



Updated:

2/22/10 @ 12:00pm

Added staff memo for Item 4 - CUP for Enright Gardens; 2351 N 400 Rd

Added communications for Item 5 Text Amendment for Environmentally Sensitive Areas

2/18/10 @ 4:30pm

Added the following:

Item 5 - Text Amendment for Environmentally Sensitive Areas

Draft January Planning Commission minutes

Communications for Item 4 - CUP for Enright Gardens; 2351 N 400 Rd

2/17/10 @ 2:45pm

The following items will be added when available:

Item 5 - Text Amendment for Environmentally Sensitive Areas

Draft January Planning Commission minutes

DEFERRED:

Item 6 - Rezoning of 2451 Crossgate & 3901 W 24th PI

**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
CITY HALL, 6 EAST 6TH STREET, CITY COMMISSION MEETING ROOM
AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS
FEBRUARY 22, 2010 6:30 - 10:30 PM**

(no meeting on February 24, 2010)

GENERAL BUSINESS:

PLANNING COMMISSION MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of January 25 and 27, 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 (FEBRUARY 22, 2010) MEETING
PUBLIC HEARING ITEMS:**

ITEM NO. 1 A TO RS7; .99 ACRES; 1764 E 1300 RD (MJL)

Z-12-29-09: Consider a request to rezone approximately .99 acres from A (Agricultural) to RS7 (Single-Dwelling Residential), located at 1764 E 1300 Rd. Submitted by Terry Bearden, for Nate Anthony, property owner of record.

ITEM NO. 2 HORIZON 2020; CHAPTER 8 (MJL/RTG)

Consider initiation of a Comprehensive Plan Amendment to Horizon 2020 for an update to Chapter 8 – Transportation to reflect goals & policies in T2030, the Long-Range Transportation Plan.

ITEM NO. 3 MINIMUM MAINTENANCE; E 1800 RD (BHR/RTG)

MM-1-1-10: Request to rescind the minimum maintenance designation for E 1800 Road between N 774 Road & N 791 Road, within Palmyra Township. Submitted by Douglas County Public Works for the Palmyra Township Board.

ITEM NO. 4 CONDITIONAL USE PERMIT; ENRIGHT GARDENS; 2351 N 400 RD (MKM)

CUP-12-10-09: Consider an amended Conditional Use Permit for Enright Gardens to add a Reception Hall to the previously approved uses, located at 2351 N 400 Rd, Edgerton. Submitted by Robert Enright, property owner of record.

ITEM NO. 5 AMENDMENTS TO DEVELOPMENT CODE; ENVIRONMENTALLY SENSITIVE AREAS (MKM)

TA-12-27-07: Consider Text Amendments to various sections of the City of Lawrence Land Development Code to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. *Deferred from 9/21/09 Planning Commission. A report on possible incentives was presented to Planning Commission at their 11/18/09 meeting.*

****DEFERRED****

~~ITEM NO. 6 RSO & PRD TO RM12; 6.5 ACRES; 2451 CROSSGATE & 3901 W 24TH PL (SLD)~~

~~**Z-11-19-09:** Consider a request to rezone approximately 6.5 acres from RSO (Single-Dwelling Residential-Office) & PRD (Planned Residential Development) to RM12 (Multi-Dwelling Residential) located at 2451 Crossgate Drive and 3901 West 24th Place. Submitted by BG Consultants, for Inverness Park, L.P., property owner of record.~~

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

PUBLIC COMMENT SECTION

CALENDAR

January 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

February 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						

March 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	31			

PCCM Meeting:	(1/13, 2/10, 3/10)
TAC Meeting:	(Generally 1 st Tuesday of each month, 1:30pm–2:30pm)
CPC Meeting:	(Generally 1 st & 3 rd Wednesday of each month, 4:00pm)
RZC meeting:	(Generally every 2 weeks on Thursdays, 3:30pm–5:00pm)

ADJOURN



PLANNING COMMISSION MEETING

January 25 & 27, 2010

Meeting Minutes **DRAFT**

January 25, 2010 – 6:30 p.m.

Commissioners present: Blaser, Carter, Dominguez, Finkeldei, Harris, Hird, Moore, and Student Commissioner Shelton

Staff present: McCullough, Stogsdill, Day, J. Miller, and Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of November 16 and 18, 2009.

Receive and amend or approve the minutes from the Planning Commission meeting of December 14 and 16, 2009.

Planning Commission will discuss the minutes during the Wednesday, January 27, 2010 meeting.

COMMITTEE REPORTS

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

Commissioner Harris stated that the Comprehensive Plans Committee has not met in the past few months but that she and Commissioner Rasmussen have met.

Commissioner Blaser said the Industrial Design Committee met and are getting things finalized to move forward with.

Commissioner Hird said the Agri-Tourism Committee met on January 12th and will be meeting the third Thursday of each month.

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 Hird said he had a telephone conversation with Mr. Steve Watts about the function of the Planning Commission in developing the Oread Neighborhood Plan.
- Abstentions:
Commissioner Moore said he would abstain from Item 7 on Wednesday's agenda.

PC Minutes 1/25/10 **DRAFT**

ITEM NO. 1 RS7 TO RMO; 8.71 ACRES; 3312 CALVIN DR (SLD)

Z-12-30-09: Consider a request to rezone 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.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Tim Herndon, Landplan Engineering, was present for questioning. He said they had a neighborhood meeting and it was positive and that concerns were adequately addressed.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the rezoning request for 8.71 acres from RS7 (Single-Dwelling Residential) District to RMO (Multi-Dwelling Residential Office) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 7-0. Student Commissioner Shelton voted in favor.

PC Minutes 1/25/10 **DRAFT**

**ITEM NO. 2 SPECIAL USE PERMIT FOR RESEARCH SERVICES; 645-647
MASSACHUSETTS ST (SLD)**

SUP-12-11-09: Consider a Special Use Permit 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.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Commissioner Hird asked if any communications were received.

Ms. Day said no.

APPLICANT PRESENTATION

Mr. Mark Anderson, Barber Emerson, was present for questioning.

Commissioner Hird asked if the applicant was okay with the conditions of approval.

Mr. Anderson said yes but would like to work on the wording of condition 4 a little bit more.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve SUP-12-11-09, a Special Use Permit for Research Service uses located at 645-647 Massachusetts Street [located on a portion of Lot 15 and all of Lots 17 and 19 Massachusetts Street], based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.
2. Publication of an ordinance per Section 20-1306(j) to include the following use restrictions as noted on the face of the site plan:
 - a. No manufacturing or production activities shall be conducted on-site;
 - b. No radioisotopes or other radioactive materials shall be used on-site;
 - c. No known type 1 mutagens or carcinogens shall be used on-site;
 - d. No known toxins or pathogens shall be used on-site; and
 - e. No animal research shall be conducted on-site.
3. Publication of an ordinance per Section 20-1306 (j) to include a statement that this Special Use shall be permitted for a period of 10 years from date of publication of the ordinance.
4. Provision of a note on the face of the site plan that states: "Construction of the 4,840 SF 2nd floor addition shall occur within 24 months after the date of publication of the ordinance and shall be subject to Historic Resources Commission review and approval and issuance of building permits. Construction after 24 months from date of publication of the ordinance shall require a request for extension per Section 20-1306 of the Development Code or review and approval of a revised Special Use Permit per Section 20-1306 of the Development Code and approval of the project by the Historic Resources Commission if an extension is not granted."

Unanimously approved 7-0. Student Commissioner Shelton voted in favor.

PC Minutes 1/25/10 **DRAFT**

ITEM NO. 3 RSO TO RM15; 10.97 ACRES; 4300 W 24TH PL (SLD)

Z-7-11-09: Reconsider a request to rezone approximately 10.97 acres, located on the SE corner of Inverness and Clinton Parkway, 4300 W. 24th 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.*

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Mr. McCullough clarified condition 7 of the staff memo that should read 'The number of **unrelated** adult occupants shall be limited to no more than two (2) per unit.'

APPLICANT PRESENTATION

Mr. Cecil King, BG Consultants, said he met with many neighbors on December 10th and had spirited conversation. He said during the process he tried to learn what could be done to make a better project. He said there were multiple charges from the meeting: limit occupants, limit banners, move office building and create a no build zone of open space, building materials labeled, and landscape plan. He said that whatever was promised would get done and tied to the site plan. He said they hired a landscape architect and provided that document to neighbors on January 7th. He said they emailed everyone who was at the first meeting but some were unable to attend the second meeting. He said at the January 7th meeting there were four additional items discussed: add a berm, work with the city for median trees, added requirement for public notice of covenants, and the landscape plan was beefed up as a result of that meeting. He said today he heard questions about the laundry room being locked and he confirmed that it will be locked and residents will have a key. He said they tried to listen to the neighbors and make it a better project.

Mr. Mark Anderson, Barber Emerson, said this is an unusual zoning project and includes one of the most restrictive covenants and conditions he has ever seen. He stated that by upzoning the property it will decrease the number of bedrooms by half that are currently allowed. He said there were two primary concerns raised at City Commission by the neighborhood; questions about land purchase and conditioning on proposed development.

Commissioner Dominguez inquired about the need for more apartments in the city. He asked if a market study was done to see if the need exists.

Mr. Anderson said he was not privy to that information.

Commissioner Dominguez inquired about a traffic study.

Ms. Day said a traffic study is required with the site plan, not rezoning and the traffic study was received and it showed the streets are able to handle the traffic and no improvements are needed.

Commissioner Hird asked why washer and dryers were not in each unit if they are going to be luxury apartments.

Mr. Anderson said he was not privy to that information.

Commissioner Hird asked if the bedroom density would be half of what is allowed under the current zoning.

Mr. Anderson said that was correct.

Commissioner Harris asked if they will be rental or owner occupied.

Mr. Anderson said they will be rentals units.

Commissioner Harris asked if he happen to know if they would be leased by the year or month.

Mr. Anderson said the applicants standard lease is one year and he had no reason to believe that would not be the case with these.

PUBLIC HEARING

Ms. Jamie Hulse, speaking on behalf of many neighbors, went over her points from the letter she submitted that was included in Planning Commission packet. She did not feel that these would be luxury apartments based on previous development from the developer. She wondered if laundry facilities could be added back into the units and market them toward seniors instead of partying students. She was interested in mixed use on both corners.

Mr. Larry Northrop showed pictures on the overhead of existing apartments in the area. He said City Commission unanimously denied this project and he did not think more apartments were needed. He said they could use more mixed use in the neighborhood.

Mr. Bill Bump said he looked at different communities who allow too many multi dwelling units in a neighborhood. He felt Lawrence were at the teetering edge. He said many of the apartments in the area are vacant and there was no need for more. He wondered about the vacancy rate of existing apartments.

Mr. Davis Loupe, 4424 W 24th Pl, expressed concern about the amount of apartment complexes in the area. He said the spirit of the City Commission meeting was *'let's see what we can do to be more creative with that corner than multi housing.'* He said the neighbors met with the developers and they said there could be something worse there under the current zoning. He said nobody in the neighborhood wants multi-family located there. He would rather see mixed use zoning there. He also said that even with the change in landscaping that most of the landscaping would really not provide screening in the winter. He felt the notification process had room for improvement.

Mr. Steven Slader said he runs in the area every morning and has seen degradation over the last five years.

Commissioner Hird said under the current zoning it could result in something worse. He asked one of the neighbors to speak to that.

Ms. Hulse said she would prefer to see senior housing.

Commissioner Hird said that is not a mixed use.

Ms. Hulse said it would change the type of people living there.

Mr. Northrop inquired about RSO district having multi-family component to it. He said the neighborhood has a problem with continually allowing the property to be rezoned to put up more apartments.

Commissioner Hird said if the zoning is not changed then what is built there could be worse and far more dense.

Mr. Northrop said it is the city's fault for not correctly zoning that area. He suggested creating a better plan to create mixed use on the parcel that makes sense.

Ms. Hulse said when the Development Code changed in 2006 it increased the density so the owner by default got more density.

Ms. Day said the two zoning districts, the current RSO and proposed RM, both have base zoning density of 15 dwelling units per acre. With regard to the type of land use allowed, RSO is restricted to single dwelling units but it does allow those attached units if they are on their own individual lot. The request is really about the form of housing. Under the RSO zoning the applicant could come back with a similar kind of project, with the exception that to do the attached units there would be lots and each unit would be on its own parcel. Because those lots have to be a certain size, the units would get bigger so it would be a bigger mass of structure for the same number of dwelling units. The base density is by number of dwelling units, not number of bedrooms.

Commissioner Hird asked if it is RSO the type of dwelling unit would be more like a three story apartment complex.

Ms. Day said not necessarily. She said it could be bigger but there would have to be public streets and bigger lots. These units are very small and occupying a very small area of the property. This project could have been 2-3 bedrooms because the dwelling units are counted, not bedroom.

Mr. McCullough said it is the self imposed condition limiting each unit to a maximum of one bedroom that really caps the population of this project.

APPLICANT CLOSING COMMENTS

Mr. Anderson said the City Commission minutes included the same type of discussion. This type of building footprint structure can be built there now with 35' of height, 3 stories, and look almost exactly what is across the street. The applicant is not doing the individual lot lines and the trade off is that he is willing to limit to one story, one bedroom, with a cap of 161 units. He said that is a lot different than a 3 story unit with a lot of mass. The applicant does not own the property. The owner platted the property 8 years ago and this parcel has set vacant for 8 years. The owner has paid special assessments at the rate of \$50,000 a year in addition to property taxes. The owner is going to unload it and not carry it anymore as vacant non income producing property. In order to build the applicants vision on this site it needs to be upzoned with less mass and density than what is allowed there now.

COMMISSION DISCUSSION

Commissioner Dominguez asked what would happen if the zoning is not changed and another developer comes in and fits the current zoning, how would that proceed.

Ms. Day said development of the site would include site plan approval. Site plans are administrative and if the project complies with the Development Code then they could construct. She stated that

site planning is administrative but there is an appeal process heard by City Commission. She said attached housing would likely require replatting.

Mr. McCullough said the difficulty is that RM15 and RSO are two different types of products. They have the same density and general concept. The Development Code speaks to density and physical standards. The restrictions were the applicants attempt to address the comments learned through the public process. In staff's opinion there can be higher density in terms of building form, population, activity at the project, under either RM15 or RSO. The difference is in how the site is laid out.

Dominguez inquired about the notification process and agreed more notification should be made. He also stated vacancy rates need to be looked at.

Commissioner Blaser felt this was a tremendous improvement over the first version that was presented to Planning Commission a few months ago and he liked that they are single story. He said regarding the comment about the empty apartments the last two built were not finished in time to be rented for the school year so he was not sure that was a good indicator of vacancy. He said he would vote in favor of the rezoning.

Commissioner Moore said he understood the neighbors frustration but felt this was a better plan and he would support it.

Commissioner Hird said it is a difficult situation because he would love to see the land be unbroken farm land forever but that is not possible. He commended the developer for reaching out and attempting to address neighborhood concerns. He said the term density to the average person is different than planners; people and cars versus units. He said he did not want to see more three story apartments and that this is a great plan to limit it to one story apartments with the best compromise that can be reached. He was glad to hear the landscaping has been improved. He said he would support the rezoning.

Commissioner Finkeldei agreed with Commissioner Hird's comments. He said he was happy for the neighbors about all the covenants and restrictions but he hoped to never see it again because he did not think it was the way zoning should be done. He said knowing the process and what he has seen during his four years on the Planning Commission, he thought this was the best it would get at that location. He said he would support the rezoning.

Commissioner Harris said the Code allows for many uses in each district. She liked that this was one story. She appreciated the applicant meeting with neighbors and listening to what they had to say. She expressed concern about the type of tenants and did not see these as luxury apartments since there were no washer and dryer units in each apartment. She asked if the city inspects properties after development. She inquired about the dumpsters left at construction sites that Mr. Northrop showed in pictures.

Mr. McCullough said yes. He said the city can send someone out this week to check on the blight.

Commissioner Harris said she was not happy about not having an office on that location but did not see how she could deny the application based on that. She felt they ought to be looking at areas as they are developing.

Commissioner Carter echoed Harris' frustrations with the fact that this is the best scenario for this property. He expressed concern about additional apartments being built and was worried about the

overbuilding apartments. He was also concerned about developers building just for tax breaks instead of a need. He felt better with the covenants included and said he will support the rezoning.

Commissioner Moore asked if the city has considered commissioning a multi-family vacancy study.

Mr. McCullough said not in his two years with the city. He said staff is challenged in keeping up with the retail market study.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the rezoning request [Z-7-11-09] for 10.97 acres from RSO (Single-Dwelling Residential-Office) to RM15 (Multi-Dwelling Residential) and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report, with the addition of 'unrelated' added to condition 7.

1. Development of the property shall be in substantial conformance with the site plan dated January 4, 2010 and attached hereto. Any changes to the site plan that oppose the spirit of these conditions or that are considered major by the Planning Director shall be reviewed by the City Commission after public hearing in which mailed notice is provided to owners within 1,000 feet at least 20 days prior to the hearing.
2. The use of the property shall be limited to Multi-Dwelling Structures as shown on the site plan.
3. Every building in the development shall be limited to a maximum height of one story above grade.
4. Every residential unit shall be limited to a maximum of one bedroom.
5. The development shall be limited to a maximum of 161 residential units.
6. Advertising banners shall be prohibited at the corner of 24th Place and Inverness Drive.
7. The number of **unrelated** adult occupants shall be limited to no more than two (2) per unit.
8. Prior to the zoning ordinance being published, the applicant will record a Declaration of Covenants and Restrictions which, among other things, will (i) prohibit the construction of any permanent structure on the corner of 24th Place and Inverness Drive, (ii) restrict the use of the property to a maximum of 161 one-story, single-bedroom, residential units, and (iii) name the City of Lawrence as a third-party beneficiary whereby the Declaration may not be amended or terminated without the prior consent of the City. The City's Legal Department shall review this document prior to recording.
9. These zoning conditions shall be listed on the approved site plan prior to site plan approval.

Commissioner Harris said she would vote in favor based on the reasons she stated earlier but wished there had been more mixed use in that space.

Motion carried 6-1, with Commissioner Dominguez voting in opposition. Student Commissioner Shelton voted in opposition.

PC Minutes 1/25/10 **DRAFT**

**ITEM NO. 4 RSO & PRD TO RM12; 6.5 ACRES; 2451 CROSSGATE & 3901 W 24TH PL
(SLD)**

Z-11-19-09: Consider a request to rezone approximately 6.5 acres from RSO (Single-Dwelling Residential-Office) & PRD (Planned Residential Development) to RM12 (Multi-Dwelling Residential) located at 2451 Crossgate Drive and 3901 West 24th Place. Submitted by BG Consultants, for Inverness Park, L.P., property owner of record.

Item No. 4 was deferred prior to the meeting.

PC Minutes 1/25/10 **DRAFT**

ITEM NO. 5A CS, COUNTY A, COUNTY I-1 TO IL; 2.65 ACRES; 2176 E 23RD ST (SLD)

Z-10-18-09: Consider a request to rezone approximately 2.65 acres from CS (Strip Commercial), County A (Agricultural), and County I-1 (Limited Industrial) to IL (Limited Industrial) for Lawrence Community Shelter, located at 2176 E 23rd Street. *Initiated by City Commission on 9/15/09.*

Item No. 5A was withdrawn by the applicant prior to the meeting.

PC Minutes 1/25/10 **DRAFT**

**ITEM NO. 5B SPECIAL USE PERMIT FOR LAWRENCE COMMUNITY SHELTER; 2176 E
23RD ST (SLD)**

SUP-9-9-09: Consider Special Use Permit for Lawrence Community Shelter, approximately 2.65 acres, located at 2176 E 23rd Street and a portion of former Farmland Industries property. Submitted by Grob Engineering Services, for Gary L. Bartz Trust, property owner of record. *Initiated by City Commission on 9/15/09. Deferred by Planning Commission 11/16/09.*

Item No. 5B was withdrawn by the applicant prior to the meeting.

PC Minutes 1/25/10 **DRAFT**

**ITEM NO. 6 CONDITIONAL USE PERMIT FOR MIDLAND JUNCTION SAND FACILITY;
E 1400 RD & N 2000 RD (SLD)**

CUP-8-8-09: Consider a Conditional Use Permit for Midland Junction Sand Facility, on approximately 310 acres, generally located southwest of the intersection of E 1400 Rd & N 2000 Rd. Submitted by Landplan Engineering, for RCS Properties LLC, property owner of record. *Deferred from 12/14/09 Planning Commission.*

Item No. 6 was withdrawn by the applicant prior to the meeting.

PC Minutes 1/25/10 **DRAFT**

MISCELLANEOUS NEW OR OLD BUSINESS

MISC NO. 1 Consider changes to the Planning Commission by-laws related to Ex Parte Communications. (JJM)

STAFF PRESENTATION

Mr. John Miller presented the item. He said a 2/3 vote was needed.

Commissioner Harris inquired about the process for a Commissioner arriving late to the meeting.

Mr. Miller said that ex parte can be disclosed before each item or disclosed all at once when the Commissioner arrives. He said it might be easier to disclose ex parte all at once.

Commissioner Moore said he will email the absent Planning Commissioners and tell them to look at the by-laws and make sure there are no concerns.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve the proposed Planning Commission By-Laws amendments.

Approved 7-0. Student Commissioner Shelton voted in favor.

