LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
CITY HALL, 6 EAST 6TH STREET, CITY COMMISSION MEETING ROOM
AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS
FEBRUARY 25 & 27, 2019  6:30PM - 10:30PM

GENERAL BUSINESS:

PLANNING COMMISSION ACTION SUMMARY
Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of December 17 & 19, 2018.

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of January 23, 2019.

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 by the City Engineer.
d) Disclosure of ex parte communications.
e) Declaration of abstentions from specific agenda items by commissioners.
f) General public comment.

AGENDA ITEMS MAY BE TAKEN OUT OF ORDER AT THE COMMISSION’S DISCRETION
REGULAR AGENDA (FEBRUARY 25, 2019) MEETING
PUBLIC HEARING ITEMS:
ITEM NO. 1 COMPREHENSIVE PLAN 2040

Continue discussion regarding the Comprehensive Plan 2040 for unincorporated Douglas County and the city of Lawrence. Topic discussion will include Natural Resources.

MISCELLANEOUS NEW OR OLD BUSINESS
Consideration of any other business to come before the Commission.

Recess until 6:30pm on February 27, 2019
BEGIN PUBLIC HEARING (FEBRUARY 27, 2019):

COMMUNICATIONS

a) Receive written communications from staff, Planning Commissioners, or other commissioners.

b) Disclosure of ex parte communications.

c) Declaration of abstentions from specific agenda items by commissioners.

d) General public comment.

AGENDA ITEMS MAY BE TAKEN OUT OF ORDER AT THE COMMISSION’S DISCRETION

REGULAR AGENDA (FEBRUARY 27, 2019) MEETING

PUBLIC HEARING ITEMS:

ITEM NO. 2 COMPREHENSIVE PLAN 2040

Continue discussion regarding the Comprehensive Plan 2040 for unincorporated Douglas County and the city of Lawrence. Topic discussion will include Natural Resources.

ITEM NO. 3 SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 1500 RHODE ISLAND ST (BJP)

SUP-18-00571: Consider a Special Use Permit for a non-owner occupied short-term rental, located at 1500 Rhode Island St in RS5 (Single-Dwelling Residential) Zoning District. Submitted by Jones Group LLC, property owner of record.

ITEM NO. 4 SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 1321 NEW HAMPSHIRE ST (KEW)

SUP-18-00611: Consider a Special Use Permit for a non-owner occupied short-term rental, located at 1321 New Hampshire St in RS5 (Single-Dwelling Residential) Zoning District. Submitted by Kern Inc on behalf of Rayna Burkhart, property owner of record.

ITEM NO. 5 SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 630 INDIANA ST (LRM)

SUP-18-00625: Consider a Special Use Permit for a non-owner occupied short-term rental, located at 630 Indiana St in RS5 (Single-Dwelling Residential) Zoning District. Submitted by Charles and Leda Sedlock, property owners of record.

**DEFERRED**

ITEM NO. 6 REZONING .15 ACRES FROM CS TO RS5; 1912 MASSACHUSETTS ST (BJP)

Z-18-00496: Consider rezoning approximately .15 acres from CS (Commercial Strip) District to RS5 (Single-Dwelling Residential) District, located at 1912 Massachusetts Street. Submitted by BLC Properties LLC, on behalf of Leslie Dunham and Martin Camino, property owners of record.

ITEM NO. 7 CONDITIONAL USE PERMIT FOR BIG SPRINGS QUARRY; 2 N 1700 RD (MKM)

CUP-18-00570: Consider an amended Conditional Use Permit to reduce the amount of the performance/reclamation bond required for Big Springs Quarry, located at 2 N 1700 Rd, Lecompton. Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record. Deferred by Planning Commission on 1/23/19.
ITEM NO. 8 TEXT AMENDMENT TO SUBDIVISION REGULATIONS; RESIDENTIAL PARCELS (MKM)

TA-18-00251: Consider a Text Amendment to the Subdivision Regulations revising the frontage and width requirements for Residential Development Parcels which front on, and take access from, a principal arterial to allow the creation of two Residential Development Parcels with a minimum of 1,320 ft of frontage; provided they share an access point on the roadway. Initiated by Planning Commission on 5/23/18. Deferred by Planning Commission on 9/26/18 & 1/23/19.

MISCELLANEOUS NEW OR OLD BUSINESS
Consideration of any other business to come before the Commission.

ADJOURN

CALENDAR

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

Sign up to receive the Planning Commission agenda or weekly Planning Submittals via email: http://www.lawrenceks.org/subscriptions
### Mid-Month & Regular Meeting Dates

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<thead>
<tr>
<th>Mid-Month Meetings, Wednesdays 7:30 - 9:00 AM</th>
<th>Mid-Month Topics</th>
<th>Planning Commission Meetings 6:30 PM, Monday and Wednesday</th>
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<td>Jan 9</td>
<td>STAR Rating/LEED for Cities &amp; Communities</td>
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<th>Suggested topics for future meetings:</th>
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<td>New County Zoning Codes</td>
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<td>Bus Tour – Development Patterns</td>
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### Meeting Locations

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

**Planning & Development Services | Lawrence-Douglas County Planning Division | 785-832-3150 | [www.lawrenceks.org/pds](http://www.lawrenceks.org/pds)**

Revised 2/20/19
### 2019 PLANNING COMMISSION ATTENDANCE

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### 2019 MID-MONTH ATTENDANCE

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January 23, 2019 – 6:30 p.m.
Commissioners present: Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, Willey
Staff present: McCullough, Crick, Day, Ewert, Kobe, Larkin, M. Miller, Mortensen, Weik

GENERAL BUSINESS

PLANNING COMMISSION ACTION SUMMARY
No minutes to receive.

COMMITTEE REPORTS
No reports to receive from any committees that met over the past month.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST
- Ex parte:
  Commissioner Willey said she received an email from Nick Kuzmyak regarding the SmartCode agenda items 13A-13D.
- No abstentions.

GENERAL PUBLIC COMMENT
No general public comment.
ITEM NO. 1 PRELIMINARY PLAT FOR LEGEND TRAIL ADDITION NO. 3; NW OF GEORGE WILLIAMS WAY & LAKE ESTATES DR (MKM)

PP-18-00574: Consider a Preliminary Plat for Legend Trail Addition No. 3, a one-lot residential subdivision of approximately 3.47 acres located NW of George Williams Way and Lake Estates Drive. Submitted by Castle Rock LC and BG Consultants, Inc. on behalf of Jell Inc, property owner of record.

STAFF PRESENTATION
Mary Miller presented the item.

APPLICANT PRESENTATION
David Hamby, BG Consultants, said he was working with the school district to vacate the easement.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
No commission discussion.

ACTION TAKEN
Motioned by Commissioner Butler, seconded by Commissioner Carttar, to approve the Preliminary Plat, PP-18-00574, for Legend Trail Addition No. 3.

Unanimously approved 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.
ITEM NO. 2  PRELIMINARY PLAT FOR NORTH LAWRENCE ADDITION NO. 20; 729 ELM ST (KCK)

PP-18-00568: Consider a Preliminary Plat for North Lawrence Addition No. 20, two lots, located at 729 Elm St. Submitted by Grob Engineering on behalf of Dorothy Miltner, property owner of record.

STAFF PRESENTATION
Kyle Kobe presented the item.

APPLICANT PRESENTATION
Dean Grob, Grob Engineering Services, was present for questions.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
No commission discussion.

ACTION TAKEN
Motioned by Commissioner Sinclair, seconded by Commissioner Weaver, to approve the Preliminary Plat, PP-18-00568, for North Lawrence Addition No. 20.

Unanimously approved 9-0 with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.
ITEM NO. 3 PRELIMINARY PLAT FOR OREAD WEST NO. 18; NW CORNER W 18TH ST & RESEARCH PARK DR (BJP)

PP-18-00569: Consider a Preliminary Plat for Oread West No. 18, one lot, located at the northwest corner of W. 18th Street and Research Park Drive (Plate No. U15768A04). Submitted by Grob Engineering on behalf of 1217Y LLC, property owner of record.

STAFF PRESENTATION
Becky Pepper presented the item.

APPLICANT PRESENTATION
Dean Grob, Grob Engineering Services, was present for questions.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
No commission discussion.

ACTION TAKEN
Motioned by Commissioner Struckhoff, seconded by Commissioner Paden, to approve the Preliminary Plat, PP-18-00569, for Oread West No. 18.

Unanimously approved 9-0 with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.
ITEM NO. 4  VARIANCE FOR W. MORRIS ADDITION NO. 1; 1801 W 23RD ST & 1807 W 23RD ST (SLD)

MS-18-00567: Consider a variance for reduction in right-of-way width from 150' to 100' for W. 23rd Street, associated with a Minor Subdivision for W. Morris Addition No. 1 (Starbucks), located at 1801 W 23rd St and 1807 W 23rd St and the tract of land known as Ridge Court. Submitted by Landplan Engineering for Team Players LLC and Emira-One LLC, property owners of record.

STAFF PRESENTATION
Sandra Day presented the item.

APPLICANT PRESENTATION
CL Maurer, Landplan Engineering, was present for questions.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
Commissioner Sinclair asked about the letter from First Med regarding Ridge Court being closed.

Day said the question of Ridge Court was not an item in front of Planning Commission this evening.

Maurer said Ridge Court was an access way owned by the bank and the bank was in charge of the maintenance. He said the bank and two other property owners have come to an agreement.

McCullough said the letter was a moot issue and the issues had been resolved.

ACTION TAKEN
Motioned by Commissioner Struckhoff, seconded by Commissioner Sinclair, to approve the variance requested for a minor subdivision, MS-18-00567, to reducing the right-of-way, required per Section 20-810(a)(5) for a principal arterial street, from 150 feet to 100 feet in accordance with the provisions for 1801 and 1807 W. 23rd Street.

Unanimously approved 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.
ITEM NO. 5  VARIANCE FOR UNIVERSITY FIELD SUBDIVISION NO. 6; 1739 W 19TH TERR (LRM)

**MS-18-00562:** Consider a variance to reduce lot width from 60’ to 50’, associated with a Minor Subdivision for University Field Subdivision No. 6, located at 1739 W 19th Terr. Submitted by Grob Engineering Services LLC for Mountain Top LLC, property owner of record.

**STAFF PRESENTATION**
Luke Mortensen presented the item.

**APPLICANT PRESENTATION**
Dean Grob, Grob Engineering Services, was present for questions. He showed a drawing of the placement of the house.

**PUBLIC COMMENT**
No public comment.

**COMMISSION DISCUSSION**
Commissioner Willey said she was in favor of infill.

Mortensen said he received several calls from neighbors who were concerned about the construction process but had no concerns about the variance.

**ACTION TAKEN**
Motioned by Commissioner Struckhoff, seconded by Commissioner Sands, to approve the variance requested for a minor subdivision, MS-18-00562, to reduce the lot width, required per Section 20-810(a)(2)(I) for Lot 3 University Field Subdivision No. 6, from 60 feet to 46 feet in accordance with the provisions per section 20-813(g) of the Land Development Code for property located at 1739 W. 19th Terrace.

Unanimously approved 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.
ITEM NO. 6  VARIANCE FOR PARKWAY PLAZA; 3512 CLINTON PKWY (LRM)

FDP-18-00575: Consider a variance to reduce a peripheral setback from 30’ to 20’ for the construction of 240 sq. ft. freezer addition to the existing structure, associated with a revised Final Development Plan for Parkway Plaza PCD, 23rd Street Brewery, located at 3512 Clinton Pkwy. Submitted by Tim A. Herndon Planning & Design on behalf of Llewellyn Land, LLC, property owner of record.

STAFF PRESENTATION
Luke Mortensen presented the item.

APPLICANT PRESENTATION
Tim Herndon, Tim A. Herndon Planning & Design, agreed with the staff report and was present for questions.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
Commissioner Willey asked if the setback pertained to the building envelope but not the parking or trash enclosure.

Mortensen said yes. He showed the site on the overhead. He said screening would be subject to the community design guidelines.

Commissioner Sinclair asked how many feet from the multi-use pathway.

Commissioner Willey said it was a pretty minor ask to allow a local business to maintain what they were already doing in the community.

Mortensen said there was roughly 30’ between the addition and the walkway.

Commissioner Sands said he was in support of it.

ACTION TAKEN
Motioned by Commissioner Sands, seconded by Commissioner Paden, to approve the variance requested for a final development plan, FDP-18-00575, to reduce the required peripheral setback, per Section 20-1008(d)(2) of the 1966 Zoning Code, for a planned commercial development, from 30 feet to 20 feet for property located at 3512 Clinton Parkway.

Unanimously approved 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.
ITEM NO. 7   CONDITIONAL USE PERMIT FOR BIG SPRINGS QUARRY; 2 N 1700 RD (MKM)

CUP-18-00570: Consider an amended Conditional Use Permit to reduce the amount of the performance/reclamation bond required for Big Springs Quarry, located at 2 N 1700 Rd, Lecompton. Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record.

STAFF PRESENTATION
Mary Miller presented the item.

APPLICANT PRESENTATION
Rich Eckert, Mid-States Ventures, talked about actual reclamation costs.

Cole Anderson was present for questions.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
Commissioner Willey asked the applicant what year Mid-States took over the Big Springs Quarry from Martin Marietta.

Eckhart said 2007.

Commissioner Willey asked if the original high insurance bond was due to the mess that Martin Marietta left behind when they finished quarrying at the site.

Miller said the bond was set in 1990 with the original application. She said the consultant submitted a letter with simple math stating how many acres and how much it would cost.

Commissioner Sinclair asked the applicant to monetize the difference in cost to Big Springs between $10,000 an acre and $3,000 an acre.

Eckert said a ballpark figure would be $10,000 for the $10,000.

Commissioner Sinclair said the bond comes into play if Big Springs goes under and another company needs to take over to clean up the site.

Eckert said for $3,000 Hamm could do it.

Commissioner Sands asked if Shawnee County was consulted.

Miller said she did not hear back from Shawnee County. She said other counties she talked to were not able to find why the performance bonds were set where they were because they were created in the past.
Commissioner Sands inquired about the difference for operation in Shawnee County versus Douglas County.

Eckert said it was a different operation. He said the amount was set before his time by Shawnee County. He said Big Springs was not quarrying on the Shawnee County side and currently paying zero.

Commissioner Willey said she was bothered by the deep discrepancy between other quarry operations. She wondered where the $10,000 number came from.

Miller said in 2008 an application was submitted to revise the Conditional Use Permit and the performance bond was requested to be reduced. She said staff asked for the cost of reclamation and the applicant provided three bids which came out to a little over $10,000 per acre.

Commissioner Willey said the issue of the bonding wasn’t so much what it would cost the current business to reclaim but if they were not available how to charge someone to do it afterward. She said she was tempted to go with the $3,000 because of the discrepancy in the county but it was possible the others could be wrong.

Commissioner Sands said the county engineer based the estimate on a 10 year old set of three bids.

Commissioner Carpenter said prices only go up, not down. He said the list looked like a lot of old sweetheart deals before reclamation was required. He was unsure when everything changed to require reclamation. He said if anything, the rest of the county was too low. He said $40,000 was probably too high but he was hesitant to deviate from that. He felt the bonding took into account some of the unpredictable and unknowns.

Commissioner Sands asked what a new quarry operation would be bonded at per acre.

Miller said the site consultant would estimate it based on the site specifics.

McCullough said Planning Commission should think about the intent of the bond, to provide enough funding for the worst-case scenario. He said the taxpayer would be the next source of funding if not through the bond.

Commissioner Butler said it was disproportionate to have such a high bond. She said she did not like focusing on numbers used in 2008 for present day. She would like to see bids with today’s numbers.

Commissioner Sands asked if this item would go to County Commission.

McCullough said yes.

Commissioner Willey asked if the applicant was comfortable providing updated bids.

Eckert said he would rather the item be deferred than take the staff recommendation of $10,000.

Commissioner Weaver asked about continued maintenance.
Eckert said it would depend on the property. He said if the property belongs to a land owner it would be their responsibility to maintain.

Commissioner Struckhoff said he did not have an issue with the county engineer recommendation of $10,000. He expressed concern about the competitiveness and discrepancy in the bond requirements. He said he wants to be sure the county is financially covered for worst-case scenarios.

ACTION TAKEN
Motioned by Commissioner Butler, seconded by Commissioner Carpenter, to move to defer the Conditional Use Permit to allow the applicant time to seek current bids on reclaiming the quarry.

Commissioner Paden said she was comfortable with $10,000 and felt it was better to be safe. She said state wide it seemed low. She asked about a timeframe for fees to increase.

Miller said the State was potentially looking to increase fees to $2,500 per acre but that she did not know a timeframe of when that might happen.

Eckert said no bill had been filed in the House or the Senate.

Commissioner Sinclair said the State Statute would be a minimum. He said he was open to deferring the item even though he would rather make a decision.

Motion carried 8-1, with Commissioner Paden voting against the motion. Commissioners Butler, Carpenter, Carttar, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor of deferral.
ITEM NO. 8 SPECIAL USE PERMIT FOR THE DARE CENTER; 944 KENTUCKY ST (MKM)

SUP-18-00564: Consider a Special Use Permit for a Temporary Shelter for The DARE Center, located at 944 Kentucky St. Submitted by the Coalition for Homeless Concerns Inc on behalf of James Dunn, property owner of record.

STAFF PRESENTATION
Mary Miller presented the item.

APPLICANT PRESENTATION
Loring Henderson, The DARE (Drop In And Rest) Center, said the facility would be open 2:30pm-6:30pm and serve the homeless population downtown. He said LINK closes at 2:30pm. He said many of the people downtown were not staying at the homeless shelter. He said there would be no programs or case managers but they would be a referral center. He said Ruth Stromberg, Freedom House, would provide some faith based activities at the center. He said his number would be available for the neighborhood to call him at any time regarding concerns.

Ruth Stromberg, Freedom House, expressed her passion for helping the homeless population.

PUBLIC COMMENT
Phil Hemphill, 937 Kentucky St, expressed concern about security for the neighborhood. He said the shelter would not take responsibility for their clients once they left the site. He said the homeless urinate, defecate, damage property, and trespass in the neighborhood. He said The Lawrence Community Shelter was supposed to be a one stop for all services. He said the community recreation center and library provide space for homeless to congregate. He asked Planning Commission to deny the Special Use Permit.

Guy Neighbors supported the Special Use Permit.

Lois Schneider, 1015 Kentucky St, said she had no issues from the nearby LINK. She said she understood the need for a drop in center but it needed to be strict. She asked that it only be granted for one year. She felt it needed to be monitored properly. She said she had to build a privacy fence to keep people from cutting through her property. She said she was willing to accept the drop in center if it was run correctly. She expected the City to make sure it was well taken care of and funded properly.

Jenny Robinson said the drop in center would be assisting those not served by the Lawrence Community Shelter. She spoke in favor of the Special Use Permit.

Mike Blumenthal, 1001 Kentucky St, expressed opposition to the Special Use Permit. He said he was concerned for his teenage daughter having to walk past the location. He did not feel it made common sense to have 20-50 homeless people congregating in his front yard. He said there was no plan for how the homeless would leave the site. He felt the applicant was good but the location was in the wrong place. He asked Planning Commission to deny the Special Use Permit, but if approved only permitted for one year. He said the neighbors would protest the Special Use Permit.
Paul DeGeorge, business owner of Wonder Fair at 841 Massachusetts St, voiced his support for the project. He said he was satisfied by the business plan put forward. He said the homeless were members of the community and had the right to exist and be present in public spaces.

Phil Dwyer, business owner of D & D Tire at 1000 Vermont St, asked Planning Commission to deny the Special Use Permit.

**APPLICANT CLOSING COMMENTS**
Henderson said it was a common sense proposal because Lawrence is a community and downtown is a place where homeless people go. He took exception to the comment about homeless people bothering or being a danger to teenage girls.

Stromberg felt they had a responsibility to break the cycle of poverty and this was the opportunity to do so.

**COMMISSION DISCUSSION**
Commissioner Carttar asked the applicant about rules for behavior. He wondered what the consequences would be for clients who fail to follow the rules.

Henderson said initially something would be said to the client and then if the behavior continued they would be told they could not come back for a period of time, depending on the severity of the issue.

Commissioner Willey said social services was an allowed use in the zoning district. She said it specifically has clientele of people who have no nighttime home. She asked if that was a legal form of discrimination in the Code.

McCullough said approximately 10 years ago staff did a lot of work in the Code regarding homeless issues. He said temporary shelter was defined in a very specific way in the Code and social service agency was also defined in a very specific way. He said this fit the definition of temporary shelter which required a Special Use Permit. He said as defined it did not have to be overnight. He said the issue of serving a population that did not have a regular nighttime residence was within that definition.

Larkin said typically those types of laws apply toward group homes within residential areas. He said that was typically where case law was from.

McCullough said they could be accessory to some religious institutions up to a certain threshold. He said they were not permitted by right in any zoning district. He said it was built to support the model of Family Promise at the time.

