

LAW OFFICES
BARBER EMERSON, L.C.

1211 MASSACHUSETTS STREET

POST OFFICE BOX 667

LAWRENCE, KANSAS 66044

(785) 843-6600

FACSIMILE (785) 843-8405

JOHN A. EMERSON
BYRON E. SPRINGER
RICHARD L. ZINN
CALVIN J. KARLIN
JANE M. ELDREDGE
MARK A. ANDERSEN*
CHERYL L. TRENHOLM*
TERENCE E. LEIBOLD*
TERRENCE J. CAMPBELL*

*ADMITTED IN KANSAS AND MISSOURI

Matthew S. Gough
Email: mgough@barberemerson.com

MATTHEW D. RICHARDS*
LINDA K. GUTIERREZ
MATTHEW S. GOUGH*
CATHERINE C. THEISEN
KRISTOPHER S. AMOS*
MATTHEW B. TODD

RICHARD A. BARBER
(1911-1998)

GLEE S. SMITH, JR.
OF COUNSEL

May 12, 2009

VIA REGULAR MAIL AND E-MAIL

Mr. Brad Finkeldei, Chair
Lawrence-Douglas County
Metropolitan Planning Commission
6 East 6th Street
P.O. Box 708
Lawrence, Kansas 66044

Re: May 18, 2009 Planning Commission Meeting
Agenda Item 4, CPA-3-2-09 (the "Text Amendment")
Agenda Item 5, Z-11-19-08 (the "Rezoning Request")

Dear Mr. Finkeldei:

I am writing on behalf of Rockwall Farms, L.C. (the "Applicant"), in connection with the above-referenced land use matters, which will allow for the construction of a rural conference center (the "Project"). During the past several months, the Applicant and Planning Staff have discussed several issues related to the Project, including many of the same issues identified by the League of Women Voters (the "LWV") in their letter addressed to the Planning Commission, and dated April 19, 2009. Although we appreciate and share many of the LWV's same concerns, the LWV's letter does contain a couple of factual misstatements regarding the Project, which need to be corrected.

CUP not an option. The LWV states that the Project, as proposed, may proceed with a Conditional Use Permit ("CUP"). This is not correct. The option of a CUP has been considered and discussed at length between the Applicant and the Planning Staff, but is not a viable option. First, long-term financing for a multi-million dollar real estate development, such as the Project, requires permanent zoning, not a CUP. Second, a CUP will not allow the Applicant the ability to obtain a liquor license to serve alcohol on the subject property. A liquor license is a prerequisite to the Applicant's proposed uses, including dining, banquet and reception facilities on the subject property.

Wrong property identified. The LWV incorrectly states that the Project "is strategically located for the potential to become a major commercial hub in the County because of its proximity to the K-10/Turnpike interchange." This is not correct. The LWV identified the wrong parcel of property. The actual Project is located 1.5 miles to the west, and a quarter mile north of the LWV's location. Moreover, the Project is not likely to become a "major commercial hub" because the site is not even visible from the Farmer's Turnpike. The proposed improvements will be set back more

Mr. Brad Finkeldei, Chair
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than a quarter mile from the Farmer's Turnpike—not an ideal location for a “commercial hub.” To the contrary, the site was selected *because* of its seclusion.

Conditional zoning not allowed. The Project has very specific proposed uses, and the LWV believes a specific land use approval should be used to permit those uses. Conceptually we agree, and have had several discussions with the Planning Staff about this very issue. The Applicant has *offered* to restrict the proposed uses in connection with the Rezoning Request, and the Planning Staff would *accept* such restrictions, if permitted to do so. However, the LWV correctly notes that Douglas County does not presently allow “conditional zoning” to impose additional use limitations within a zoning category.

