#) or Individually Significant Mature Trees;
- f. Prominent Geographic Features with Rocky Outcroppings; and
- g. [Archaeological and Historic Sites](#).

The Code describes how various sizes of property holdings are to be treated. In the case of the Links, the section below governs.

b. Land not Previously Subdivided

Development on land not previously subdivided and including more than 500 square feet of sensitive lands shall follow the procedures required by this paragraph:

- 3. If 15% or more of the land area consists of sensitive lands, the property may be developed only through a [Planned Development](#).

According to the Staff interpretation, because the land must be developed as a Planned Development, and this requires only 20% of the land to be preserved as open space, and half of

that must be preserved as usable for recreation, only ten percent of the sensitive land needs to be preserved, and apparently, according to the staff interpretation, this takes precedence over the other sections of the Code. As expressed by the staff:

“The minimum common open space required for the Links Development by Code is 16 acres, with 8 acres required to contain environmentally sensitive features, Section 20-1101(d)(3)(ii,) and 8 acres required to be developed as recreational open space.”

(This is out of the 80-acre tract, which the staff has identified as 30% mature trees—or possibly slightly less—and is discounting the intermittent stream which is clearly identified on the Northwest Plan as a stream on the floodplain map—see below, next page.)

On the other hand, not included in the staff consideration is this critical provision in the Code, under the same sections of **20-1101 Implementation of Sensitive Land Standards.**

20-1101(d)(3)(iii) Other

Where the following types of lands are included in a proposed development and will not be dedicated to the City or included in private Open Space, the development plan shall be arranged so that every proposed Lot has a Building Envelope meeting the other design standards of this Code without encroaching on the designated sensitive lands: (which are then listed again).

In other words, although the sensitive land can be formally preserved as dedicated (public) or private open space, it still must be preserved by other means if it otherwise is not being preserved as formal open space.

This point that all of the sensitive land must be preserved is reinforced by the Subdivision Regulations which reads as follows:

**Article 8, 20-810(i)(1) Subdivision Regulations
Resource Preservation - City of Lawrence**

(1) Subdivisions shall be designed to preserve natural resources and environmentally sensitive areas, such as streams, wetlands, prominent natural geographic features, and stands of mature trees. See Section 20-1101(c)(2)(iii)b., which requires that development of lands containing more than 5% defined sensitive lands can be developed only through a Cluster Development or a Planned Development. Section 1101(c)(3) requires that certain sensitive lands be dedicated, included in private open space or otherwise preserved through development design.

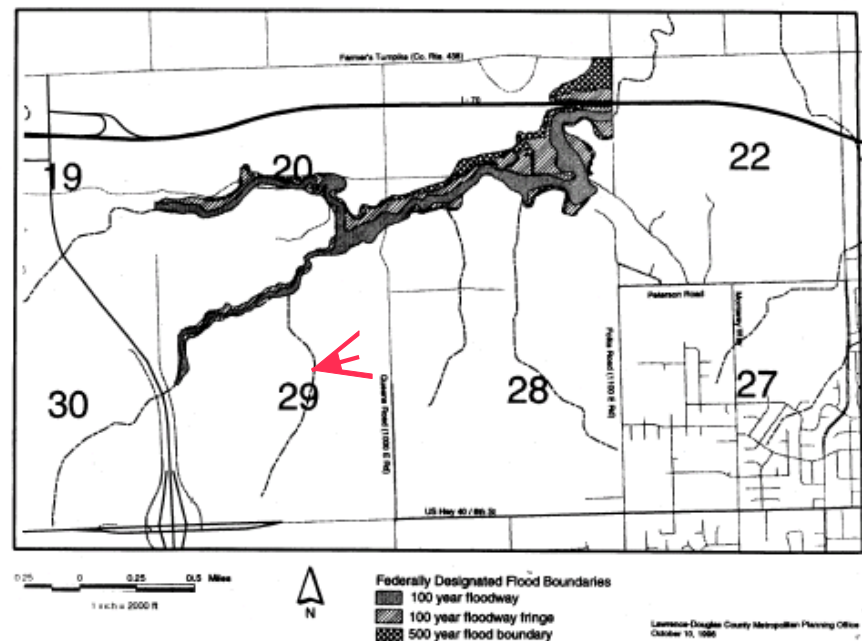
The next question is how is the sensitive land defined? The staff states that the City Code defines “stands of mature trees” in Section 1701 of the City Code as “an area of ½ acre or more covered by densely wooded growth of mature trees having a minimum height of 25 feet.” The staff identified around 30% of the Links land as being classified as having mature stands of trees..

In the case of “stream corridor” the Land Development Code defines it as follows:

Stream Corridor A strip of land 100 feet wide, of which the centerline shall be the centerline of a stream that is not an intermittent stream or an intermittent stream specifically identified in the Comprehensive Plan as a significant intermittent stream subject to protection. (*Emphasis added*).

The **Northwest Plan** is the detailed area plan guiding development in Sections 28, 29, 20, and 21, and is incorporated into Horizon 2020, and thereby becomes a part of the Comprehensive Plan..

The **Northwest Plan** floodplain map, below, shows a significant, although perhaps intermittent, stream running through the Links property. (See below)



Because this floodplain map (PDF page 22 of the Northwest Plan) identifies the stream corridor in the Comprehensive Plan it should be treated as “sensitive land” in all development considerations. Please note that the red arrow has been added to this screen print of the map.

Staff Interpretation.

The key to the staff interpretation here regarding the dispensation of sensitive lands, seems to be that the planned development provisions exclusively govern this dispensation and limit the amount of land required to be preserved to be 10% of the total land area in the planned development. This is clearly not what the code says when the entire Section 1101(d) on Implementation of Sensitive Lands is included in the interpretation.

We predict that there will be many environmental problems with the Links development which will make it very expensive for the developer, and if the city assumes any financial risk through financing, will be a major cost for the City, as well, should the development fail. There are serious development problems that can be anticipated here with the erodible soils, steep slopes, and drainage problems, not to mention problems that loss of the tree cover will cause. This is the main reason why this area was specifically identified for very low density and single family land use (a CP recommendation misinterpreted by the staff, pointed out earlier). We ask that you not approve this development and either deny it or return it to the Planning Commission for reconsideration.

Sincerely yours,

Paula Schumacher
President