Commissioner Carpenter asked the applicant about training for volunteers.

Henderson said he was in the process of writing a training manual. He said the volunteers would receive regular training in such things as suicide prevention, violence, and opioid addition.

Commissioner Carpenter asked how many volunteers would be part of the center.

Henderson said approximately 28 people a week.

*Complete audio & video from this meeting can be found online: [https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/](https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/)*
Commissioner Carpenter asked what would be considered loitering on the premises.

Henderson said clients could hang out on the back side of the building and not seen from 10th & Kentucky Streets. He said loitering would be considered hanging out on the Kentucky side visible to the neighbors. He said there would be some coming and going on the 10th Street side from people coming from LINK. He said clients hanging out on the front porch or smoking on the front porch would not be wanted.

Commissioner Carpenter said the last City bus leaves about an hour after the DARE center would close.

Henderson said clients currently hang out some place now. He said it was the best he could do. He said if there was a severe blizzard he would see where clients were going and try to get them there.

Commissioner Butler said she was pleased to see this and felt it was needed in the community. She said she struggled with the issue of neighbors having the “not in our backyard mentality.” She agreed that the suggestion of individuals/teenage girls not being able to walk through the area without harm coming to them was not appropriate. She supported the Special Use Permit. She said part of the responsibility of law enforcement was to make sure people were safe and not doing illegal things they should not be doing in public spaces. She felt the facility would benefit the community.

Sands asked staff about the burden to the applicant for only a one year permit.

Miller said the application process would take about 3 months and cost $725.

Sands said he was in favor. He said four hours a day was a reasonable amount of time. He said he was concerned about only having two volunteers there at one time. He said this was a common sense approach to providing a limited amount of services to a part of the community that struggles to find services elsewhere. He said it was part of a bigger picture of serving the community.

Commissioner Sinclair asked staff to explain the process of enforcing a Special Use Permit if granted 3 years and things went south.

McCullough said the management plan and conditions lay out the plan for the Special Use Permit. He said if the center was operating outside of the hours of operation, for example, staff would investigate and seek compliance, and/or bring the Special Use Permit to the Commission requesting revocation of the use, if necessary. He said another option for compliance was for the applicant to seek revising the conditions. He said immediate issues of life/safety would involve police and fire.

Commissioner Sinclair asked if there was a congregation area in the back when the previous drop-in shelter was there.

Henderson said there was. He said there was a large carport awning but it was removed when the Lawrence Community Shelter moved. He said the back had always been used as a congregation area.

Complete audio & video from this meeting can be found online: https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/
Commissioner Willey asked the applicant he was the operator of the previous drop in center from 2001-2003.

Henderson said no, Tammy Clark was the Director of the Community Drop In Center which occupied half of the building. He said the Lawrence Open Shelter moved into the other half of the building. He said the two organizations merged and he became the Director of the Lawrence Community Shelter.

Commissioner Willey wondered if there was something to tell the neighbors about it being a better situation than the previous drop in center.

Henderson said the previous drop in center was a different entity than the Lawrence Community Shelter. He said neither organization had a management plan when they first started. He said the management plan came after the two organizations combined.

Commissioner Willey said this use filled a gap and need in the community. She said the four hour gap after LINK closes fit well with this. She said this was the first time she had seen a protest petition in the works prior to City Commission.

McCullough said there was a 14 day protest petition period and that staff would determine if it was valid. He said if valid there needed to be 4 out of 5 super majority vote by City Commission.

Commissioner Willey said one year may not be enough time to gather data if things are working. She said maybe two years duration would be better.

Commissioner Paden said she was not opposed to the Special Use Permit but parents do worry about children. She said dismissing people's concerns was not the way to go when there was a population with trauma and trouble they were trying to work through. She said it was important for neighbors to feel safe in their neighborhood. She said she would like to see a shorter time limit on the Special Use Permit. She said the community needed to provide resources for vulnerable populations.

Commissioner Willey said part of the management plan could include monitoring outside the building, at the street level, too.

Commissioner Paden said she would like to see programs that give people purpose.

Commissioner Carpenter said in working with members of the homeless population sometimes behaviors can appear threatening. He said they were members of the community. He said the proposal was filling a gap and he liked the idea of a drop in shelter. He said there would be issues and that was why it was a Special Use Permit. He said usually Special Use Permits had a timeframe of five years so he was comfortable with three years to see how it works. He said he would hope the neighbors would get to know the staff and volunteers and be involved. He said the drop in shelter worked at the site before.

Commissioner Struckhoff said in looking at the original Special Use Permit he did not see an occupancy limit. He said the occupancy limit was a strong restriction and he liked it. He felt the limited hours was appropriate. He said he was comfortable with the three year limit but would support a shorter duration.

**ACTION TAKEN**

Complete audio & video from this meeting can be found online: [https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/](https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/)
Motioned by Commissioner Paden, seconded by Commissioner Carpenter, to approve the Special Use Permit, SUP-18-00564, for the DARE drop-in center, and forwarding the item to the City Commission with a recommendation of approval subject to the conditions in the staff report.

Commissioner Paden asked about the management plan where it said there would be no computers on site.

Henderson said the library had computers. He said he met with library staff and they were comfortable with that.

Commissioner Sands said he would vote in favor although he liked the idea of reducing the time limit of the Special Use Permit.

Motion amended by Commissioner Paden, seconded by Commissioner Sands, to approve the Special Use Permit, SUP-18-00564, for the DARE drop-in center, and forwarding the item to the City Commission with a recommendation of approval subject to the following conditions (deleted text is struckthrough and new text is shown in **bold**):

1. Provision of an executed site plan performance agreement prior to the release of the approved plans for building permit.
2. The drop-in center, a *Temporary Shelter* use, is subject to the provisions laid out in the Operation and Management Plan and attachments except as enhanced or modified by the following:
   a. The maximum occupancy of the shelter is limited to no more than twenty (20) homeless guests and a total of thirty (30) total individuals including volunteers, counselors, interns, etc.
   b. A minimum of two staff/volunteers shall be present on the site during operational hours.
   c. Hours of operation are limited to 2:30 PM to 6:30 PM seven days per week.
   d. No loitering or outdoor use is permitted on the property outside of the operating hours.
3. The active property maintenance code violation on the property must be resolved prior to the release of the approved plans for building permit.
4. The special use permit shall expire **two** three years from the date of publication of the approving ordinance in the newspaper.
5. The Center will provide an annual report to the City Commission by March 1 each year which shall include the following information about the prior year’s activity at the shelter:
   a. The number of volunteers trained
   b. The number of guests served
   c. The date and outcome of the annual public meeting.

Commissioner Carttar said he would have supported the three years because the conditions were adequate. He said he would support the two year limit.

Commissioner Sinclair said City Commission was the final decision maker. He said he would vote against the motion because he did not think further time limits needed to be made.

*Complete audio & video from this meeting can be found online: [https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/](https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/)*
Approved 5-4, with Commissioners Butler, Carpenter, Sinclair, and Weaver voting against the motion. Commissioners Carttar, Paden, Sands, Struckhoff, and Willey voted in favor of the motion.

Commissioners Butler, Carpenter, and Sinclair said they were not against the Special Use Permit, just the reduced time limit.
ITEM NO. 9 SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 508 FLORIDA ST (BJP)

SUP-18-00556: Consider a Special Use Permit for a non-owner occupied short-term rental located at 508 Florida St in RM24 (Multi-Dwelling Residential) Zoning District. Submitted by Carrie Jackson on behalf of Jose Velasco, property owner of record.

STAFF PRESENTATION
Becky Pepper presented the item.

APPLICANT PRESENTATION
Guy Neighbors said it seemed dangerous to rent rooms to different people. He felt the number of cars should be more of an issue than the number of people staying in the building. He said he had not seen an instance where people were using a short-term rental as a party houses. He said guests and hosts were rated through sites such as Airbnb.

Carrie Jackson asked if the occupancy number included children or just adults. She said the property was kept in beautiful condition in order to get good ratings. She said bad ratings would mean they would receive no guests.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
Pepper said the occupancy limit was four unrelated people in RM24 zoning district. She said a family of six, for example, did not have to meet that unrelated occupancy limit.

McCullough said minors under the age of 18 did not count toward the occupancy. He said occupancy limits existed for long-term rentals and not created for the short-term rental use.

Commissioner Butler asked for the definition of family.

McCullough said essentially related by blood, marriage, adoption, or legal relation.

Commissioner Willey said Planning Commission had a robust discussion on the topic in 2018. She said she was in favor of the special use permit.

ACTION TAKEN
Motioned by Commissioner Carttar, seconded by Commissioner Sands, to approve a Special Use Permit, SUP-18-00556, for a non-owner occupied Short Term Rental use located at 508 Florida Street and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental Use shall comply with the occupancy limits of the zoning district in which the property is located. The subject property is zoned RM24 (Multi-Dwelling Residential) District, which allows a maximum number of 4 unrelated occupants per dwelling unit.

Complete audio & video from this meeting can be found online: https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/
2. Per Section 20-901 of the Land Development Code, the maximum number of available guest rooms associated with the non-owner occupied Short-Term Rental use may not exceed the number of off-street vehicle parking spaces available on the property. The off-street parking available for the subject property is 2 spaces; therefore, the maximum number of guest rooms that may be rented on a short-term basis is 2.

3. Per Section 20-554(3)(iii), the dwelling unit and site shall remain residential in appearance and characteristics. Internal or external changes that will make the dwelling unit and site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

4. Per Section 6-13A04(a) of the City Code, a short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use permit application.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.
ITEM NO. 10  SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 815 ALABAMA ST (KEW)


STAFF PRESENTATION
Katherine Weik presented the item.

APPLICANT PRESENTATION
Angela Nascimento said she had made many improvements to the property. She wondered if the fee would be annual.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
Weik said the annual short-term rental license registration fee was approximately $67.00. She stated the Special Use Permit application fee was a one-time fee of $725.00. She said to maintain the Special Use Permit the license registration would need to be renewed annually or it would lapse.

Commissioner Struckhoff said the license period was one year. He wondered how the lapse would occur after 12 months.

Weik said staff was trying to find a threshold where it would be considered abandoned or no longer in compliance. She said it would be assumed that in that period after renewal the rental registration staff would have contacted the property owner. After a certain number of contact attempts it would become apparent it would not be renewed.

McCullough said there was a provision in the Code that defined abandonment of a non-conforming use as a 12 month period. He said an owner could not legally operate without a license. He said the 12 month period of abandonment had more to do with the Special Use Permit and not the license itself.

Commissioner Willey asked what the fee was for the owner occupied short-term rental.

Weik said $67 annual license fee.

Commissioner Paden asked the applicant if she paid for repairs to the property but wasn't the owner.

Nascimento said yes.

ACTION TAKEN
Motioned by Commissioner Struckhoff, seconded by Commissioner Paden, to approve a Special Use Permit, SUP-18-00563, for a non-owner occupied Short Term Rental use located at 815 Alabama Street and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

Complete audio & video from this meeting can be found online:
https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/
1. Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental Use shall comply with the occupancy limits of the zoning district in which the property is located. The subject property is zoned RS5 (Single-Dwelling Residential) District. The zoning district in this area is single-family residential; therefore, a maximum of 3 unrelated occupants are permitted per dwelling unit.

2. Per Section 20-601 of the Land Development Code, the maximum number of available guest rooms associated with the non-owner occupied Short-Term Rental use may not exceed the number of off-street vehicle parking spaces available on the property. The off-street parking available for the subject property is four spaces; therefore, the maximum number of guest rooms that may be rented on a short-term basis is limited to four.

3. Per Section 20-554(3)(iii), the dwelling unit and site shall remain residential in appearance and characteristics. Internal or external changes that will make the dwelling unit and site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

4. Per Section 6-13A04(a) of the City Code, a short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use application.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.
ITEM NO. 11  SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 888 NEW HAMPSHIRE ST (KEW)

SUP-18-00565: Consider a Special Use Permit for non-owner occupied short-term rentals located at 888 New Hampshire St, Units 208, 209, & 216 in CD (Downtown Commercial) Zoning District. Submitted by First Management Inc on behalf of 100 E 9th LLC, property owner of record.

STAFF PRESENTATION
Katherine Weik presented the item.

APPLICANT PRESENTATION
Amanda Habiger, First Management, was present for questions.

PUBLIC COMMENT
Courtney Shipley said there was a hotel south of the property and wondered about the difference in parking requirements.

Weik said in the CD zoning district there was an exemption for parking. She said although parking was not required the hotel did provide parking.

COMMISSION DISCUSSION
Commissioner Sands said this was one of the cases that was in a more dense and multi-family area. He felt this was one of the dangers of short-term rentals and said there was potential for people to snatch up property and use it as investment property. He felt it was exacerbating housing issues.

Commissioner Paden asked if the applicant would pay the fee three times.

Weik said the applicant could register the three units under one fee because all three units were in the same structure.

McCullough said it would require three separate rental licenses but that the Special Use Permit would go with the property.

Commissioner Willey said she was comfortable with only three units and would support the Special Use Permit. She said they were still feeling their way with the new regulations.

Commissioner Sands wondered if this was the beginning of a wave.

Commissioner Paden said this was very much a commercial venture.

McCullough said the industry has evolved quickly. He said some multi-dwelling management companies were trying to churn some lease profit from un-occupied units.

Commissioner Sands wondered about a complaint in one unit applying to all units.

McCullough said it would be possible. He said it would depend on the nature of the complaint. He said revocation was a process and not automatic.
Commissioner Willey asked about units being used for short-term rental other than the ones approved.

McCullough said it could trigger a look into whether the applicant would need to amend the Special Use Permit to capture more units.

**ACTION TAKEN**

Motioned by Commissioner Sinclair, seconded by Commissioner Weaver, to approve a Special Use Permit, SUP-18-00565, for a non-owner occupied Short Term Rental use located at 888 New Hampshire Street and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental Use shall comply with the occupancy limits of the zoning district in which the property is located. The subject property is zoned CD-UC (Downtown Commercial with Conservation Overlay) District. The approved site plan designated this structure for multi-dwelling apartments; therefore, a maximum of 4 unrelated occupants are permitted per dwelling unit.

2. Per Section 20-601 of the Land Development Code, the maximum number of available guest rooms associated with the Non-owner Short-Term Rental use may not exceed the number of off-street vehicle parking spaces available on the property. Off-street parking is not required in the CD district per Section 20-901(f); therefore, the maximum number of guest rooms that may be rented on a short-term basis is not limited by parking.

3. Per Section 20-554(3)(iii), the dwelling unit and site shall remain residential in appearance and characteristics. Internal or external changes that will make the dwelling unit and site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

4. Per Section 6-13A04(a) of the City Code, a short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use application.

Commissioner Carttar said this gave him pause and he would vote against it.

Commissioner Carpenter felt this deserved more discussion and more tweaks so he would vote against the motion.

Commissioner Sands said there was a fine line between property rights and the rules established.

Commissioner Willey said she would vote in favor in order to have people start to fall into compliance and evaluate the rules if needed.
Motion carried 6-3, with Commissioners Carpenter, Carttar, and Sands voting against the motion. Commissioners Butler, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in favor.
ITEM NO. 12  SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 921 HOLIDAY DR (MKM)

SUP-18-00572: Consider a Special Use Permit for a non-owner occupied short-term rental located at 921 Holiday Dr in PUD (Planned Unit Development) Zoning District. Submitted by Bingham Investment LLC, property owner of record.

STAFF PRESENTATION
Mary Miller presented the item.

APPLICANT PRESENTATION
Ron and Carlie Bingham said they purchased the property six months ago as an investment property and have greatly improved the house.

PUBLIC COMMENT
Sheri Ellenbecker expressed concern for the safety of children walking in the neighborhood without sidewalks and increased traffic. She said she did not have an issue with owner occupied short-term rentals but saw non-owner occupied short-term rentals as hotels. She wondered who would be enforcing whether the renters were related. She said she expected to have neighbors, not a hotel with a lockbox.

APPLICANT CLOSING COMMENTS
Ron Bingham said he was only going to offer the house to a single person or single family and not rent to a different guest in each room. He said he had rented to two guests already and had no issues. He understood the concerns expressed. He said he owned other rental properties and had been thanked by neighbors for increasing the property values.

Carlie Bingham said she was very particular about who rented the house and only rented to those that have rented previously on Airbnb. She said she is available to guests but also has a local host in Lawrence that would check on the house.

COMMISSION DISCUSSION
Commissioner Struckhoff said Holiday Drive was a very nice street and this was one of the nicer properties on the street.

Willey said the concern was the property being a four unit hotel.

Bingham said the house had been rented twice and one of the families used all five bedrooms. He said parking was available in the driveway for six vehicles but it would overlap the right-of-way.

Miller said all off-street parking had to be on the property and off the right-of-way.

McCullough said the code requirement was one parking space per guest room. He said the five bedrooms was not the issue. The issues was that without seeking a variance they could not get to the five rooms with the parking on-site with two parking spots in the garage and two in the driveway.

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Commissioner Carttar asked about the potential for a variance since no pedestrian traffic was being blocked with no sidewalk.

McCullough said a variance would go to the Board of Zoning Appeals.

Commissioner Willey said the intention of the parking was to try and balance additional traffic and people. She said the parking restrictions meant no more traffic in the neighborhood than if it were a long-term rental, just not the same people from week to week. She stated whether that was the right balance they were still figuring it out.

McCullough said the parking was a way to limit the scope.

Ellenbecker wondered how relatives would be verified.

McCullough said in the licensing portion of short-term rental is an acknowledgement signed form that the applicant has read and received the occupancy limits. He said it is a complaint based enforcement mechanism. He said enforcing occupancy was a challenge for staff. He stated it was enough of an issue for a proprietor that they were going to want to stay within the limits. He said if needed, staff would gather evidence and pursue enforcement similar to long-term rentals. He said it would take a little bit of observation by the neighborhood.

Commissioner Willey asked the applicant if he would be willing to share his contact information with neighbors.

Bingham said yes, the adjacent neighbors had his contact information.

Commissioner Carttar said the idea behind the language in the code was to give structure to the relationship between landlords and renters and provide enforcement structure. He said there were some areas that Code & Enforcement could not guarantee everyone was happy. He said the Bingham’s cultivating a relationship with neighbors goes a long way. He said he would vote in favor of the Special Use Permit.

**ACTION TAKEN**

Motioned by Commissioner Butler, seconded by Commissioner Carttar, to approve a Special Use Permit, SUP-18-00572, for a non-owner occupied Short Term Rental use located at 921 Holiday Drive and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental Use shall comply with the occupancy limits of the zoning district in which the property is located. The subject property is zoned PUD-[Holiday Hills No. 7] (Planned Unit Development) District. This was an overlay district which relied on the base underlying district, in this case RS-2 (Single Family Residential) District, and the approved development plan for the permitted uses and density. The approved plan designated this area for single-family residential uses; therefore, a maximum of 3 unrelated occupants are permitted per dwelling unit.

2. Per Section 20-601 of the Land Development Code, the maximum number of available guest rooms associated with the Non-owner Short-Term Rental use may not exceed the
number of off-street vehicle parking spaces available on the property. The off-street parking available for the subject property is four spaces; therefore, the maximum number of guest rooms that may be rented on a short-term basis is limited to four.

3. Per Section 20-554(3)(iii), the dwelling unit and site shall remain residential in appearance and characteristics. Internal or external changes that will make the dwelling unit and site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

4. Per Section 6-13A04(a) of the City Code, a short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use permit application.

Unanimously approved 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.
ITEM NO. 13A COMMUNITY INFILL PLAN; SMARTCODE (SLD)

Consider a request to establish a Community Infill Plan associated with a SmartCode application at 1401 W 23rd St & 1300 W 24th St. Submitted by Opus Development Company LLC, for George B. Leinmiller and Marlene J. Leinmiller, property owners of record.

ITEM NO. 13B REZONING 5.2 ACRES FROM CS & RM32 TO SMARTCODE T-5; 1401 W 23RD ST & 1300 W 24TH ST (SLD)

Z-18-00536: Consider a request to rezone approximately 5.2 acres from CS (Strip Commercial) District & RM32 (Multi-Dwelling Residential) District to SmartCode T-5, located at 1401 W 23rd St & 1300 W 24th St. Submitted by Opus Development Company LLC, for George B. Leinmiller and Marlene J. Leinmiller, property owners of record.

ITEM NO. 13C PRELIMINARY DEVELOPMENT PLAN; 1401 W 23RD ST & 1300 W 24TH ST (SLD)

PDP-18-00537: Consider a Preliminary Development Plan (Community Infill Plan - SmartCode) for 23rd Street Mixed Use development including 119 residential units for a density of 27 dwelling units per acre and 8,811 square feet of retail space on property located at 1401 W 23rd St & 1300 W 24th St. Submitted by Opus Development Company LLC, for George B. Leinmiller and Marlene J. Leinmiller, property owners of record.