Workable solution. The Applicant has agreed to make the rezoning contingent upon the approval of a site plan, which includes a site buffer. Additionally, if the proposed Text Amendment is approved, then *Horizon 2020* will allow the proposed project in the rural area, thereby evoking a recommendation for approval from Planning Staff. To address concerns of future land use, the Text Amendment imposes criteria for rural recreation and tourism facilities. The configuration and isolated location of the Project are further assurances against more intense commercial development in the future. These actions and facts represent the best available compromise between the concerns of Planning Staff and the objectives of the Applicant. In effect, the Applicant is agreeing to condition the “approval” of the Project, rather than condition the “zoning” itself.

The Applicant and the Planning Staff have cooperated to present the Planning Commission with a solution both parties can support. The Applicant has made a concerted effort to provide the public with assurances that the proposed use on the subject property will integrate with and preserve the surrounding rural environment, and has made all reasonable efforts to address concerns of the Planning Staff, the Lecompton Planning Commission, and the neighboring landowners. We believe the Text Amendment and the Rezoning Request independently merit the consideration and approval of the Planning Commission.

Respectfully,



Matthew S. Gough
of Barber Emerson, L.C.

MSG:jsm

cc: Rockwall Farms, L.C.
Scott McCullough, Planning Director

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

April 19, 2009

Mr. Brad Finkeldei, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

RE: MISC. ITEM #2: COMPREHENSIVE PLAN AMENDMENT INITIATION REQUEST,
To Change Horizon 2020, Chapter 6, to Allow Conference, Recreation Tourism Facilities as a Commercial Use
in the Unincorporated County.

Dear Chairman Finkeldei and Planning Commissioners:

We are writing this letter in opposition to changing *Horizon 2020*, Chapter 6, Commercial Land Use, to allow for randomly-located conference, recreation, or tourism facilities to be included in this commercial land use chapter. This request has arisen because of the need to allow in the County a more general distribution of such facilities. However, we object to including this use in the Commercial Land Use Chapter for the following reasons, and ask that you seek a different method to accommodate this use in our comprehensive plan.

1. Allowing this use in Chapter 6 would permit all such requests to be considered public commercial areas, eligible for commercial zoning under one of the existing county business districts. We have included copies of the current Douglas County Zoning Regulations for commercial zoning, Districts B-1, B-3 and B-2, to give you an idea of the wide variety and intensity of commercial uses available to an applicant in these districts. This is especially true for B-2 zoning, the requested commercial district for Rockwall Farms. Because there is no method available to the County to limit these permitted uses to only one or a few uses, once the zoning is in place, the ultimate use of this land would always be in question.
2. The nature of these uses requires a considerable amount of acreage. For the entire amount to be zoned for one of the County commercial districts, as in the case of Rockwall Farms, its size of 59 acres would be equivalent to a shopping center when zoned to any of the County commercial districts. The Rockwall Farms is strategically located for the potential to become a major commercial hub in the County because of its proximity to the K-10/Turnpike interchange, even though this is not the applicants' expressed intention.
3. Although conference, recreation and tourism uses would probably include dining facilities and residential accommodations, the assumption of the Rockwall Farms proposal is that the clientele would not be the random, general public, but, instead, organized groups with pre-arranged programs planned and booked in advance; at least this is the impression that has been presented by the applicants. Any adjunct commercial uses would be designed for the use of the clientele, would be small, and possibly not even open to the public. Because of the specific nature of the application, it would seem to us that such a use would not require commercial zoning at all.

Such uses, we believe, could be better accommodated with a Conditional Use Permit. The objection by the applicants that a CUP would be too uncertain because of the time limits could be overcome by eliminating the time limits and the other specific restrictions that the applicants feel jeopardize the attractiveness of the project to investors.

We ask the Planning Commission to be aware of the possible consequences of opening up the County to the random distribution, scattered throughout the unincorporated area, of large tracts of commercially-zoned land that could become nuclei of general business uses. For these reasons, we again urge you not to include “conference, recreation, and tourism” uses in Chapter 6. We suggest that you treat this as a special use, and provide a specifically tailored conditional use permit category for such uses. It would be wise to make note of this treatment in the *Horizon 2020*, Growth Management Chapter 4, as well.