Consideration of any other business to come before the Commission.

Recess at 8:15pm until 6:30pm on January 27, 2010.

PC Minutes 1/27/10 **DRAFT**

Reconvene January 27, 2010 – 6:30 p.m.

Commissioners present: Blaser, Carter, Finkeldei, Harris, Hird, Moore, Rasmussen, Singleton, and Student Commissioner Shelton

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

BEGIN PUBLIC HEARING (JANUARY 27, 2010):

COMMUNICATIONS

Commissioner Harris emailed her suggested changes to the November 2009 Planning Commission minutes.

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of November 16 and 18, 2009.

Receive and amend or approve the minutes from the Planning Commission meeting of December 14 and 16, 2009.

Motioned by Commissioner Carter, seconded by Commissioner Finkeldei, to approve the Planning Commission meeting minutes of November and December, 2009, with the changes suggested by Commissioner Harris.

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- Abstentions:
Commissioner Singleton said she would abstain from the Oread Neighborhood Plan.
Commissioner Moore said he would abstain from Item 7, Parkway Plaza.

PC Minutes 1/27/10 **DRAFT**

**ITEM NO. 7 FINAL DEVELOPMENT PLAN FOR PARKWAY PLAZA; 2121 KASOLD DR
(MKM)**

FDP-11-10-09: Consider a revised Final Development Plan for Parkway Plaza PCD Phase IV-B, located at 2121 Kasold Drive. Submitted by Landplan Engineering, for Patrick Alexander, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Harris inquired about the related uses.

Ms. Miller said related offices such as medical, dental, optical, etc.

APPLICANT PRESENTATION

Mr. Tim Herndon, Landplan Engineering, was present for questioning. He agreed with conditions of approval.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve the Revised Final Development Plan for Parkway Plaza, Phase IV-B to amend the permitted uses based on the findings presented in the staff report and subject to the following condition:

1. The property owner shall install the landscaping shown on the approved plan. As this plan is being considered in the winter, staff recommends that a temporary certificate of occupancy be granted with the provision that the landscaping shall be installed as shown on the approved plan by May 1st 2010.

Unanimously approved 7-0, with Commissioner Moore abstaining. Student Commissioner Shelton voted in favor.

PC Minutes 1/27/10 **DRAFT**

ITEM NO. 8 PRELIMINARY PLAT FOR PINES INTERNATIONAL ADDITION; 1997 E 1400 RD (MKM)

PP-11-6-09: Consider a Preliminary Plat for Pines International Addition, a one lot addition of approximately 2.3 acres, located at 1997 E 1400 Rd, and variance from Section 20-810(d)(4)(ii) to permit dedication of less than 120 ft of right of way for a principal arterial. Submitted by Grob Engineering Services, LLC for PINES International Inc., property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird inquired about the temporary set aside agreement regarding the school house.

Ms. Miller said the draft set aside agreement says they will maintain the school house. They can use it as an office, for example, but will have to maintain its character.

APPLICANT PRESENTATION

Mr. Dean Grob, Grob Engineering Services, was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the variance request from Section 20-810(d)(4)(ii) to permit the dedication of 20 ft of right-of-way and 10 ft of easement rather than the 30 ft of right-of-way required for Hwy 24/59.

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve the Preliminary Plat of the PINES International Addition and referring it to the Board of County Commissioners for consideration of dedication of easements and rights-of-way subject to the following conditions of approval:

1. A variance shall be obtained from the Board of County Commissioners from Section 20-811(d)(2)(ii) of the Subdivision Regulations to permit the location of an on-site sewage management system on a lot that is less than 3 acres.
2. The plat shall be revised with the following changes:
 - a. Waiver and Variance Requested shall be revised to 'Variances'.
 - b. Note 1 shall be revised to include the date the Planning Commission granted the variance, if it is approved.
 - c. Note 2 under 'Variances Requested' shall be revised as follows: The owner is requesting a variance from the 3-acre requirement for on-site sewage management system on lots which are served by a public water supply. [Section 20-811(d)(2)(ii)] of the Subdivision Regulations. The note shall be revised to include the date the Board of County Commissioners granted the variance, if it is approved.

- d. Label shall be added for N 2000 Rd along the western portion of the north property line.
3. The following actions shall be required prior to recording of the final plat:
- a. The applicant shall provide documentation to the Planning Office that a water meter is available from Rural Water District #13 to serve this property.
 - b. The applicant shall provide documentation to the Planning Office indicating Water District #13 and Lawrence Fire Department's approval of hydrants or alternate water storage devices to support firefighting needs, per Section 20-811(e)(3) of the Subdivision Regulations.
 - c. The applicant shall provide documentation to the Planning Office that the on-site sewage management system has been approved by the Douglas County Health Department.
 - d. The applicant shall provide an executed water connection agreement, per Section 20-811(e)(2)

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

PC Minutes 1/27/10 **DRAFT**

ITEM NO. 9 UR TO CO; 2.98 ACRES; 525 WAKARUSA DR (MKM)

Z-11-20-09: Consider a request to rezone approximately 2.98 acres from UR (Urban Reserve) to CO (Office Commercial), located at 525 Wakarusa Drive. Submitted by Bartlett & West, Inc., for CPC Ventures, Inc., property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Harris inquired about the nodal plan and what it says about commercial development.

Ms. Miller said the area exceeded the amount of commercial space before the nodal plan was developed. When the nodal plan was developed different amounts of retail were recommended. These amounts were exceeded when additional commercial space was approved for the Bauer Farm development. She said this bit of commercial space might be more appropriate because it is intended for the office use, not to draw others to the site. She gave the example of a coffee shop that is limited retail use intended for the site area.

Commissioner Finkeldei said the nodal plan does not talk about overall commercial space, it talks about overall retail space, correct?

Ms. Miller said that was correct and the bank would not be included because it would not be commercial. She said they were looking at the potential for other retail uses, such as a fast food restaurant, if it was not more than 10% of the office area.

APPLICANT PRESENTATION

Mr. Steve Lacoste, Bartlett & West, was present for questioning. He said the intent is for a bank and that they were not looking for retail, it was just the most appropriate district that allows the ATM drive-up. He said they are not anticipating a fast food restaurant.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the rezoning of 525 Wakaursa Dr of approximately 2.982 acres from UR (Urban Reserve) District to CO (Office Commercial) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

PC Minutes 1/27/10 **DRAFT**

ITEM NO. 10 COMPREHENSIVE PLAN AMENDMENT TO CHAPTER 14 (MJL)

CPA-2-1-09: Consider a Comprehensive Plan Amendment to Chapter 14 – Specific Plans to approve and incorporate by reference the Oread Neighborhood Plan.

STAFF PRESENTATION

Ex parte:

Commissioner Carter said he had a brief conversation at the ribbon cutting of the Oread Hotel with a few members of the Oread Neighborhood Association about the Oread Plan.

Commissioner Hird said he had a telephone conversation with Mr. Steve Watts about the function of the Planning Commission in developing the Oread Neighborhood Plan.

Ms. Michelle Leininger presented the item. She reviewed the timeline, changes to the December draft, and changes to maps.

Commissioner Harris asked if staff reviewed the Lawrence Preservation Alliance and Oread Neighborhood Association suggestions. She inquired about any other suggestions besides the Historic Resources Commission recommendations.

Commissioner Rasmussen asked if staff reviewed the recent comments from Ms. Marci Francisco.

Ms. Leininger said she reviewed all comments.

PUBLIC HEARING

Ms. Candice Davis read a story that she wrote called "Once Upon a Time in Your Neighborhood." The story was about neighborhood issues such as parking, trash, blight, and college parties. She believed more work should be done on the plan. She suggested under the inappropriate neighborhood behavior adding a fourth action to limit or eliminate congregate living in the Oread neighborhood.

Ms. Carol von Tersch, lives in the Snow house, said the Oread Neighborhood Association tried to listen to the Planning Commission direction and focus on goals. She felt the primary goal was to focus on different types of housing. The second goal would be historic preservation. She said the plan, as proposed, is contradicting because there is a text amendment moving forward for congregate living. She predicted that in 10 years, every owner occupied structure or single family structure in the neighborhood will be congregate living with this text amendment. She said the cost of this will be borne by the taxpayers across the community because there will be additional law enforcement and city utilities needed.

Mr. Kyle Thompson, Oread Neighborhood President, said financial incentives will encourage more boarding houses. He felt the Text Amendment contradicts the plan and undercuts the goals of the plan.

Mr. Tony Backus clarified police call statistics at 1300 Ohio Street. He said it was not just for the house, it also included the intersection and that a majority of the calls were for the intersection, not the house. 1121 Ohio was listed as having 19 calls. He said those calls were related to traffic accidents, burglary, medical emergency, parking tows, suspicious activity, etc, and that the police department has to associate an address with every call even if it is just in the area. He said the Oread neighborhood was blighted much worse when he was younger and that it has never looked

better. Expressed concern about schools closing and families not wanting to move to a neighborhood without a school.

Ms. Serena Hearn displayed a book about the history of co-ops and group living. She said there was a long history of this type of housing with young women as "house mothers." She said the Oread neighborhood has always been mixed use and asked the Commission not to get 'historic amnesia' about what the Oread neighborhood was and is.

Mr. Rob Farha, Crimson Properties, reiterated that they want to protect what they currently own in the Oread neighborhood.

Ms. Marci Francisco, 1101 Ohio St, went over the points in the letter submitted by the Oread Neighborhood Association. Suggested changes for the overlay districts: lot size, limiting the size of building additions, alley access is important, suggested wording changes for history of Neighborhood Association, parking clarification, and minor edits.

Commissioner Carter had a question about a suggested edit on the Neighborhood Association regarding grants.

Ms. Francisco said before the neighborhood received CDBG funds they had a federal program for crime prevention that started before the CDBG grants.

Commissioner Finkeldei inquired about land use implementation strategies and how it would allow rebuilding of a single-family home if destroyed.

Ms. Francisco said the question of how to protect investment is to maintain a mix of housing types.

Ms. Fadila Boumaza, owner of 928 & 930 Ohio Street, felt the rights of the property owners should weigh equally. She said the best she can do is carefully select tenants but cannot discriminate. She said she is working on an exercise of mapping owner occupied versus rental. She said she takes exception to people continually saying "encourage owner occupied single-family houses."

Mr. David Holroyd, 1224 Louisiana St, gave the history of the area. He said a majority of the 1200 block of Louisiana was rental and most had 'families that rented out rooms.' He said it was a myth that there have been traditional families with children.

COMMISSION DISCUSSION

Ms. Leininger said staff would not have strong objection to any of the suggestions from the Oread Neighborhood Association.

Mr. McCullough said the letter from Lawrence Preservation Alliance was discussed by the Historic Resources Commission and staff agrees with the Historic Resources Commission recommendations. There was discussion about the down zoning issues which was one of their comments. Through the overlay districts some of the goals can be achieved without down zoning property and taking away development rights of that form. For various reasons the Historic Resources Commission did not accept that proposed change on the plan.

Commissioner Harris asked for further explanation of down zoning versus overlay district.

Mr. McCullough said overlay zoning process will involve looking at such things as height, coverage, setback, character defining elements, etc. He said staff are not likely to strip away any uses and

cannot add any uses in overlay districts. He said overlay districts are a future implementation. He said for example down zoning from RM to a Single-Family district would probably not be politically palatable. Having the ability to get at the character through overlay districts is appropriate.

Commissioner Harris asked if it would result in the goal of providing 'diversity of people' in the neighborhood.

Mr. McCullough said he did not know if it would or not. He said all through the process a major stakeholder group, the students, have not been present and they are the vast majority of people in the area.

Commissioner Moore said he liked Ms. Francisco's suggestions. He asked if Mr. Dennis Brown was present at Historic Resources Commission.

Mr. McCullough said that was correct.

Commissioner Carter also agreed with Ms. Francisco's suggestions. He appreciated recommendations being suggested. I thought the text amendment was critical. He felt there should be wording in the neighborhood plan that clarifies the ability to rebuild.

Commissioner Finkeldei agreed that maybe the language could be cleaned up regarding the rebuilding issue for single-family.

Mr. McCullough said implementation would come through the Development Code text amendments. He said rebuilding non-conforming structures is on our radar, but that the issue is bigger than just this plan.

Commissioner Finkeldei agreed they should incorporate Ms. Francisco's suggested changes. Suggested wording change to Table 43-1:

Review the Land Development Code:

- regarding boarding houses to address neighborhood concerns while maintaining boarding houses as ~~a feasible option~~ *one of many options* for owners and students. ~~to ensure that the parking requirements are appropriate, limit the number of bedrooms and occupancy in a boarding house to a reduced limit.~~ [Land Use]

Commissioner Finkeldei said he would also support something similar to what Candice Davis suggested in 3.8 adding a #4 that discourages proliferation of Boarding Houses. He said this is just the first step and that there is still lots of work ahead but that the plan needs to move along so that the Implementation Steps get in front of City Commission. They can direct the Police Department for more resources.

Commissioner Moore agreed with those suggestions.

Commissioner Finkeldei also wanted to be sure that under the Action table the wording was changed to reflect text changes.

Support the expansion of the rental registration and inspection program ~~to include all rental units in the city that are 50 years or older.~~ [Neighborhood Atmosphere]

Commissioner Rasmussen said regarding the Implementation Action Items that the university should be more involved. He suggested that it be an action item to try to get them more involved somehow.

Mr. McCullough said today they met with University of Kansas officials to revisit the land use agreement. He said staff has attempted to involve them in the process and they have not been very engaged in it. He said they could add another general action item to maintain and encourage more collaboration.

Commissioner Rasmussen said if a parking permit program was instituted or restrictions associated with game day activities might get their attention. He said he would like to see an action item that specifically says to get the University engaged in some of the long term planning in this area and thinking about how they can be involved. He said this plan will have more opportunities for discussion. He said regarding language that discourages the proliferation of boarding houses why not say discourage the proliferation of apartments and rental units of any type. He said he would be okay with approving tonight to move it forward. He said on the Future Land Use Map 4-1 there was not a downtown commercial center shown so it should be removed from the legend.

Ms. Leininger said that was one of staff's recommendations.

Commissioner Carter agreed with trying to get the university more involved.

Commissioner Hird expressed concern about down zoning. He said that Boarding Houses can be one of the harmonized mixed uses. He encouraged mixed use rather than 'discouraging proliferation of one type.' He discussed the police call information and said the issue with behavior is an issue for the neighborhood but he didn't know it could be solved.

Commissioner Harris said she was not ready to vote on the plan because she did not think the plan really addresses having owner occupants in the neighborhood. She felt the actions do not get to doing that, but rather more of a hope. She was not convinced that the steps will get what they want. She was not convinced that Planning Commission and the community are really invested in goals of the plan when it comes to owner occupants in the neighborhood.

Commissioner Finkeldei agreed with the difference between plans and actions. He said they will not know until they start working on the overlay districts. He said he would like to move the plan forward to the next step. He said language in section 3.8E4 regarding inappropriate residential behavior that negatively impacts the neighborhood was not put in the land use section. He said he would not put that statement in the land use section.

Commissioner Carter stated if any language is included to discourage boarding houses it should also include other things such as apartments.

Commissioner Rasmussen said he would like to see the Implementation Steps cross-referenced with Goals.

Ms. Leininger explained how the Implementation Table presents the Goals and Action Steps.

Commissioner Finkeldei said it would be helpful to include the number from Goals and Policies.

Commissioner Harris inquired about encouraging owner occupied.

Mr. McCullough referred them to the Existing Land Use Map. It is a mixed use area. He stated ownership cannot be mandated. The plan addresses mass and structure type. The overlay district in RM12D, north of the stadium, might keep those structures in a place where it is not a high density area where it might be conducive to turning back into owner occupied uses.

Commissioner Harris discussed one of the communications that talked about incentives for people to own and live in the neighborhood. She said that might be something to look at. The plan says that we need diversity of different kinds of people and owner occupied and families because they bring safety and a sense of community. She said she was not sure Planning Commission or staff really believe that is possible.

Commissioner Moore said the resources to do it are limited. He said he would not support down zoning. He stated the overlay districts are one way to achieve it.

Commissioner Hird said the goal of providing owner occupied residents in the neighborhood is tied to stability. What kind of an action step could be put with that goal when the choices are down zoning or not.

Commissioner Harris said there could be language in the plan for incentives to own and live in their homes in the Oread Neighborhood.

Commissioner Carter said if they are addressing the issues of quality of life in the neighborhood related to parking, trash, etc, and combining that with the overlay districts to encourage the mixed use, the market could potentially see the stabilization and slowing of the owner occupied leaving the neighborhood. He did not think they would be able to put anything in the plan to force the issue of owner occupied housing without some potentially negative unintended consequences. He did not necessarily think they could put a plan together here that will cause more owner occupied to come back into the neighborhood. He would like to see the neighborhood improve and stop the proliferation of boarding houses. He was in support of the overlay districts.

Commissioner Hird asked if it was within their practice to put something in this plan that says Planning Commission recommends City Commission consider tax abatement for people willing to move into the area and be owner occupied. He wondered if Planning Commission could make recommendations in the plan for that type of policy change.

Mr. McCullough said they cannot discount this plan supports a rental registration program and that it is calling for greater police presence. Those things are outside of land use but are programs that can and should be supported that can go a long way in stabilizing the neighborhood. One of Lawrence Preservation Alliance's comments was to implement neighborhood revitalization plans. Planning Commission can set up the framework but not identify specific programs. He said Planning Commission could pass along to City Commission to encourage owner occupied the city should explore programs/incentives such as '_____', and include any suggestions they would like.

Commissioner Hird said tax abatements can give incentive to move there and he was not opposed to language that will give incentive for that change.

Commissioner Moore said under section 3.4.2 B1 talks about Neighborhood Revitalization and that might be an appropriate place to add in language such as percentage of property taxes for rehabilitation and also pursue financial incentives for owner occupants.

Commissioner Finkeldei suggested language under the Land Use section as an action item 'explore the use of incentive options to encourage owner occupancy.'

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to adopt with the following:

- as written with staff changes
- including Historic Resources Commission recommendations
- including Ms. Marci Francisco's suggested changes
- including wording change to the Action table to reflect text changes.
- including language for two new action items; one related to tax incentives to owner occupancy and the second related to the involvement of the University of Kansas
- in the Implementation Schedule, make reference as to which Implementation strategy the action refers to.

Unanimously approved 7-0, with Commissioner Singleton abstaining. Student Commissioner Shelton voted in favor.

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to authorize the chair to sign PC Resolution PCR-1-1-10 regarding this CPA.

Unanimously approved 7-0, with Commissioner Singleton abstaining. Student Commissioner Shelton voted in favor.

PC Minutes 1/27/10 **DRAFT**

ITEM NO. 11 SPECIAL USE PERMIT FOR LAWRENCE COMMUNITY SHELTER; 214 W 10TH ST/944 KENTUCKY ST (SLD)

SUP-10-10-09: Consider extending the time period for a Special Use Permit for Lawrence Community Shelter, located at 214 W 10th St/944 Kentucky St. Submitted by Lawrence Community Shelter, for James Dunn, property owner of record.

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item.

Commissioner Harris asked when the current permit expires.

Ms. Stogsdill said April 2010.

Commissioner Rasmussen inquired about staff report condition 1.

Ms. Stogsdill said the intention is that the City Commission would not grant the extension if they have not also granted approval for progress on a new location.

Commissioner Rasmussen asked if condition 1 would mean this Special Use Permit request would only be effective if the city approves a Special Use Permit for a new location.

Ms. Stogsdill said that was correct.

Commissioner Rasmussen inquired about staff recommendation 5e.

Ms. Stogsdill said those are the Historic Resources Commission conditions that have been pulled forward. The intent would be that if you were somewhere between here and two years from now and it was apparent the shelter was not ready to move to a permanent location and would need to extend at the current location, Historic Resources Commission is saying the temporary canopy should not continue to be the structure that is used. A more compatible permanent structure should be constructed for that extended period of time. She said staff incorporated Historic Resources Commission recommendations into the Special Use Permit and technically Planning Commission does not have the authority to modify Historic Resources Commission specific recommendations because those are their conditions and they are the decision making body

Commissioner Rasmussen inquired about what happens at the end of the 2 year extension when the carport and fence will be removed and a new structure constructed. He wondered if the Special Use Permit would be extended past that date.

Commissioner Finkeldei said Planning Commission cannot change the Historic Resources Commission conditions, correct.

Ms. Stogsdill said Planning Commission could give direction of how they would like them to be changed and if the situation was 18 months from now and a new structure would have to go through Historic Resources Commission then Planning Commission would have the opportunity to wordsmith how to recommend the conditions be executed.

Commissioner Blaser inquired about how the semi-annual report to City Commission was arrived at.

Ms. Stogsdill said that was recommended because for many years the city has been getting an annual report, however since it is a 2 year period of time it seems like the City Commission would be interested in having periodic updates as to the progress. The frequency of reports was based on how long it takes to be on an agenda and how long it takes Lawrence Community Shelter to prepare a report. She thought 6 months was a reasonable time in terms of fundraising and construction activities.

Commissioner Blaser said quarterly reports would be better.

Ms. Stogsdill said staff was open to modifying the frequency of reports.

APPLICANT PRESENTATION

Mr. Loring Henderson, Director of Lawrence Community Shelter, gave information and statistics of current location. He also reference the new proposed location at 3701 Franklin Park Circle.