ITEM NO. 13D VARIANCE FOR 23RD STREET; 1401 W 23RD ST & 1300 W 24TH ST (SLD)

MS-18-00535: Consider a variance for right-of-way width for 23rd Street, associated with a Minor Subdivision for 1401 W 23rd St & 1300 W 24th St. Submitted by Opus Development Company LLC, for George B. Leinmiller and Marlene J. Leinmiller, property owners of record.

STAFF PRESENTATION
Sandra Day presented Items 13A-13D together.

APPLICANT PRESENTATION
Rita D'Agostino, Opus Development, provided background information on the company.

Patrick Watkins said it was a unique property with unique design constraints. He said using the SmartCode was a great accomplishment. He felt the SmartCode was designed specifically for properties like this one. He said incentives were not being requested. He said the developer held several neighborhood meetings and solicited input from the surrounding neighborhoods. He said they only received positive feedback. He felt there was adequate parking at the site. He asked for action as soon as possible so development could stay on target.

PUBLIC COMMENT
Michael Almon, Sustainability Action Network, felt the project could be enhanced with bikeways. He showed pictures from the letter he submitted that was included in the packet. He expressed concern about the frontage on 23rd Street not being able to accommodate a 10' wide shared-use path. He said the existing 10' wide shared-use path on Naismith conflicted with two major driveways; Natural
Grocers and the proposed site. He felt the driveways should be combined into one with a shared-use
cross access agreement to minimize vehicle conflict.

Nick Kuzmyak, 417 Alabama, said he supported the project but wondered why mixed-use zoning was
not considered. He felt it would do everything that the SmartCode could.

APPLICANT CLOSING COMMENTS
Watkins said he was present for questions that Planning Commission may have.

COMMISSION DISCUSSION
Commissioner Carpenter asked the applicant why they chose to use the SmartCode.

Watkins said he was not involved in the project early on and did not know the exact reason. He said
the project implements the elements desired in the SmartCode, such as infill, multi-modal aspects,
mixed-uses, and compact design. He said Opus Development had experience with transect zoning
issues across the country and had success with them.

Ben Angelo, Opus Development, said the intent would be that 23rd Street would use the SmartCode
over time. He said they felt the SmartCode was a better route to take than traditional codes.

McCullough said staff talked about it being a single project use of the SmartCode. He said one of the
regulating plans was for 19th and Haskell. He said it was the smallest single parcel closest to this
model in the Placemaking literature developed for Lawrence. He said staff looked at the Louisiana
Purchase site, Checkers area, and Iowa area. He said this would be one project within that
developing area. He said the real benefit in using the SmartCode versus the Development Code was
the parking requirements. He said the SmartCode was attempting to address many of the values
evolving in discussions with the comprehensive plan and parking requirements. He said staff thought
it was a good time to see it in action. He said if they were going to talk about reducing parking
requirements to encourage less vehicle travel miles it was time to put it to a test.

Day said the SmartCode had a couple of specific chapters that dealt with site specific developments.
She said had the applicant chosen a property already approved Planning Commission would likely
only be seeing the rezoning. She said there were many more steps to go through.

Commissioner Sands asked what protection the SmartCode provided in giving some guarantee of the
final project.

Day said it gives the same kinds of assurances that a preliminary plan or neighborhood plan would.

McCullough said the applicant would have to comply with the community infill plan.

Commissioner Willey said the T-5 concept was a great fit. She said it was maybe not as progressive
as a SmartCode project should be. She felt there was too much parking. She felt it was a great
location because of the grocery stores, restaurants, the University of Kansas, bicycle paths, parks,
etc. She felt the civic space was too small.

Commissioner Struckhoff agreed that there was too much parking. He said parking would not bleed
into the neighborhoods at this location. He said people would adapt to less parking. He liked the

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location to services and goods. He was excited about the project but felt there was room for tweaking it.

Commissioner Carttar thanked Michael Almon for his comments. He encouraged the applicant to take the multi-modal notion and run with it. He said the future of 23rd Street depended on increased pedestrian and bicycle traffic.

Commissioner Paden said the bicycle plan was identified as a future 10’ shared use path.

Commissioner Willey said there was a need for civic space on that portion of the project on 23rd Street. She asked the applicant about the terrace labeled as civic space.

Gary Schuberth, Opus Development, said the terrace would support the retail tenants by being an open outdoor terrace and could be accessed from the public sidewalk. He said regarding the parking the project exceeded the parking minimum.

Commissioner Willey suggested bioswales to mitigate water runoff from the parking lot.

Schuberth said the project met all of the stormwater management requirements.

Judd Claussen, Phelps Engineering, said he would continue to look at options to enhance the bike oasis. He said the entire site drains toward the southeast corner.

**ACTION TAKEN on 13D**
Motioned by Commissioner Sands, seconded by Commissioner Carttar, to approve the variance requested for a minor subdivision, MS-18-00535, reducing the right-of-way required per Section 20-810(a)(5) for a principal arterial street, from 150 feet to 110 feet in accordance with the provisions for 1401 W. 23rd Street.

Approved 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.

**ACTION TAKEN on Item 13B**
Motioned by Commissioner Carttar, seconded by Commissioner Sands, to approve the request to rezone (Z-18-00536) approximately 5.2 acres from CS (Strip Commercial) District & RM32 (Multi-Dwelling Residential) District to SmartCode T-5 (Urban Center Zone) based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Approved 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.

**ACTION TAKEN on Items 13A & 13C**
Motioned by Commissioner Struckhoff, seconded by Commissioner Sands, to approve the Preliminary Development Plan (PDP-18-00537)/Infill Community Plan – SmartCode, based upon the findings of fact presented in the body of the staff report, and forwarding a recommendation for approval to the City Commission with the following revisions recommended for the project:

Complete audio & video from this meeting can be found online: [https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/](https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/)
• Optimizing multi-modal transportation.
• Making space available for a future recreation path along 23rd Street.
• Connecting the sidewalk to Naismith Drive to the project south of the Natural Grocer site.
• Idea and goal of reducing parking appropriately.
• Implementing best management practices for greener stormwater management, such as bioswales.

Approved 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.
ITEM NO. 14  TEXT AMENDMENT TO SUBDIVISION REGULATIONS; RESIDENTIAL PARCELS (MKM)

TA-18-00251: Consider a Text Amendment to the Subdivision Regulations revising the frontage and width requirements for Residential Development Parcels which front on, and take access from, a principal arterial to allow the creation of two Residential Development Parcels with a minimum of 1,320 ft of frontage; provided they share an access point on the roadway. Initiated by Planning Commission on 5/23/18. Deferred by Planning Commission on 9/26/18.

ACTION TAKEN
Motioned by Commissioner Struckhoff, seconded by Commissioner Carttar, to defer Item 14.

Motion carried 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor to defer.
PC Minutes 1/23/19

MI SCELLANEOUS NEW OR OLD BUSI NESS
Consideration of any other business to come before the Commission.

MISC NO. 1  COMPREHENSIVE PLAN
Receive tentative schedule for Planning Commission discussion of the draft Plan 2040.

Motion by Commissioner Willey, seconded by Commissioner Carpenter, to accept the schedule for discussion of the draft Plan 2040.

Motion carried 9-0, with Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor.

ADJOURN 12:18am
Plans & Documents

- Horizon 2020
- Sector/Area Plans
- Transportation 2040
- 2015 Retail Market Study

Development Regulations

- Community Design Manual
- County Zoning Regulations
- City Land Development Code
- Subdivision Regulations

Online Mapping

- City of Lawrence Interactive GIS Map
- Douglas County Property Viewer
- Submittals to the Planning Office

Planning Commission

- Bylaws
- Mid-Months & Special Meetings
- Minutes
- Planning Commission Schedule/Deadlines
Memorandum
City of Lawrence
Planning and Development Services

TO: Lawrence – Douglas County Planning Commission
FROM: Planning Staff
DATE: For the February 25th, 2019 Planning Commission meeting
RE: Connection Mapping of Horizon 2020, Ch. 16: Environment to Plan 2040

During the Planning Commission’s Plan 2040 discussion, this connection mapping memo was completed to review the transition of the existing policies in Chapter 16 of Horizon 2020 to the current draft of Plan 2040. This memo links the goals and action items of Plan 2040 to the goals and policies in Chapter 16 of Horizon 2020, which is the most equal comparison possible between the two documents.

One of the eight priority items the Steering Committee identified was enhancing the readability of the plan. Creating a comprehensive plan that is accessible, concise, and clearly written is a goal of both the community and of the Steering Committee. (Issue Action Report, p.8) To help set the formatting, syntax, and design of Plan 2040, the Steering Committee reviewed the redesign at their June 13th, 2016 Steering Committee meeting.

The overall intent of Plan 2040 is to strongly integrate the Community Vision and its principles throughout the plan as a whole, which include: “preserving and enhancing the natural environment for our enjoyment and for future generations.” (draft Plan 2040, p.3) Certain values and concepts were singularly contained in Chapter 16 of Horizon 2020. Within Plan 2040, staff intentionally diffused those concepts and values throughout the document, while also reframing policy statements to read less like code in order to allow for more ways to implement a goal or policy.

Any given goal or policy from Horizon 2020 may not appear verbatim in Plan 2040, however, the spirit and intent of that goal may take many forms to become a common concept throughout the plan. Similarly, other goals and policies were revised to: address readability, improve practicality and appropriateness, and strengthen their connection to the community’s vision and values.
A deliberate decision was made to omit the strategies level elements of Horizon 2020 for this connection mapping analysis. There were several reasons for this:

- Many of these items read as a hybrid of land use plan language and code language
- Plan 2040 is intended to be a collection of higher policy level statements
- Whereas, Horizon 2020 utilized action/implementation language throughout the document; Plan 2040 is conceived as a way to prioritize goals and objectives while leaving methods and tools to more appropriate documents and best management practices

Elements from Plan 2040 that correspond with elements from Horizon 2020 are identified in one of four ways:

<table>
<thead>
<tr>
<th>Connection Type</th>
<th>Ch. 2</th>
<th>Ch. 3</th>
<th>Ch. 4</th>
<th>Ch. 5</th>
<th>Ch. 6</th>
<th>Ch. 7</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct</td>
<td>74</td>
<td>6</td>
<td>3</td>
<td>0</td>
<td>37</td>
<td>3</td>
<td>123</td>
</tr>
<tr>
<td>Indirect</td>
<td>376</td>
<td>53</td>
<td>6</td>
<td>7</td>
<td>18</td>
<td>190</td>
<td>650</td>
</tr>
<tr>
<td>Outside of scope</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4</td>
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<td>Not addressed</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>450</td>
<td>59</td>
<td>9</td>
<td>7</td>
<td>55</td>
<td>193</td>
<td>773</td>
</tr>
</tbody>
</table>

There are notes attached to some of the goals and policies that expand on broad definitions.

When reading this document, note that each goal or policy indicated in bold is taken directly from Chapter 16 of Horizon 2020. The table below each is divided into Direct and Indirect connections with goal and action item statements from Plan 2040. The reference style of the noted connections follows the format described immediately preceding this paragraph. The connections within each are grouped by chapter into rows. Goals or policies that have no direct or indirect connections are indicated with either ‘Outside of scope’ or ‘Not addressed.’
**WATER RESOURCES AND MANAGEMENT**

**Water Quality | Flooding | Recreation**

**Goal 1:** Properly manage all water resources, including Drainage Areas, Surface Watercourses, Wetlands, Sub-surface Waterways, Floodplain areas, and Stormwater runoff, in order to protect natural habitats, mitigate hazards, and ensure water quality.

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.6, 2.D.4.2</th>
</tr>
</thead>
</table>

**Notes**

Transportation 2040 is incorporated by reference into Plan 2040.

**Policy 1.1:** Planning at the watershed level should be implemented to mitigate development impacts on a large scale. This could include development of a county wide drainage area plan that would identify the drainage areas and set out goals and policies specific to each area.

**Outside of scope**

**Policy 1.2:** Preserve and protect natural surface watercourses.

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.6, 2.D.4.2</th>
</tr>
</thead>
</table>

**Notes**

**Policy 1.3:** Improve and maintain water quality, particularly sources of public drinking water, through watershed protection measures.

<table>
<thead>
<tr>
<th>Direct</th>
<th>6.1.1, 6.1.6</th>
</tr>
</thead>
</table>

**Notes**
Policy 1.4: **Preserve and protect wetlands and the various functions they serve.**

| Direct  | 2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.6, 2.D.4.2
|         | 6.1.7
|         | 7.B.5, 7.B.5.1, 7.B.5.2, 7.B.5.3

Notes

Policy 1.5: **Protect sub-surface water resources.**

| Direct  | 6.1.9
| Indirect| 2.A.1.2, 2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.6, 2.D.4.2

Notes

Policy 1.6: **Protect floodplain areas to maintain the carrying capacity of the floodplain and mitigate potential hazards to human life.**

| Direct  | 2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.4, 2.D.1.6, 2.D.4.2
|         | 6.1.8

Notes

Policy 1.7: **Develop stormwater management policies and programs in a manner that ensures water quality and properly controls runoff.**

| Direct  | 6.1.10

Notes
LAND RESOURCES AND MANAGEMENT

Open Space Network | Agricultural Soils

Goal 2: **Properly manage all land resources, including soils, woodlands, native prairies, wildlife habitats, viewsheds and open spaces, to maintain the functions they provide, ensure the sustainability of the resources, and improve the environmental quality of the City of Lawrence and unincorporated Douglas County.**

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.6, 2.D.4.2</th>
<th>6.2, 6.2.6</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1.4, 3.4.4, 3.4.8, 3.5.1</td>
<td>Chapter 4: Transportation</td>
<td></td>
</tr>
<tr>
<td>5.3.6</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes: *Transportation 2040 is incorporated by reference into Plan 2040.*

Policy 2.1: **Development should maintain the natural benefits of existing topography. Development on steep slopes (above 15%) should be done in a manner that encourages the use of the existing topography with minimal grading to minimize adverse effects.**

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.B.2.2, 2.B.2.4, 2.B.5.2, 2.B.5.3, 2.C.3.9, 2.D.1.6, 2.D.4.2</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.2.1</td>
<td></td>
</tr>
<tr>
<td>Indirect</td>
<td>2.D.1.5</td>
</tr>
</tbody>
</table>

Notes

Policy 2.2: **Preserve and sustain woodlands within Douglas County.**

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.6, 2.D.4.2</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.2.2, 6.2.3</td>
<td></td>
</tr>
<tr>
<td>7.B.5, 7.B.5.1, 7.B.5.2, 7.B.5.3</td>
<td></td>
</tr>
</tbody>
</table>

Notes
### Policy 2.3: Preserve and protect native prairie.

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.6, 2.D.4.2, 6.2.4</th>
</tr>
</thead>
</table>

### Policy 2.4: Preserve and protect natural habitats.

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.6, 2.D.4.2, 6.2.5, 6.2.9</th>
</tr>
</thead>
</table>

### Notes

#### Notes

While Chapter 7 makes numerous references to the concepts of this policy, it would be best if a specific plan was considered in the future, which could be incorporated by reference into Plan 2040.

### Policy 2.5: Along with community members in Douglas County, identify and define important features that contribute to viewsheds, as well as establish possible protections for viewsheds. At such time, further policies relating to viewsheds may need to be addressed.

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.A.1, 2.A.1.1, 2.A.1.2, 2.B.2.2, 2.B.2.4, 2.B.5.2, 2.B.5.3, 2.C.1, 2.C.3.9, 2.D.1.6, 2.D.2, 2.D.4.2, 3.3.1, Chapter 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect</td>
<td>3.3.1, Chapter 7</td>
</tr>
</tbody>
</table>

### Notes

#### Notes

While Chapter 7 makes numerous references to the concepts of this policy, it would be best if a specific plan was considered in the future, which could be incorporated by reference into Plan 2040.

### Policy 2.6: Preserve existing open space and create new open space areas to preserve and expand a sustainable green infrastructure system.

|--------|--------------------------------------------------|

### Notes
Policy 2.7: Encourage the protection of High Quality Agricultural Land in Douglas County for current and future agricultural use.

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.A.1.4, 2.A.1.5, 2.A.1.6, 2.B.2.2, 2.B.5.2, 2.C.3.9, 2.D.1.6, 2.D.4.2 6.2.7, 6.2.8</th>
</tr>
</thead>
</table>

Notes

**AIR RESOURCES AND MANAGEMENT**

Outdoor Air Pollution | Excessive Greenhouse Gases | Indoor Air Pollution

Goal 3: Improve indoor and outdoor air quality in order to mitigate impacts to human, animal and plant life in Douglas County.

<table>
<thead>
<tr>
<th>Direct</th>
<th>6.3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect</td>
<td>3.4.3</td>
</tr>
</tbody>
</table>

Notes

Policy 3.1: Improve air quality through reduction in emissions from vehicle exhaust by reducing the number of vehicle miles traveled.

<table>
<thead>
<tr>
<th>Direct</th>
<th>6.3.1</th>
</tr>
</thead>
</table>

Notes Transportation 2040 is incorporated by reference into Plan 2040.

Policy 3.2: Reduce emissions from vehicle exhaust and encourage the use of more energy efficient vehicles.

<table>
<thead>
<tr>
<th>Direct</th>
<th>6.3.6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect</td>
<td>6.3.3</td>
</tr>
</tbody>
</table>

Notes

Policy 3.3: Reduce emissions of non-vehicular air toxics as listed by the EPA.

<table>
<thead>
<tr>
<th>Direct</th>
<th>6.3.3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect</td>
<td>6.3.2, 6.3.6</td>
</tr>
</tbody>
</table>

Notes
Policy 3.4: **Adopt and implement the standards in the Federal Clean Air Mercury Rule to reduce the mercury emissions in the area.**

Outside of scope

Policy 3.5: **Develop Land Use Planning regulations and incentives to reduce greenhouse gas emissions to acceptable levels.**

<table>
<thead>
<tr>
<th>Direct</th>
<th>6.3.2</th>
</tr>
</thead>
</table>

Chapter 4: Transportation

5.3.6

6.3.1, 6.3.3, 6.3.5

7.A.2.1, 7.C.1, 7.C.1.4

Notes | Transportation 2040 is incorporated by reference into Plan 2040.

Policy 3.6: **Improve indoor air quality to maintain and improve the health of our community.**

<table>
<thead>
<tr>
<th>Direct</th>
<th>6.3.4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect</td>
<td></td>
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</tbody>
</table>

Notes

Policy 3.7: **Work with agencies to implement the above policies in order to keep Douglas County from becoming a non-attainment area as defined by the Environmental Protection Agency.**

<table>
<thead>
<tr>
<th>Direct</th>
<th>T2040</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect</td>
<td></td>
</tr>
</tbody>
</table>

Notes | Transportation 2040 is incorporated by reference into Plan 2040.

**RESOURCE MANAGEMENT**

Resources

Goal 4: **Properly manage marketable resources to ensure the sustainability of the resources and improve the environmental quality of the City of Lawrence and unincorporated Douglas County.**

<table>
<thead>
<tr>
<th>Direct</th>
<th>6.4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect</td>
<td>2.A.1, 2.A.1.4, 2.B.2.4, 2.B.5.3</td>
</tr>
</tbody>
</table>

Notes
Policy 4.1: **Identify and properly manage marketable natural resources.**

<table>
<thead>
<tr>
<th></th>
<th>Direct</th>
<th>Indirect</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6.4.1, 6.4.2</td>
<td>2.A.1.4, 2.B.2.4, 2.B.5.3</td>
</tr>
</tbody>
</table>

**Notes**

WASTE MANAGEMENT

Waste Management

**Goal 5:** **Properly manage all waste, including solid and hazardous waste, in order to reduce, reuse and recycle the majority of the waste that is produced in Douglas County.**

<table>
<thead>
<tr>
<th></th>
<th>Direct</th>
<th>Indirect</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6.5</td>
<td></td>
</tr>
</tbody>
</table>

**Notes**

This connection is intended to serve as the indicator that the Waste Management subsection corresponds entirely and exclusively with Chapter 6, Goal 5 and its subsequent action items.