Thank you for carefully considering this issue.

Sincerely yours,

Carrie Lindsey
Board Member

Alan Black, Chairman
Land Use Committee

Attachment

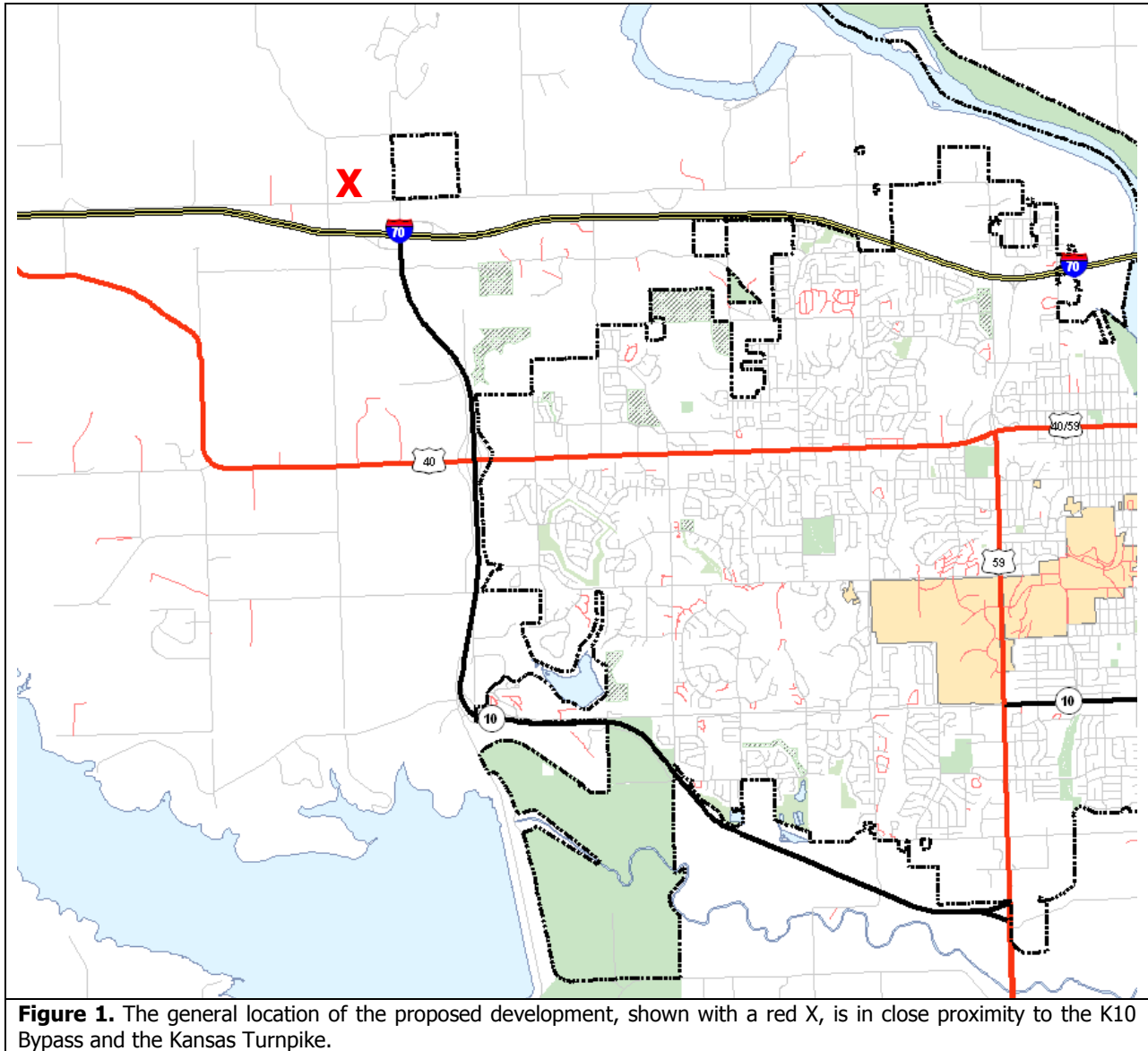


Figure 1. The general location of the proposed development, shown with a red X, is in close proximity to the K10 Bypass and the Kansas Turnpike.