Mr. Don Huggins, president of Lawrence Community Shelter, said the owners of the new location came forward and offered the opportunity and he feels the new location is a better facility. He stated the building already exists so that will cut down on building costs. The new structure would allow for space for the jobs program onsite. Both the area and building location allow more liberty in establishing an outside recreation area.

PUBLIC HEARING

Ms. Marci Francisco, 1101 Ohio, said the Oread Neighborhood Association board has no objections to the extension of the SUP.

Mr. Hubbard Collingsworth inquired about the timing.

Mr. McCullough said Planning Commission will hear the request for the proposed location on March 22nd so it can go to City Commission and the plan is to get it heard before the current Special Use Permit expires.

Mr. Collingsworth recommended updates from Lawrence Community Shelter every quarter.

Mr. Brad Cook, social worker at Lawrence Community Shelter, said he supported the two year Special Use Permit renewal.

COMMISSION DISCUSSION

Commissioner Finkeldei asked what happens if Planning Commission doesn't act on the new location in March.

Mr. McCullough said if this recommendation is approved it would go to City Commission and they can still act on extending the Special Use Permit for a lesser time frame while working on the location. He said there are options.

Commissioner Finkeldei asked if some of the changes made in the management plan for the new facility could be implemented at the current location, or just the new location.

Mr. Henderson said it will be both because some of the changes are site specific. Most of it will be transferable to the new site.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Carter, to approve the extension of the Lawrence Community Shelter Special Use Permit and forwarding the request to the City Commission with a recommendation of approval and the ordinance for adoption on first reading, subject to the following conditions:

1. Extension of Special Use Permit request is granted subject to City Commission approval of a Special Use Permit for a new LCS Shelter location.
2. SUP approval granted for period of approximately two years to expire at the earlier of either completion of permanent facility or June 30, 2012.
3. Submittal of a semi-annual report to the City Commission regarding the status of fundraising and construction progress for permanent facility.
4. Submittal of an annual report to the Planning Office within the first calendar quarter of each year. The report shall include a listing of law enforcement & emergency response calls, a log of guests who obtain jobs and housing, numbers of guests who utilize the day and nighttime services, and an update on the on-going commitment to communicate with the surrounding neighborhood and to address concerns of neighbors.
5. Revision of the site plan to update notes to state:
 - a. Identification of expiration dates, HRC, PC and CC action dates, as necessary.
 - b. Maximum overnight occupancy (with staff) shall continue to be limited to 57 persons, except for the period between Oct. 1 – April 1 of each year when the maximum occupancy (with staff) may be increased to 82 persons.
 - c. LCS commits to assist in regular litter pickup for nearby properties.
 - d. The noncompliant fence and carport will be removed when the SUP expires or when the Shelter moves to a new location. (Condition of DR-10-118-09)
 - e. If the Shelter does not move at the end of this two year extension, the non-compliant carport and fence will be removed and a new structure allowing for outside shelter is to be provided. (Condition of DR-10-118-09)
 - f. The applicant will submit drawings of a compliant structure(s) to the Historic Resources Commission prior to their installation for approval. (Condition of DR-10-118-09)
6. Execution of a new Site Plan Performance Agreement.
7. Publication of an ordinance per Section 20-1306(j).

Commissioner Blaser felt there should be more frequent reporting on fundraising and construction.

Mr. Huggins said the fundraising progress may not show up in monthly reports.

Commissioner Moore said he would support quarterly reports.

Commissioner Finkeldei said he would support quarterly reports. He also suggested condition 1 have the language 'granted subject to' replaced with 'contingent upon.' And on condition 5e he suggested the following language in bold be added:

'If the Shelter does not move at the end of this two year extension, the non-compliant carport and fence will be removed and **if an additional extension is granted** a new structure allowing for outside shelter is to be provided.'

Motioned by Commissioner Harris, seconded by Commissioner Carter, to amend the motion to include the following bolded and struck-thru changes to the conditions:

1. Extension of Special Use Permit request is ~~granted subject to~~ **contingent upon** City Commission approval of a Special Use Permit for a new LCS Shelter location.
2. SUP approval granted for period of approximately two years to expire at the earlier of either completion of permanent facility or June 30, 2012.
3. Submittal of a ~~semi-annual~~ **quarterly** report to the City Commission regarding the status of fundraising and construction progress for permanent facility.
4. Submittal of an annual report to the Planning Office within the first calendar quarter of each year. The report shall include a listing of law enforcement & emergency response calls, a log of guests who obtain jobs and housing, numbers of guests who utilize the day and nighttime services, and an update on the on-going commitment to communicate with the surrounding neighborhood and to address concerns of neighbors.
5. Revision of the site plan to update notes to state:
 - a. Identification of expiration dates, HRC, PC and CC action dates, as necessary.
 - b. Maximum overnight occupancy (with staff) shall continue to be limited to 57 persons, except for the period between Oct. 1 – April 1 of each year when the maximum occupancy (with staff) may be increased to 82 persons.
 - c. LCS commits to assist in regular litter pickup for nearby properties.
 - d. The noncompliant fence and carport will be removed when the SUP expires or when the Shelter moves to a new location. (Condition of DR-10-118-09)
 - e. If the Shelter does not move at the end of this two year extension, the non-compliant carport and fence will be removed and **if an additional extension is granted** a new structure allowing for outside shelter is to be provided. (Condition of DR-10-118-09)
 - f. The applicant will submit drawings of a compliant structure(s) to the Historic Resources Commission prior to their installation for approval. (Condition of DR-10-118-09)
6. Execution of a new Site Plan Performance Agreement.
7. Publication of an ordinance per Section 20-1306(j).

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

PC Minutes 1/27/10 **DRAFT**

ITEM NO. 12 AMENDMENTS TO DEVELOPMENT CODE; ENVIRONMENTALLY SENSITIVE AREAS (MKM)

TA-12-27-07: Consider Text Amendments to various sections of the City of Lawrence Land Development Code to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. *Deferred from 9/21/09 Planning Commission. A report on possible incentives was presented to Planning Commission at their 11/18/09 meeting.*

Item No. 12 was deferred prior to the meeting.

PC Minutes 1/27/10 **DRAFT**

ITEM NO. 13 AMENDMENTS TO ZONING REGULATIONS; BUSINESS DISTRICT (MKM)

TA-10-22-09: Consider Text Amendment to the Zoning Regulations for the Unincorporated Territory of Douglas County to create a new Business District to support rural conference, recreational, and tourism sites. *Initiated by the Board of County Commissioners on 6/24/09 Deferred from 11/18/09 Planning Commission.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird inquired about temporary buildings being used during development.

Ms. Miller said that is a use that is currently permitted in business districts in the county and that is for temporary buildings during construction, such as a mobile home used as an office for leasing. If they were going to sell lots it would be platting something into individual ownership. Usually that is done with residential subdivisions when they want to sell each lot. She said in this case she thought the temporary building would be for the construction of whatever the rural tourism use is.

Commissioner Hird said he did not envision the rural tourism as being a situation where a developer would be selling lots. He was concerned about the language.

Ms. Miller said the language about selling lots can be removed.

Commissioner Harris said she would support that change. She asked if the county engineer had weighed in on taking out the language about the improved arterial roadway.

Ms. Miller said she believed that would be determined on an individual basis based on the type of rural tourism use and intensity. It may not always require access, such as a secluded camping area. The county engineer would weigh in on each one and his recommendation would be taken.

Commissioner Hird said he noticed wineries and winery tasting rooms were not on the permitted uses.

Ms. Miller said wineries and winery tasting rooms are exempt by the Kansas Agricultural Law.

Commissioner Hird inquired about retail sales in a winery.

Ms. Miller said there would be two options. If it was just the winery and tasting room it would be exempt. If a winery wanted to do retail sales and it is a small operation then they could apply for a Conditional Use Permit.

PUBLIC HEARING

Ms. Marci Francisco met with the League of Women Voters Land Use Committee and they agreed with Commissioner Hird's comment about the temporary buildings. She also said they discussed a hotel or bed and breakfast being different than a motel and expressed concern about the idea of a motel.

Commissioner Hird asked why they would object to motel but not hotel.

Ms. Francisco said motels seem to be individual lodging, hotels seem to have restaurants, meeting rooms and groups that might get together.

Ms. Miller said in the County Zoning Regulations hotel is described as taking access to the room from an interior hallway and a motel is described as access from an exterior door. She gave the example of The Woods, which has cabins with exterior doors. She said perhaps when the County Zoning Regulations are revised the distinction could be removed because it seems like a fine point.

COMMISSION DISCUSSION

Commissioner Blaser said that must be an old regulation because all motels have internal doorways and hallways.

Commissioner Carter said there are a lot of motels that have meeting space for gatherings. He also gave the example of a motel accessory use for a fishing farm or hunting retreat.

Commissioner Hird recently went to the Kansas Grape Growers and Wine Makers meeting in Emporia and it was in a motel and the rooms had outside access but they also had meeting space and other facilities.

Commissioner Harris suggested language 'lodging such as bed and breakfasts, camp grounds or other lodging that includes meeting or gathering spaces for group events.'

Mr. McCullough said staff would prefer to use language already in the Code.

Commissioner Harris said we may get something we don't want if we strictly stay with the language.

Mr. McCullough staff would prefer to be more flexible with it. He gave the example of a small motel without a lot of gathering spaces would provide lodging for a family who would then explore whatever agritourism situation there is so there may not be a need for gathering spaces.

Commissioner Harris wondered how they could craft it so they could limit the things they don't want but encourage what they do want.

Mr. McCullough said it might help to define the harm in motels.

Commissioner Carter said it's not that they don't want motels. He said he could see a motel sprouting up with small rooms for a need if it's there and then add meeting space as needed.

Commissioner Singleton felt the distinction between hotels and motels is pretty antiquated. She said hotels are historically for people to go and gather and motels were created when cars became popular so people could stop and go in from the exterior. She felt that both hotels and motels could have gathering rooms. She did not think it made any difference and preferred leaving the language alone.

Commissioner Hird gave the example of an archery range where attendees stay in cabins. He said he would not be opposed to a motel if it is connected to a specific use and connected to some sort of rural tourism.

Ms. Miller said these uses are permitted only where they constitute or are part of a rural tourism. For instance they may be the rural tourism use in and of themselves or they may be a part of it.

Commissioner Rasmussen gave the example of bird watching with cabins in the woods and spotting areas set up around it. He said it would meet the definition of motel but that it would be associated with a use.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve the revised text amendment, TA-10-22-09, with the following strikethrough edit to section 12-309B-4.01, and forward to the Board of County Commissioners with a recommendation for approval,

12-309B-4.01 Temporary buildings, the uses of which are incidental to construction operations ~~or sale of lots during development~~ being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

MISCELLANEOUS NEW OR OLD BUSINESS

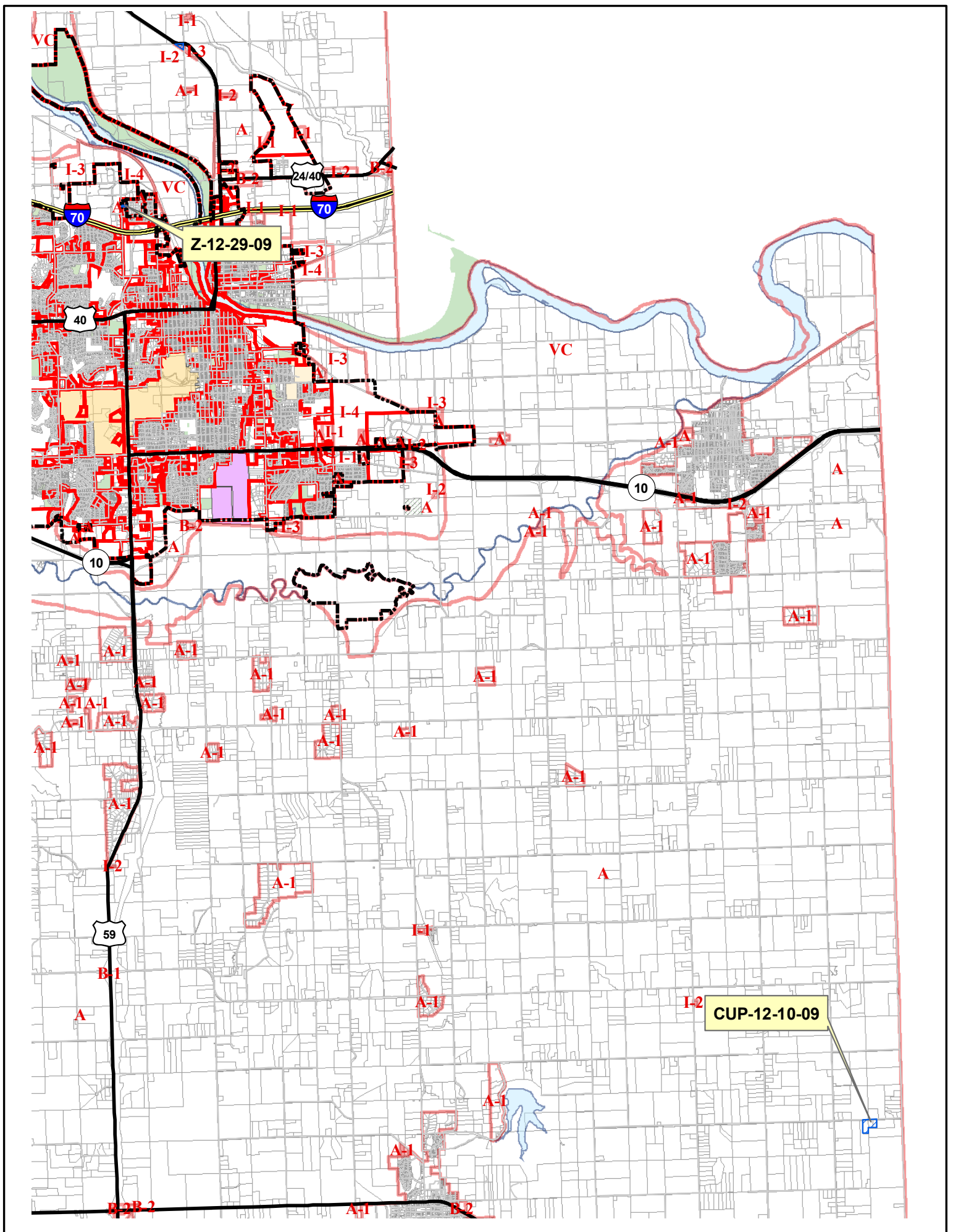
Consideration of any other business to come before the Commission.

ADJOURN 10:00pm

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

Mid-Month Meetings, Wednesdays 7:30 – 9:00 AM	Mid-Month Topics		Planning Commission Meetings 6:30 PM, Mon & Wed	
Jan 13	Midland Junction Sand Facility		Jan 25	Jan 27
Feb 10	KU Endowment	Kansas Biological Survey	Feb 22	Feb 24
Mar 10	Industrial Design Guidelines		Mar 22	Mar 24
Apr 14			Apr 26	Apr 28
May 12	APA Conference Report		May 24	May 26
Jun 09				
June 11 All day Friday	PC Orientation [including Joint City/County Commissions session]		Jun 21	Jun 23
Jul 14			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: <i>Joint meeting with other Cities’ Planning Commissions</i> <i>Joint meeting with other Cities and Townships – UGA potential revisions</i> <i>Presentation from KC-metro Planning Directors</i> <i>Tour Bowersock Dam</i> <i>Tour City/County Facilities</i> <i>KU Endowment – Kansas Biological Survey</i>			
Meeting Locations	The Planning Commission meetings are held in the City Commission meeting room on the 1 st floor of City Hall, 6 th & Massachusetts Streets, unless otherwise noticed.			
Planning & Development Services Lawrence-Douglas County Planning Division 785-832-3150 www.lawrenceks.org/pds				

Revised 11/06/09



PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
2/22/2010

ITEM NO. 1 A TO RS7; .99 ACRES; 1764 E 1300 RD

Z-12-29-09: Consider a request to rezone approximately .99 acres from A (Agricultural) to RS7 (Single-Dwelling Residential), located at 1764 E 1300 Rd. Submitted by Terry Bearden, for Nate Anthony, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately .99 acres, from A (Agricultural) District to RS7 (Single-Dwelling Residential) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Reason for Request: The property was recently annexed into the city to take advantage of city services. The rezoning is to have a city zoning designation consistent with existing use.

KEY POINTS

- *Horizon 2020* identifies this property in Service Area 1 as a low-density residential use.
- The property is currently a single-dwelling residential use consistent with the proposed zoning.
- The rezoning would assign a property that is within the city limits, a city zoning designation.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- A-12-4-09 .99 ac; 1764 E 1300 Rd (Approved December 15, 2009 by City Commission)

PLANS AND STUDIES REQUIRED

- *Traffic Study* – Not required for rezoning.
- *Downstream Sanitary Sewer Analysis* – Not required for rezoning
- *Drainage Study* – Not required for rezoning
- *Retail Market Study* – Not applicable to residential request

ATTACHMENTS

- Page Map

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None

Project Summary:

The subject property was recently annexed into the city because of a failing septic system. The property was annexed with a county A (agriculture) District zoning designation. The proposed RS7 District is consistent with the existing use and the uses of the properties to the north, east and south.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *None*

Staff Finding – This zoning is consistent with the future land use map identifying land use for Service Area 1. *Horizon 2020* identifies this area, a small area on the east side of N. Iowa St. as low-density residential uses on Map 3-1.

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

Current Zoning and Land Use: A (Agricultural) District; detached dwelling

Surrounding Zoning and Land Use:

- North: A District; detached dwelling
- West: IG (General Industrial) District; Del Monte, dog food production
- South: A District; detached dwelling
- East: A-1 (Suburban Homes Residential) District; single-family dwelling

Staff Finding – The subject property is currently zoned county A District and developed with a detached dwelling. The property to the west is zoned county IG and is developed with a dog food manufacturing plant. The property to the east is zoned county A-1 and is developed with a detached dwelling. The properties to the north and south are zoned county A and developed with detached dwellings.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: *Residential.*

Staff Finding – The neighborhood is a mix of residential and industrial uses. In this area, the east side of N. Iowa Street is residential however the west side is developed with industrial uses.

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

Staff Finding – The subject property is not located within any planning area.

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

Applicant's Response: *None*

Staff Finding – The property is currently developed with a detached dwelling. The property needed to hook up to city services and was recently annexed. This zoning is changing the current agricultural zoning to a residential zoning to be consistent with the existing use.

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

Applicant's Response: *None*

Staff Finding – This property has been zoned A and is developed with a detached dwelling.

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

Applicant's Response: *None*

Staff Finding – The properties to the north, east and south are all developed with residential uses. It would be consistent with the surrounding uses.

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

Applicant's Response: *Elimination of septic field.*

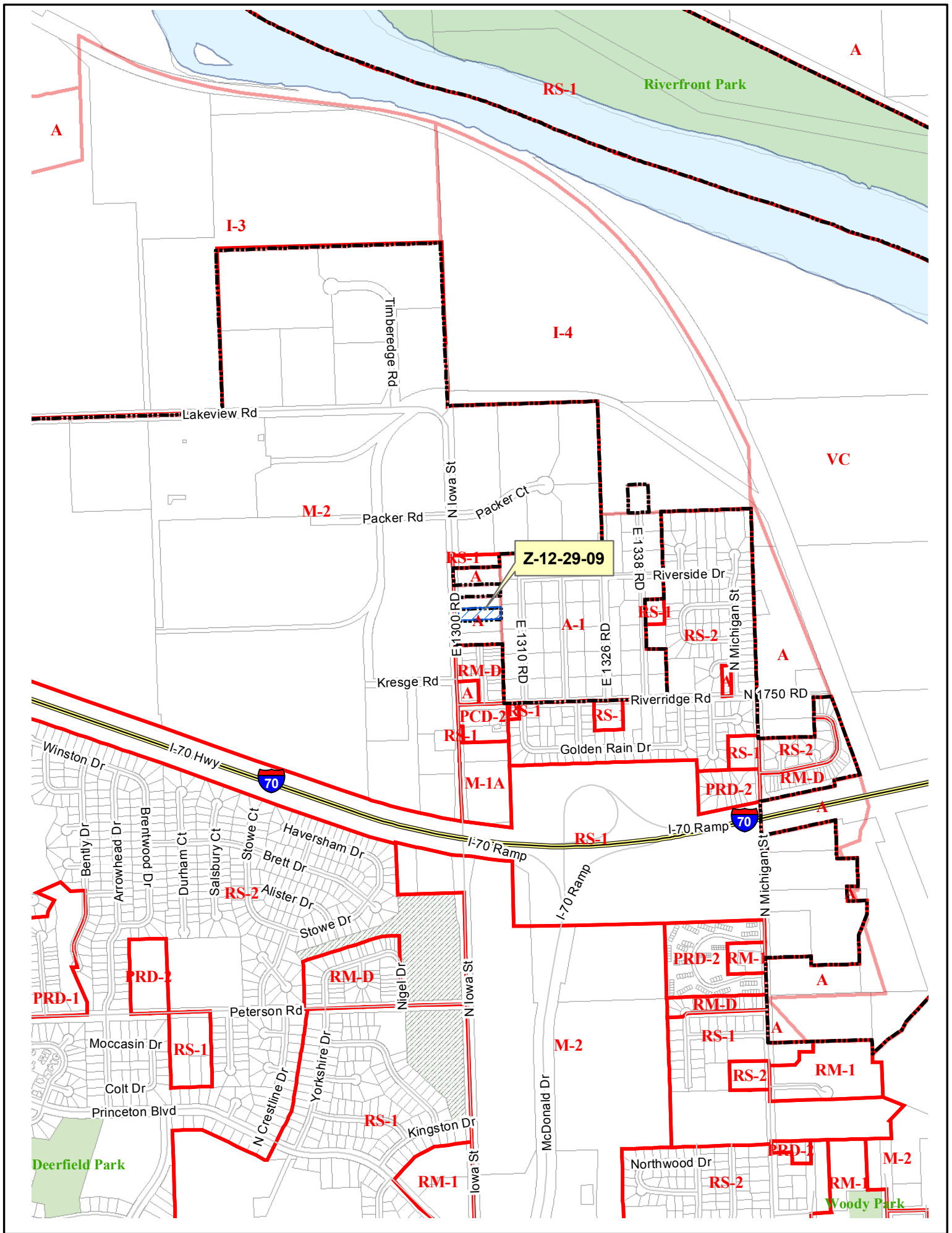
Evaluation of this criterion includes weighing the benefits to the public versus the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

Staff Finding – If denied, this property would remain zoned to a county zoning district but be within the city boundaries. If the A zoning would remain, no changes to the property could occur until a city zoning district was designated. Rezoning provides the property owner with a conforming zoning designation. The property owner could not connect to sanitary sewer until annexed and rezoning is the logical follow-up action.