Policy 5.1: **Manage solid waste through a program that emphasizes the principles of Reduce, Reuse, and Recycle.**

**Outside of scope**

Policy 5.2: **Maintain support for and improve the Lawrence-Douglas County Household Hazardous Waste Program to ensure that household hazardous waste is disposed of properly.**

**Outside of scope**
HUMAN AND BUILT ENVIRONMENT

Sustainability | Healthy and Active Lifestyles | Local/Regional Food

Goal 6: **Mitigate negative impacts to the human and built environment caused by noise pollution, light pollution and development activities in order to promote a sustainable, healthy, and active lifestyle for the residents of Douglas County.**

| Indirect | 2.A.1, 2.B.2.7, 2.B.5.6, 2.C.2.2, 2.C.3, 2.D.1, 2.D.1.8, 2.D.4 |

Chapter 4: Transportation
5.3.6
6.6

Notes: *Transportation 2040 is incorporated by reference into Plan 2040.*

**Policy 6.1:** Mitigate noise pollution by using appropriate land use buffers, limits on noise levels, and limits on operating hours.

| Direct | 2.C.2.1 |
| Indirect | 2.A.1, 2.B.2.7, 2.B.5.6, 2.C.2.2, 2.C.3, 2.D.1, 2.D.1.8, 2.D.4 |

Notes

**Policy 6.2:** Continue to develop and implement standards that will limit light trespass, glare and sky glow, by establishing design guidelines for the type and placement of industrial, commercial and residential lighting.

| Direct | 2.C.3, 2.D.1, 2.D.4 |
| Indirect | 2.A.1, 2.A.1.1, 2.C.1.6, 2.C.2.2, 2.D.1.1, 2.D.1.8, 2.D.3.4 |

Notes
Policy 6.3: The City of Lawrence and Douglas County should encourage the promotion of healthy and active lifestyles for its residents through the use of standards regarding transit options, pedestrian connectivity, multi-use recreational paths, increased open space preservation, etc. Those standards should also include tools, such as Health Impact Assessment, that measure the long-term health effects of projects.

| Direct          | 2.B.7.7, 2.B.7.8 |
|                | 3.1.4, 3.4.8, 3.5.3 |
|                | Chapter 4: Transportation |
|                | 6.6.3, 6.6.4 |
|                | 3.1.1, 3.1.5, 3.4, 3.4.3, 3.4.4, 3.4.11, 3.5.1, 3.5.2 |

Notes: Transportation 2040 is incorporated by reference into Plan 2040.

Policy 6.4: Develop a sustainable transportation system.

| Direct          | 2.C.1.7, 2.D.1.10 |
|                | 3.4.11 |
|                | Chapter 4: Transportation |
|                | 6.6.4 |
|                | 3.1.1, 3.1.4, 3.1.5, 3.4.3, 3.4.4, 3.4.8, 3.5.1, 3.5.2 |
|                | 5.3.6 |
|                | 6.6.3 |

Notes: Transportation 2040 is incorporated by reference into Plan 2040.

Policy 6.5: Promote sustainable building practices.

| Direct          | 6.6.5, 6.6.6 |
| Indirect        | 6.6.8, 6.6.9 |
|                | 7.C.1, 7.C.1.1, 7.C.1.2, 7.C.1.3, 7.C.1.4 |

Notes: Transportation 2040 is incorporated by reference into Plan 2040.
Policy 6.6: **Promote the responsible use and conservation of energy, water and other natural resources.**

<table>
<thead>
<tr>
<th>Direct</th>
<th>6.6.5, 6.6.6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter 4: Transportation</td>
<td>5.3.6, 6.6.8, 6.6.9</td>
</tr>
<tr>
<td>Notes</td>
<td><em>Transportation 2040</em> is incorporated by reference into <em>Plan 2040</em>.</td>
</tr>
</tbody>
</table>

Policy 6.7: **As the community develops a local/ regional food program, the City of Lawrence and Douglas County should work with stakeholders (local merchants, farmers, landowners, institutions, consumers, etc.) to assist in developing that program.**

<table>
<thead>
<tr>
<th>Direct</th>
<th>2.B.2.3, 6.6.7, 7.E.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect</td>
<td>2.A.1.4, 2.B.2.5, 2.B.5.1, 2.B.5.4</td>
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<tr>
<td>Notes</td>
<td></td>
</tr>
</tbody>
</table>
Steering Committee Draft Plan (August 2018)

Interactive Map Gallery

Issue Action Report

Comprehensive Plan Update Guide

Planning Commission Orientation Staff Presentation Video

Horizon 2020 Steering Committee Website
To the Planning Commission:

I have some concerns about the new Horizon 2040 plan.

Before we bought land to build a home in rural Douglas County, I met with staff in the planning department to see what might be planned in terms of development that could impact the area we wanted to buy and build on and we counted on clear, specific and detailed plans laid out in Horizon 2020 to inform the biggest investment most of us ever make.

Several years later, I came to further appreciate just how important these long term planning documents are when Lawrence developers sought to island annex and then zone heavy industrial, a parcel of land near my home in rural Douglas county. The developers sought to do this, even though it was actually outside the planned area of growth as outlined in H2020 and they very nearly got away with this.

Had they been successful THEY ALONE would have altered the direction of growth in the county in a way that would have diverted resources from things that made much more long term sense for the county as a whole, while costing taxpayers a lot-- not to mention this would have been extremely unjust to those who already built homes and would have seen their value plummet.

Given the new Kansas Law that seeks to dis-empower residents trying to protect their property value and quality of life from large animal confinement operations setting up next door, (The "tyson Law") which also makes it easier for such operations to unfairly use egregious amounts of limited resources like water, while forcing taxpayers to subsidize extra infrastructure and services that become necessary as a result, while contaminating and dirtying the air, water and soil, it is even more important than ever before, that Horizon 2040 contain extremely detailed, specific, and forward thinking measures to help our community have the best chance of having a livable, just place for those who have already moved here...or those considering moving here -- who want a safe healthy home and assurances that the largest investment they may ever make, won't take a huge economic hit, because a CAFO suddenly came to town.

The 2040 plan appears to have only a fraction of the details spelled out in H2020...when it is more important than ever, that the environmental section be EXPANDED.

Please make sure H2040 has extremely detailed goals articulated that will protect streams, forests, air quality, prevent noise, air and light pollution in rural residential neighborhoods. Encourage conservation of all natural resources, encourage home gardening and local organic plant-farming and use of native plant species for restoration and landscaping, reduce erosion -- and whatever other things help to make places livable and loved by those who actually live there and raise families.

Also --- even if some details as I request may be located in other sections, I urge you to ALSO have these things spelled out in the environment section as that will be the most user friendly and accessible to citizens seeking to understand the goals and scope.

Thank you,
JoAnn Farb
November 5, 2018

Memorandum

To: Lawrence/Douglas County Metropolitan Planning Commission
From: Douglas County Heritage Conservation Council
    Cathy Dwigans (Chair), Lindsay Crick (Vice-Chair), Michael Delaney, Shelley Hickman-Clark, Kimberly Mahanna-Bellemere, Julia Manglitz, Douglas McKean
Re: Plan 2040: A Comprehensive Plan for Unincorporated Douglas County and the City of Lawrence

The members of the Douglas County Heritage Conservation Council have reviewed the August 2018 Draft of Plan 2040, particularly Chapter 6, Natural Resources, and Chapter 7, Community Resources.

The Heritage Conservation Council (HCC) was established by the Douglas County Board of Commissioners in 2011 (Resolution No. 11-19), with authority and responsibilities set forth in the Douglas County Heritage Conservation Plan (HR-13-11-4). The purposes of the Heritage Conservation Plan are to:

(A) Ensure the conservation of the County’s natural and cultural resources.
(B) Identify, conserve and promote the County’s natural resources, prehistoric, historic and cultural heritage through ongoing surveys and studies of natural and cultural heritage resources.
(C) Implement the strategies and goals contained in Chapter 11 of Horizon 2020 for the protection, development and utilization of historic resources.
(D) Foster civic pride and promote tourism, particularly as related to the natural resources, pre-settlement history, settlement history, and the themes encompassed in Freedom’s Frontier National Heritage area.
(E) Work in concert with the State Historic Preservation Officer and observe the State Preservation Act, contained at K.S.A. 75-2701 et seq., as amended.
(F) Support education programs to increase public awareness of and support for the County’s historic environment.

As part of the Heritage Conservation Plan, the HCC is responsible for complying with all requirements of the State Historic Preservation Officer to maintain its status as a Certified Local Government.

To further the purposes of the Heritage Conservation Plan, we believe the Douglas County Heritage Conservation Council should be included as an advisory board for Chapter 6, Natural Resources, and Chapter 7, Community Resources, A. Historic Resources and B. Parks, Recreation and Open Space. The HCC also should be notified of other activities governed by Plan 2040 and affecting natural and cultural resources in unincorporated Douglas County.

Thank you for your consideration of these changes.

Cc: Jan Shupert-Arick, Heritage Coordinator, Douglas County
To: Planning Commission  
From: Thad Holcombe

Moderator for LETUS (Lawrence Ecology Teams United in Solidarity - an interfaith network of eight "green" teams representing Muslim, Jewish, Catholic, Protestant faith communities) Lawrence faith communities

I will be elaborating my request for amendments when presenting at either November or December dates established for public comment. I do want to express appreciation for the time, effort, and expertise demonstrated in the 2040 Comprehensive Plan. I will be asking that the Commission consider revisiting the 2020 Comprehensive Plan, particularly the Environment section. My remarks will focus on rationale for the Commission to consider replacing the 2040 chapter on Environment and section on land, with an amended version of the 2020 Overview on the Environment and Land Resource and Management.

Briefly, my reasons for such an amendment are as follows:

+ The context for a Comprehensive Plan would be strengthened by affirming priority being given to the natural environment as having integral value and not "resource".

+ The Environment Overview is especially relevant given our present need to address the consequences of climate change.

+ The Environment Overview, as amended, provides a more substantial basis for making decisions that affect the land, water and air. Granted, it does ask the reader to spend more time and effort, but the importance of understanding why land, air and water have intrinsic value and not simple "commodities" may begin re-consideration of the way predominant culture has neglected such an affirmation.

+ My request is based on science as well as philosophical and theological rationale.

+ Moving the Environment Section to be in first part of Comprehensive Plan sends a message that the environment is important.

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**HORIZON 2020 16-1 ENVIRONMENT**

**CHAPTER SIXTEEN - ENVIRONMENT**

"The care of the earth is the most ancient and most worthy, and after all our most pleasing responsibility. To cherish what remains of it and to foster its renewal is our only hope."

- Wendell Berry -

**OVERVIEW**

Douglas County has a rich and valuable heritage that is characterized by a variety of environmental and natural conditions. Prairies, rivers, forests, wetlands, agricultural soils, and other natural features provide scenic beauty, recreation, natural habitats, flood protection, and opportunities for interpretation, appreciation, and education. Protecting and enhancing Douglas County’s environment, including its built environment, is the focus of this chapter. A livable community must first of all give the protection of the natural environment as first priority. If not, there is the risk of the land, water and air becoming simply “resources” and treated as commodities to be traded. The built environment that is developed is therefore secondary to protecting and enhancing the natural conditions described. The recommendations are intended to foster a healthy environment that contributes to a a livable community for all species of life. This concept provides a more comprehensive understanding of sustainability that was stated as the goal.
of Horizon 2020 (see Chapter 1): “We will strive to ensure the sustainability of our physical environment, both natural and built, the health of our economy and the efficient and effective functioning of our community.” Environmental quality and the built environment can be at odds if the physical environment is given priority in planning. Appropriate use of natural “resources” with this understanding can mitigate unnecessary negative effect on natural environment, thus practicing sustainability in practical way that encourages a quality of life for all, including. Douglas County residents. Protection and preservation of natural environment is an important component in planning for growth and development in Douglas County since all development activities create some level of impact on the air, water and land mentioned in this chapter. While land development is important to economic vitality, land, water and air and climate protection are increasingly recognized as equally important to the health and vitality of the community and must be protected for future generations. The responsible way to achieve the mutual goals of environmental protection and planned growth is to develop in a sustainable manner, one that is capable of being continued with minimal long term effects on the environment.

There are already a few programs in place that aim to achieve some of the sustainability goals of this chapter, such as the county-wide ECO² program which is a tool used to promote the dual goal of open space preservation and economic development. The program uses a concept of net equity that states an amount equal to a portion of the investment of public funds for industrial development be used for open space preservation. In addition, the City of Lawrence adopted a Land Development Code in 2006 which addresses some recommendations of this chapter, including standards for impervious surface coverage, open space requirements, and landscaping. The City and Douglas County also have recently revised the subdivision regulations which include provisions for land divisions which contain environmentally sensitive features. The City of Lawrence also has multiple efforts currently underway with similar goals as presented in this chapter, including work by the Sustainability Advisory Board, the Mayor’s Climate Protection Task Force, and the Peak Oil Task Force. These advisory boards review issues and make recommendations to the Lawrence City Commission. Douglas County has recently established a ? (incomplete sentence in PDF)

My focus is on 16-11 in Horizon 2020 and can be compared to 2040 draft.....Horizon 2020 is a more adequate and informative chapter than in the 2040 draft. Serious consideration of adopting this chapter instead of proposed one in 2040 is being asked.

HORIZON 2020 16-11 ENVIRONMENT

LAND MANAGEMENT

"We shall never achieve harmony with land, anymore than we shall achieve absolute justice or liberty for people in there higher aspirations. The important thing is not to achieve, but to strive."
- Aldo Leopold -

This section discusses Douglas County’s various land features, which consist of rural woodlands and urban forests, native prairies, and agricultural soils. These ....... provide wildlife habitats, viewsheds, and open spaces, as well as, serving as ‘Green Infrastructure’, as they provide benefits to the natural and built environments. Like many other parts of the country, land ........ within Douglas County is being impacted by development pressures and agricultural practices. Benefits of preserving and managing diversity of land ..... include growth management, flood control, improved water quality, protection of wildlife habitat, and economic advantages to the community, such as a lower cost to the community for development.

Summary of Issues:
1) Open space network. The creation of an open space network or green infrastructure system minimizes the fragmentation of natural areas and benefits the community by protecting natural habitats, providing appropriate stormwater management, providing open-air recreation areas and promoting sustainable development practices. Open space networks can include:

Topography: Developing on steep slopes can be costly and permanently alters the natural slope of the land which may have detrimental effects on other natural features, stormwater runoff and habitats.

Rural Woodlands and Urban Forests: The trees in rural woodlands and urban forests provide many valuable benefits ranging from:
- Ecological (improving air and water quality),
- Biological (providing wildlife habitat),
- Physical (serving as ‘green infrastructure’ by providing shade and screening),
- Social (providing areas of scenic beauty and areas for recreation), and
- Cultural (establishing and maintaining the character of the area).

Native Prairies: The tallgrass prairie has an intrinsic value as an endangered ecosystem which is a feature of our national heritage. The prairies provide recreational and educational opportunities, as well as providing habitats for wildlife and plant species. In addition, native prairies play a valuable role in controlling sedimentation, aiding groundwater recharge, and absorbing stormwater runoff.

Endangered Species and Wildlife Habitats: The protection of critical habitats is a principal means of protecting rare and endangered species and also serves to protect other species that use the same habitat. Because development has resulted in fragmentation of wildlife habitats, corridors connecting them should be maintained and protected. The Kansas Wildlife Conservation Plan2 includes protection measures for rare and endangered species and is geared toward practices and policies that would help keep common species from being endangered.

HORIZON 2020 16-12 ENVIRONMENT

1 http://www.kdwp.state.ks.us/news/Other-Services/Wildlife-Conservation-Plan

2 http://www.kdwp.state.ks.us/news/Other-Services/Wildlife-Conservation-Plan
2) Agricultural soils. High Quality Agricultural Land is recognized as having exceptional quality and fertility, and in Douglas County is generally described as having Capability Class (non-irrigated) I and II soils as defined by the National Resources Conservation Service. This High Quality Agricultural Land is a finite resource that is important to the regional economy. This land requires less intervention to produce high yields of crops with high nutrition and should be protected, preferably for food production.

Goals and Policies:

Goal 2: Properly manage all soils, woodlands, native prairies, wildlife habitats, viewsheds and open spaces, to maintain the functions they provide, ensure their sustainability, and improve the environmental quality of the City of Lawrence and unincorporated Douglas County.

Policy 2.1 Development should maintain the natural benefits of existing topography. Development on steep slopes (above 15%) should be done in a manner that encourages the use of the existing topography with minimal grading to minimize adverse effects.

Policy 2.2 Preserve and sustain woodlands within Douglas County.

a. The City and County shall partner with other agencies and institutions to inventory and map woodlands within the county. The inventory and map should identify the different types of woodlands ('high quality natural areas', woodlands which form, or could form, corridors or greenways and riparian woodlands) and provide a ranking system in priority order for protection.

a.1 Develop regulations and incentives that provide different levels of protection for the different types of woodlands.

a.2 Encourage environmentally sensitive site design practices which minimize the unnecessary physical and visual impacts upon the surrounding landscape caused by removal of woodlands.

a.3 Develop regulations and incentives for the protection, maintenance, and improvement of riparian woodlands which include an ordinance defining the stream setbacks and the activity which may occur in the riparian area.

a.4 Develop public outreach and educational programs to increase public awareness concerning the importance of woodlands.

b. Protect and increase the urban forest in Lawrence.

b.1 The City shall conduct an inventory of the Urban Forest.

b.2 Adopt an Urban Forestry Master Plan and associated policies, programs, and incentives for the preservation and enhancement of Lawrence's urban forest on both public and private property, through development and zoning codes, emphasizing the use of trees appropriate to the climate of this region.

b.3 Adopt standards for tree care activities and the regulation of tree maintenance contractors that will prevent the serious damage that inappropriate pruning practices cause to Lawrence's trees. Partner with utility agencies regarding appropriate tree location and pruning practices.

b.4 Establish educational programs to foster public/community awareness of, support for, and contribution to Lawrence's urban forestry initiatives, which are directed at establishing the maximum urban tree canopy, maintaining it in a healthy condition and promoting its conservation.

Policy 2.3 Preserve and protect native prairie.

a. Partner with the Kansas Biological Survey, other agencies, and individuals to inventory and map the remaining native prairie remnants within Douglas County.

b. Develop regulations, planning guidelines, management techniques, and incentives for preserving native prairies. The native prairie should be preserved and used as parks and/or open space either through purchase or the use of conservation easements.

Policy 2.4 Preserve and protect natural habitats.

a. Identify and map areas of 'critical habitat', key habitats, and wildlife corridors, including areas that could link together to increase connectivity throughout the City and County.

b. Develop incentives to encourage on-site and off-site habitat connections and/or enhancement of natural areas as part of development projects.

c. Develop regulations that permit only low-impact development with environmentally sensitive design in areas of 'critical habitat'.

d. Increase awareness of the species and loss of habitat through educational and outreach programs.

e. Treat areas identified as key habitats as high priority areas for preservation and protection in the development of regulations, protection standards, and incentives.
f. Develop regulations and incentive programs for the protection and maintenance of wildlife corridors and key habitat areas.

g. Regulate the placement of roads, trails and utilities with development or infrastructure projects to minimize creation of fragmented natural areas.

h. Develop a program to encourage and incentivize the connectivity of natural areas whether they are on a particular development site or off-site.

i. Develop a combination of educational programs, incentives, and development standards that recognize and promote sound management practices by private land owners to maintain the health of natural habitats on private property.

Policy 2.5 Along with community members in Douglas County, identify and define important features that contribute to viewsheds, as well as establish possible protections for viewsheds. At such time, further policies relating to viewsheds may need to be addressed.

Policy 2.6 Preserve existing open space and create new open space areas to preserve and expand a sustainable green infrastructure system.

a. To maximize the advantages to the community that the natural and built environments provide, open space preservation shall remain a goal especially as it relates to protecting and preserving natural features discussed in the comprehensive plan. This should be done through:

   a.1 Maintaining and enhancing existing open space.
   a.2 Creating new designated open space areas.
   a.3 Creating a large interconnected network of open space.

b. Incorporate open space evaluation into long range plans to determine in advance of development proposals what areas are suitable for development and what areas would serve better as open space.

c. The acquisition and continued maintenance of open space that is publicly accessible shall be strongly encouraged.

d. Promote and encourage eco-tourism to sustain open space and natural areas.

Policy 2.7 Encourage the protection of High Quality Agricultural Land in Douglas County for current and future agricultural use.

a. The protection of High Quality Agricultural Land shall be used as a key assumption in the sector planning process.

b. Establish tools to protect High Quality Agricultural Land for farming and make its protection economically feasible for the land owner, such as an agricultural easement program, development incentives that encourage the protection of this resource, public/private partnerships, or other funding mechanisms.

c. Maintain an inventory of High Quality Agricultural Land in Douglas County and track the amount lost to urbanization.

d. Encourage and develop policies that support agri- and eco-tourism, as well as sustainable local/regional food supply.
Lawrence/Douglas County Planning Office:

I am writing this letter to comment on Chapter 6, Section 3 of Plan 2040: A Comprehensive Plan for Unincorporated Douglas County & Lawrence Kansas. This section addresses air quality.

With the exception of subsection 3.5 “Continue conducting the Lawrence-Douglas County Sustainability Office community-wide greenhouse gas inventory every 5 years.” the subsections of this section do not state specific actions for meeting the goals.

I would like to see the actions recommended in Horizon 2020, Chapter 16 pages 18-20 that pertain to the appropriate subsections of Section 3 added to them. Policy 3.1 a-g could be added to subsection 3.1, Policy 3.5 a-f to subsection 3.2, Policy 3.3 a-b and Policy 3.4 to subsection 3.3 and Policy 3.6 to subsection 3.4.