ARTICLE - 9 "B-1" NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS

SECTION 9 - 1.

The regulations set forth in this article, or set forth elsewhere in this Resolution, when referred to in this article, are the regulations in the "B-1" Neighborhood Business District. This district provides primarily for retail shopping and personal service uses to be developed either as a unit or in individual parcels to serve the needs of nearby residential neighborhoods.

SECTION 9 - 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in the "R-1" Single-Family Residential District.
2. Automobile parking lots and storage garages.
3. Display room for merchandise to be sold on order where merchandise sold is stored elsewhere.
4. Dressmaking, tailoring, decorating, shoe repairing, repair of household appliances and bicycles, dry cleaning and pressing and bakery, with sale of bakery products on the premises and other uses of a similar character; provided that no use permitted in this item shall occupy more than 2,500 square feet of floor area.
5. Filling stations, so long as bulk storage of inflammable liquids is underground.
6. Frozen food lockers for individual or family use.
7. Hospital or clinic for large or small animals, such as cattle, horses, dogs, cats, birds and the like, provided that such hospital or clinic and any treatment rooms, cages, pens or kennels be maintained within a completely enclosed building with soundproof walls and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls and located on a sewer.
8. Offices and office buildings, including clinics.
9. Outdoor advertising structure or non-flashing sign pertaining only to a use conducted within the building, and any sign or display in excess of 30 square feet in area shall be attached flat against a wall of the building, and in no case shall any sign or display attached to a building project above the roof line. The permitted 30 square feet of sign area for projecting or free-standing signs may be in one sign or the aggregate area of several signs.
10. Personal service uses including barber shops, banks, beauty parlors, photographic or artists' studios, messengers, taxicabs, newspaper or telegraphic service stations, dry cleaning receiving stations, restaurants, (but not drive-in restaurants), taverns, undertaking establishments and other personal service uses of a similar character.
11. Retail stores, including florist shops and greenhouses in connection with such shops, but there shall be no slaughtering of animals or poultry on the premises of any retail store.
12. Self-service laundry or self-service dry cleaning establishment.
13. Accessory buildings and uses.

14. A retail fireworks stand only as authorized by permit issued and operated pursuant to applicable resolutions of the Board of County Commissioners.

SECTION 9 - 3. PARKING REGULATIONS

The parking regulations for permitted uses are contained in Article 16 of this Resolution.

SECTION 9 - 4. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Article 17.

SECTION 9 - 5. HEIGHT AND AREA REGULATIONS

Height and area requirements shall be as set forth in the chart of Article 16.

SECTION 9 - 6. Supplementary use regulations are contained in Article 19.

SECTION 9 - 7. Supplementary height and area regulations are contained in Article 21.

ARTICLE - 9A "B-3" LIMITED BUSINESS DISTRICT REGULATIONS

SECTION 9A - 1.

The regulations set forth in this article, or set forth elsewhere in this Resolution, when referred to in this article are the regulations in the "B-3", Limited Business District. This district is designed to permit and encourage the grouping, in areas defined by comprehensive plans, of certain retail activities and services intended primarily to serve, and dependent upon, the motoring public.