9. PROFESSIONAL STAFF RECOMMENDATION

The subject property is currently developed with a detached dwelling. The properties to the north, east and south of the subject property are developed with residential use though remain in the county. The property to the west is zoned IG and developed with a dog food production plan and is within the city. This zoning would assign a city zoning to a recently annexed property that is consistent with the existing use.

Staff recommends approval of the rezoning from the county A District to the RS7 District.



Memorandum

City of Lawrence – Douglas County Planning & Development Services

TO: Lawrence-Douglas County Planning Commission

FROM: Todd Girdler, Senior Transportation Planner

CC: Scott McCullough, Director of Planning and Development Services

Date: 02/22/09

RE: Agenda Item #2 : Update of Comprehensive Plan - Chapter 8 -
Transportation - Initiation Request

Overview:

The latest Metropolitan Transportation Plan for the Lawrence-Douglas County Region was approved by the Metropolitan Planning Organization (MPO) on March 26, 2008. This document is called the Transportation 2030-Lawrence/Douglas County-Long Range Transportation Plan and is a replacement for the previous Transportation 2025 document. This Transportation 2030 document is used by City and County staffs, however, this document is not referenced in the City/County Comprehensive Plan. The Comprehensive Plan still references a previous version of the transportation plan. Therefore, an update to the Comprehensive Plan - Chapter 8 is needed to coordinate the Transportation and Comprehensive Plans.

Recommendation:

Staff recommends that the Planning Commission initiate the text amendments necessary to update Chapter 8 of the Comprehensive Plan to provide improved coordination between the land use and transportation planning documents covering our region. Planning staff will draft the changes proposed for an updated Chapter 8 and bring back a recommendation to the Commission for review at a future public hearing.

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
02/22/10

ITEM NO. 3: **RESCIND MINIMUM MAINTENANCE DESIGNATION FROM
PORTION OF E 1800 ROAD IN PALMYRA TOWNSHIP (BHR)**

MM-1-1-10: Consider rescinding Minimum Maintenance Road designation form E 1800 Road between N 774 Road and N 791 Road in Palmyra Township. Submitted by the Douglas County Public Works for the Palmyra Township Board.

GENERAL INFORMATION:

Current Zoning and Land Use

“A” (Agricultural) District; existing rural residential and agricultural tracts

STAFF REVIEW:

General Location:

This portion of E 1800 Road is located approximately 5 ½ miles east of the intersection of US HWY 59 and N 800 Road.

Summary of Request:

Palmyra Township has requested the Minimum Maintenance Road status of this section of E 1800 Road be rescinded and that Full Maintenance status be reinstated to allow the issuance of building permits for one new residence on the property that is located approximately 1355 feet south of N 800 Road on the west side of E 1800 Road.

Background:

A Minimum Maintenance Road is a road that receives little or no routine maintenance and has been officially designated as such by the Board of County Commissioners of Douglas County, Kansas. Kansas Statute (K.S.A. 68-5,102) allows for certain roads to be designated as “minimum maintenance” for various reasons. Generally, roads so designated have very low traffic volumes and the local township with maintenance jurisdiction has determined other roads with higher traffic volumes deserve more attention and resources. No entrance permit other than a field permit may be issued for entrance onto a public road that is designated a Minimum Maintenance Road. When considering designating a road as Minimum Maintenance, Chapter 9, Article 4 of the County Code for Douglas County, Kansas suggest the following guidelines be considered:

- a) Roads which have been constructed with federal monies shall not be declared as Minimum maintenance;
- b) The average daily traffic volume on the road should be less than 24 trips per day;
- c) The primary use of the road should be to provide access for low speed agricultural vehicles;
- d) A residence, residential subdivision, or other intensive land use located on the road must have an available alternative access even it is not as convenient;
- e) Physical problems with routine road maintenance such as difficult soil conditions or expensive drainage correction problems shall be given strong weight in a Minimum Maintenance Road designation; and

- f) A Minimum Maintenance level of service will not have a significant impact on local traffic circulation and traffic will be able to utilize other local roads with minimal hardship.

Process:

The process to rescind a Minimum Maintenance Road designation is the same process used to designate a road as Minimum Maintenance. The process involves hearings before the local Township, the Planning Commission, and Board of County Commissioners. Requests to rescind a Minimum Maintenance Road designation are made by the County Public Works Department.

Palmyra Township originally discussed the issue at their February 26, 2008 board meeting and decided at that time to request the process of rescinding the Minimum Maintenance designation. Notices were sent out and a public hearing was held at their next regularly scheduled April 29, 2008 board meeting. Palmyra Township made the recommendation to request that the County Commission rescind the Minimum Maintenance Road designation.

After sending their recommendation to the Douglas County Public Works Department they chose to place their request "on hold" so a study could be undertaken to determine the portion of the roadway that would be inundated due to flooding at a low water stream crossing immediately south of the southern terminus of the portion of the road requested to be Full Maintenance. In other words, the Public Works Department needed to study how high the stream will be as it crosses the road to determine the amount of road that could be changed to Full Maintenance.

Upon conclusion of the study the Douglas County Public Works Department staked the right-of-way along the portion proposed for Full Maintenance so the Township's Board could make a determination if they could adequately maintain the road within the existing right-of-way. They have since made that determination and chosen to proceed with their request to rescind the Minimum Maintenance Road designation.

On receipt of the Township's request, the Douglas County Public Works Department developed a timeline, prepared a map showing the affected roadway, and drafted a resolution for the Board of County Commissioners. Traffic Counts were not conducted due to the expected low numbers and the nature of the traffic being limited to serve the residential properties.

On January 20, 2010 the Board of County Commissioners of Douglas County, Kansas enacted a resolution to initiate the process to consider rescinding the Minimum Maintenance Road designation and requested a recommendation from the Planning Commission. Following the Planning Commission's recommendation, the County Commission will review the recommendation and hold a final public hearing. If appropriate, the County Commission will sign a final Resolution, the roadway will be improved as needed to assume normal maintenance standards and the Palmyra Township will remove existing Minimum Maintenance signs.

Recommendation:

Staff recommends approval of the request to rescind the Minimum Maintenance Road designation for the portion of E 1800 Road between N 774 Road and N 791 Road in Palmyra Township and forwarding this recommendation to the Board of County Commissioners of Douglas County, Kansas.



DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
dgcopubw@douglas-county.com
www.douglas-county.com

Keith A. Browning, P.E.
Director of Public Works/County Engineer

MEMORANDUM

TO : Douglas County Commission

FROM : Keith A. Browning, P.E., Director of Public Works/County Engineer *KAB*
Michael D. Kelly, L.S., County Surveyor *MDK*

DATE : January 15, 2010

RE : E1800 Road; Proposed rescinding of "minimum maintenance"

A property owner, Jeff Seabaugh, has requested the existing minimum maintenance designation for a portion of E1800 Road, between 774N and 791N, be rescinded. To that end the Palmyra Township Board held a public hearing and has submitted their recommendation to the County Commission regarding the issue.

The next step in the process requires a recommendation from the Planning Commission. A resolution requesting such a recommendation is attached.

ACTION REQUIRED: Receive the recommendation from the Palmyra Township Board. A motion is then required to enact a "request for recommendation" resolution initiating action from the Planning Commission.

Attachments:

- Township Recommendation
- Timeline
- Location Map
- Resolution
- Aerial photo

March 10, 2008

Douglas County Public Works
1242 Massachusetts
Lawrence, KS 66044

Attn: Keith Browning, Douglas County Engineer

Dear Mr. Browning:

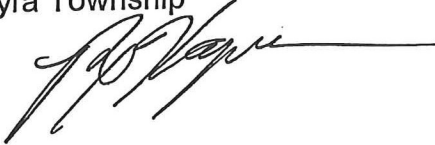
The Palmyra Township board met on February 26, 2008, and discussed the existing Minimum Maintenance designation for a portion of E 1800 Road between N 700 and N 800 Roads. It is our understanding the Minimum Maintenance designation on E 1800 Road begins approximately 480 feet south of N 800 Road. It is our desire that E 1800 Road be full maintenance from N 800 Road south to a point approximately 1400 feet south of N 800 Road.

This request is due to Jeff Seabaugh's desire to build a cabin on his property. His entrance is located approximately 1355 feet south of N 800 Road on the west side of E 1800 Road.

The Palmyra Township Board hereby requests Douglas County initiate the process to remove Minimum Maintenance designation from a portion of E 1800 Road, as described above.

Respectfully,

Rex Hagerman, Trustee
Palmyra Township

A handwritten signature in dark ink, appearing to read 'Rex Hagerman', followed by a long horizontal line extending to the right.

BOARD OF HIGHWAY COMMISSIONERS OF PALMYRA TOWNSHIP

CERTIFICATE OF OPINION

We, the undersigned Board of Highway Commissioners, having held a public hearing, and taken comment(s) on Road I.D. E1800: from Road I.D. N800 South approximately 0.17 mile;

More particularly described as: that part of Road No. 566, commencing at a point on the West line of Section 11, Township 14 South, Range 20 East, said point of beginning at 480.00 feet South of the Northwest corner of said Section 11, thence South following the section line to a point 1400.00 feet South of the Northwest corner of said Section 11 and terminating at said point.

and are of the opinion the "minimum maintenance" designation for said road portion should:

(check box)

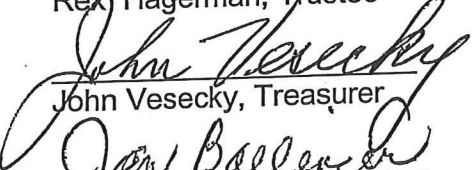
☐ not be rescinded.

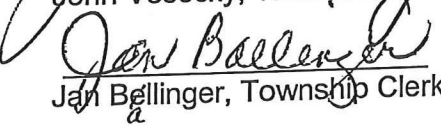
☒ be rescinded as described.

☐ have only a portion rescinded described as follows:

BOARD OF HIGHWAY COMMISSIONERS
OF PALMYRA TOWNSHIP


Rex Hagerman, Trustee


John Vesecky, Treasurer


Jan Bellinger, Township Clerk

PROCESS FOR REVERSING A DECLARATION OF "MINIMUM MAINTENANCE"
* * * CITIZEN INITIATED * * *

E1800 Rd. (Palmyra Township)

1. Township chooses to proceed with the process of reversing a Minimum Maintenance Designation. **Completed**

2. Public Works Department researches and prepares,

- a. legal description of requested road; **Completed**
b. ownership map of adjacent properties; **Completed**

The Public Works Department prepares a map showing ownership of all properties abutting the road in question. The ownership research shall reflect the names shown on the tax roll.

- c. draft timeline; and, **Completed**

The Public Works Department performs an analysis of the process (including conformance with K.S.A. 68-5,102 and HR-94-2-1 and HR-92-10-2) as it pertains to the particular location(s) in question and prepares an estimate of the process duration.

- d. draft notice and transmittal letters to adjacent owners. **Completed**

The Public Works Department reviews the location of the roadway, researches the ownership of adjacent property for mailing addresses and landlocking issues. The information is then forwarded to the pertinent township.

3. The Township:

- a. publishes notice of a public hearing in the Journal World; **Completed**
b. sends notice by first class mail to adjacent landowners; **Completed**
c. holds public hearing; **Completed**
d. negotiates terms of reversal; and **Completed**
e. makes recommendation to the County Commission. **Completed**

The township must publish and mail notice to the landowners "no less than ten (10) days prior to the public hearing". During the hearing the township and person(s) requesting the reversal negotiate the improvements needed to allow the township to assume normal maintenance of the road. After the hearing, if the township chooses to pursue the reversal of declaration of minimum maintenance process a recommendation is then forwarded to the County Commission.

4. The County Commission **January 20, 2010**

- a. reviews Township recommendations;

The County Commission reviews Township request.

- b. signs "request for recommendation" resolution;

The County Commission enacts "request for recommendation" resolution as submitted, or directs Public Works Department to revise resolution.

- c. directs Public Works to transmit resolution to Planning.

Public Works Department sends "request for recommendation" resolution with supporting documentation to Planning Commission.

5. Planning Commission: **March 24, 2010**

- a. reviews citizen's request based on K.S.A. 68-5,102 and HR-92-10-2;

The Planning Commission reviews location(s) and prepares a recommendation for the County Commission.

- b. verifies hearing date;

The Planning Commission staff contacts the Public Works Department when their review is complete to place hearing/recommendation on BOCC agenda.

6. Public Works:

- a. coordinates setting hearing date;

The Public Works Department coordinates hearing date with enough time to allow for publication in the official county newspaper and mailing notice.

- b. publishes notice in county newspaper; **April 3, 2010 (submit by 3/30/10)**

The Public Works Department prepares notice, attaches to "request for recommendation" resolution and transmits to Journal World.

- c. notifies adjoining landowners by mail; **April 1, 2010**

The Public Works Department informs pertinent landowners of impending hearing via first class mail >10 days before the hearing.

7. County Commission: **April 14, 2010**

- a. reviews Planning Commission's recommendation;
- b. holds hearing;

The County Commission accepts the Planning Commission's recommendation and receives public comment.

- c. at the County Commission's discretion, views the road(s) under consideration;
- d. signs final Resolution.

The County Commission takes action based on previous process.

8. Township removes existing sign(s), after roadway has been improved to the standard needed to assume normal maintenance.



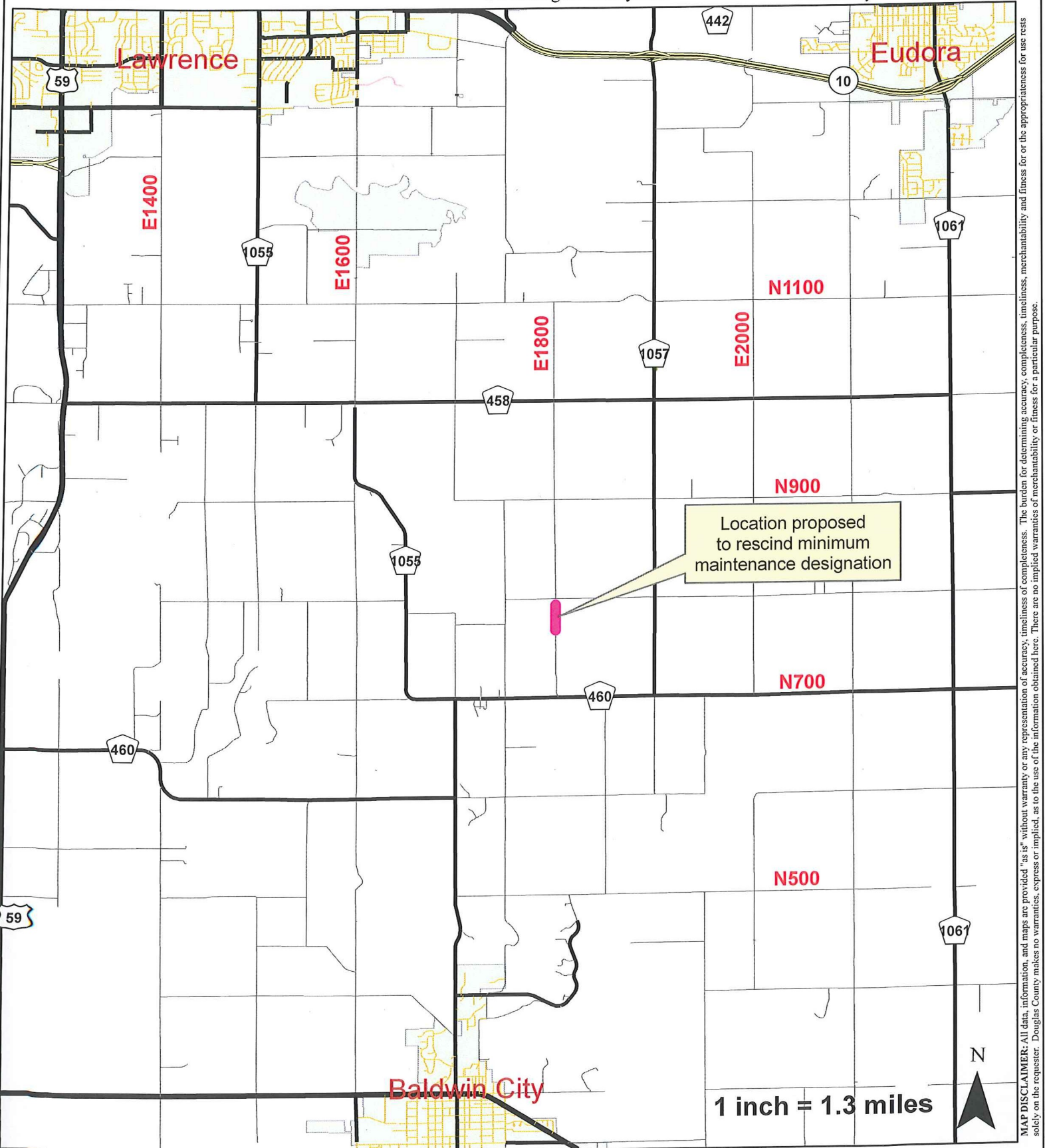
N1800 Road

Proposed Rescinding of Minimum Maintenance

DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
www.douglas-county.com

Date: photo April 2006
Produced By: mdk



MAP DISCLAIMER: All data, information, and maps are provided "as is" without warranty or any representation of accuracy, timeliness of completeness. The burden for determining accuracy, completeness, timeliness, and fitness for or the appropriateness for use rests solely on the requester. Douglas County makes no warranties, express or implied, as to the use of the information obtained here. There are no implied warranties of merchantability or fitness for a particular purpose.

RESOLUTION NO. _____

A RESOLUTION REQUESTING A RECOMMENDATION FROM
THE PLANNING COMMISSION REGARDING RESCINDING THE "MINIMUM MAINTENANCE"
DESIGNATION FOR A PORTION OF N1800 ROAD

WHEREAS, The Board of County Commissioners, pursuant to HR-94-2-1 and HR-92-10-2, may rescind a "minimum maintenance" designation of a road; and

WHEREAS, The Board of County Commissioners, has received a request from the Palmyra Township Board to rescind the "minimum maintenance" designation of a portion of E1800 Road: from 774N to 791N a distance of 900 feet;

more particularly described as: that part of permanent Road No. 566, commencing at the northwest corner of Section 11, Township 14 South, Range 20 East of the Sixth Principal Meridian in Douglas County, Kansas, thence South on the west line of said Section 11, a distance of 480 feet to the point of beginning, thence continuing South on the west line of said Section 11 a distance of 900 feet and terminating at said point, and

WHEREAS, pursuant to HR-92-10-2, the process to rescind a "minimum maintenance" designation is the same as that used to establish a "minimum maintenance" designation; and,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, the process to consider rescinding the "minimum maintenance" designation for the above described road be initiated; and

BE IT FURTHER RESOLVED that the Planning Commission provide a recommendation to the Board of County Commissioners concerning such.

SIGNED this _____ day of _____, 2010.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

Nancy Thellman, Chair

ATTEST:

Jim Flory, Member

Jamie Shew, County Clerk

Mike Gaughan, Member



N1800 Road

Proposed Rescinding of Minimum Maintenance

DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
www.douglas-county.com

1 inch = 300 feet

Date: photo April 2006
Produced By: mdk



Location proposed
to rescind minimum
maintenance designation

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Memorandum

City of Lawrence

Planning & Development Services

TO: Planning Commission

FROM: Mary Miller, Planner

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

Date: For February 22 Planning Commission meeting

RE: Item 4: CUP 12-10-09 for Reception Facility at Enright Gardens;
2351 N 400 Road

Additional information regarding the proposed reception facility was received following the publication of the staff report. The Palmyra Township Fire Chief, Randy De Merserrman, provided suggestions for improving fire protection measures for this facility and a letter was received noting a nearby property owner's concerns about the additional traffic on N 400 Road. A copy of this letter was included as a communication in the agenda packet.

Staff forwarded these comments on to the applicant. The applicant provided letters summarizing their discussions with the fire chief and the Palmyra Township Trustee. Copies of the letters are included with this memo.