I hope you will consider these changes.

Pat Miller
255 N. Michigan St. Apt 25
Lawrence, KS
November 5, 2018

Comprehensive Plan Committee Members
c/o Jeff Crick, Planner
Lawrence-Douglas County Planning Commission
6 East Sixth Street, Lawrence KS 66044

Dear Comprehensive Plan Committee Members:

The need for water affects every aspect of life in Kansas, from the irrigation that supports agriculture to the drinking water that people use daily in their homes and places of work. The future of the state is tied up in sustainability of safe and accessible water sources, and the Governor’s 50-Year Vision For The Future of Water in Kansas reflects a state-level acknowledgement of the vital role of water in our lives. But even this recognition of a great need for sustainable and safe water sources has only yielded a long-term policy that is mostly voluntary. If we are to reach goals of sustainable water use within Douglas County, it is paramount that we craft a clear, structured, and well-defined planning vision that allows us to be good stewards locally, even if the plan is to serve as a guideline rather than a policy.

The current version of Plan 2040 has reduced thirty-one goals and actions down to eleven general recommendations or suggestions. None of the suggestions have measurable, quantifiable outcomes, which are of critical importance in defining local policy going forward. Without measurable, actionable goals, any deliberation over a disputed project will not be informed by strong and specific plan language to help resolve differences. Horizon 2020 has often been cited or referred to by policy makers, planners, developers, and community members when discussing proposed projects, and in instances where language was weak or clear policy definition was lacking, we as a community struggled and got bogged down in dispute. Therefore, we must make every effort to ensure we add more definition rather than trend toward more generalities in our guidelines as we plan for the future of our community.

Here follows some examples:

Horizon 2020, Policy 1.2 aims to “[p]reserve and protect natural surface watercourses”. Examples of specific goals to support this policy are Policy 1.2a, “[d]evelop stream setback regulations for both the City of Lawrence and Douglas County to establish stream corridors which provide a buffer that stabilizes stream banks, reduces erosion, preserves riparian areas, mitigates flood hazards, and ensures water quality.” Also, Policy 1.2d, “[e]ncourage continued alignment with the Kansa Water Plan, which lists the following measures:...”, and then lists specific actions for landscape plants, chemical and water use on lawns, and vegetative filters and distances of livestock operations from watercourses.

Horizon 2020, Policy 1.3 states the intention to “Improve and maintain water quality, particularly sources of public drinking water, though watershed protection measures”. It follows with such important and specific goals as Policy 1.3a: “The City and County shall participate in applicable Watershed Restoration and Protection Strategy (WRAPS) programs, focusing on the protection of the Upper Wakarusa and Lower Kansas Watersheds.” And, Policy 1.3b, “The City and County shall identify and map priority wetlands, surface water buffer areas, and riparian areas within each watershed.” Policy 1.3c is a specific action, namely that “[t]he City of Lawrence should continue participation in the Community Rating System (CRS) program and increase their level of participation in order to achieve a greater discount to citizens on their flood insurance rates. Douglas County should investigate participating in the program as well.”
Horizon 2020, Policy 1.7 tasks the community to “[d]evelop stormwater management policies and programs in a manner that ensures water quality and properly controls runoff.” Policy 1.7c makes a specific regulatory reference, recommending that, “[a]s part of the City of Lawrence’s overall stormwater management strategy, maintain regulations and policies that are consistent with the provisions and goals of the Clean Water Act, including its National Pollutant Discharge Elimination System (NPDES) Program, and other federal, state, and local requirements for water quality and environmental preservation.”

These are very specific goals and actions that support clearly defined and crucial policy pieces. Any pertinent regulatory documents or policies are cited.

Compare this to Plan 2040’s Chapter 6 on Natural Resources. Goal 1 states: “Manage all water resources to protect natural habitats, mitigate hazards, and ensure water quality”. More specific policies governing all aspects of water stewardship outlined in Horizon 2020 have been condensed under this more all-encompassing and more general heading. The list of goals that follow lack any specificity or definition for any of the terms listed and give no clear guidelines on how these goals might be accomplished or measured.

Consider, for example, Goal 1.1, which states that, presumably, the Lawrence-Douglas County Planning Commission will “[e]valuate development proposals for their impacts on critical water sources providing drinking water for Lawrence and Douglas County.” What are the evaluation criteria? Are they already in existence, and are they updated regularly? What, if any, regulations exist to govern this? Where would we find them? Could they be referenced here, or could links be provided?

Or consider Goal 1.7, “[i]dentify, preserve, and protect wetlands”. First, did the City and County identify and map wetlands, surface water buffer areas, and riparian areas as stated in Policy 1.3b of Horizon 2020? If so, this should be referenced. And, clearly, if some assessment already exists, then we have clearer action items that should be referenced.

While I understand the desire to create a stand-alone plan that is easy to read, I feel that it is imperative a new comprehensive plan acknowledges the context of its existence on a continuum that includes the document and works that came before it. What goals, if any, remain undone from Horizon 2020? What accomplishments and resources were created under Horizon 2020’s tenure? These should be referenced and documented.

Especially when people’s livelihoods are so tied up in water use, instituting a comprehensive plan that is overly general or with guidelines that are obscure or vague will encourage the tendency of people making decisions with short-term personal benefits. As benefits accrue for the individual, costs are incurred by the environment and by the community as a whole. Therefore, it is critical that any replacement for Horizon 2020 be detailed and clear enough to chart the way forward. I heartily encourage you to take these next weeks to do a constructively critical “walk” around this plan and carefully consider and incorporate the recommendations and concerns of the public rather than simply assure us that our concerns are already addressed. We have an opportunity to create a living document that will guide us well and thoughtfully. Thank you for your stewardship of this process, for the sake of our community.

Most sincerely,

Sara L. Taliaferro
Chair Willey and Commission:
I would like to reiterate our concern that the previously unvetted or reviewed “3-tier growth map” is an inappropriate depiction of the Lawrence future urban growth area. While a 3-tier methodology is an interesting construct, the problem with it is how it places the second tier at a level of disproportionate importance. The first tier is a given; the third tier is nothing more than the current UGA. But the second tier is specifically targeted for urban expansion to take place.

This becomes problematic in areas of 100 year flood plain and the Capability I and II prime soils. Let me point out the shift in prevailing attitudes and actions in recent years regarding flood plain and prime soils protections. First of all, consider how the maps below show how the “peninsula” of Lawrence is constrained on three sides – north, east, and south – by flood plain and prime soils.

![FEMA Regulatory Flood Plain & Floodway](image1)
![Douglas County Capability I and II Soils](image2)

It is admirable, in two notable instances, how Lawrence and Douglas County officials have disapproved major urban developments in these sensitive lands.

- North of the Kansas River, the 145 acre Airport Industrial Park proposal met with opposition by citizens concerned about flooding, wetlands, and loss of prime soils. The plan was not approved. From it came the Prime Agricultural Soils Map and a Northeast Sector Plan protecting these natural assets.
- And just east of Lawrence, the case of the 94 acre expansion of the East Hills Business Park into the 100 year floodplain and prime soils illustrates even more dramatically the change of official attitudes to protect flood plains and soils. Initially approved in 2000, officials de-annexed and downzoned the 94 acres in 2014, committing Lawrence to growth out of the flood plain.
I hope you fully grasp how these decisions have changed fundamental values from that of bottom lands being readily developable to that of protecting them as ecological services and economic assets. Because the “3-tier growth map” flies in the face of this new-found wisdom where it earmarks about 215 acres of the Wakarusa floodplain, wetlands, and prime soils as “Tier 2 – planned and expected to urbanize”, south from K-10 Hwy all the way to the Wakarusa River (Plan 2040 draft, Chapter 2 goals, page 18).

The current 2017 edition of Horizon 2020 categorically prohibits expansion of the south Iowa commercial area south of K-10 Hwy – “K-10 provides a physical barrier and edge to the commercial corridor that has developed. Additional retail commercial uses shall not occur south of the highway, except for the possible location of an Auto-Related Commercial Center” (page 6-15).

The 215 acres of Tier 2 opens the floodgates south of K-10 Hwy for “planned and expected urbanization”, completely reversing the Horizon 2020 protections, as well as recent historical precedent that would protect 100 year flood plain and prime soils on the south edge of Lawrence.

The Planning Director has demurred on the threat of the 3-Tier Growth Map, claiming that Tier 2 indicates only “a potential for growth”, that flood plains are “protected by Federal Flood Plain Regulations” as well as “sensitive lands are protected through the site planning process”, and that “the Southern Development Plan (SDP) has land use protections built into it” (27 June 2018 Planning Comm). Not true.

- Tier 2 as “planned and expected to urbanize” says far more than a mere “potential for growth”.
- As Flood Plain Administrator, the Planning Director himself can administratively grant a fill permit under the Federal Flood Plain Regulations.
- As Planning Director, again he himself can administratively issue a site plan, with or without any protections of sensitive lands.
- The Southern Development Plan proved to be no protection at all when the 2015 Planning Commission amended the SDP and H2020, granting regional commercial zoning south of K-10 Hwy.

Please reject the 3-Tier Growth Map as a part of Plan 2040. It has not been authorized in public hearing by either the Planning Commission, the City Commission, nor the County Commission. Just because the 3-Tier Growth Map was accepted as unnecessarily detailed growth projections in Transportation 2040 does not mean that action validates this map for use in Plan 2040. It’s role in Plan 2040 to target areas for “planned and expected urbanization” has far reaching implications that need full vetting and review on it’s own merits (or lack thereof).

Please set aside the 3-Tier Growth Map for a later discussion, as several Commissioners requested at the 27 June 2018 Planning Commission meeting.

Thank you,

Michael Almon
Commission members developing PLAN 2040: A Comprehensive Plan for Unincorporated Douglas County & the City of Lawrence:

Our comment on the plan follows:

Grassland Heritage Foundation preserves prairies in eastern Kansas through education, stewardship, and land protection. We believe that prairies are fundamental elements of our ecological, cultural, and economic heritage. As unique reservoirs of biological diversity and providers of ecological services, prairies must be maintained for future generations.

We applaud the intentions of the Plan 2040 to better manage future development and ensure continued quality of life for the residents, which includes protecting the area’s natural resources using concrete actions, as opposed to vague principals. We believe that Plan 2040 should include the following:

--measures to have the city and county identify high-quality prairies and other sensitive natural areas. Such information may be acquired from the Kansas Biological Survey, or other sources.

-- measures to ensure that planning staff at both the city and county level are aware of available information identifying high-quality prairies and other sensitive natural areas and use that information to limit developments that would damage or destroy such areas

Board of Governors of Grassland Heritage Foundation

www.grasslandheritage.org
Hi Jeff;

I have attached our comments on Plan 2040.

I hope you will find these comments useful. Let me know if you have any questions about them.

Jennifer

Jennifer M. Delisle, Research Associate
Kansas Biological Survey
Takeru Higuchi Bldg.
2101 Constant Ave.
Lawrence, KS  66047
785-864-1538
jdelisle@ku.edu
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Goal</th>
<th>Action Item</th>
<th>Suggested Changes</th>
<th>Comments about the suggested change</th>
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<tbody>
<tr>
<td>2A 1</td>
<td>1.5</td>
<td>Add other sensitive lands (e.g., agricultural land)</td>
<td>Add 'and other sensitive lands' after 'agricultural lands'</td>
<td></td>
</tr>
<tr>
<td>2A 1</td>
<td>1.6</td>
<td>Add other sensitive lands (e.g., agricultural land)</td>
<td>Add 'and other sensitive lands' after 'high-quality agricultural soils'</td>
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<tr>
<td>2B 1</td>
<td>1.5</td>
<td>New</td>
<td>Add &quot;Revise residential development regulations to better protect sensitive lands.&quot;</td>
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<tr>
<td>6 1</td>
<td>Intro</td>
<td>Reword: &quot;Water plays a vital role in both our natural and built environments. Managing water resources ensures that water quality is maintained for drinking sources, the natural, and for recreational purposes. It also is vital to manage water quantity in flood and arid environments throughout our community.&quot;</td>
<td></td>
<td></td>
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<tr>
<td>6 1</td>
<td>1.4</td>
<td>Change to: &quot;Develop stream corridor buffers to preserve riparian habitat, protect water quality, and reduce soil erosion.&quot;</td>
<td>These are the usual benefits of stream buffers.</td>
<td></td>
</tr>
<tr>
<td>6 2</td>
<td>Intro</td>
<td>Add: &quot;and ecosystem services such as flood control, climate regulation, water purification, and pollination.&quot;</td>
<td>Adds the definition of ecosystem services.</td>
<td></td>
</tr>
<tr>
<td>6 2</td>
<td>2.2</td>
<td>Add: &quot;Establish corridors of wildlife habitat connecting parks and open space.&quot;</td>
<td>Provides continuity throughout the document by using the defined term 'sensitive lands'.</td>
<td></td>
</tr>
<tr>
<td>6 2</td>
<td>2.9</td>
<td>Possible wording: &quot;Address invasive species on municipal and county lands, with priority given to non-chemical methods.&quot;</td>
<td>Invasive species are a problem in areas other than 'native ecosystems.' But surely the Plan doesn't mean to address the issue of invasives on private lands?</td>
<td></td>
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<tr>
<td>6 2</td>
<td>2.10</td>
<td>Add new item: &quot;Establish a Douglas County Open Space program to protect sensitive lands.&quot;</td>
<td>Provides continuity throughout the document by using the defined term 'sensitive lands'.</td>
<td></td>
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<tr>
<td>6 4</td>
<td>4.1</td>
<td>Change 'harvesting' to 'extraction'.</td>
<td>Uses same wording as 2.2.</td>
<td></td>
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<tr>
<td>6 4</td>
<td>4.2</td>
<td>Change first instance of the word 'extraction' to 'use'.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7B 2</td>
<td>2.1</td>
<td>Replace 'land dedications' with 'conservation easements.'</td>
<td>Meaning of 'land dedications' is vague.</td>
<td></td>
</tr>
<tr>
<td>7B 2</td>
<td>2.2</td>
<td>Change '…key natural and historic areas' to 'sensitive lands and key historic areas.'</td>
<td>Key natural areas' is not defined. Use 'sensitive lands' which is defined in the document.</td>
<td></td>
</tr>
<tr>
<td>7B 2</td>
<td>2.4</td>
<td>Add new item: &quot;Establish a Douglas County Open Space program to protect sensitive lands.&quot;</td>
<td>Provides continuity throughout the document by using the defined term 'sensitive lands'.</td>
<td></td>
</tr>
<tr>
<td>7B 3</td>
<td>Intro</td>
<td>Change to: &quot;Creating active and passive open spaces as the community grows is necessary...&quot;</td>
<td>Mimics use of the defined term 'Open Spaces' rather than introducing the term 'parkland'.</td>
<td></td>
</tr>
<tr>
<td>7B 3</td>
<td>3.4</td>
<td>Reword: &quot;Locate active open spaces near community facilities...&quot;</td>
<td>Does not explicitly state that parks and recreation areas are included in the definition of Open Spaces.</td>
<td></td>
</tr>
<tr>
<td>7B 4</td>
<td>4.1</td>
<td>Define 'community.'</td>
<td>Does this refer only to Lawrence? Should it?</td>
<td></td>
</tr>
<tr>
<td>7B 4</td>
<td>4.4</td>
<td>Change to: &quot;Connect lands that provide continuity for floodplains and watercourses and as wildlife corridors.&quot;</td>
<td>Provides continuity throughout the document by using the defined term 'sensitive lands'.</td>
<td></td>
</tr>
<tr>
<td>7B 5</td>
<td>5.1</td>
<td>Change to: &quot;Promote sensitive land protection through conservation easements and other voluntary mechanisms.&quot;</td>
<td>Conservation easements are a program provided continuously throughout the document by using the defined term 'sensitive lands.'</td>
<td></td>
</tr>
<tr>
<td>7B 5</td>
<td>5.2</td>
<td>Change to: &quot;Establish a community-based effort to develop strategies to protect sensitive lands.&quot;</td>
<td>Provides continuity throughout the document by using the defined term 'sensitive lands.'</td>
<td></td>
</tr>
</tbody>
</table>

**Sensitive Lands Definition**

Sensitive lands are places that have unique environmental attributes worthy of retention or special care. They are essential to the maintenance of ecosystem services and healthy plant and wildlife populations. Protection of sensitive lands reduces vulnerability to natural hazards, and enhances the quality of places where people live, work, and play. These lands include:

- Floodways and floodplains
- High-quality agricultural soils
- Steep slopes
- Wetlands and marshes
- Habitats for rare plants and animals
- Native prairies
- Urban forests and rural, high-quality native woodlands
Dear Chairwoman Willey and Lawrence Douglas County Planning Commissioners,

I would like to commend Jeff Crick and the Plan 2040 Steering Committee for all their efforts and long hours spent on the Comprehensive Plan revision. However, I do have concerns.

My comments are restricted to Chapter 6, “Natural Resources”, although I think some could be applied to other chapters as well.

My concerns stem not so much from what is in Chapter 6, 2040, as from what is NOT in it. On the face of it, Ch. 6 may seem adequate. However, when compared to what is being lost from Horizon 2020, concerns may become more apparent.

My concerns fall into five categories:

1. **Lack of Specificity**: Despite Plan 2040’s own explanation in Ch. 1, that “.... action items “Are more specific statements providing measureable strategies””, the action items are often vague, broadly written and incomplete. As written, many are actually goals, with no specific means to achieve them. They rarely “provide measureable strategies”. This lack of specificity and clarity will likely result in conflicts between various stakeholders, since they are open to interpretation.

2. **Important Policies and Strategies Omitted**: A number of important policies and action strategies from Horizon 2020 were omitted from 2040. The following are a few of many examples:
   A. H2020 Policy 1.2d1: “Use native plants in yards and gardens: they need fewer chemicals and water”. (Additionally we now understand that using native plants in landscaping is essential for the food web in a world of diminishing natural areas).
   B. H2020 Policy 1.2d3: “Separate livestock operations from streams with a vegetated filter and adequate distance”.
   C. H2020 Policy 1.3b: “Identify and map priority wetlands, surface water buffer areas, and riparian areas within each watershed”.
   D. H2020 Policy 1.4b: “Develop a wetland policy which promotes protection, enhancement and restoration...”.
   E. H2020 Policy 1.7e: “Use nonstructural or natural approaches to storm water system design...rain barrels, rain gardens, bio-retention swales, pervious paving materials and limit use of impervious paving surfaces”.
   F. H2020 Policy 1.7g: “Encourage environmentally sensitive farming methods, such as terracing, buffering, the use of no-till farming practices, etc., near surface watercourses to reduce pollution, stabilize stream banks and prevent erosion”.
   G. H2020 Policy 2.4g: “Regulate placement of roads, trails and utilities...to minimize creation of fragmented natural areas”.

3. **Information Scattered and Difficult to Access**: In a letter I submitted to the steering committee in October, 2017, I expressed my concerns that the draft plan removed “specific policies, strategies for implementation and recommendations for incentives, regulations and education....”. The Planning Office responded that “Special Land Use Plans and incorporated policy plans were used to a higher degree, thus reducing the number of policies required in the main body of the Plan.” I wholeheartedly agree that this information should be incorporated in other relevant plans, chapters and documents. But they should not be removed from this chapter. To do so makes it next to impossible to follow the thread from vision to goal to implementation strategy. I could not find any of the Ch 6 related information I sought in Special Land Use Plans. One of the primary goals of this Comp
Plan revision was that it be more accessible to the general public. However this manner of organizing, which scatters related information between chapters and different documents, makes it next to impossible to find the information one seeks. If one is looking for information on Natural Resources, they should be able to find it in the Natural Resources chapter. It should be included in the Natural Resources chapter as well as incorporated in other relevant chapters and plans.

4. OVERVIEW INFORMATION OMITTED: Horizon 2020 included an Overview at the beginning of each chapter giving background, context and rationale of that chapter. It also contained useful strategies. Some of this was highly valuable in understanding the chapter, but have been completely eliminated from 2040.

Strategies listed in the Overview included “Establish effective incentives and regulations that promote sustainable and efficient management of environmental resources”, and “Develop educational programs to foster community awareness…..”. The next page states “Code regulations shall be developed to achieve the policies discussed in this chapter”. I doubt many incentives or regulations or educational programs have been developed at this time, and yet, while occasionally mentioned in 2040, they are largely omitted. Have we abandoned those necessary goals?

5. NEED FOR ROBUST CLIMATE CHANGE PLAN: Within the past month, the U.N. International Panel on Climate Change was released. It revealed a grim prognosis for the planet, worse than previously thought. It concluded that if we don’t cut our greenhouse gasses emissions by 46% in the next 12 years the cost to humanity is enormous and irreversible. The effort needed to limit global warming requires aggressive action at all governmental levels. Action item 6.1 recommends adopting a climate change adaptation plan. This plan should include prevention as well as adaptation. And it should be initiated immediately!