A building or premises shall be used only for the following purposes:

1. Automobile Service Stations, excluding body work, painting or major engine repair.
2. Antique Sales.
3. Art Supplies.
4. Bicycle Sales, Rental, or Repair.
5. Boat and Equipment Sales and Repair.
6. Boat Storage, open or enclosed.
7. Camera or Photographic Supply Sales.
8. Drug Store.
9. Equestrian Equipment Sales.
10. Fishing and Camping Equipment and Supplies.
11. Florist Shop, Greenhouse, and Garden Supplies.
12. Gift, Novelty, and Souvenir Sales.
13. Grocery Store.
14. Hardware, excluding lumber and industrial hardware.
15. Restaurant, not providing service in automobiles.
16. Accessory buildings and uses to include accessory residential uses.
17. Open storage must meet the minimum front, side, and rear yard requirements,

and be screened by a view reducing wall, fence, or landscaping material from adjacent public roads or residentially zoned property.

18. Motels and motor hotels.
19. Overnight camper trailer grounds.

SECTION 9A - 3. PARKING REGULATIONS

The parking regulations for permitted uses are contained in Article 16 of this Resolution.

SECTION 9A - 4. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Article 17 of this Resolution.

SECTION 9A - 5. HEIGHT AND AREA REGULATIONS

Height and area regulations shall be set forth in the chart of Article 18.

SECTION 9A - 6. Supplementary use regulations are contained in Article 19.

SECTION 9A - 7. Supplementary height, area, and bulk requirements are contained in Article 21.

SECTION 9A - 8. SIGN REGULATIONS

- (a) Only one non-flashing unanimated area marker designating or identifying a commercial development area is permitted. The area marker shall not exceed four (4) feet in height from the ground and shall be limited to 15 sq. ft. in area. It shall be located a minimum of ten (10) feet from a road right-of-way unless along a Federal or State Highway for which it will then comply with the conditions set forth by the Kansas Department of Transportation, but in no case shall it be less than the conditions set forth herein.
- (b) Each business may have one non-flashing unanimated sign attached flat to the face of the building. The sign shall not exceed 30 sq. ft.

ARTICLE - 10 "B-2" GENERAL BUSINESS DISTRICT REGULATIONS

SECTION 10 - 1.

The regulations set forth in this article, or set forth elsewhere in this Resolution, when referred to in this article are the regulations in the "B-2" General Business District. The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of business, commercial, and miscellaneous service activities, particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor, and noise associated with manufacturing.

SECTION 10 - 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in the "B-1" Neighborhood Business District.
2. Amusement place, skating rink, swimming pool or dance hall in a completely enclosed building, auditorium or theater, except open-air drive-in theaters. (See Section 19-4)
3. Bottling works, dyeing and cleaning works or laundry, plumbing and heating shop, painting shop, upholstering shop not involving furniture manufacture, tinsmithing shop, tire sales and service including vulcanizing but no manufacturing, appliance repairs, and general service and repair establishments, similar in character to those listed in this item; provided that no outside storage of material is permitted, and further provided that no use permitted in this item shall occupy more than 6,000 square feet of floor area.
4. Bowling alleys and billiard parlors.
5. Drive-in restaurants.
6. Food storage lockers.
7. Hotels, motels, or motor hotels.
8. Material storage yards, in connection with retail sales of products where storage is incidental to the approved occupancy of a store, provided all products and materials used or stored are in a completely enclosed building, or enclosed by a masonry wall, fence, or hedge, not less than six feet in height. Storage of all materials and equipment shall not exceed the height of the wall. Storage of cars and trucks used in connection with the permitted trade or business is permitted within the walls, but not including storage of heavy equipment, such as road-building or excavating equipment.
9. Outdoor advertising structure or sign and any sign or display in excess of 100 square feet in area shall be attached flat against a wall of a building. See Section 6-2(17) for height and location of sign requirements.
10. Printing, publishing, and engraving establishments.
11. Public garage.
12. Wholesale establishment or warehouse in a completely enclosed building so long as floor area devoted to such uses shall not exceed 20,000 square feet.
13. Used car lot.