FIRE PROTECTION

The Fire Chief indicated that fire protection would be more efficient if a second access onto N 400 Road were provided. The second access would provide fire trucks a route into the property even if the principal access were blocked. He also wanted assurance that there would be no parking on N 400 Road. The site plan indicates that there is adequate parking being provided on the subject property. As additional assurance, staff recommends that a note be added to the plan which states *"All parking shall occur on the subject property. In no event shall parking be permitted on N 400 Road."*

The property is accessed from one point on N 400 Road. There are two access points at this location; however, they form one route from the reception facility to N 400 Road. (Figure 1) The Fire Chief suggested the addition of an additional access on N 400 Road to provide a route for emergency equipment. The applicant's letter indicated they are working with the fire department on this issue. Staff recommends the following condition be added to the staff report: *"The applicant shall work with the Palmyra Fire Chief to determine if an additional access onto N 400 Road is needed. If the Fire Chief determines an additional access is needed, the CUP site plan shall be revised to show the additional access on N 400 Road in a location acceptable to the Fire Chief and the Douglas County Engineer."*



Figure 1. Access on N 400 Road for Enright Gardens. Proposed reception facility marked with X.

N 400 ROAD

Public comment was received from a nearby property owner expressing concern about the additional traffic on N 400 Road. The letter recommended that the road should be improved to safely accommodate the additional traffic if the CUP is approved. The applicant discussed the possibility of improving N 400 Road with the township trustee, Sandy Elliott, who stated that the township plans to widen the road and improve the ditches when the weather permits.

The applicant's letter also discusses the use of calcium chloride and the applicant suggested that they would apply water treatment to the road for dust control prior to a scheduled event, if needed.

STAFF RECOMMENDATION

Staff recommends revising the conditions of approval to include the following:

"The applicant shall work with the Palmyra Fire Chief to determine if an additional access onto N 400 Road is needed. If the Fire Chief determines an additional access is needed, the CUP site plan shall be revised to show the additional access on N 400 Road in a location acceptable to the Fire Chief and the Douglas County Engineer."

A note shall be added to the plan which states: *"All parking shall occur on the subject property. In no event shall parking be permitted on N 400 Road."*

Revised recommended conditions of approval (new language shown in **bold** print:

1. **The applicant shall work with the Palmyra Fire Chief to determine if an additional access onto N 400 Road is needed. If the Fire Chief determines an additional access is needed, the CUP site plan shall be revised to show the additional access on N 400 Road in a location acceptable to the Fire Chief and the Douglas County Engineer.**
2. Applicant shall provide a revised site plan with the following changes:
 - a. Show minimum required ADA accessible parking spaces (3) with two of them being near the entry to the reception facility.
 - b. Provision of the following notes on the face of the plan:
 - i. *"Events, excluding clean-up, shall conclude at midnight. Requests for all-night events must be provided to the Board of County Commissioners for consideration following mailed notification of property owners within 1000 ft."*
 - ii. *"The property owner shall apply dust-preventative measures on N 400 Road between E 2300 and E 2400 Roads, as needed to minimize dust from event traffic."*
 - iii. *"The on-site sewage management system must be approved by the County Health Department prior to operation of the facility."*
 - iv. *"Use of building is subject to building code and occupancy permits as applicable per the County Building Code".*
 - v. ***"All parking shall occur on the subject property. In no event shall parking be permitted on N 400 Road."***

February 22, 2010

Re: Palmyra Fire Chief Suggestions

Dear Mary,

We are writing in response to your email regarding suggestions provided by the Palmyra Fire Chief, Randy DeMerserman. We followed up with Randy after receiving your email.

We discussed the availability of ample parking South of our facility, which would eliminate the need or concern regarding on-road parking at our events. We also discussed the possibility of creating a third entrance, which could be near our only water source of a 20,000 gallon holding tank. If we decided to do this, we could share this for other emergency needs in the neighborhood.

Although the items discussed were only suggestions for improvement, they are important to us and we will work towards them.

Thank you,

Steve Enright
Enright Gardens

February 22, 2010

Re: North 400 Road

Dear Mary,

We are writing in response to your email about the concerns of North 400 road regarding the width of the road and ditches. We have discussed this matter with the Palmyra Township Trustee, Sandy Elliott.

Sandy confirmed when weather permits, the township will begin maintenance work on roads within the township, including North 400 road. Their plans are to first build a base, widen it with better ditches and then apply rock on top.

We also discussed the treatment of calcium chloride for dust control. However, gravel roads need to be graded on a timely basis, which will result in the road needing to be treated with calcium chloride again. Enright Gardens is prepared to apply water treatment to the road for dust control prior to a scheduled event, if needed.

Thank you,

Steve Enright
Enright Gardens

Sandy Elliott
Palmyra Township Trustee

A handwritten signature in cursive script that reads "Sandy J. Elliott". The signature is written in dark ink and is positioned below the printed name of the Palmyra Township Trustee.

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
02/22/10

**ITEM NO. 4: CONDITIONAL USE PERMIT; ENRIGHT GARDENS; 2351 N 400 RD
 (MKM)**

CUP-12-10-09: Consider an amended Conditional Use Permit for Enright Gardens to add a Reception Hall to the previously approved uses, located at 2351 N 400 Rd, Edgerton. Submitted by Robert Enright, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of an Amended Conditional Use Permit for the addition of a reception hall to Enright Gardens, located at 2351 N 400 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:

1. Applicant shall provide a revised site plan with the following changes:
 - a. Show minimum required ADA accessible parking spaces (3) with two of them being near the entry to the reception facility.
 - b. Provision of the following notes on the face of the plan:
 - i. *"Events, excluding clean-up, shall conclude at midnight. Requests for all-night events must be provided to the Board of County Commissioners for consideration following mailed notification of property owners within 1000 ft."*
 - ii. *"The property owner shall apply dust-preventative measures on N 400 Road between E 2300 and E 2400 Roads, as needed to minimize dust from event traffic."*
 - iii. *"The on-site sewage management system must be approved by the County Health Department prior to operation of the facility."*
 - iv. *"Use of building is subject to building code and occupancy permits as applicable per the County Building Code".*

Reason for Request: Applicant's response: *"To change the CUP permit to allow for receptions and meetings and hands-on workshops in agriculture business."*

KEY POINTS

- The property currently houses commercial greenhouses. The County Commission approved CUP [CUP-12-11-01] for the greenhouses and limited retail sales on February 13, 2002.
- The proposed CUP is to allow for a recreational assembly use in addition to the previously approved use: limited retail sales accessory to a commercial greenhouse operation.

GOLDEN FACTORS TO CONSIDER

ZONING AND USES OF PROPERTY NEARBY

- A (Agricultural) District; agricultural properties and rural residences.

CHARACTER OF THE AREA

- The applicant owns approximately 50 acres; although only 15 are included in this CUP request. Generally, the northern portion of the property is developed with the existing Enright Gardens greenhouses and retail sales. The remainder of the property consists of farmland. Land uses in the surrounding area are predominantly agricultural and rural residential.

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. Commercial greenhouses are permitted by right in the A District and other commercial uses which are determined to be compatible with the character of the area are permitted with the approval of a Conditional Use Permit. Other uses at this property include limited retail sales of products not grown on the property which is permitted with a Conditional Use Permit (CUP-12-11-01). A *recreation facility* is also an allowed use in the A District with approval of a Conditional Use Permit (CUP).

The proposed use is compatible with the property's current zoning of A (Agricultural) District with approval of a Conditional Use Permit. Approval of the amended CUP request will not revise the underlying zoning 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.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

No public comment was received.

GENERAL INFORMATION

Current Zoning and Land Use: A (Agricultural) District; existing agricultural property with commercial greenhouses and limited retail sales.

Surrounding Zoning and Land Use: A (Agricultural) District in all directions; agricultural uses and rural residences.

Site Summary

Subject Property Conversion of an existing agricultural accessory structure to a reception hall.

CUP activity is located on 3 parcels containing approximately 15 acres.

Parking Requirements:

Parking Required for the retail use (Per CUP-12-11-01): 18 parking spaces

Parking Required for the reception use: 40 spaces

1 space per 100 sq ft of floor area (Section 12-316-1)

Building area: 3920

Total Parking Required: 58 spaces (including 3 ADA accessible spaces)
Total Parking Provided: 58 (1 ADA accessible space)

I. ZONING AND USES OF PROPERTY NEARBY

Staff Finding – The subject property is made up of multiple parcels under the applicant's ownership and is Zoned A (Agricultural) District. The surrounding area is zoned A (Agricultural) and the primary land uses are agriculture and rural residential.

II. CHARACTER OF THE AREA

Staff Finding – The subject property is located in the southeastern portion of the county approximately 2 miles north of Highway 56, about ½ mile west of the Douglas/Johnson County line. This is a rural area which is used primarily for agriculture and rural residential purposes.

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

Applicant's response:

"Agriculture. There is an existing CUP permit for greenhouse, nursery business."

Staff Finding – A Conditional Use Permit (CUP) does not change the base, underlying zoning. The suitability of the property for agricultural and residential purposes will not be altered with the granting of the CUP. The property is currently used for agricultural purposes and has been developed with commercial greenhouses. Limited retail sales in conjunction with the greenhouse sales have been approved with a 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; this property has been zoned "A (Agricultural)" since that time. The property is currently developed with multiple buildings including residential, commercial greenhouses and agricultural structures and uses.

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

Applicant's Response: *"None. We have had a CUP permit for years. We have not had any problems from our neighbors and we have invested our livelihood, so we will be sure to always try 100% to keep it that way."*

Section 12-319-1.01 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 Facilities* listed in Section 12-319.4 Conditional Uses Enumerated, of the Zoning Regulations for the unincorporated areas of Douglas County.

Approval of the request will not alter the base zoning district. If approved the existing machine barn would be renovated (subject to building permit review and approval) for an assembly/recreation type use.

The property is located along a local road, approximately 2 miles north of Highway 56 and about 1.5 miles east of E 2200 Road (County Route 1061), which is classified as a principal arterial on the major thoroughfares map. (Figure 1)

Even though the property is within close proximity of these principal arterials/highways, visitors to the reception facility will need to travel on local roads to access this property. Traffic and noise impacts associated with the greenhouse/retail sales use have existed in the area for over 20 years; however, this use will increase the amount of traffic to the site. N 400 Road is a township road. (Figure 2) The Palmyra Township Trustee indicated that the additional traffic would not create any maintenance issues for their road crew; and recommended that a dust treatment be applied to the road to reduce the amount of dust.

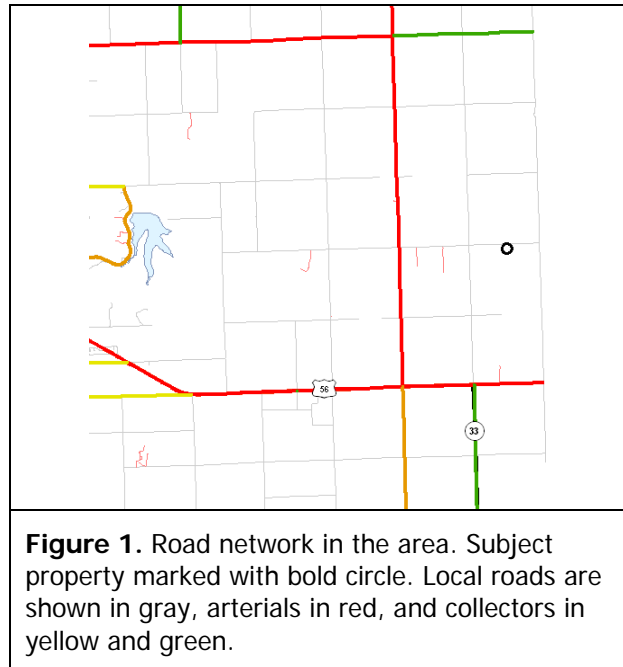


Figure 1. Road network in the area. Subject property marked with bold circle. Local roads are shown in gray, arterials in red, and collectors in yellow and green.



Figure 2. N 400 Road adjacent to subject property.

Staff recommends that hours of operation be limited to midnight, not including clean up time following the events. The applicant had mentioned that a local school had contacted them

about possibly using their facility for an all-night after-prom party location. To insure compatibility with neighboring land uses, any 'all-night' uses should be placed on the County Commission agenda for consideration. Public notice should be provided to nearby property owners, within 1000 ft, prior to the County Commission meeting. Staff also recommends that the applicant provide dust palliative treatment to the east and west intersections of E 2300 and E 2400 Roads, where it would be expected that traffic would diverge into different directions and would be of less intensity from the intersections on.

Staff Finding – Approval of the request will allow for additional activity in the area which may result in negative impacts for such as increased traffic and dust on the nearby roads and increased noise associated with the events. The rural location is a principal factor in the location of this facility; however, it is necessary that the use be limited as needed to maintain the rural character of the area and reduce any negative impacts on neighboring 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:

"We would be able to fulfill the need for public meetings, receptions, and agriculture and greenhouse seminars in our area of Douglas County. It could increase tax revenue for county."

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 an additional location for gatherings, meetings and other recreational uses and would allow the property owners to supplement their agricultural income with agri-tourism uses. Denial may benefit the surrounding property owners as additional traffic and noise may be associated with the use unless effective management techniques are utilized to minimize any negative impacts. Denial would prevent the land-owners from engaging in this form of agri-tourism which would increase the revenue they make from the rural/agricultural property.

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. Approval would not directly harm the public health, safety and welfare; however the increase in traffic may present negative impacts for the area. Restrictions on the hours of operation will help minimize the negative impacts.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

An evaluation of the conformance of a Conditional Use Permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. The comprehensive plan does not directly address Conditional Use Permits. *Horizon 2020* recommends preserving the agricultural use of land in unincorporated areas of Douglas County and discourages non-farm residential development outside the UGA.

Staff Finding –The proposal is in conformance with the comprehensive plan. The requested uses would preserve the agricultural use of the land by allowing the property owner to develop an agri-tourism business which would not require development of the property or result in non-farm residential development.

STAFF REVIEW

The subject property is not located within any identified Urban Growth Area. Access to the reception facility will be provided via an existing driveway on N 400 Road. The proposed reception hall would be located within the interior of the site and buffered from N 400 Road by the greenhouses and flower garden. The distance separating the reception facility and residences in the area and the greenhouses located between the facility and N 400 Road will serve to buffer the proposed use from the surrounding properties. There are a few residences within ¼ mile of the proposed reception hall. Figure 3 shows the layout of the subject property and identifies the area within ¼ mile of the reception facility.

The applicant's plans include events such as anniversaries, wedding receptions, reunions, Christmas gatherings and agricultural/gardening classes. They intend to rent the facility primarily on Friday or Saturday afternoons and evenings. The applicant indicated that businesses have expressed an interest in having meetings or luncheons there and they have been contacted by a high-school about using the site for an all-night prom party. As mentioned earlier, Staff recommends that events conclude by midnight; if a special all-night event is contemplated, it should be made as a special request to the Board of County Commissioners with notice provided to nearby property owners.

The applicant intends to schedule any large reception after their retail closing hours so the uses would not conflict with each other. They have discussed their building plans with Keith Dabney, Director of Zoning and Codes, who stated that the building occupancy could be as high as 200 to 220 people. The applicants intend to limit their events to no more than 150 people per event. As mentioned earlier, the larger events will produce a significant amount of traffic on N 400 road which could result in dusty conditions. Staff recommends the use of a dust palliative on N 400 Road to the intersections to the east (E 2400 Road) and west (E 2300 Road).

Parking: Required parking for the use is one space per 5 seats for Auditorium, theater, gymnasium stadium, arena or convention hall or 1 space per 100 sq ft of building (Section 12-316-1 County Zoning Regulations). No permanent seating is being proposed with this use; therefore, the parking requirement is calculated at the ratio of 1 space/100 sq ft. A 3920 sq ft reception facility would require 40 parking spaces and the previously approved greenhouse/nursery/retail sales use required 18 spaces. There is an area south of the reception facility parking area identified on the plan for overflow parking. The site plan shows that 58 parking spaces are being provided for both the reception and retail sales uses. The plan shows 1 ADA accessible space next to the retail area. Per Section 12-316-1.01 of the Zoning Regulations, a parking lot with between 51 and 75 parking spaces would be required to have 3 ADA accessible parking spaces. Two additional ADA accessible parking spaces must be installed as near as possible to the entrance to the reception facility.

Screening: The building to be utilized as the reception hall is located in the interior of the site, and is bordered by greenhouses to the north, the garden and residence to the west, and additional property owned by the applicant to the south and east. (Figure 3) No screening is required for the additional use.

Limits and Conditions: The applicant indicated that they plan on hosting events primarily on Friday and Saturdays and that they would limit the size of their events to no more than 150 guests. Given the location of the facility on a graveled, township road, staff recommends that a dust treatment measure such as a dust palliative shall be installed along N 400 Road between the two intersecting roads to the east (E 2400 Road) and west (E 2300 Road). Staff also recommends that all events conclude at midnight, excluding clean-up. Any requests for an all-night event shall require approval of the Board of County Commissioners and shall be placed on the agenda following written notification of property owners within 1000 ft.

Conclusion

The proposed CUP, as conditioned, complies with the County Zoning Regulations and the land use recommendation of *Horizon 2020*.