I encourage you to compare Ch 16 “Environment” of Horizon 2020 with Ch 6 “Natural Resources”, of Plan 2040. Which is truly “Comprehensive”? If you learned that a large development was proposed to be built next door to your home, which would be most helpful to you? Which would be most helpful to you as a Planning Commissioner? Horizon 2020 isn’t perfect. Plan 2040 has much to commend. I’m not suggesting we keep H2020, nor that we disregard 2040, but I am suggesting that in an attempt to abbreviate the Plan we have gutted some important guidelines and strategies, while at the same time created a plan that is difficult for the general public to navigate. I fear that many substantial environmental protections have been lost.

The Environment chapter of H2020, went further than any other such document had ever gone to outline the need for environmental protection in Douglas County. It suggested necessary goals and the concrete means to achieve them. It was imperfect but it was an enormous step in “Consider(ing) the impact upon environmental and natural resources in planning and development efforts”. Approval of that chapter was a contentious, hard fought battle. Let’s not lose what was so difficult to achieve.

Sincerely,
Pennie von Achen

Horizon 2020, Chapter 16, page 16-2.
Chair Willey and Commission:
I would like to reiterate our concern that the previously unvetted or reviewed “3-tier growth map” is an inappropriate depiction of the Lawrence future urban growth area. While a 3-tier methodology is an interesting construct, the problem with it is how it places the second tier at a level of disproportionate importance. The first tier is a given; the third tier is nothing more than the current UGA. But the second tier is specifically targeted for urban expansion to take place.

This becomes problematic in areas of 100 year flood plain and the Capability I and II prime soils. Let me point out the shift in prevailing attitudes and actions in recent years regarding flood plain and prime soils protections. First of all, consider how the maps below show how the “peninsula” of Lawrence is constrained on three sides – north, east, and south – by flood plain and prime soils.

FEMA Regulatory Flood Plain & Floodway
Douglas County Capability I and II Soils

It is admirable, in two notable instances, how Lawrence and Douglas County officials have disapproved major urban developments in these sensitive lands.

- North of the Kansas River, the 145 acre Airport Industrial Park proposal met with opposition by citizens concerned about flooding, wetlands, and loss of prime soils. The plan was not approved. From it came the Prime Agricultural Soils Map and a Northeast Sector Plan protecting these natural assets.

- And just east of Lawrence, the case of the 94 acre expansion of the East Hills Business Park into the 100 year floodplain and prime soils illustrates even more dramatically the change of official attitudes to protect flood plains and soils. Initially approved in 2000, officials de-annexed and downzoned the 94 acres in 2014, committing Lawrence to growth out of the flood plain.
I hope you fully grasp how these decisions have changed fundamental values from that of bottom lands being readily developable to that of protecting them as ecological services and economic assets. Because the “3-tier growth map” flies in the face of this new-found wisdom where it earmarks about 215 acres of the Wakarusa floodplain, wetlands, and prime soils as “Tier 2 – planned and expected to urbanize”, south from K-10 Hwy all the way to the Wakarusa River (Plan 2040 draft, Chapter 2 goals, page 18).

The current 2017 edition of Horizon 2020 categorically prohibits expansion of the south Iowa commercial area south of K-10 Hwy – “K-10 provides a physical barrier and edge to the commercial corridor that has developed. Additional retail commercial uses shall not occur south of the highway, except for the possible location of an Auto-Related Commercial Center” (page 6-15).

The 215 acres of Tier 2 opens the floodgates south of K-10 Hwy for “planned and expected urbanization”, completely reversing the Horizon 2020 protections, as well as recent historical precedent that would protect 100 year flood plain and prime soils on the south edge of Lawrence.

The Planning Director has demurred on the threat of the 3-Tier Growth Map, claiming that Tier 2 indicates only “a potential for growth”, that flood plains are “protected by Federal Flood Plain Regulations” as well as “sensitive lands are protected through the site planning process”, and that “the Southern Development Plan (SDP) has land use protections built into it” (27 June 2018 Planning Comm). Not true.

• Tier 2 as “planned and expected to urbanize” says far more than a mere “potential for growth”.

• As Flood Plain Administrator, the Planning Director himself can administratively grant a fill permit under the Federal Flood Plain Regulations.

• As Planning Director, again he himself can administratively issue a site plan, with or without any protections of sensitive lands.

• The Southern Development Plan proved to be no protection at all when the 2015 Planning Commission amended the SDP and H2020, granting regional commercial zoning south of K-10 Hwy.

Please reject the 3-Tier Growth Map as a part of Plan 2040. It has not been authorized in public hearing by either the Planning Commission, the City Commission, nor the County Commission. Just because the 3-Tier Growth Map was accepted as unnecessarily detailed growth projections in Transportation 2040 does not mean that action validates this map for use in Plan 2040. It’s role in Plan 2040 to target areas for “planned and expected urbanization” has far reaching implications that need full vetting and review on it’s own merits (or lack thereof).

Please set aside the 3-Tier Growth Map for a later discussion, as several Commissioners requested at the 27 June 2018 Planning Commission meeting.

Thank you,

Michael Almon
Committee Members:
I do not find this draft document to be a plan as much as a vision statement and promotional piece. While it has the typical plan elements of vision and goals, it lacks the effective means to accomplish those goals. Unlike the existing Horizon 2020 which, for the most part, contains clear and detailed policies and protections to promote equitable development and avoid damaging consequences, this 2017 draft is heavy on generalities, which can readily be nuanced in ways that give a free hand to do almost anything that land speculators choose to do.

For one thing, the draft writers chose to "streamline" this draft, ostensibly to make it more accessible than the existing "cluttered" Comprehensive Plan, by gutting the content by 75%. The new draft is a "manageable" 116 pages, while the existing Plan is 321 pages. On the face of it, that is a 64% cut to the Plan. But a good 33% of those 116 pages consist of lovely "vision" photos, which instill in the reader a sense of purpose that is little reflected in the actual depleted text. That fragment of remaining text equals a 75.7% reduction from the existing Horizon 2020 Plan.

The word "shall", which means that a stated provision of the Plan must be adhered to, appears only 24 times in the H2020 draft, whereas in the current H2020, the word "shall" requires compliance a total of 377 times. This one aspect of the new draft might be the single most significant change. The vast majority of goals and action items in the already greatly diminished draft Plan are essentially optional. Without enumerating all the ways the draft is toothless, I will give one example.

In the current H2020 Plan, Chapter Six: Commercial Land Use, page 6-15 refers to the existing commercial area of "South Iowa St., 23rd St. to the South Lawrence Trafficway". The wording clearly states:

K-10 provides a physical barrier and edge to the commercial corridor that has developed. Additional retail commercial uses shall not occur south of the highway, except for the possible location of an Auto-Related Commercial Center. Two of the four corners of the intersection have existing auto-related uses. Located at the northwest corner is a hotel and an automobile dealership is located on the northeast corner. Because of access to two major highways (K-10 and US-59) the area south of K-10 could be a location for an Auto-Related Commercial Center.
Both corners are an appropriate location for an Auto-Related Commercial Center, provided that the floodplain issues for the southwest corner can be addressed.

The KT en Crossing Regional Commercial Center proposes to build 2.7 million square foot of retail south of the South Lawrence Trafficway (K-10 Highway). Because the proposal is in direct violation of the above restriction to such a use south of K-10, they unabashedly want to delete the entire paragraph from the Comprehensive Plan.

Although Policy 1.6 of the current H2020 Plan calls for limiting new development from encroaching into the regulatory floodplain, and says that floodplains and riparian ways are a constraint to urban development, the key phrase prohibiting the KT en Crossing is "commercial uses shall not occur south of the highway". This development has been proposed four times since 2014, has been litigated in court, and has not succeeded in having the "south of K-10 barrier" deleted from H2020. The newly proposed H2020 draft does delete that phrase, and conveniently will open the floodgates for excessive intrusion into the 100-year floodplain and the Wakarusa Wetlands.

These implications of the new H2020 draft are not idle speculation, but are backed up by the new Urban Growth Area (UGA) map. The area along South Iowa St. south of K-10 Highway is targeted for urban expansion of Tier 2 growth all the way to the Wakarusa River. Below is a comparison of the current UGA map which mostly keeps growth out of the floodplain, and the new UGA map which calls for paving over hundreds of acres of wetlands.
2017 H2020 Draft Plan: Tier 2 of Urban Growth Area –

Regardless of any other elements in the draft H2020 that claim to manage and safeguard our community assets, such as protecting sensitive lands, maintaining floodplains, promoting central city density rather than sprawling into rural areas, or ensuring that any new proposal will not negatively impact the existing market, this map demonstrates how deleting that one phrase “commercial uses shall not occur south of the highway” changes the entire thrust of urban expansion.

Please remove all but 1% of the pretty pictures from the draft document, and reinstate the policies and protections that have been deleted from the existing version of Horizon 2020. Re-establish a liberal use of the admonition “shall” in the document so the Plan has some hope of accomplishing the lofty vision and goals that are well represented throughout.

thank you,

Michael Almon
Dear Planning Commissioners:

I'm writing to express concerns about the Natural Resources chapter in Plan 2040. The new chapter lacks specific goals, implementation strategies, and recommendations for regulations, incentives, and education. It is very incomplete and will be ineffective. In short, it lacks specificity and "teeth." I stand with LETUS, whose representatives will speak at the Dec 17 meeting. I will be in the audience to show my solidarity with LETUS.

For contextual information, I urge you to read the following:


Thank you for your volunteer service to Lawrence and Douglas County.

Sincerely,

Sandy Beverly
Hi Denny;

Karen Willey asked that I send you our comments on Plan 2040; see attached. Let me know if you need any more information from me!

Jennifer

Jennifer M. Delisle, Research Associate
Kansas Biological Survey
Takeru Higuchi Bldg.
2101 Constant Ave.
Lawrence, KS 66047
785-864-1538
jdelisle@ku.edu
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Goal</th>
<th>Action item</th>
<th>Suggested changes</th>
<th>Comments about the suggested change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2A</td>
<td>1</td>
<td>1.5</td>
<td>Add ‘and other sensitive lands’ after ‘… agricultural lands’</td>
<td></td>
</tr>
<tr>
<td>2A</td>
<td>1</td>
<td>1.6</td>
<td>Add ‘and other sensitive lands’ after ‘… high-quality agricultural soils’</td>
<td></td>
</tr>
<tr>
<td>2B</td>
<td>1</td>
<td>1.5 (new)</td>
<td>Add ‘Revise residential development regulations to better</td>
<td>Bold type indicates two concepts to include in statement.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Reword: ‘Water plays a vital role in both our natural and built environments. Managing water resources ensures that water</td>
<td>Complete sentences provided as suggestion.</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>1.6</td>
<td>Add ‘and other sensitive lands’ after ‘… high‐quality agricultural soils’</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>1</td>
<td>Intro</td>
<td>Reword: ‘Develop stream corridor buffers to preserve riparian wildlife habitats and open space…’</td>
<td>These are the usual benefits of stream buffers.</td>
</tr>
<tr>
<td>6</td>
<td>1</td>
<td>1.4</td>
<td>Reword: ‘Reword: ‘Develop stream corridor buffers to preserve riparian wildlife habitats and open space…’</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>2</td>
<td>Intro</td>
<td>Add: ‘and ecosystem services such as flood control, climate regulation, water purification, and pollination.’ after …</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>2</td>
<td>2.2</td>
<td>Remove the word ‘sustain’</td>
<td>meaning is vague; does it mean ‘manage’? If so, who is doing the management?</td>
</tr>
<tr>
<td>6</td>
<td>2</td>
<td>2.4</td>
<td>Change to ‘Preserve native prairies through the development uses same wording as 2.2.’</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>2</td>
<td>2.5</td>
<td>Change to ‘Establish corridors of wildlife habitat connecting sensitive lands’</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>Sensitive Lands sidebar</td>
<td>See definition below</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>2</td>
<td>2.9</td>
<td>Possible wording: ‘Address invasive species on municipal and county lands, with priority given to non-chemical methods.’</td>
<td>Invasive species are a problem in areas other than ‘native ecosystems.’ But surely the Plan doesn’t mean to address the issue of invasives on private lands?</td>
</tr>
<tr>
<td>6</td>
<td>2</td>
<td>4.1</td>
<td>Change ‘harvesting’ to ‘extraction’</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>4</td>
<td>4.2</td>
<td>Change first instance of the word ‘extraction’ to ‘use’</td>
<td></td>
</tr>
<tr>
<td>7B</td>
<td></td>
<td>Vision</td>
<td>Change to ‘Create and maintain a variety of active and passive open spaces to protect sensitive lands and to provide options.’</td>
<td>Mimics definition of open Spaces in sidebar; refers to a defined term “sensitive lands”</td>
</tr>
<tr>
<td>7B</td>
<td>2</td>
<td>2.1</td>
<td>Replace ‘land dedications’ with ‘conservation easements’</td>
<td>meaning of ‘land dedications’ is vague.</td>
</tr>
<tr>
<td>7B</td>
<td>2</td>
<td>2.2</td>
<td>Change ‘…key natural and historic areas’ to ‘sensitive lands and key historic areas.’</td>
<td>key natural areas is not defined. Use ‘sensitive lands’ which is defined in the document.</td>
</tr>
<tr>
<td>7B</td>
<td>2</td>
<td>2.4</td>
<td>Add new item: ‘Establish a Douglas County Open Space’</td>
<td>Mimics use of the defined term ‘Open Spaces’ rather than introducing the term ‘parkland’.</td>
</tr>
<tr>
<td>7B</td>
<td>3</td>
<td>Intro</td>
<td>Change to ‘Creating active and passive open spaces as the community grows is necessary…’ Remove ‘Identify’ because presumably these areas already are known. Provides continuity by using terms already defined. Park and recreation areas are included in the definition of</td>
<td>It is not desirable to locate passive open spaces such as nature preserves and scenic overlooks near community facilities.</td>
</tr>
<tr>
<td>7B</td>
<td>3</td>
<td>3.3</td>
<td>Change to ‘Expand existing active and passive open space systems.’</td>
<td></td>
</tr>
<tr>
<td>7B</td>
<td>3</td>
<td>3.4</td>
<td>Reword: ‘Locate active open spaces near community facilities…’</td>
<td></td>
</tr>
<tr>
<td>Chapter</td>
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<td>Action item</td>
<td>Suggested changes</td>
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</tr>
<tr>
<td>7B</td>
<td>4</td>
<td>4.1</td>
<td>Define ‘community’.</td>
<td>Does ‘community’ refer only to Lawrence? Should it?</td>
</tr>
<tr>
<td>7B</td>
<td>4</td>
<td>4.4</td>
<td>Change to ‘Connect lands that provide continuity for…’</td>
<td></td>
</tr>
<tr>
<td>7B</td>
<td>5</td>
<td>5</td>
<td>Change to ‘Preserve and restore…’</td>
<td></td>
</tr>
<tr>
<td>7B</td>
<td>5</td>
<td>5.1</td>
<td>Change to ‘Promote sensitive land protection through…’</td>
<td>Conservation easements are not a program.</td>
</tr>
<tr>
<td>7B</td>
<td>5</td>
<td>5.2</td>
<td>Change to ‘Incorporate sensitive lands into development proposals as preserved features.’</td>
<td>Provides continuity throughout the document by using the defined term ‘sensitive lands’.</td>
</tr>
<tr>
<td>7B</td>
<td>5</td>
<td></td>
<td>What is a Steep Slope?</td>
<td>Add ‘or more’ after 15 percent.</td>
</tr>
</tbody>
</table>

Sensitive Lands are places that have unique environmental attributes worthy of retention or special care. They are critical to the maintenance of ecosystem services and healthy plant and wildlife populations. Protection of Sensitive Lands reduces vulnerability to natural hazards, and enhances the quality of places where people live, work, and play. These lands include:

- Floodways and floodplains
- High quality agricultural soils
- Steep slopes
- Wetlands and stream corridors
- Habitats for rare plants and animals
- Native prairies
- Urban forests and rural, high-quality, native woodlands
see attached
or
December 15, 2018

Planning Commissioners,

Please consider that the Introduction and Growth chapters of P2040 should demonstrate our town's commitment to get us off fossil fuels and commit to 100% reliance upon renewable energy. Why? It's good for growth and good Press. Also, it demonstrates our commitment to being a resilient community in the face of Climate Chaos.

It would be bad for all of us (and bad Press) if the City of Lawrence and Douglas County ignored the danger posed by current and past activities of the oil and gas industry. For example, according to Kansas Geological Service maps, there are oil wells (http://maps.kgs.ku.edu/oilgas/index.cfm) within the boundary of Plan 2040's NE Sector. As you can see from the KGS map, these wells are ESE of the intersection N 1620 Rd and E 1600 Rd which is very close to the Kansas river. These wells are in the "Lawrence Oil Field" of the now infamous Squirrel formation. The KGS map shows four currently producing oil wells. Additionally, the map shows one "inactive" well (with no plugging date), a dry and abandoned well (with no plugging date) and a gas well on a lease named "Community" that was completed in 1945 (again, no plugging date).

In Douglas county SE of Lawrence the density of oil and gas wells increases. And if you look at the KGS map you'll see that this is an issue throughout east central Kansas. After all, the first oil well west of the Mississippi was drilled one mile east of Paola in 1860 (https://aoghs.org/petroleum-pioneers/kansas-mid-continent-oil-fields/).

Finally, page 6 of P2040's introduction states: "If a [development] proposal does not comply with Comprehensive Plan requirements, then the applicant must pursue a plan amendment". Does this mean that a developer would only "pursue a plan amendment" if their plan didn't comply with a P2040 requirement?

Our town's Sustainability Advisory Board, the Climate Protection Task Force, and LETUS suggest a shared vision for Lawrence and Douglas County.

Thank you for your consideration,

Tom Birt
930 Missouri St.
Lawrence, Ks
Commissioners,

Page 6 of P2040's introduction states: "If a (development) proposal does not comply with Comprehensive Plan requirements (emphasis added), then the applicant must pursue a plan amendment".

Does this mean that a developer would only “pursue a plan amendment” if their plan didn’t comply with a P2040 requirement? This draft of P2040 requires very little but it does have a lot suggestive language.

According to the Kansas Geological Survey there are oil wells within the boundary of the NE Sector. There are 5 oil wells. 
http://maps.kgs.ku.edu/oilgas/index.cfm
The Lawrence Oil Field within the Squirrel formation
Tufte Enterprises, LLC operates 1 “recompleted well”. Circle E Investments operates 4 producing wells.
1 dry and abandoned well (Chas Wise lease) that was spudded in 1940.


get the town off fossil fuels by building local food, energy, and economic infrastructure toward this revolutionary notion of resilience and being able to bounce back from unexpected changes.

environmentally responsible manner" page 14
"Sensitive Lands are part of the natural environment that provide habitat for wildlife, endangered ecosystems, or presently unique settings that are rare in Douglas County. By protecting these designated spaces we can protect natural habitats, provide recreation areas, and help minimize development impacts in sensitive areas. These include: • Endangered Species Habitats • Floodway and Floodplain • High Quality Agricultural Soils • Native Prairies • Rural Woodlands and Urban Forests • Wetlands & Stream Corridors • Steep Slopes"

2.6 Consider the complete natural system in identifying and preserving sensitive lands as individual developments occur to maintain continuity throughout the ecosystem. page 68

3.9 Protect environmentally sensitive lands as new and existing areas develop or redevelop.

1.4 Sites shall primarily be out of regulatory floodplains. 1.5 Sites shall contain minimal slopes. 1.6 Protect environmentally sensitive lands as new and existing areas develop or redevelop. Chap 2 page 31

Staying ahead of new trends and needs requires a proactive market response for new developments to a constantly changing environment. Chapter 2 page 32.

From page 24 of the Climate Protection Task Force Plan: This CPTF Climate Protection Report was modeled on the Climate Action Plan for Norman, OK, a city of similar size and demographics to Lawrence, KS. Norman Oklahoma is working towards having 100% of its energy come from renewable sources.
Chapter 8 Appendix
page 102 Implementation of Chapter 6 Natural Resource

D: Implementation
To Planning Commission Members:

I will be speaking during public comment at the Dec. 17 meeting. At that time, I hope to again elaborate on these comments and some of the concerns that LETUS (Lawrence Ecology Teams United in Sustainability) has regarding the 2040 Comprehensive Plan. I will repeat to some extent what was presented at the November meeting of the Planning Commission. Since that meeting, the information on how urgent it is to act regarding consequences of climate change has seemed to exponentially increased! Most likely you have all been sent the following essays and newspaper articles:


(This is a difficult read...I had to take a break to finish it. I would like to lift up a very small portion of it, but one that is very important -

"Humans share the planet with many other creatures, of course. We have already managed to kill off sixty percent of the world's wildlife since 1970 by destroying their habitats, and now higher temperatures are starting to take their toll." (pages50-51) This statement is certainly worth of consideration when planning for "growth".