14. Accessory buildings and uses.

SECTION 10 - 3. PARKING REGULATIONS

The parking regulations for permitted uses are contained in Article 16 of this Resolution.

SECTION 10 - 4. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Article 17.

SECTION 10 - 5. HEIGHT AND AREA

Height and area regulations shall be as set forth in the chart of Article 18, and in addition, the following regulations shall apply:

SECTION 10 - 5.01. Apartments may be constructed in buildings designed primarily for commercial use so long as there is compliance with the minimum lot area per family requirements of the "R-1" Single-Family Residential District.

SECTION 10 - 6. Supplementary use regulations are contained in Article 19.

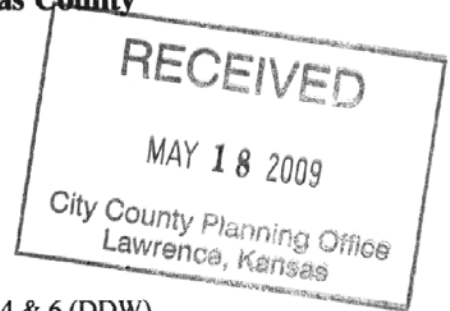
SECTION 10 - 7. Supplementary height, area, and bulk regulations are contained in Article 21.

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

May 17, 2009

Mr. Brad Finkeldei, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044



RE: ITEM NO. 4: CPA-3-2-09; AMENDMENT TO HORIZON 2020, CHAPTERS 4 & 6 (DDW)
ITEM NO. 5: A TO B-2; 58.99 ACRES; N 1800 RD & E 700 RD (MKM)

Dear Chairman Finkeldei and Planning Commissioners:

You have received several communications from us on this issue and therefore know that we support the type of use proposed by Rockwall Farms but not the rezoning to the County B-2 that the developers have requested. We take this position because of the open-ended list of possible uses that this property could become in the future and the inability of the County to legally restrict the use under this B-2 District. The restrictions that you have recommended (i.e., the platting and buffering) would not prevent the property from becoming a general commercial use. Platted property can be replatted. Buffers as a function of the platting can be rescinded, unless that land is given to the County. The suggestion for a modified Conditional Use Permit is unacceptable to the developers.

We have another suggestion that we hope you will seriously consider. Because *Horizon 2020* is undergoing a possible change to allow any number of these "conference, recreation, or tourism facilities that benefit from or integrate with the rural setting," it seems justifiable to create a special zoning district for this use. These proposed and necessary conditions are not written into any zoning district at this time and would not be binding under the existing conventional County zoning districts. There is no reason why a new County Zoning District could not be initiated that would satisfy the needs of this use, but at the same time provide the necessary predictability that such a County business use should dictate. We believe that in order to avoid the unexpected consequences of unintentional outcomes that the all-encompassing B-2 District could cause, a possible solution would be to create a new special district for the use "conference, recreation, or tourism facilities that benefit from or integrate with the rural setting." Such a district could be written so as to limit the uses, add requirements specific to the facilities, and therefore avoid the development of more intensive commercial sites/and or shopping centers located throughout the County. We also suggest that you word the *Horizon 2020* Chapter 6, Commercial Land Use, so that this type of use would be limited to this special district in the County.

Also, we would like to apologize for mis-locating the Rockwall Farms site on the map that was attached to our letter. We had inserted the letter that was presented in the PC Staff Report of January 28, 2009 in the Miscellaneous Item #1. We continue to view the correct location, however, as strategically located and large enough to potentially become an intensive commercial center if granted B-2 County Zoning because of its relatively close proximity to the K-10/I-70 Interchange.

Again, we ask that you seriously consider our suggestion of creating a new, special district for the specific use requested by the developers of Rockwall Farms and to reference such district in Chapter 6, *Horizon 2020*. Thank you.

Sincerely yours,

Milton Scott
Vice President

Alan Black
Alan Black, Chairman
Land Use Committee