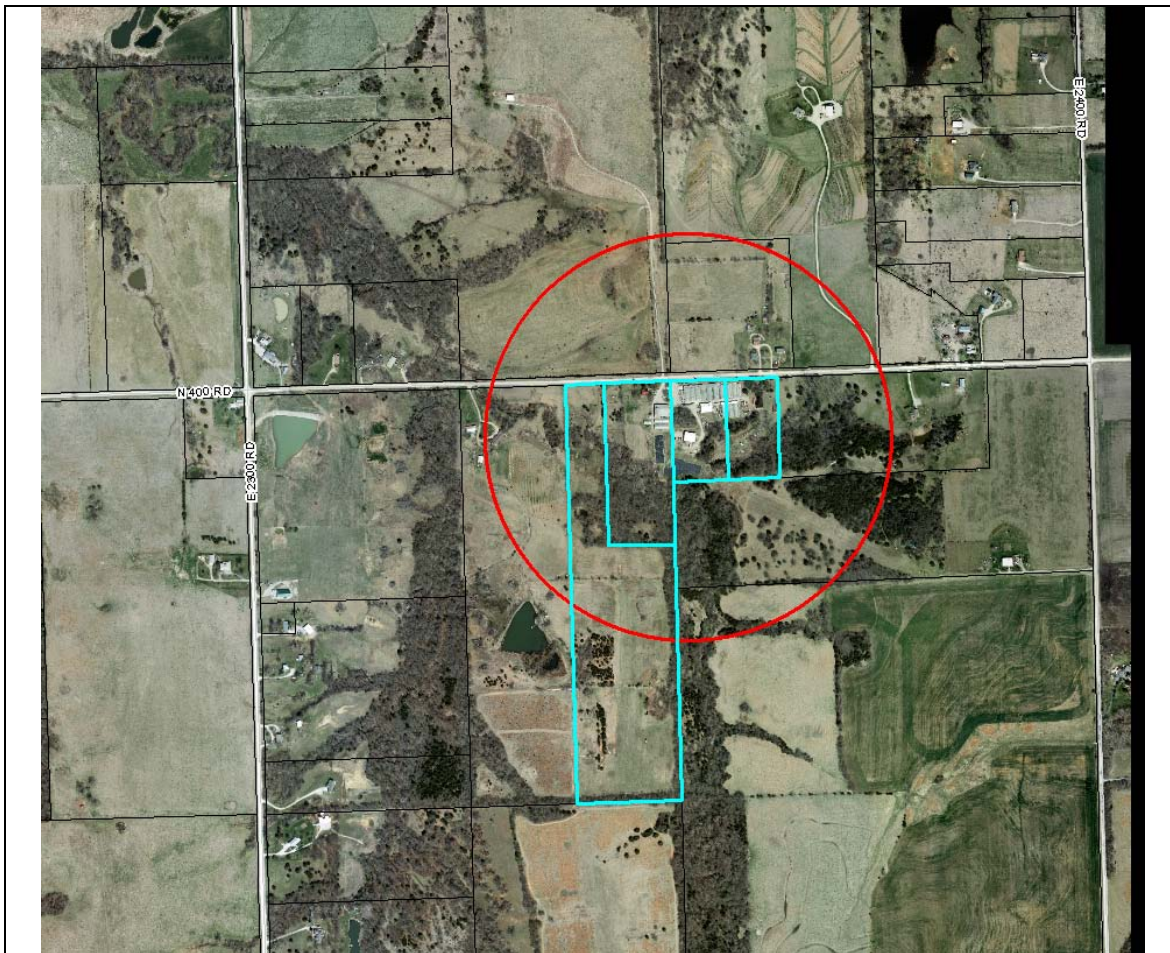
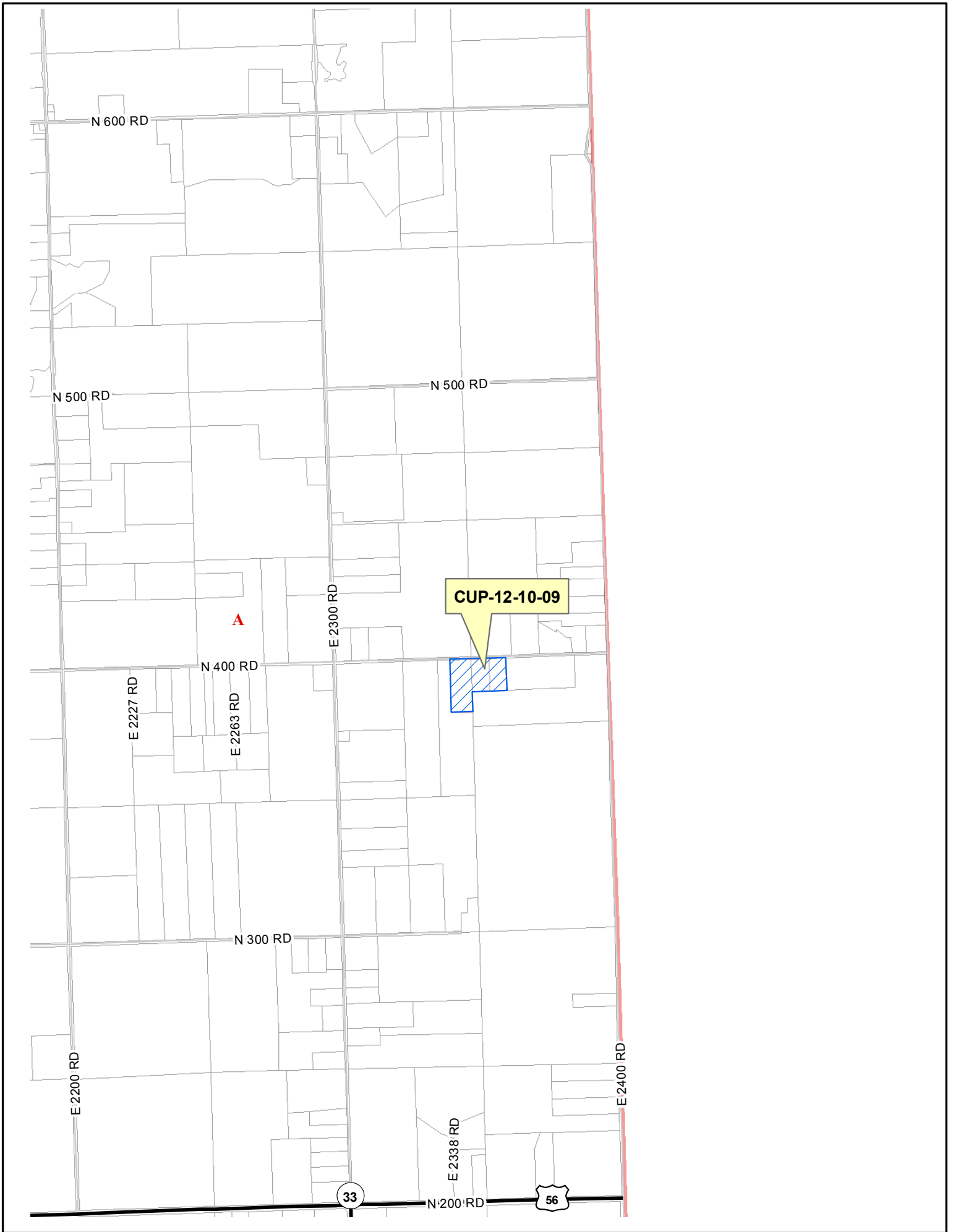
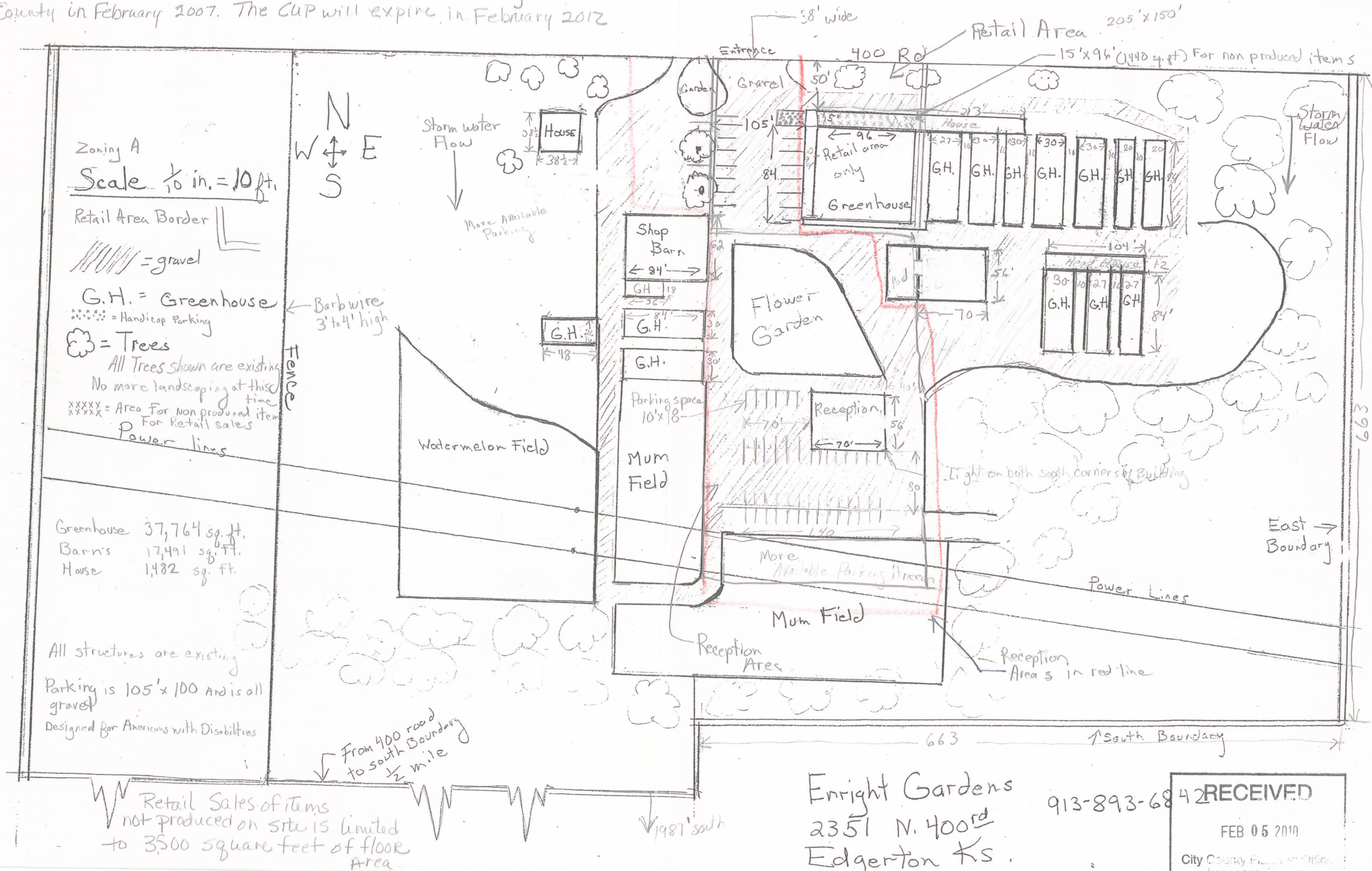


Figure 3. Property owned by the applicant is outlined in blue. Area within $\frac{1}{4}$ of the proposed facility is outlined in red.

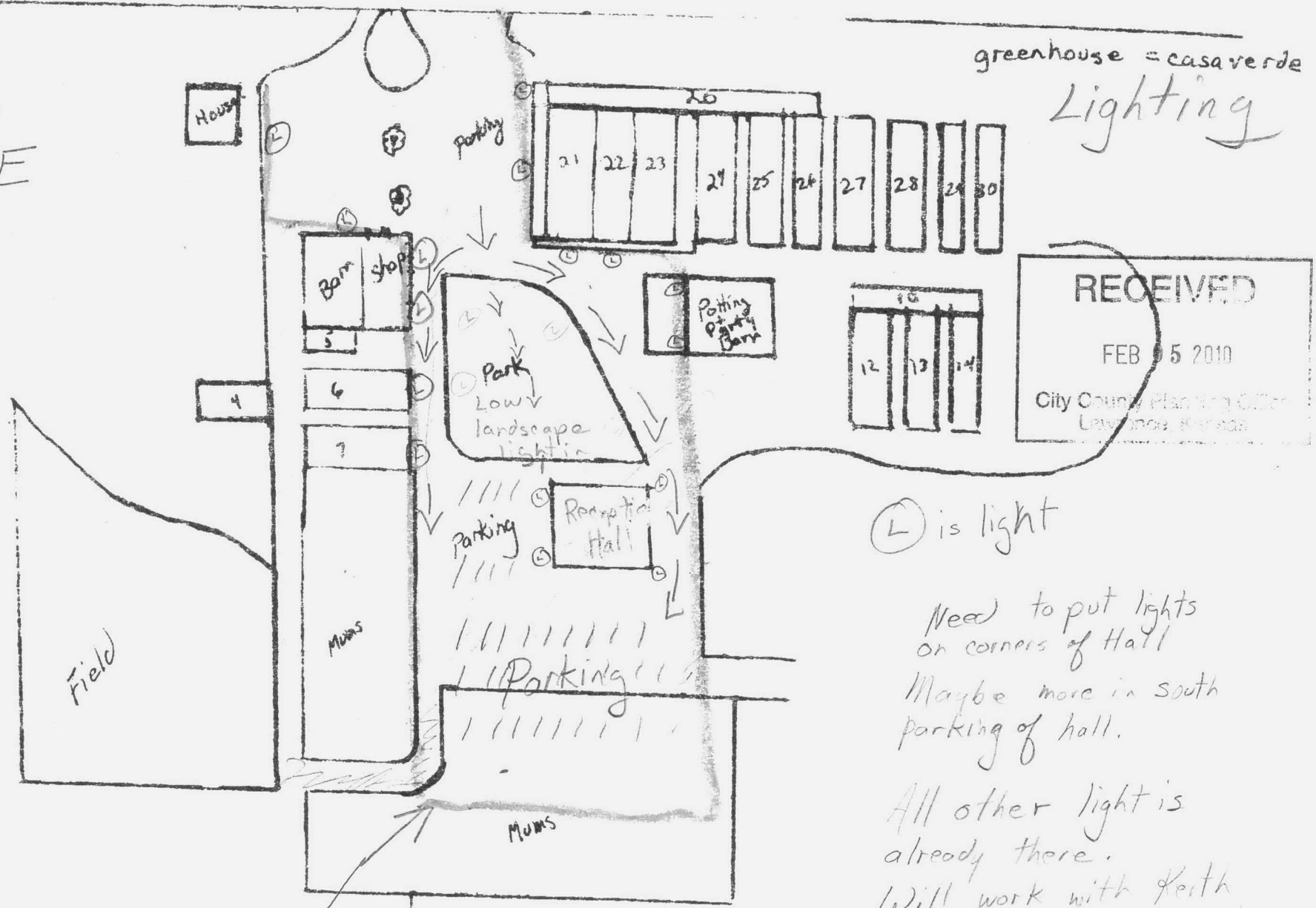


The Conditional USE Permit will be re-evaluated by the County in February 2007. The CUP will expire in February 2012.



W + E
N
S

greenhouse = casaverde
Lighting



RECEIVED
FEB 05 2010
City County Planning Office
Lawrence, Kansas

(L) is light

Near to put lights
on corners of Hall
Maybe more in south
parking of hall.

All other light is
already there.
Will work with Keith
with more if needed

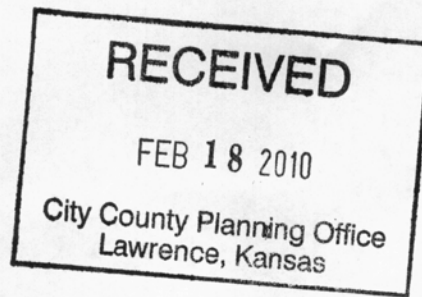
Arrow show
different walkways
From north parking to
South Parking

Area involved in reception

Shaded Areas
are rockied

All walking areas are
already rockied





2368 N 400 Road
Edgerton, KS 66021
February 15, 2010

Lawrence-Douglas County Metropolitan Planning Commission
6 East 6th Street
P.O. Box 708
Lawrence, KS 66044

Re: CUP-12-10-09 Permit for Enright Gardens

Dear Commission Members:

North 400 road between County Road 1061 (East 2200 Rd) and the Johnson County line (East 2400 Rd) should be evaluated and improvements made if a permit for a reception hall is granted to Enright Gardens. A reception hall will increase traffic year around including night time hours and winter months.

At a minimum, the mile between 2300 road and 2400 road should be improved. The ½ mile east of 2300 Rd to Enright Gardens is very hilly and narrow and especially in winter is extremely dangerous. Several driveways enter this road in the first ¼ mile, one which is a blind driveway on the north located on the east side of the steepest hill with a creek at the bottom and no guardrails. It is also a school bus stop. Too many drivers top the hill in the middle of the road. Just west of Enrights water runs down the road year around. Over the years vehicles have been pulled from the ditch on the north side. Maintenance of this road needs to increase.

Approving additional business that increases traffic without upgrading the road will be dangerous not only too current residents but to all traveling this road. Thank you for your consideration.

Sincerely,

Jeff McTaggart

Memorandum

City of Lawrence

Planning & Development Services

TO: Planning Commission

FROM: Mary Miller, Planner

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

Date: For February 22 Planning Commission meeting

RE: Density Bonus for the Protection of Environmentally Sensitive Areas

At the November 2009 meeting, the Planning Commission directed Staff to develop incentives encouraging the protection of additional environmentally sensitive areas above that required by Code. The draft text amendment [TA-12-27-07] requires that environmentally sensitive areas be protected in residential districts; however, the protected area is not required to exceed 20% of the total site. The amendment provides for the density of the site to be calculated on the entire property and transferred to the unprotected portion of the property as long as the applicable Code standards are met. Many times it may not be possible to achieve this density due to the minimum lot sizes required in the single-dwelling zoning districts.

Various other communities utilize a density bonus which provides for an increase in density proportional to the amenity being provided with a cap on the maximum density. This cap is set on the density recommendations in their comprehensive plan. However, our regulations do not provide us that flexibility as our zoning districts are based strictly on the density recommendations in the comprehensive plan. The information below is a draft density bonus policy; however, if the Commission is interested in pursuing this it may be necessary to amend the Comprehensive Plan to allow for an adjustment in density, up to a certain limit, when environmentally sensitive areas are being protected.

ACTION

Consider the information below and provide direction to Staff as to whether to proceed with the initiation of any necessary amendments to the Comprehensive Plan and the Density and Design Standards in the Development Code or to look into other alternatives.

DENSITY BONUS

A density bonus is an incentive-based tool that permits developers to increase the maximum allowable development on a property in exchange for helping the community achieve public policy goals, which in this case is the protection of environmentally sensitive areas. The density bonus is intended to encourage the protection of environmentally sensitive areas beyond that which is required by Code. Two types of density bonuses are being proposed: one is an increase in the number of developed units; and the other is an increase in the developed square footage.

Density bonus regulations must be clear, as vague regulations are difficult to implement. In addition, developers are more likely to participate in the program if there is certainty about how much density they will be granted for the additional protected area. Tables with the bonus information are being proposed in order to clearly define the incentives.

APPLICABILITY

The density bonus applies when environmentally sensitive areas are protected to a greater degree than required by Code. Density bonuses may be applied to properties which contain the following environmentally sensitive areas: regulatory floodway fringe, jurisdictional wetlands, stream corridors, and/or stands of mature trees. Regulatory Floodways and Historical Sites are not included in the density bonus program as their protection is required through other State and Federal regulations.

PROCESS

Developers interested in applying for a density bonus should discuss this at the pre-application meeting with the planning staff to determine if their proposal would qualify. Staff will review the preliminary plat or site plan to ensure that utilities and infrastructure are available to serve the additional units and the design of the development does not negatively impact adjacent properties.

The density bonus is proportional to the percentage of the parcel which is protected. For developments that provide more protected environmentally sensitive areas than required (more than 20% of the total site), a 1% density bonus shall be awarded for each additional 1% of the total project area being protected, with a maximum 20% density bonus. An example of this density calculation is included as an attachment.

In order to insure compliance with the recommendations of the comprehensive plan, density caps are recommended to limit the number of dwelling units in the different zoning districts. Using the density recommendations in *Horizon 2020* does not result in a suitable cap as the minimum lot sizes for many zoning districts coincide with the maximum density noted in *Horizon 2020*. In these cases, no density increase is possible as it would not comply with the density recommendations in the comprehensive plan. It may be necessary to amend the Comprehensive Plan to permit increased densities with a designated cap when density bonuses are applied.

DRAFT LANGUAGE:

Density bonuses are available to encourage the protection of selected environmentally sensitive areas in a greater amount than required by Section 20-1101(d)(2)(iii)(a). In order for a density bonus to be approved, planning staff must determine that utilities and infrastructure are available to serve the additional density proposed and the design of the development does not negatively impact adjacent properties.

The density bonus applies when environmentally sensitive areas are protected to a greater degree than required by Code. Density bonuses may be applied to properties which contain the following environmentally sensitive areas:

- regulatory floodway fringe,
- jurisdictional wetlands,
- stream corridors, and/or
- stands of mature trees.

Density Bonus: Increase in Dwelling Units

Base Density

The Base Density is the number of dwelling units which can be developed on the subject property, rather than the maximum density permitted for the zoning district. Base Density is determined by calculating the number of dwelling units possible on a property given the size of the parcel, the area required for street right-of-way or infrastructure, the density and dimensional standards of Section 20-601(a) and the environmental protection standards. A sketch plan showing the proposed development and the base density shall be provided to the Planning Office during the pre-application meeting.

Density Bonus—Increase in numbers of units

The additional environmentally sensitive area being preserved shall be illustrated on a sketch plan and the total area being protected shall be noted. If more than 20% of the total site contains protected environmentally sensitive areas, the density bonus shall be calculated using the proportions in Table 1. The density bonus is added to the base density, which is the number of possible dwelling units, to determine the total number of dwelling units which may be developed. This number may equal but may not exceed the Density Cap for that zoning district.

Standards Adjustment

In single-dwelling and duplex-dwelling zoning districts it may be necessary to reduce the lot area/ lot width requirements to permit the allowable density. In the multi-dwelling districts it may be necessary to increase the height limitation to permit the allowable density. These revisions may be made to the minimum degree necessary to accommodate the allowable density. [\[If this language is adopted, it will be necessary to revise Section 20-601\(a\) of the Development Code to include a footnote that if a density bonus is approved the density and dimensional standards may be revised as noted in this section.\]](#)

A development shall qualify for a density bonus if environmentally sensitive areas noted in this Section are committed for preservation either through designation as a tract, through a conservation or landscape easement, or dedication to the City in addition to the area required in Section 20-1101(d)(2)(iii)(a).

The number of additional dwelling units awarded shall increase proportionally with the amount of environmentally sensitive areas designated for protection according to the schedule in Table 1. Land offered for dedication shall be subject to approval by the Governing Body.

TABLE 1			
Density Bonus			
% of property preserved/protected	% increase in Dwelling Units	% of property preserved/protected	% increase in Dwelling Units
21	1	31	11
22	2	32	12
23	3	33	13
24	4	34	14
25	5	35	15
26	6	36	16
27	7	37	17
28	8	38	18
29	9	39	19
30	10	40	20

TABLE 2				
Density Cap				
Comprehensive Plan Designation	Zoning District	Density Permitted by Code	Density Cap—current in <i>Horizon 2020</i>	Density Cap
Very-low density: single dwelling	RS40	1.09 du / acre	1 du / acre	?
Low-density: single dwelling	RS20	2.18 du / acre	2-6 du / acre	?
	RS10	4.26 du / acre		
	RS7	6.22 du / acre		
Medium density: single dwelling	RS5	8.7 du / acre	7-15 du / acre	?
	RS3	14.52 du / acre		
	RSO	14.52 du / acre		
Medium density: multi dwelling	RM12,	12 du / acre	7-15 du / acre	?
	RM12D,	12 du / acre		
	RM15	15 du / acre		
High-density: multi-dwelling (apartments)	RM24,	24 du / acre	16-21 du / acre	?
	RM32	32 du / acre		

Density Bonus—Increase in Developed Square Footage

This bonus provides for an increase in developed square footage or building coverage. The number of units remains the same; however, the developable area of a lot is increased. This allows for the construction of larger structures, or the addition of more impervious surface to a lot. The proportions in Table 3 apply to the increase in

developable square footage. Each 1% of protected environmentally sensitive areas above that required by Code results in a 1% increase in the building coverage or impervious surface. In some cases, the minimum outdoor area or setbacks may need to be reduced to accommodate the additional building coverage. This reduction may be made to the minimum degree necessary to accommodate the additional building coverage. In no case shall the setbacks be reduced below the following minimums:

- Interior side setback -- 5 ft (except in the case of attached dwellings),
- Front setback --20 ft (except in the RS3 District which permits 15 ft front setbacks)
- Rear Setback - 15 ft

Table 3—Density Increase in Developable Square Footage

	Minimum Area / dwelling unit (sq ft)	Maximum Building Coverage (%)	Maximum Impervious Cover (%)	Min Outdoor Area per Dwelling (sq ft)	Int Side Setback (ft)	Front/Back setbacks (ft)
RS40	40,000	15	25	--	20	25/30
RS20	20,000	30	50	--	20	25/30
RS10	10,000	40	70	--	10	25/30
RS7	7,000	45	70	--	5	25/30
RS5	5,000	50	75	240	5	20/20
RS3	3,000	50	75	150	5	15/20*
RSO	15/acre	50	75	--	5	25/20
RM12D	12/acre	50	75	50	5	25/20
RM12	12/acre	50	75	50	5	25/20
RMO	22/acre	50	75	50	5	25/20
RM15	15/acre	50	75	50	5	25/25
RM24	24/acre	50	75	50	5	25/20
RM32	32/acre	60	80	50	5	25/20
for each 1% protection above the required 20% (to maximum of 40%)		1% increase	1% increase	1% decrease	Adjusted as needed --not less than 5	Adjusted as needed --not less than 20 *RS3 setback remains 15

ATTACHMENT A

Base Density = Net area / # of units (road right-of-way, etc. removed from area. Protected areas shown.) The density may be calculated on the entire property and shifted to the remainder if the density and dimensional standards are met.