-------------

I would also like to add the comments made by the Sustainability Advisory Board (These were sent to you previously.):

LETUS would like to be in support of these comments. We particularly would like to emphasize the following suggestions made by SAB:

Adoption of a Climate Adaptation Plan

Additional goals for "Natural Resource" ("Environmental Stewardship) - Chapter 6:
  - Make Lawrence 100% renewable energy city
  - Promote deconstruction industry and more efficient recycling of building materials

Understand "role of sustainability in our community's development"along with inclusion of "sustainability" . For a definition go to https://lawrenceks.org/sustainability/about.

We also agree that a major concern in growth are threats of unsustainable traffic congestion and affordable housing - these need to be addressed.

The rest of the SAB report is important as well, esp. comments on Chapter 7: Community Resources and Chapter 8: Implementation.

-----------------------------
Certainly the task of the Planning Commission is occurring at a historic time, given the growing recognition of climate change consequences. We would like to continue supporting your endeavor.

Thad Holcombe
Moderator of LETUs
6. Strengthen environmental protection through **ecologically sustainable** development of the built/urban environment.

[existing language]
6.1 Adopt a climate change adaptation plan incorporating potential climate change scenarios and identifying specific actions to reduce risk and exposure from hazards.

[proposed fact based correction]
6.1 Accept the global scientific consensus that Earth’s life support ecosystems are at risk of collapse within a generation, and follow the recommendations to reduce risk and exposure as enumerated in the Climate Protection Plan and the Peak Oil Response Plan, adopted respectively on 31 March 2009 and 30 September 2011.

[here are the links]
https://assets.lawrenceks.org/assets/agendas/cc/2009/03-31-09/03-31-09h/cptf_final_draft_report.pdf  (NOTE: staff has never bothered to upload a version without the “draft” watermark across the pages)

Proposed changes of critical linguistics and concept framing In this chapter, and the balance of the document.

Substitute the word “ecology” for “environment” and “ecological” for “environmental” in all instances that refer to natural ecosystems.

Explanation:
In many City of Lawrence documents, including the Land Development Code, the word “environment” or environmental” is used to mean “surrounds” as in the area around a building or a site. This is either intentionally or inadvertently confusing, and should not continue.

Proposed change to the name of this Chapter.
Substitute the title “**Food Production and Ecosystem Services**” for “**Natural Resources**”.

Explanation:
The Earth is not a resource to be solely exploited by the human species. Earth is life support for us and all species, providing innumerable ecosystem services for our survival, such as water purification, pollination, coral reefs, and ocean phytoplankton which is the foundation of the food chain for all marine life, and produces 50% of planetary oxygen.

Food production is not a natural resource, but rather the largest human construct, interrupting natural ecosystems, and being responsible for between 31% and 37% of global greenhouse gas emissions.
February 18, 2019

Commissioners,

According to Kansas Geological Survey maps, there are oil wells within the boundary of Plan 2040. For example, ESE of the intersection N 1620 Rd and E 1600 Rd there are wells quite close to the Kansas river. These wells are in the "Lawrence Oil Field" of the now infamous Squirrel formation. The KGS map shows four currently producing oil wells. Additionally, the map shows one "inactive" well (with no plugging date), a dry and abandoned well (with no plugging date) and a gas well on a lease named "Community" that was completed in 1945 (again, no plugging date). Southeast of Lawrence and directly south of the Crown Lake Ski Club there are numerous active and abandoned oil and gas wells.

The city of Paola has an active pump jack on a well that was spudded in 1913. It is surrounded by houses. Did they plan for this? I don’t know.

By Kansas statute counties can not regulate the oil and gas industry. Cities in Kansas are constitutionally guaranteed the the right to “home rule”. We need a plan that considers the impact of the oil and gas industry on the part of the ecosphere into which we are growing.

Our Sustainability Advisory Board, the Climate Protection Task Force, and LETUS suggest a shared vision for Lawrence and Douglas County. P2040 should demonstrate our town's commitment to get us off fossil fuels and commit to 100% reliance upon renewable energy. Why? It's good for growth and good Press. Also, it demonstrates our commitment to being a resilient community in the face of climate chaos.

Sincerely,

Tom Birt
930 Missouri St.
Lawrence, Ks
To Whom it May Concern:

Please accept these comments on Plan 2040.

Over the last three decades Douglas County has lost most of its remaining native prairie due to development and lack of proper prairie management. Woodlands are also under the threat by exurban development. As the population continues to grow in the region and county over the next two decades, the remaining tracts of prairie and woodland will disappear unless something is now. That is why I would like to urge that a Douglas County Open Space Program be inserted in the plan.

Perhaps the best way to protect sensitive lands and provide public lands for recreation is the creation of a conservation district with taxing authority or a dedicated funding source. McHenry County, Illinois has such a conservation district and it has conserved over 25,000 acres since its inception in the early 1970s.

Thank you for paying attention to my comments.

Clark Coan
114 Pawnee Ave.
Lawrence, KS 66046
Dear Planning Committee Members and Commissioners:

Please consider the importance of natural areas such as old growth forest and prairie remnants when creating the Comprehensive Plan and include strong language to protect them. These natural areas are important to me, personally, and to the wildlife of our county, including bees and other pollinators.

Thank you,

Becki Farrell DeRusseau
66044
Dear Lawrence-Douglas County Metropolitan Planning Commission:

I am contacting you to express my thoughts regarding the inclusion of protections in your long-range plan for the preservation of natural undisturbed areas in Douglas County, especially remnant or native Kansas prairie areas. My wife, Susie, and I are fortunate to have native prairie on our 3-acre property at 898 N. 1850 Road, in the northwest corner of Douglas County about a mile south of the Kansas River, with approximately half of our 3-acres native prairie. Our prairie site has had Kansas biological surveys for plant species done by botanists from KU over the years, called for both by the previous owners of our ground, and now my wife and I, who purchased our home and the land in 2013. The surveys have all confirmed the dozens upon dozens of plant species and plant communities that are unique, and we've been told, irreplaceable, given the interdependent relationships existing where the plant species and native soil have never been disturbed by a plow. I cannot overemphasize how meaningful and humbling it is for my wife and I to be able to enjoy the four seasons of change that sweep across our prairie meadow, while knowing the sights we enjoy are a glimpse into the wild beauty of Kansas that greeted Native Americans in their journeys across the plains, and later, the settlers who chose Kansas for the possibilities of a better life on its prairies. In a real sense, my wife and I feel we have been allowed to become stewards of a vital piece of Kansas natural history, one that should be preserved for its own sake as a piece of Kansas's biological identity. We've read that only 3% of the original Great Plains native prairie remains, and as a former elderly neighbor stated, “they're not making any more of it”. My wife and I have shared our prairie with friends as well as faculty and students from KU and plan to continue to do so and wish to extend an invitation (please call us at 785-842-6779) to any members of the Metropolitan Planning Commission who would be interested, though it might be best to wait until late Spring and early summer when the wildflowers are in bloom.

We are also fortunate as our two new neighboring families, who in the past four years have purchased over 160 acres surrounding our 3-acre property, have both made commitments to preserving and even restoring some of the native plants that once covered their ground. Our neighbor to the northeast has an even larger acreage than ours of native prairie, as well as a beautiful stand of old-growth Kansas forest. He has invested "sweat-equity" as well as considerable expense to clear additional non-remnant acres and replant them with native plants and wildflowers. Our neighbor to the northwest is interested in preserving areas of his 90-plus acres for wildlife habitat, and last year he and his wife had the rare opportunity to spy a mountain lion crossing his old-growth forest ground in the northern reach of his land, one of many wild Kansas species that live within range of the Kansas River just a mile north.

I remain uncertain how many future generations in Douglas County will be able to visit, let alone own remnant prairie or old-growth forest, but I believe with proper planning by the owners of such natural areas, as well as the thoughtful attention by groups such as yours, all future generations of Douglas County will be able to visit and thus appreciate these wild, undisturbed places that are like precious gems within one of the most beautiful counties in Kansas. I humbly request that you prioritize the protection and long-term preservation of such natural areas in Douglas County in your planning efforts.

Respectfully,
Dan and Susie Huffman
Dear Chairwoman Willey and Commissioners,

The primary purpose of writing new comprehensive plans every few years is to update it. Each plan should build on its predecessor, developing new goals and new strategies to meet the current conditions and needs. But there is very little that’s new in Chapter 6 of Plan 2040. Most of the goals and action items are simply abbreviated versions of those in H 2020. And in many cases, vital information was lost in the abbreviated form. So while we have gained little we have lost much in the way of substance.

This comes at a time when the problems facing our environment, and therefore us, have never been greater. The stunning and ongoing loss of biodiversity, the dual problems of water: quality and scarcity, and the grim impacts of climate change are just three examples that pose unprecedented threats. The UN Intergovernmental Panel on Climate Change recently issued a report that says we must reduce our greenhouse gas emissions by 40-50% by 2030 to avoid a humanitarian crisis like the planet has never known. Many say it can’t be done. It requires aggressive and creative action. What role can the new Comprehensive Plan serve in addressing these problems?

First, we must look to the goals and strategies we already have in H 2020 and Plan 2040. Surprisingly, several strategies from H2020 that could help mitigate climate change have been omitted from Plan 2040. A few of those are listed:

Policy 3.1a: Recommend land use and transportation design standards that encourage the use of alternative forms of transportation, encourage development in areas that are served or could be served by transit facilities and provide efficient connections from one mode of transportation to another.
Policy 3.1b: Encourage and provide incentives for mixed use districts which provide live/work/shop opportunities within walkable distance.
Policy 3.1g: Develop a walkable complete street program, stressing connectivity and street design that safely accommodates all users including non-motorized vehicular traffic.
Policy 3.3a: The City and County should strive to minimize power usage, promote alternate fuel sources, and use environmentally friendly building design and mechanical systems (often referred to as "green building") in their government buildings to serve as a model to the community.
Policy 3.5a: Develop and implement policies to inventory and INCREASE (my emphasis) the amount of urban forest that will help reduce the amount of CO2 in the air.
Policy 6.4b: In a fiscally responsible manner, the City and County shall use the most environmentally friendly (i.e. fuel efficient) vehicles available on the market for government vehicles, including the publicly-owned transit fleet.
Policy 6.5a: The City of Lawrence and Douglas County should lead the way by REQUIRING (my emphasis) that all new public facilities and substantial remodels of existing public facilities be built according to sustainable or green industry accepted standards and programs.
Policy 6.6f: The City and County governments shall take the lead and set an example of reducing energy consumption for the community in a fiscally responsible manner, and examples may include:

f.4: Taking steps to reduce energy consumption in governmental buildings (using an energy audit system).

f.5: Utilizing energy efficient building materials and designs on new facilities.

But these goals and strategies are only the starting place. We as a community and you as leaders, must heed the sense of urgency in these growing ecological crises and recognize that our traditional solutions are inadequate to meet the challenges we now face. With that in mind, I recommend the following:

1. Re-examine the language in H2020 and find where abbreviating sentences or paragraphs has resulted in lost information. Incorporate that omitted language into Plan 2040. (see the last page for more of those examples)

2. Prioritize the adoption of the Climate Change PREVENTION (my addition) and Adaptation Plan in Plan 2040 (6.1). Set a date for its implementation. Ideally at least some of the participants should have expertise in this area.

3. Finally, given the gravity, complexity, and urgency of these multi-faceted concerns, I would urge you to solicit the assistance of a person with professional expertise to advise us on what further steps we should include in Plan 2040. Hopefully he/she could help us find those creative, nontraditional strategies we may be missing. It would be well worth it to be sure we are doing all we can to build a healthy, vibrant and sustainable community.

Due to recent surgery I may be unable to attend Monday’s meeting. Thank you for the long hours you are spending on the Comprehensive Plan!

Sincerely,
Pennie von Achen
Following are a few examples of goals or action steps found in H2020 that did not make it into Plan 2040, or some important parts were omitted:

Policy 1.2d.1 Use native plants in yards and gardens: they need fewer chemicals and water. (This could be encouraged on projects that come before the Planning Commission, and on government landscapes)
Policy 1.4b: Develop a wetland policy which promotes protection, enhancement, and restoration of existing high priority wetlands and effective mitigation of wetlands when disturbed.
Policy 1.5c: If important areas of groundwater recharge are identified through the inventory, prepare a wellhead protection plan.
Policy 1.6a: Consider further limiting new development from encroaching into the regulatory floodplain by adopting regulations that promote no adverse impact in flood hazard areas.
Policy 1.7E: Use nonstructural or natural approaches to storm water system design and management. Encourage storm water management that uses natural features, rain barrels, rain gardens, bio-retention swales, pervious paving materials, and limits the use of imperious surfaces, etc.
Policy 2.2a: Develop regulations and incentives that provide DIFFERENT LEVELS (my emphasis) of protection for the different types of woodlands.
Policy 2.4g: Regulate the placement of roads, trails and utilities with development or infrastructure projects to minimize creation of fragmented natural areas.
Policy 2.4h: Develop a program to encourage and incentivize the connectivity of natural areas whether they are on a particular development site or off-site.
Policy 5.1c: Encourage the recycling of construction and demolition debris.
Policy 6.6d: Provide incentives for building and facility design which minimizes water usage such as water efficient plumbing fixtures, and reuse of gray water for irrigation.
Chair Willey and Commission:
For anyone interested in looking, there are innumerable scientific references to be found describing how humanity is fouling our own nest, to our own detriment and that of all other species. Ocean fisheries are collapsing, the Brazilian rainforest is being decimated, agriculture runoff is causing a 5,780 square mile dead zone in the Gulf of Mexico, and we have entered the sixth mass extinction on the Earth, with 16-33 percent of invertebrates now endangered.

It’s sometimes difficult to put these facts into a local perspective, but much of the global damage to ecosystems is caused by land use conversion by humanity. In that regard, I want to share with you some observations by Dr. Hope Jahren, a full professor of Geobiology at the University of Oslo. Please include strong protections for wetlands and prime soils in the Growth and Development chapter and the Natural Resources chapter of the Plan2040 draft.

“A forest experiences many disturbances like lightening kills, windfalls, death from aging, and fires. Humans can disturb like nothing else. We plow, pave, burn, chop, and dig. The edges and disturbances of our cities support only one kind of plant, a weed, which grows fast and reproduces aggressively. A plant living where we don’t want it is a pest. A plant thriving where we don’t want it is a weed. Humans are actively creating a world where only weeds can live, and then feigning shock and outrage at finding so many.

“For several billion years, the whole of the Earth’s land surface was completely barren. After the first jawed and jawless fish appeared, sixty million more years passed before there was life on land that constituted any more than a few single cells stuck together within the cracks of a rock. Once the first plant did somehow make its way onto land, however, it took only a few million years for all of the continents to turn green, first with wetlands, and then with forests.

“Three billion years of evolution have produced only one life form that can reverse this process and make our planet significantly less green. Urbanization is decolonizing the surface that plants painstakingly colonized four hundred million years ago, turning them back into hard and barren lands. The amount of urban area in the U.S. is expected to double during the next forty years, displacing a total area of protected forest the size of Pennsylvania.”

thank you,

Michael Almon
February 21, 2019

City of Lawrence
Unincorporated Douglas County
CompPlanUpdate@lawrenceks.org

Re: Comprehensive Plan Public Comment

City of Lawrence & Unincorporated Douglas County:

I represent the Friends of the Kaw, Inc., a 501(c)(3), grassroots, conservation organization, the mission of which is to protect and preserve the Kansas River (locally known as the Kaw) for present and future generations. I am also an active member of the Kansas Basin Regional Advisory Committee for the Kansas Water Plan and Vision, which involves the efforts of many people across Kansas to address the water problems of our state.

It is very important that we take this opportunity to comment on the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County. We are providing public comment in regards to the Natural Resources section. Please find our comments attached to this letter.

The Kansas River is a drinking water source for over 800,000 Kansans and is a National Water Trail. We all must do what we can to protect the watershed and this valuable resource. Thank you for your time, thank you for serving your community, and thank you for your hard work to set a plan for the future.

Sincerely,

FRIENDS OF THE KAW

Dawn Buehler
Kansas Riverkeeper® & Executive Director
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Goal</th>
<th>Action Item</th>
<th>Suggest Changes</th>
<th>Comment about suggest change</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td></td>
<td></td>
<td><strong>Sidebar:</strong> Definition of Watershed: A watershed is an area of land that drains to a single point.</td>
<td>Current example is not entirely accurate</td>
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<td><strong>Sidebar:</strong> Watersheds are important….needs to be rewritten. <strong>Suggestion:</strong> We all live in a watershed. Watersheds consist of surface waters such as rivers, streams, lakes and wetlands, as well as all of the groundwater under the soil. Watershed protection is a means of protecting all of those waters that drain into the watershed. A watershed is more than a drainage area in and around our communities, it provides drinking water for people and wildlife, diverse native landscapes, wildlife habitat, nourishes our gardens, produces energy and is the basic foundation for life. Protection of our natural resources and our watershed is essential to maintain the health of all living things.</td>
<td>Watersheds are more inclusive.</td>
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<td>6</td>
<td>Vision</td>
<td></td>
<td><strong>Suggested revision:</strong> To protect, enhance and restore our rich natural heritage and environment.</td>
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<td>6</td>
<td>1 Intro</td>
<td><strong>Suggested revision:</strong> Managing all water resources to ensure that water quality is maintained for a <strong>healthy watershed</strong>, drinking water, and recreational purposes.</td>
<td>We must think holistically and look at the entire system.</td>
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<td></td>
<td>6</td>
<td>1</td>
<td><strong>Suggested revision:</strong> Manage the watershed and all water resources to protect natural habitats, mitigate hazards and ensure water quality.</td>
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<td>1 1.1</td>
<td>Comment: in order to evaluate development proposals that impact the drinking water for Lawrence &amp; Douglas Co., that will require that the entire watershed is monitored.</td>
<td>The watershed extends far beyond Douglas County.</td>
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<td>6</td>
<td>1 1.4</td>
<td><strong>Suggested revision rewrite:</strong> Develop a stream setback policy that works to protect, preserve and enhance the hydrologic, biological, ecological, aesthetic, and recreation functions that river and stream corridor buffers provide to the community.</td>
<td>The County could really take a step here and become the leader across the state on the protection of water.</td>
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<tr>
<td>Page</td>
<td>Section</td>
<td>Revision</td>
<td>Notes</td>
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<td>6</td>
<td>1.6</td>
<td>Suggested revision: Encourage minimal and appropriate use of fertilizer, pesticides and other chemicals within the watershed. Train city and county staff on appropriate use of these chemicals, especially surrounding water bodies and during wet weather conditions.</td>
<td>Would like to see the County &amp; City stop spraying on the bridges over waterways.</td>
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<td>6</td>
<td>1.9</td>
<td>Suggested revision: Inventory and protect groundwater resources, their recharge lands, and understand their connections to surface streams.</td>
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<td>6</td>
<td>1.11</td>
<td>Suggested revision: Promote voluntary water usage reductions. (by itself)</td>
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<td>6</td>
<td>1.12</td>
<td>Suggested addition: Encourage best management practices in all work that touches sensitive lands, lands and water.</td>
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<td>6</td>
<td>2.1</td>
<td>Suggested revision: Manage land resources to maintain or restore their native, historical functions and ensure their sustainability for the future.</td>
<td>We don’t want to maintain lands as they are if they have invasives and don’t hold soil, we want to restore them.</td>
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<td>6</td>
<td>2.1</td>
<td>Suggested revision: Adopt regulations requiring grading permits and require best management practices in all development.</td>
<td>Best Management Practices are critical to protecting the watershed.</td>
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<td>6</td>
<td>4</td>
<td>Suggested revision: Properly manage natural resources to ensure sustainability, marketability, environmental protection, and value for the community.</td>
<td>Make sure the community receives the best value when the mining is from a community asset.</td>
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<td>6</td>
<td>4.1</td>
<td>Suggested revision: Work with partner agencies and the community to develop sustainable harvesting standards and an effective reclamation plan that benefits the community.</td>
<td>Need community involvement when we destroy lands.</td>
<td></td>
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<td>6</td>
<td>4.3</td>
<td>Suggested addition: and involve the community</td>
<td>Make sure there is appropriate public comment periods.</td>
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</table>
February 22, 2019

Lawrence-Douglas County Metropolitan Planning Commission

Dear Planning Commissioners,

Thank you for the opportunity to speak, albeit very briefly, at the December 17, 2018 meeting about the Lawrence Board of REALTORS® concerns regarding the community benefit policy contained in Chapter 2 of Plan 2040. Unfortunately, due to time and format constraints, there remains much more that went unsaid but should be considered.