Density bonus = % of site being protected (if more than 20% is protected) times the Base Density.

EXAMPLE:

In this example development is proposed on 30 acres of land which contains quite a bit of environmentally sensitive areas, about 50% of the site. The total amount of street right-of-way required is 3 acres and 20% of the site or 6 acres is required to be protected per the Environmental Protection Standards. The applicant visits with the Planning Office to discuss the possibility of a density bonus if an additional 15% of the site is protected.

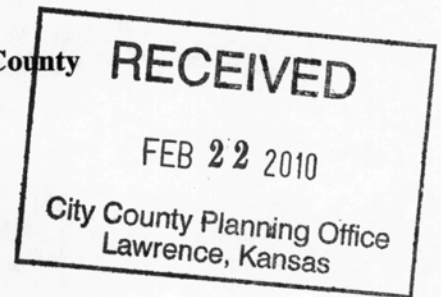
- **Calculate Base Density.** The area necessary for right-of-way, infrastructure, and any area which can not be developed due to the Environmentally Sensitive Areas protection standards are deducted from the total area and the developer presents a sketch plan of the property, showing how many units could be built according to the Code standards. This is the Base Density. For this example we will assume the property is zoned RS7 and there is a 30 acre site with 21 acres which can be developed. (3 acres are required for road right-of-way and 6 acres are required to be protected as environmentally sensitive land). The base density of this site would be determined from the sketch plan but in this case we will calculate it by dividing the total developable square footage of the property, 914,760 sq ft (21 acres x 43,560 sq ft / acre), by the minimum lot size in the RS7 District, 7000 sq ft. The base density is 130 units.
- **Calculate Density Bonus.** To qualify for a density bonus, the area being protected must exceed that which is required. In this example 35% of the 30 acre site, or 10.5 acres, is being protected while 20%, or 6 acres, is required. The density bonus is proportional to the increased protected area. An additional 15% of the site is being protected; therefore, the density bonus is 15% of the base density, or 19 additional dwelling units (.15 * 130 units = 19.5 units) An additional 19 dwelling units would be permitted as a density bonus; therefore, a total of 149 dwelling units could be developed on this property.
- **Compare Bonus with Density Cap.** The RS7 District has a Density Cap of 6 dwelling units per acre (Table 2). The buildable area in this property is 16.5 acres [the total area (30 acres) minus the road right-of-way (3 acres) and the protected area, 10.5 acres]. 99 dwelling units are the maximum number of dwelling units that could be permitted on this property [16.5 acres * 6/acre]. This illustrates the need to set a density cap in this Zoning District to allow for additional density when a greater area of environmentally sensitive lands are protected than required by Code.

This issue requires further analysis to determine what the cap should be for each zoning district. The cap should permit an increase in density while limiting the number of units so the development is still compliant with the comprehensive plan. As mentioned earlier, an amendment to the Comprehensive Plan to permit increased densities in residential districts when density bonuses are applied may be necessary, as well as an amendment to the density and dimensional table in Section 20-601(a) to permit alterations to the standards when density bonuses are applied.

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

February 21, 2010



Mr. Greg Moore, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

RE: ITEM NO. 5, AMENDMENTS TO THE DEVELOPMENT CODE, ENVIRONMENTALLY SENSITIVE LANDS

Dear Chairman Moore and Planning Commissioners:

Dear Commissioners:

We continue to be concerned about proposed amendments to the Development Code regarding preservation of environmentally sensitive land. We sent you letters on this matter for your meetings last September and November. Copies of these two letters are attached.

Following are two main points:

1. We oppose the proposed density bonus for protection of environmentally sensitive areas. We believe the base density should apply. In many cases this will exceed the density cap permitted by the Code and therefore will represent a bonus.

2. We recommend that the definition of environmentally sensitive land should include steep slopes, prairies, and archeological and historic sites that have not yet been registered.

We hope that you will give serious consideration to our suggestions.

Sincerely yours,

Kay Hale
Kay Hale
Co-president

Alan Black
Alan Black, Chairman
Land Use Committee

Attachments

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

November 10, 2009

RECEIVED

NOV 10 2009

City County Planning Office
Lawrence, Kansas

Mr. Greg Moore, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

RE: TEXT AMENDMENT TO SECTIONS 20-701, 20-702, 20-1101(d), AND 20-1701.

Dear Chairman Moore and Planning Commissioners:

The approach of the Lawrence Land Development Code sections on the preservation of Environmentally Sensitive Lands, including the proposed text amendment, has seemed to be based almost entirely on concern for the rights of individual property owners. This is a valid and justified concern. However, we believe that this concern has resulted in overstating the actual rights and privileges due our property-owning citizens to the detriment of preserving the critically important environmental functions of sensitive lands. In many cases environmentally sensitive land is also potentially hazardous to human life and property if misused, and therefore not all land should be considered equally developable.

We suggest that a more sensible approach would be to establish how much environmentally sensitive land exists on a tract and on that basis determine how much of that tract can be developed without encroaching on the environmentally sensitive land.

Our current Lawrence Land Development Code applies only to residential use. An equitable norm for land use is needed that will apply uniformly to everyone. Our Code establishes 6 units an acre density as the maximum density for standard residential areas as the definition for low density development—the preponderance of land use in Lawrence. This can be calculated in Planned Developments as the number of dwelling units permitted per acre, or in standard residential districts as a lot size of 7000 square feet. Allowing any lot size smaller than that or number of dwellings per acre greater than that could be considered a privilege. Therefore, it seems reasonable to consider that when this norm is exceeded, a property-owner's rightful expectations have been exceeded beyond the norm.

Translating this norm to cluster development, it would amount to the number of 7000 square foot lots that one acre could hold, or roughly six lots. Actually, when subtracting streets and easements it comes to less, but giving the developer the benefit of the maximum density, let us say six dwellings per acre. When these lots are reduced to the absolute minimum size of single family lots permitted by our RS3 Zoning District—3000 square feet—this still allows a wide selection of single family dwelling styles: for example, Calthorpe bungalows and patio homes, among many others, as well as average-sized single family dwellings.

Reducing the lot sizes on a tract in order to preserve the environmentally sensitive lands seems an equitable solution in most cases to allow the protection of all of the environmentally sensitive land on a tract while still protecting a property-owner's rights. The important consideration here is that the sensitive lands must be chosen and set aside for preservation before the development is designed in order to design the development around the sensitive land. This would not be infringing on the property-owner's rights if the development is tailored to the limitations of the land rather than tailoring the land to the development. The original intention of planned unit developments was to do just that, rather than to cram as many units on a piece of land as possible, as is now the case.

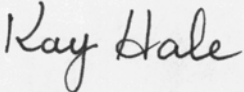
The next question is what if a tract will not support even the norm in terms of density? Actually, there aren't many situations where this would be true except where there are total restrictions on development of a tract because of hazards to human life and health. Floodways, floodplains, stream corridors, and steep slopes (unstable soils), as well as wetlands are examples where Federal or other official laws already restrict development under any circumstances but would allow other open space uses. In such cases our Comprehensive Plan calls for incorporating these lands into the open space system and the city should provide alternatives to development so as to protect a property-owner's rights.

With these points in mind, we have modified the latest staff version of Sections 20-701&2, 20-1101(d) and the Terminology Article 17, Section 1701. These suggested modifications are annotations to the Text Amendment presented to the Planning Commission in September included here as Attachment A.

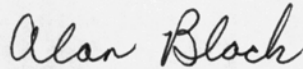
This is our answer to the direction by the Planning Commission to give our suggestion on how we would provide alternatives and/or compensation to placing percentage limits on environmentally sensitive lands during development without infringing on individual property rights.

We hope that you will seriously consider our suggestions.

Sincerely yours,



Kay Hale
Co-president



Alan Black, Chairman
Land Use Committee

Two Attachments

Please Note:
Annotations in red
font have been
added as our
suggested
changes in the
wording to this
Text Amendment.
Words to be
eliminated are
stricken with a red
strike-out symbol.

ARTICLE 7. PLANNED DEVELOPMENTS

- 20-701 PD, Planned Development Overlay District
 20-702 Cluster Housing Projects
 20-703 Open Space Standards in Cluster and Planned Developments

20-701 PLANNED DEVELOPMENT OVERLAY DISTRICT

(a) Purpose

The PD, Planned Development regulations are intended to:

- (1) ensure development that is consistent with the Comprehensive Plan;
- (2) ensure that development can be conveniently, efficiently and economically served by existing and planned utilities and services;
- (3) allow design flexibility that results in greater public benefits than could be achieved using conventional Zoning District regulations;
- (4) preserve environmental and historic resources; and
- (5) promote attractive and functional residential, nonresidential, and mixed-use developments that are compatible with the character of the surrounding area.

(b) Procedure

PDs shall be reviewed and approved in accordance with the procedures of Section 20-1304.

(c) Developer's Statement of Intent

Each PD application shall include a comparison of the proposed development with the standards of the Base District and the otherwise applicable standards of this Development Code. Applications shall also include a Statement by the applicant describing how the proposed development provides greater benefits to the City than would a development carried out in accordance with otherwise applicable Development Code standards.

(d) Effect of Other Development Code Standards

Except as expressly authorized by the regulations of this section and approved as part of a PD plan (in accordance with the procedures of Section 20-1304), all of the standards of this Development Code apply to development within a PD District.

(e) Minimum District Size

Minimum area for a PD district shall be five acres.

(f) Standards Eligible for Modification

As a condition of approval, the Planning Commission or City Commission may designate by ordinance or as a note on the face of the development plan, any specific use, Structure or Building Type which shall be restricted and excluded as part of the Planned Development Overlay District. The City Commission may modify the following standards during the PD approval process. Standards not listed are not eligible for modification.

(1) Allowed Uses

The Planning Commission shall recommend, and the City Commission shall approve, a list of uses allowed in a PD at the time of PD preliminary approval.

Regardless of the fact that the approved uses may be determined by reference to a Base District, the list of approved uses shall be incorporated into and made a condition of the PD approval. The City Commission may approve only uses that are allowed in the Base District, provided that:

- (i) PDs in Single-Dwelling and Multi-Dwelling (RS and RM) Districts may include land area for commercial uses at a ratio of up to 50 square feet of land area per Dwelling Unit.
- (ii) commercial uses, in addition to those otherwise permitted by right, may be approved in a PD in an RS or RM District, if the PD includes a minimum area of 10 acres or more than 100 Dwelling Units.

(2) Lot Size

The minimum Lot size standards of the Base District may be reduced by the City Commission, provided that Lot sizes shall be adequate to safely accommodate all proposed Buildings and site features.

(3) Residential Density

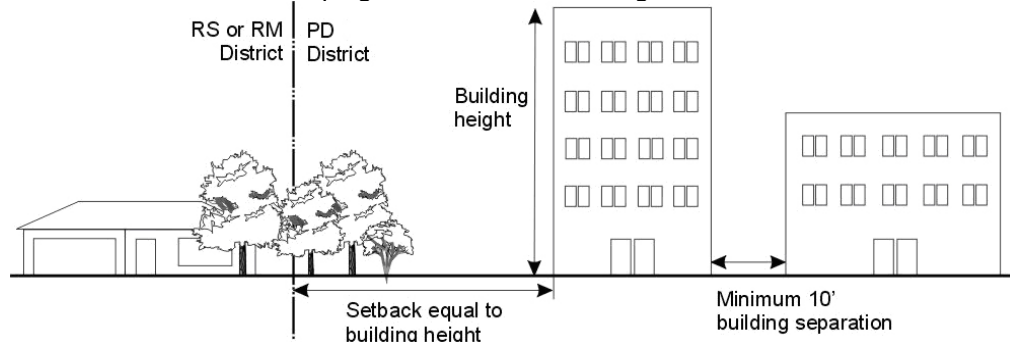
The City Commission may increase the maximum Net Density beyond that of the Base District by up to 25% if the City Commission determines that such an increase is warranted to support the public benefit likely to result from the proposed development.

unless environmentally sensitive land is present, in which case the amount of density will be based on the standard of 6 units per acre or less, depending on the residential zoning district.

(4) Setbacks

The minimum Setback standards of the Base District may be reduced by the City Commission, provided that:

- (i) Buildings located within the PD, and along any District boundary that is adjacent to RS and or RM Zoning Districts shall be Setback a distance at least equal to the Height of the proposed Building; and
- (ii) All exterior walls of detached Buildings shall be separated by a minimum distance of 10 feet.
- (iii) Balconies shall not be located along peripheral site Setbacks adjacent to RS zoned properties unless privacy Screening and Landscaping is included in the design.



(g) Height

The City Commission may increase maximum Height limits of the Base District if the Commission determines that such an increase is warranted to support the public benefit likely to result from the proposed development. Height increases shall be

permitted only for Buildings set back from the boundary of the PD by the Height of the proposed Building plus 25 feet, so that the primary impact of the increased Height is on property within the PD.

(h) Balconies

Balconies above the second Story of a multi-Dwelling Unit Building are prohibited along the exterior of a Planned Development unless the Building Setback is increased to at least double the required minimum Setback and Landscaping is enhanced with two or more of the following features: a minimum 4' Berm, a solid Screening fence (6' minimum Height) or a masonry wall (6' minimum Height). This provision shall apply only to those exterior sides of a Planned Development that are adjacent to RS zoning or to detached Dwelling Units.

(i) Parking and Loading

The City Commission may decrease the number of off-Street Parking and loading spaces required. Parking and loading areas shall comply with all otherwise applicable design standards.

(j) Buffer Areas

Development within 60 feet of the peripheral boundary of the PD shall be limited to the following:

- (1) use category, Heights, Setbacks and minimum Lot sizes permitted in the Zoning District immediately adjoining the proposed PD on the date of preliminary development plan approval of the PD; and
- (2) a landscaped buffer, including a Berm (minimum 4' in Height), a masonry wall (minimum of 6' in Height) or a fence (minimum 6' in Height).

(k) Common Open Space

(1) Amount Required

The PD shall include at least the amount of Common Open Space computed using one of the following formulas, whichever produces the largest number:

~~(i) (20%) of the total area included in the PD; or~~

~~(ii) 300 square feet for each proposed Dwelling Unit in the PD.~~

20% of the total site area as Common Open Space. Environmentally sensitive lands, if present, shall be protected and included within the Common Open Space. 50% of the Common Open Space shall be developed as Recreational Open Space unless environmentally sensitive lands are present, in which case the amount of Recreational Open Space may be reduced to no less than 5% and no more than 10% of the Common Open Space, with the intent being to preserve all or as much environmentally sensitive lands as possible in their natural state.

(2) Recreational Open Space

~~At least one-half of the proposed Common Open Space shall be suitable for use as and proposed for development as Recreational Open Space.~~

(3) Natural Open Space

~~To the maximum extent practicable, the following types of lands shall be included in the Common Open Space as Natural Open Space. To the extent that it is not practicable to include all of such areas in the Common Open Space, the order of types of lands included in this list shall be considered a~~

environmentally sensitive lands shall be preserved in addition to the amount of required common open space

and

~~priority list, with the first item being the most important, the last being the least important.~~

- ~~(i) Floodway, based on a 100-year storm;~~
- ~~(ii) Floodplain outside the floodway, based on a 100-year storm;~~
- ~~(iii) Jurisdictional Wetlands;~~
- ~~(iv) Stream Corridors;~~
- ~~(v) Stand of Mature Trees or individually significant mature trees;~~
- ~~(vi) Prominent Geographic Features with Rocky Outcroppings; and~~
- ~~(vii) Archeological and Historic Sites~~

(4) General Provisions

See Section 20-703 for General Provisions applicable to Open Space in a PD or Cluster Development.

(I) Additional Requirements and Standards

(1) Unified Control

No application for a PD will be accepted or approved unless all of the property included in the application is under unified Ownership or a single entity's control.

(2) Street Access

PDs that will generate 100 or more average daily trips (based on traffic generation estimates of the Institute of Transportation Engineers' Trip Generation Manual, 7th edition, or subsequent edition, or based on local estimates provided by the City) shall have Access to an Arterial Street using a Frontage or rear Access road or by taking direct Access to a Collector Street.

Individual residential Building Lot shall not take direct Access to an Arterial Street or a non-Residential Collector Street. Each individual residential Lot shall have Frontage on a public or Private Street that has been constructed to the Public Street standards of the City.

(3) Sidewalks

Sidewalks built to City specifications shall be built along both sides of all public and Private Streets. On Local Streets, sidewalks shall be at least 5 feet in width; on all other Streets sidewalks shall be at least 6 feet in width.

(4) Landscaping

The Landscaping and Screening standards of Article 10 apply to PDs. In addition, any part of the development area not used for Buildings, Structures, Parking, Streets, or Accessways shall be landscaped with a sufficient mixture of grass, vegetative Ground Cover, trees, and Shrubs, except those areas designated to be preserved with natural vegetation.

environmentally
sensitive

(5) Preservation of Natural Features

Mature stands of trees or individually significant mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. ~~At a minimum the standards of Article 10 apply.~~

(6) Zoning Map

Approved PDs shall be identified on the Official Zoning District Map.

(7) Additional Conditions

The Planning Commission may recommend, and the City Commission may impose, other reasonable conditions and standards, as deemed necessary to ensure consistency with the purposes of this section and those of this Development Code. Such conditions may include limitations on the types of uses, Structures or Building Types to be allowed in the PD. When such conditions are imposed, an application will not be deemed approved until the applicant has complied with all of the conditions of approval.

(m) Additional Standards for PD's with Residential and Nonresidential Uses

In PDs containing both residential and nonresidential uses, the nonresidential uses shall be designed, located, and oriented on the site so that such uses are directly accessible to residents of the PD. For the purposes of this Section, directly accessible shall mean pedestrian/Bicycle and automobile Access by way of improved sidewalks or paths and Streets that do not involve leaving the PD or using a major Thoroughfare. "Directly accessible" does not necessarily mean that nonresidential uses need to be located in a particular location but that the siting of such uses considers the accessibility of the residential component of the PD to the nonresidential use.

20-702 CLUSTER HOUSING PROJECTS**(a) Purpose**

The cluster housing regulations of this section have several potential public benefits. They:

- (1) provide flexible development options where the standard Lot and Block pattern is not practical because of physical constraints;
- (2) promote the preservation of open space and natural areas;
- (3) allow for grouping of development on a portion of the site while using the entire site area to calculate Density of the Base District.
- (4) support reductions in development costs.

(b) General

- (1) A Cluster Housing Project is a subdivision containing five (5) or more detached Dwellings each on its own Lot with some or all of the Lots reduced below required minimum Lot Area and width requirements, but where the overall project complies with the maximum Density standard of the Base District. Cluster Housing Projects require that planning for Lots and the locations of houses on the Lots be done at the same time. Because the allowable Building Envelope of each house is predetermined, greater flexibility in development standards is possible while assuring that the single-Dwelling character of the Zoning District is maintained.
- (2) Under the cluster housing option, a subdivision can contain no more Lots than would otherwise be allowed for a conventional subdivision in the same Zoning District, but the individual Lots within the development can

be smaller than required in a conventional subdivision. Smaller Lot sizes within a Cluster Housing Project are required to be offset by a corresponding increase in Common Open Space **and environmentally sensitive areas where present.**

(c) Where Allowed; Procedure

Cluster Housing Projects are allowed by right in all residential Zoning Districts and in the CN1 District, as provided below.

- (1) In RS Districts and the CN1 District, Cluster Housing Projects shall not include more than 35 Dwelling Units. Larger projects in said Districts are subject to the Planned Development regulations of Section 20-701 and shall be reviewed and approved in accordance with the procedures of Section 20-1304.
- (2) Cluster Housing Projects allowed by-right will be evaluated for compliance with applicable regulations and reviewed and approved in accordance with the subdivision procedures of Article 8 review process.

(d) Lot Area and Lot Width Requirements

There are no minimum Lot Area or Lot Width requirements for Cluster Housing Projects. Lots shall be adequate to meet all applicable standards of this Development Code.

(e) Housing Types

Detached Dwelling Units on individual Lots are the only type of housing allowed in a Cluster Housing Project. The proposed Building Envelope for all houses shall be shown on the subdivision plat with enough detail so that compliance with required Density and Dimensional Standards can be determined.

(f) Setbacks

- (1) A Setback equal to the minimum Front Setback of the Base District shall be provided along the entire perimeter of the Cluster Housing Project that is adjacent to any Street or right-of-way.
- (2) A Setback equal to the minimum Rear Setback of the Base District shall be provided along the entire perimeter of the Cluster Housing Project that is not adjacent to any Street or right-of-way.
- (3) Within the project, the distance between houses shall be at least 10 feet (to be measured in accordance with the Setback measurement provisions of Section 20-602(e)).

(g) Building Coverage

The Building coverage standards of the Base District do not apply to each individual Lot, but the total Building coverage of all Lots (in aggregate) may not exceed the maximum Building coverage standard of the Base District.

(h) Outdoor Area

The required minimum outdoor area standard per Dwelling Units of 240 Sq. Ft. shall be on each Lot.

(i) Common Open Space

- (1) Amount Required

The Cluster Housing Project shall include at least **10% of the total site area as Common Open Space**. ~~the amount of Common Open Space computed using~~

but there is no maximum Common Open Space limit. In addition, there is no maximum amount of environmentally sensitive area that must be preserved, with the objective of preserving the maximum amount possible.

- ~~(i) The total area resulting from the sum of the following: the difference between the minimum Lot Area required for the Base District and the actual Lot Area proposed for each Lot in the Cluster Development; or~~
- ~~(ii) Ten percent (10%) of the total site area included in the Cluster Housing Project.~~

in addition to

Environmentally sensitive lands, if present, shall be protected and included within the Common Open Space. 30% of the Common Open Space shall be developed as Recreational Open Space, unless environmentally sensitive lands are present, in which case the amount of Recreational Open Space may be reduced to no less than 5% and no more than 10% of the Common Open Space, with the intent being to preserve all or as much environmentally sensitive lands as possible in their natural state.

intact and contiguous.

(2) Recreational Open Space

~~At least one-third of the proposed Common Open Space shall be suitable for use as and proposed for development as Recreational Open Space.~~

(3) Natural Open Space

~~To the maximum extent practicable, the following types of lands shall be included in the Common Open Space as Natural Open Space. To the extent that it is not practicable to include all of such areas in the Common Open Space, the order of types of lands included in this list shall be considered a priority list, with the first item being the most important, the last being the least important, and so on:~~

- ~~(i) floodway, based on a 100-year storm;~~
- ~~(ii) Floodplain Outside The Floodway, based on a 100-year storm;~~
- ~~(iii) jurisdictional Wetlands;~~
- ~~(iv) Stream Corridor;~~
- ~~(v) significant Stand of Mature Trees or individually significant mature trees;~~
- ~~(vi) Prominent Geographic Features with Rocky Outcroppings; and~~
- ~~(vii) archeological and historic sites.~~

(4) General Provisions

See Section 20-703 for General Provisions applicable to Open Space in a Planned Development or Cluster Housing Project.

20-703 OPEN SPACE STANDARDS IN CLUSTER AND PLANNED DEVELOPMENTS

The environmentally sensitive land in addition to the

(a) Preservation Required

The Open Space land shall be preserved and maintained solely for the purposes specified in this Section and in such a manner as may be acceptable to the City Commission. The method for accomplishing such preservation and maintenance of Open Space land shall ~~be limited to one of the following:~~ **include any**

and environmentally sensitive

- (1) establishment of a mandatory-membership homeowner's association to own and maintain the land in common for the Open Space purposes intended; or
- (2) transfer of the land to a conservation trust or an institution, person, organization or other conservation-oriented entity together with the requisite requirements for maintenance of the land for the Open Space purposes intended; or
- (3) dedication of the land to the City with executed deed restrictions that the City is party to, which ensure the land shall remain as dedicated open space, subject to City Commission acceptance of such dedication.

(b) Execution of Instruments

The City Commission shall require the ~~Owner~~ **Developer** or Owner of the Open Space land to execute, acknowledge and file at the Register of Deeds office such maps and documents as, in the opinion of the Director of Legal Services, will effectively create a trust, Easement or covenant running with the land, for the benefit of the ~~abutting Dwelling Unit Owner~~ **property owners in the development** and of the City, which:

- (1) will be binding on all future Owners of ~~the~~ **the Environmentally Sensitive and** Open Space land;
- (2) will not be affected by any subsequent changes in zoning;
- (3) may be enforced by ~~adjoining property Owner~~ **property owners in the development** or the City by appropriate action in court for damage or equitable relief;
- (4) will be perpetual;
- (5) will assure appropriate maintenance of ~~the~~ **the Environmentally Sensitive and** Open Space land to the satisfaction of the City Commission; **the Environmentally Sensitive and**
- (6) shall provide that if maintenance, preservation and/or use of the Open Space land no longer complies with the provisions of the trust, Easement or covenant, the City may take all necessary actions to effect compliance and assess the costs against the Owner in default;
- (7) shall provide that such trust, Easement or covenant may not be modified, altered, amended, or changed without written approval of the City Commission, and all beneficiary property Owners in the **PD PUD** or Cluster **Housing Project** ~~development~~ except in the case of City-owned land in which case deed restrictions shall be binding.

ARTICLE 11. GENERAL DEVELOPMENT STANDARDS

- 20-1101 Protection Standards for Residential Districts**
- 20-1102 Intersection Visibility**
- 20-1103 Outdoor Lighting**
- 20-1104 Performance Agreements; Guarantees**
- 20-1105 Sidewalks**
- 20-1106 Agreement Not to Protest Formation of a Benefit District**
- 20-1107 Retail Market Impact Analysis**
- 20-1108 General Development Standards for Mixed Use(MU) Districts**

20-1101 PROTECTION STANDARDS FOR RESIDENTIAL DISTRICTS**(a) Design and Operational Compatibility Standards—Discretionary Approvals**

As a condition of approval of any Special Use Permit, Map Amendment, site plan or other discretionary approval of any multi-Family use or nonresidential use located within 500 feet of any less intensive residential district, the City Commission, Planning Director, Planning Commission or other review body may impose conditions that exceed the minimum requirements of this Chapter and that, in the opinion of the review body, are necessary to reduce or minimize any potentially adverse impacts on residential property, including, but not necessarily limited to, the following:

- (1)** location on a site of activities that generate potential adverse impacts on adjacent uses, such as noises and glare;
- (2)** placement and buffering of trash receptacles;
- (3)** location of loading and delivery areas;
- (4)** lighting location, intensity, and hours of illumination;
- (5)** placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities;
- (6)** additional Landscaping and buffering;
- (7)** Height restrictions to preserve light and privacy and views of significant features as viewed from public property and rights-of-way;
- (8)** preservation of natural lighting and solar Access;
- (9)** ventilation and control of odors and fumes; and
- (10)** paving or other surface treatment for dust control.

(b) Height Limit on Projects Adjoining Certain Residential Zoning Districts

See Section 20-701(g) for Height limits in the PD district.

(c) Balconies of a multi-Dwelling Unit Building

Balconies above the second Story of a multi-Dwelling Unit Building are prohibited along the exterior of a RM development unless the Building Setback is increased to at least double the required minimum Setback and Landscaping is enhanced with two or more of the following features: a minimum 4' Berm, a solid Screening fence (6' minimum height) or a masonry wall (6' minimum height). This provision shall apply

only to those exterior sides of a Planned Development that are adjacent to RS zoning or to detached Dwelling Units.

(d) Implementation of Sensitive Land Standards

(1)[continued] It is not the intention of this section to reduce the development privileges provided by this Code. However, the purpose of this section is to preserve as much environmentally sensitive land as possible while at the same time not infringe on the development rights of property owners. Therefore, the maximum density standard has been established for residential development at 6 units an acre or less, depending on the residential zoning district wherever there are environmentally sensitive lands. In order to allow such lands to remain contiguous and intact, no utilities or city infrastructure financed by benefit district financing will be allowed on Environmentally Sensitive Lands.

1) Applicability of Environmental Design Standards – Generally

The provisions of this Article regarding environmental protection for sensitive lands shall apply to all construction and development in all RS and RM Districts, ***with the exception of individually platted lots for single or duplex dwellings which were platted prior to (the effective date of this Text Amendment).*** ~~except as expressly exempted in this paragraph.~~

2) Applicability of Environmental Design Standards – Effect on Development Type

(i) Principal

~~If a significant portion~~ ***500 sq ft or more*** of a proposed development, as ~~specified in this sub-section (d),~~ consists of lands falling in the following categories, any proposed development may proceed only in accordance with the processes allowed by this sub-paragraph ***section.*** ~~The lands affected by this section shall include the following lands, are listed below in a priority order for protection.~~

- a. ***Regulatory*** Floodways, ~~based on 100 year storm designated on the FEMA Flood Insurance Rate Map for Douglas County and identified on the City GIS Baseline Environmentally Sensitive Areas Map;~~
- b. ~~Floodplain outside the Floodway;~~ ***Regulatory Floodway Fringe, designated on the FEMA Flood Insurance Rate Map for Douglas County based on 100 year storm and identified on the City GIS Baseline Environmentally Sensitive Areas Map,*** ***and any additional floodplains identified to be preserved by the City or County Commissions.***
- c. Jurisdictional Wetlands, ***as determined by the Army Corps of Engineers.***
- d. Stream Corridors ***identified on the City GIS Baseline Environmentally Sensitive Areas Map***
- e. Stands of Mature Trees ~~or Individually Significant Mature Trees~~ ***identified on the City GIS Baseline Environmentally Sensitive Areas Map; and***
- f. ~~Prominent Geographic Features with Rocky Outcroppings; and~~
- g. Archaeological and Historic Sites ~~***listed on local, state, or federal registers.***~~

(ii) Determination of Development Land Area

In determining whether a portion of a proposed development consists of sensitive lands, all contiguous lands under the same Ownership or control shall be considered. Lands owned or controlled by a partnership, trust or corporation under the same effective control shall be considered,

h. Steep slopes of 15% or more adjacent to stream corridors.
i. Steep slopes of 25% or more, including the cover vegetation.
j. Natural prairie of one acre or more regardless of the ownership boundaries.

along with lands owned directly by the applicant and lands under option to the applicant or a partnership, trust or corporation under the effective control of the applicant.

(iii) Procedures to be Followed

~~a. Sensitive Areas Site Plan~~

Development on a platted Lot or Parcel including more than 500 square feet of sensitive lands shall require submission of a Sensitive Areas Site Plan [see Section 20-1101(e)], which shall be consolidated with any other required site plan submitted. The development shall be subject to any conditions related to the sensitive lands included in approval of the subdivision or any Planned Development application including the platted Lot(s).
REVISED AND MOVED TO SUBSECTION (b)-BELOW

~~a. Platted Lots Amount Required~~

to the maximum extent possible and shall be placed under the jurisdiction of a homeowners association or

The amount of environmentally sensitive lands which are required to be protected in Planned Developments and Cluster Housing Projects are noted in Sections 20-701 and 20-702 respectively. For other types of developments, environmentally sensitive lands shall be protected up to a maximum protection area of 20% of the total land area. The protected environmentally sensitive lands shall be set aside as private Common Open Space or dedicated to the City as parkland or open space

~~b. Land not Previously Subdivided Development Process~~

other

any portion of a floodway, floodplain, jurisdictional wetland, stream corridor, historic or archeological site or

Development on ~~properties~~ a platted Lot or Parcel including ~~containing~~ more than 500 square feet of ~~environmentally~~ sensitive lands shall require submission of a Sensitive Areas Site Plan [see Section 20-1101(e)], which ~~shall~~ **may** be consolidated with any other required site plan submitted, ~~but will be, in any event, required prior to approval of a development proposal.~~ The development shall be subject to any conditions related to the sensitive lands included in approval of the subdivision or any Planned Development application including the platted Lot(s).

consideration

Development on land not previously subdivided and including ~~which contains more than 500 square feet of~~ environmentally sensitive lands **shall proceed through one of the following processes:**

1. **Site planning.** The plan shall clearly delineate the environmentally sensitive lands to be protected and shall include information regarding protection measures and maintenance.
2. **Platting.** Environmentally sensitive lands to be protected shall be located within tracts and/or easements. Information regarding ownership and maintenance responsibility of the tract or easement as well as protection measures shall be included on the preliminary and final plat.

3. **Planned Development.** Development standards in Section 20-701 apply. Environmentally sensitive lands to be protected shall be included ~~within~~ the Common Open Space.

in addition to

4. **Cluster Housing Project.** Development standards in Section 20-702 apply. Environmentally sensitive lands to be protected shall be included ~~within~~ the Common Open Space.

in addition to

1. ~~If less than five percent (5%) of the land area consists of sensitive lands, the property may be developed through a conventional subdivision, a cluster subdivision or Planned Development;~~

2. ~~If five percent (5%) or more of the land area but less than 15% of the land area consists of sensitive lands, the property may be developed through a cluster subdivision or Planned Development, but may not be otherwise subdivided or developed;~~

3. ~~If 15% or more of the land area consists of sensitive lands, the property may be developed only through as a Planned Development.~~

~~(3) Applicability of Environmental Design Standards – Effect on Development Plan for Sensitive Lands~~

~~(iv) Dedication~~

~~Where the following types of lands are included in a proposed development, such lands shall be included in any land dedicated to the City as part of any required Open Space dedication, in the priority order set forth in this paragraph, up to the required land dedication for the development.~~

- ~~a. Floodways, based on 100 year storm;~~
- ~~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.~~

~~(v) Private Open Space~~

~~Where the following types of lands are included in a proposed development and will not be dedicated to the City, such lands shall be included in required Open Space for the development, in the priority order set forth in this paragraph up to one-half the required Open Space for the development, with the remaining one-half of the Open Space to be suitable for active recreation:~~

- ~~a. Floodways;~~
- ~~b. Floodplains 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.~~

~~(vi) 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:~~

- ~~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.~~

(3) Applicability of Environmental Design Standards – Effect on Development Intensity or Density

Where the following ~~types of~~ *lands listed in Section 20-1101(d)(2)(i)* as environmentally sensitive are included in a proposed development, that land, or a portion of that land, may be included in determining the allowable Density or intensity of development **and the allowable density, calculated on the total land area, may be transferred to other developable portions of the property.**

in accordance with the following table. The percentage appearing in a cell at the intersection of a type of sensitive land and its proposed disposition shall be multiplied by the land area of that site to determine the land area which may be considered in the computation of the allowed Density or intensity of development:

Sensitive Land Features	Proposed for Dedication of Open Space	Percentage for Density Calculation
Floodways	100%	50%
Floodplains outside the Floodway, based on 100-year storm	50%	10%
Stream Corridors beyond Floodways	100%	50%
Jurisdictional Wetland	50%	10%
Stand of Mature Trees	100%	100%
Prominent Geographic Features and Rocky Outcroppings	50%	10%
Archaeological and Historic Sites	100%	50%

environmentally sensitive lands to be preserved intact: stream corridors, floodways, floodplains, jurisdictional wetlands, or

(e) Sensitive Areas Site Plan Required Process

other

Prior to development on tracts or portions of tracts of land where **containing more than 500 square feet of environmentally sensitive lands features listed in Section 20-1101(d)(2)(i)** specified above exist, a Sensitive Areas Site Plan shall first be submitted to and approved by the City in accordance with the requirements of Site Plan Review Section 20-1305 **including the public notice procedure of Section 20-1305(g)**. This application process may occur as part of a Planned Development overlay zoning and/or subdivision review.

(1) Sensitive Areas Site Plan Contents

The Sensitive Areas Site Plan must be prepared in accordance with the requirements in Section 20-1305(f) with the exception that a Sensitive Areas Site Plan is not required to be completed by an engineer, architect or other qualified professional. In addition to the contents noted in Section 20-1305(f), the site plan shall:

- (i) Clearly delineate the property boundaries.**
- (ii) Clearly delineate the boundaries of the environmentally sensitive lands listed in Section 20-1101(d)(2)(i).**
- ~~(iii) Designate protected lands per the priority order in Section 20-1101(d)(2)(i).~~**
- (iv) Provide information on the ownership and maintenance responsibility for the protected lands.**
- (v) Provide information on the methods to be used to protect environmentally sensitive lands, both during construction and after.**

[Followed by remainder of Article 11.]

ARTICLE 17

The following definitions will be inserted into Section 20-1701:

Common Open Space: A **Parcel** of land, water, water course, or drainageway within a **development** site designated for a **Planned Development** or Cluster Housing Project, designed and intended for the use or enjoyment of all the residents and **Landowners** of the **Planned Development** or Cluster Housing Project. **Common Open Space**, except for **Common Open Space** designated as **Environmentally Sensitive Lands** **Natural Open Space**, may contain such supplementary **Structures** and improvements as are necessary and appropriate for the benefit and enjoyment of all the residents and **Landowners** of the **Planned Development** or Cluster Housing Project. Common open space shall not include space devoted to streets and parking areas.

Environmentally sensitive land (see below) shall be preserved in addition to Common Open Space.

Jurisdictional Wetland: Wetlands which are regulated by Section 404 of the Clean Water Act and are under the regulatory jurisdiction of the Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA).

~~Wetlands: Any parcel or portion of a parcel which meets the state or federal definition of Wetlands that are under the jurisdiction of state or federal laws. Synonymous with 'jurisdictional wetland'.~~

at least 500 square feet

Mature Trees, Stand of: An area of ~~1/2 acre~~ or more located on the 'development land area', per Section 20-1101(d)(2)(ii) **or on other contiguous residentially zoned properties in the area** covered by densely wooded growth of mature **containing** trees having a minimum height of **that are** 25 feet **or more in height, or are greater than 8" caliper, in an amount adequate to form a continuous or nearly continuous canopy. (Canopy may be determined from resources such as, but not limited to, NAIP, National Agricultural Imaging Program; City/County GIS aeriels; and field surveys.)**

Prominent Geographic Feature with Rocky Outcropping: surrounding **Grade** and covering an area of one (1) or more acres. Exposed rock area is 50% or more limestone or sandstone.

contiguous

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. **ephemeral stream where flow occurs for only a short time after extreme storms and does not have a well-defined channel, similar to a drainage way.**

The total width to be preserved shall be based on the characteristics of the soil, adjacent slope and vegetation, and shall be based on the amount including and beyond 100 feet on each side required to stabilize the stream in its natural unaltered or restored state.

Environmentally Sensitive Land: A Regulatory Floodway or Floodway Fringe, Jurisdictional wetland, Stream Corridor, and Stand of Mature Trees in addition to other land having Environmentally Sensitive Features listed below. Environmentally sensitive land is considered unbuildable and shall be preserved in its unaltered state..

Steep Slopes of 15% or greater which is adjacent to a stream or drainageway, including its vegetation.

Steep Slopes of 25% or greater.

Historically and archeologically important sites and structures.

Natural prairie of one acre or more.

Natural vegetation adjacent to a floodway or on a floodway fringe.

Floodplains designated to be preserved by the City or County Commission.

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

RECEIVED

SEP 21 2009

City County Planning Office
Lawrence, Kansas

September 20, 2009

Mr. Greg Moore, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

RE: ITEM NO.5: AMENDMENTS TO DEVELOPMENT CODE; ENVIRONMENTALLY SENSITIVE LAND

Dear Chairman Moore and Planning Commissioners:

You have received numerous letters from us on this issue and we continue to hope that you will correct some of the more obvious problems with the Section on Preservation of Environmentally Sensitive Land, 20-1101(d), and its other applicable sections in the Land Development Code. We have had continuing objections to the way this and the other related sections are being interpreted. When establishing amount of open space to be preserved in Planned Development and Cluster Development the minimum cited is accompanied by the term "at least," but this possibility seems to be ignored in the Code modifications. Below is a list of our continuing objections to the way this section is being presented and interpreted.

1. Common Open Space, as defined in Terminology does not lend itself to include Sensitive Lands in any significant way. "Open Space" does not include streets and parking, but it seems to include anything else, including paving, that isn't built on. This would include setbacks and space between buildings and driveways that are not used for parking. Therefore, the assumption in the Terminology is that Open Space need not be contiguous. Sensitive land generally does not occur this way. It often appears as one contiguous interdependent system. One City Commissioner suggested earlier this year, and we agree, that the sensitive lands should be preserved in addition to and separately from the minimum required open space.
2. In order to have any meaning, how much of a sensitive land feature is preserved really depends on what type of land it is, not on what proportion of a property ownership it constitutes. For example, streams, floodways, and floodplains do not lend themselves to being preserved piecemeal. Most streams are dependent on their immediate surroundings for remaining functional, which often include far more than the 100-foot corridor defining their protection. Forested slopes bordering them are often critical features that are needed for effective stream protection. Trails require contiguous land, not piecemeal preservation.
3. The amount of land required to be preserved is unrealistic compared to the much greater potential in the Code. For example, the minimum required to be preserved in a cluster development is 10%. Actually, cluster development has the potential for being the most effective method of sensitive land preservation. We calculated that an RS7 tract of 5 acres could allow 31 houses. If these were on 3,000 square foot lots, and subtracting a 60 foot through right-of-way, unused space would allow preservation of up to 44.4% of contiguous open space. A standard RS7 development requires almost that amount (30%) in unbuilt pervious surface on each lot.
4. Certain features weren't included that should have been, such as steep slopes, prairies, and not yet registered archeological and historic sites.
5. There continues to be a need for an effective means to prevent slashing and burning prior to development such as a development permit that prohibits land disturbance prior to development.

These are some of our continuing concerns. We sincerely hope that you will consider our concerns and suggestions for effective sensitive lands preservation.

Sincerely yours,

Kay Hale
Kay Hale, Co-President

Alan Black
Alan Black, Chairman, Land Use Committee