City staff summarily claimed that many other jurisdictions have had success with policies similar to the community benefit policy in Chapter 2. However, after extensive research, including requesting assistance from our national organization, we are unable to locate any jurisdiction in the country that has instituted a policy like the community benefit mandate in Chapter 2.

City staff also referred to successes Boulder, Colorado has experienced in Creating additional affordable housing. However, what staff failed to mention is that Boulder’s plan is an inclusionary housing program that requires 25% of all housing development within the city limits to be set aside as permanently affordable housing, or a payment-in-lieu of $18,000 per unit. First, this kind of inclusionary housing program has been expressly prohibited by statute in Kansas so Boulder’s system is not comparable. Further, as reported in a 2014 Boulder newspaper article (attached), developers acknowledge passing on the costs of complying with Boulder’s inclusionary housing program to market buyers by building more expensive market rate housing. This is precisely the result LBOR and others have been warning against. When developers incur additional costs and pass those on by building more expensive market rate housing it adds inventory to a price point that is already sufficiently represented in the Lawrence market and does absolutely nothing to address the established need for moderately priced workforce housing in Lawrence.

This underscores the semantic problem that exists when we are talking about affordable housing. Most of us think of affordable housing in terms of housing that is publicly subsidized through rent vouchers, down payment assistance, or development of permanently affordable housing through grant funding with assistance of agencies like Tenants to Homeowners. This is undoubtedly an important public need and requires our attention.

But when we focus on this definition of affordable housing, we lose sight of a growing population of residents who make too much to qualify for public assistance, but not enough to afford a house that costs more than $250,000. These people make up a significant portion of
the Lawrence workforce and we know from the recent housing study that there are nearly 3,000 of these residents who currently rent and want to own but Lawrence simply doesn’t have enough affordable inventory to accommodate them. As a result, we have a population of employed, tax paying Lawrence residents who are being priced out of home ownership. So when LBOR talks about housing affordability, we are talking about both the population that qualifies for public subsidy and this more moderate income population that is being left behind.

It is also worth noting that of the 25% of housing required by Boulder’s program to be permanently affordable, 80% should be affordable to low/moderate income households and 20% affordable to middle income households. That allotment of housing to meet middle income housing needs is noticeably absent from Lawrence’s proposal and City staff have expressly indicated that meeting a community housing need is not, in and of itself, a sufficient community benefit under this policy.

In short, Boulder obtained their success through an enforcement mechanism that is not available to us in Kansas and experienced the very consequence that LBOR and others have been cautioning against for months.

The median sales price for housing in Lawrence has already jumped over 13% in 2018. Affordable housing is quickly becoming out of reach for more and more Lawrence residents. The Lawrence Board of Realtors® believes that everyone in Lawrence should have access to safe, affordable housing and that everyone should be able to experience home ownership within their means. To that end, we would encourage City Leadership to look at housing affordability in Lawrence as it pertains to all Lawrence residents and adopt policies which will incentivize and encourage the growth that Lawrence needs rather than deterring it with additional costly requirements.

Thank you for your consideration of these issues.

Sincerely,

Danielle N. Davey
Governmental Affairs Director
Lawrence Board of Realtors®
Boulder: Is affordable housing working?

Strategy to provide more workforce housing expected to be finalized next year

By Erica Meltzer

Camera Staff Writer
Boulder Daily Camera

Posted: Sat Dec 13 11:00:00 MST 2014

Back in 2000, Cecily Wilson was a newly divorced single mother with limited education and not much work experience.

Through Boulder Housing Partners, she was able to find a three-bedroom apartment where she could pay a percentage of her limited income and maintain some consistency for her children, keeping them in their schools.

A lot has changed in Wilson's life since then. She went back to school. Her boys grew up and went off to college. She is now an orthopedic nurse manager at a local surgery center where she earns roughly $55,000 a year. But she still lives in housing managed by Boulder Housing Partners, a two-bedroom in the Foothills Community in northwest Boulder for which she pays $1,010 a month.

"It's a great job," she said of her nurse manager position. "It might sound like enough to move into market-rate housing, but you add up school loans, college assistance for my kids; I’m not in any position to jump into market-rate for the same size."

Wilson belongs to the large "middle-income" population that works in Boulder but increasingly struggles to find housing here that doesn't break the bank.

Affordable housing in Boulder

There are now 3,336 permanently affordable housing units in the city of Boulder. Another 283 affordable units have received city funding and are in various stages of development. Boulder also has more than 900 Section 8 vouchers, which are available through a lottery system.

Boulder's affordable housing stock includes 203 shelter beds, 300 public housing units, 1,857 rental units and 822 ownership units.

The city has a goal of having 10 percent of its housing stock be permanently affordable.

"Affordable" means that a resident would not have to spend more than 30 percent of his or her income on housing. Rents and prices on affordable units are designed to meet a variety of income levels, depending on the type of housing project and the funding sources.

Area median income in Boulder is $67,750 for a single adult and $96,800 for a family of four. Most affordable housing is restricted to 80 percent of area median income or lower, or $44,750 for a single adult and $63,900 for a family of four. There are 99 ownership units available to people earning up to 120 percent of AMI.

Boulder Housing Partners has a variety of housing types, from public housing and Section 8 communities, where residents pay 30 percent of their income in rent, to affordable apartments available at reduced rent, to market-rate apartments open to all. Of a total 1,112 housing units, 345 are reserved for the elderly or disabled, and 31 are for the chronically homeless.

The wait list for public housing is closed. Section 8 vouchers are available through an annual lottery. Affordable rental units are listed as they become available.

For more information, go to boulderhousing.org.

Thistle Communities is a developer and property manager of affordable housing in Boulder. Thistle manages affordable rental units, usually for people at 60 percent of AMI or lower, and develops deed-restricted ownership units that sell for amounts that would be affordable to people at moderate and low incomes.

For more information, go to thistlecommunities.org.

Boulder’s inclusionary housing ordinance, in place since 2000, requires that new residential projects make at least 20 percent of the units permanently affordable or pay cash-in-lieu to the city's affordable housing fund, which uses those funds as well as federal, state and local money to pay for affordable housing projects.

For more information, go to bouldercolorado.gov

Affordable housing projects are usually developed through a combination of public and private financing.

Boulder is in the midst of developing a comprehensive housing strategy that would identify policy changes, whether in the provision of affordable housing or in the city's land use policies, that would provide more "workforce" housing. The strategy is expected to be finalized in 2015.

That discussion has run smack into the broader debate about growth and development, with many on both sides seeing the call for more affordable housing as a proxy for density and urbanization.

Proponents of greater urbanism — from John Tayer at the Boulder Chamber to Sue Prant at Community Cycles — have said new development provides housing for workers and reduces in-commuting. Opponents of development point to the high price points of new units and ask what, exactly, the city is getting from all this building.

"In our new development, are we truly getting development that houses our workforce? I don’t think we are," Councilwoman Lisa Morzel said in September as the City Council briefly considered a moratorium on new development.
Requiring affordability

A centerpiece of the city's affordable housing policy since 2000 has been the inclusionary housing ordinance, which requires that developers of residential projects make 20 percent of their units permanently affordable through deed restriction or pay cash to the city instead. Developers also have the option of building affordable units off-site in a separate project.

The stated preference of the program is that developers build on-site housing so that affordable units are integrated with other housing, but developers have flexibility in how they comply.

Of the 24 major residential projects to come through the site review process since 2009, 13 have paid cash to the city, three have done a combination of on-site housing and cash, three have built off-site affordable housing and five have built affordable housing on-site, according to information provided by the city of Boulder’s Housing Division.

Of those five, four were developed by Boulder Housing Partners, the city’s housing authority, or Thistle Communities, a developer and manager of affordable housing projects, or were annexations, in which the city has more leverage and usually requires at least 50 percent affordable housing on-site. Kalmia Estate Residences, for example, includes 26 affordable homes out of 57.

Just one did not meet those conditions: Depot Square in Boulder Junction. That project is 100 percent affordable through an agreement with Pedersen Development by which the $5.4 million cash-in-lieu paid by the Solana, on the other side of Pearl Parkway, goes to subsidize the affordable units in Depot Square.

Three projects still in the early stages of moving through the process — two as part of Boulder Junction and the other the proposed redevelopment of the Armory site in north Boulder — call for on-site affordable housing.

Housing Division Manager Jeff Yegian said that overall, the inclusionary housing ordinance is serving its purpose, but the lack of on-site affordable housing has been a concern for several years.

"One challenge of the program, with the legal environment we are operating in, is having the affordable housing integrated on-site," he said. "Having housing on-site creates a more cohesive community. Through the program design, there is a strong preference for having on-site units, and developers have to pay an increased cash-in-lieu amount if fewer than half the required units are built on-site.”

Nonetheless, developers have opted to pay almost $19 million to the city since 2009 instead of building on-site.

Why have so many developers made that choice?

Michelle Allen, Boulder’s inclusionary housing program manager, said cash isn’t the easy choice it might look like from the outside. That money is due when developers pull their building permits, which means they have to find a way to finance it before they’ve sold or leased a single unit.

However, lenders and investors often balk at including permanently affordable units on-site because it changes a project’s profit margin significantly. Allen said there have been numerous projects that started out calling for on-site affordable units, only to change because they couldn’t get financing that way.

A more significant barrier in recent years has been the state’s prohibition on rent control. Most of the large projects coming through the site review process in recent years have been apartment buildings, not condos, and the city cannot require the units to be rented for a set amount.

"It’s much harder to do rental units on-site," she said. "It’s nearly impossible."

More recently, the city has developed certain workarounds. If the developer enters into a voluntary agreement with the city, if the city provides a subsidy for the affordable units, if the developer provides more units or deeper affordability than strictly required by the ordinance, if the developer can find an affordable housing partner to take over the units after completion, then the project can include permanently affordable rental units with capped rents on-site.

"Almost all developers are willing to talk with us," Allen said. "They want to get their project built. What's changed is the evolution of how we can make it happen."

Off-site options

Off-site housing has been the least-used option because it would require having land and taking a separate project with its own affordable housing obligation through the city’s approval process.

Two recent projects in Gunbarrel have been able to piggyback on land and plans that were already in the works to add 130 units of permanently affordable housing that would be managed by Thistle Communities.

Gunbarrel Center, a 251-unit mixed-use development at 6685 Gunpark Drive, contributed toward the construction of 69 affordable apartments at 2685 28th St.

Apex 5510, a 232-unit apartment project at 5460 Spine Road, contributed toward the construction of 61 affordable apartments at 2810 and 2850 29th St.

Brad Blash, manager partner of Crossbeam Concierge, which developed the Apex project, said his company is used to working with affordable housing requirements in expensive cities. There’s always a way to make it work.

"Our company has been in the workforce housing business for 40 years," he said. "We understand and have done mixed-income housing for years. The concept is not unfamiliar. We understand that a lot of high-cost markets, it’s a program that you’re going to have to deal with to get your project off the drawing board."

Apex put up 10 percent of its per-unit project cost to fill a financing gap in an affordable housing project being put together by Andy Allison, an affordable housing developer who frequently works with Thistle Communities. If the project came in under budget, Apex would get back any extra money.

Asked if Apex ended up paying less money than it would have if it had done straight cash-in-lieu, Blash said building off-site was “more efficient.”
"The city's ability to look at all three options allows the private market to be creative, and in this case, produced more units than we would otherwise built," he said. "I think it's a win-win."

And when developers do pay cash-in-lieu, that money goes to other affordable housing projects.

With a few exceptions, it's hard to draw a direct line between specific market-rate projects' contributions and specific affordable housing projects. The cash-in-lieu is mingled with federal, state and local affordable housing money in one budgetary pool.

Between 2009 and 2014, the city has given out more than $22 million for 481 new permanently affordable housing units, both ownership and rental. Another $11.7 million has gone toward rehabilitation of 827 existing affordable housing units.

The city has a total of 3,336 affordable housing units and has roughly $7 million available for new projects in 2015.

'We can develop so much more'

Asked if the inclusionary housing ordinance is working, Betsey Martens, Boulder Housing Partners executive director, answered with an emphatic: "I do."

Martens said affordable housing developers such as Boulder Housing Partners and Thistle Communities can leverage $4 to $6 in other financing for every dollar they receive from the cash-in-lieu contributions.

"We can develop so much more affordable housing than we would get if it were built on-site," she said.

Since 2009, Boulder Housing Partners has created 79 units of family housing at Red Oak Park, the former site of Boulder Mobile Manor; 59 units of senior housing at High Mar in south Boulder; 31 units for the chronically homeless on Lee Hill Drive; and 34 units of rental housing through the acquisition of West View Apartments. Another 62 units are planned at Twin Lakes in Gunbarrel. City money went to help acquire the land.

Martens said Boulder Housing Partners historically has provided housing for very low-income people and "hard-to-house" populations, such as the disabled and the formerly homeless, as well as administering Section 8 vouchers through a lottery. The waiting list for public housing is closed because there are so many people on it.

The organization constantly tries to balance the need for housing for working families with those more specialized populations, Martens said.

"We could do nothing but build housing for seniors for the next 10 years, and we wouldn't come close to meeting the needs," Martens said.

Mary Golden, 70, one of the residents of High Mar, said she had been looking for a roommate when she had the opportunity to move into a two-bedroom apartment there.

Two years earlier, she gave up her condo after getting laid off and not finding new full-time work. She moved in with a relative who needed medical care and was searching for a new place when a spot opened up at High Mar.

Now she uses the second bedroom at her High Mar apartment as an office for her part-time contract work and volunteer job encouraging low-income children to pursue science.

The unit isn't cheap. At almost $1,000 a month, it's two-thirds of her income. But she feels much more secure.

"It doesn't sound secure, but I feel more secure," she said. "When you're in shared housing, unless you're the one on the lease who goes out and finds the other people, your housing situation is not secure."

She has found a new community at High Mar and also been able to maintain the connections she developed in Boulder since moving here in 1999 to be near her daughter and grandchildren.

She said she hopes the city finds a way to support more housing for working people and renters.

"You don't want this to be a city where you can't afford to live here if you work here," she said.

As Boulder Housing Partners develops a new long-term strategy in conjunction with the city's comprehensive housing strategy, Martens said the most important thing is to know what the community wants.

Building housing for families will cost more because the units need to be larger. Some expensive cities limit their subsidies to the more needy, and middle-income professionals move to less expensive suburbs.

"There is an undeniable tension between maximizing assistance and supporting community," Martens said.

Yegian said the comprehensive housing strategy may identify priorities for the use of city affordable housing dollars or continue the current approach. Building more "market-affordable" housing — housing that isn't subsidized but is relatively affordable for professionals — will most likely have to come from changing land use regulations, not spending city money, he said.

Developers pass on the costs

Developer Lou Della Cava said he believes the inclusionary housing ordinance itself contributes to the higher cost of housing.

Lenders want a certain return on investment, and if developers can't show a certain profit margin — one that can absorb some uncertainty — they won't get financing. To absorb the inclusionary housing requirements, developers build more expensive market-rate units than they otherwise would have, he said.

"Some people think by this mechanism you are getting developers to pay for it," he said. "Developers are not paying anything that they can't pass on to someone else."

Della Cava said developers' opposition to building on-site is overstated. He pointed to three projects he is involved with currently: Kalmia Estate, Northfield Commons, with 86 of its 192 homes being affordable, and Northfield Village, with 60 of its 132 homes being affordable. All three projects were annexations where the city insisted on high levels of affordability. The city is also contributing toward Habitat for Humanity homes within Northfield Village.

Nonetheless, the price of the market-rate homes is higher to offset the cost of the affordable units, he said.
Della Cava said other public goods such as streets and sewers are paid for collectively. It would be fairer and produce few unintended consequences if affordable housing were funded through a citywide tax, he said. Such a tax has never made it to the ballot.

"The city's voters never bought into the idea of paying for housing for poor people," Della Cava said.

Mary DuVall, CEO of Thistle Communities, which has developed mixed affordable and market-rate homeownership projects in Boulder, said she believes Della Cava has a point.

"The developer is paying most of the cost," she said. "Philosophically, that is not entirely correct."

Even for Thistle, an entity dedicated to affordable housing and with access to tax-credit financing to make those projects happen, it's hard to make the math work, DuVall said.

"Because our city has high standards, you don't get a break for building something more affordable," she said. "The cost of the land and the construction materials and the permits are the same. It doesn't cost that much less. The market has to subsidize the affordable."

What is at stake is clear in who is renting at the apartments built in conjunction with the Apex project on 29th Street, which is managed by Thistle. It's not service industry workers, but professionals.

"They're earning a good wage, but it's not a living wage in Boulder," DuVall said. "There was no shortage of qualified applicants. They were saying, 'This is my first place, the first time I could live without roommates, the place that's going to let me stay in Boulder.'"

Wilson, the orthopedic nurse manager, is on the edge of earning too much to stay in the apartment she's had for seven years. She considers it her home, and it's the place her sons come home to when they visit.

If she has to move outside Boulder, any money she saves on rent will be more than lost on transportation costs.

Wilson said she knows she isn't owed an affordable place to live, and she's grateful for what the city and Boulder Housing Partners have provided for her in the years since her divorce.

But she also hopes she can keep contributing to the community she calls home.

"We don't want to be ousted because we've been successful," she said. "I'm just hopeful that they see our value in contributing to the workforce here in Boulder and that maybe we also contribute to the diversity in Boulder. I can't expect them to accommodate people like me, but I am so appreciative that they have, and I hope I get to stay here."

Erica Meltzer: 303-473-1355, meltzer@dailycamera.com or twitter.com/meltzer
February 24, 2019

Lawrence/Douglas County Metropolitan Planning Commission
c/o Jeff Crick
6 East 6th St.
Lawrence, KS 66044

Dear Planning Commission Members,

Grassland Heritage Foundation is a local 501(c)3 organization whose mission is to preserve tallgrass prairie in Northeast Kansas through education, stewardship, and land protection. Once covering close to 85% of Douglas County, prairie is now highly endangered with only 0.5% of the pre-settlement acreage remaining (Kansas Biological Survey data). Nationally, less than 4% of the pre-settlement prairie still exists, mostly in the Kansas Flint Hills and scattered small remnant properties. The preservation of these remnants in Douglas County provides many benefits including rainwater retention and filtration, prevention of soil erosion, nutrient cycling, habitat for pollinators and other wildlife, carbon sequestration, and opportunities for citizens to enjoy the outdoors.

We appreciate the Planning Commission’s efforts to address the preservation of prairie and other ecosystems in the 2040 Comprehensive Plan. After reviewing Chapter 6 of the most recent plan draft, we would like to make a few suggested revisions which are listed below. Also included are suggested steps for implementation of specific plan components. It is possible that we will submit additional comments in the future as the Planning Commission addresses additional chapters.

**General Comments and Suggestions:**

1. Include the Kansas Biological Survey and the Douglas County Heritage Conservation Council on the list of Advisory boards that will be consulted on matters relating to this chapter.

2. Adopt the definition of Sensitive Lands recommended by the Kansas Biological Survey in their comments from Nov. 2018 (with modifications):

   *Sensitive Lands are places that have unique environmental attributes worthy of retention or special care. They are critical to the maintenance of ecosystem services and healthy plant and wildlife populations. Protection of Sensitive Lands reduces vulnerability to natural hazards, and enhances the quality of places where people live, work, and play. These lands would be identified in consultation with the appropriate advisory boards and would include:*

   - Floodways and floodplains
   - High quality agricultural soils
Steep slopes
Wetlands
Stream corridors
Habitats for rare plants and animals
Native prairies
Urban forests and rural, high-quality, native woodlands

3. Specific rules and regulations should be created and enforced which protect Sensitive Lands, particularly native, untilled prairie. Rules and regulations protecting Sensitive Lands should apply to both commercial and residential development and should be incorporated into Specific Land Use Policies and city/county code as appropriate.

4. Create a Natural Resources Conservation Plan similar to that outlined for historic preservation in Chapter 7, Goal 1.3. Such a plan should include landowner incentives to preserve sensitive lands. The plan could be adopted as a Specific Land Use Plan or be incorporated into a Douglas County Open Space Plan.

5. The Public Benefit provision as outlined in Chapter 2 should be preserved. We encourage its use as a means to preserve sensitive lands including native tallgrass prairie.

6. We encourage the city of Lawrence to support Douglas County in creating and adopting an Open Space Plan which will insure the preservation of native prairie remnants and watersheds and provide landowners with options to sell or preserve their property.

7. The city and county should work with the Kansas Biological Survey and other professionals trained in grassland or wetland ecology to identify and review all sites which might contain Sensitive Lands prior to development.

8. The city and county should establish funding priorities for evaluation and protection for natural resources.

Recommendations for specific changes to plan:

Section 2, Land Resources

2. Implementation strategies should include the creation of management plans which account for the unique needs of specific Sensitive Lands, provide training for city and county staff, and be incorporated into the corresponding Specific Land Use Plans.

2.2 Include native prairies.

2.4 Must be conducted in collaboration with professional ecologists.
2.5 Reword to say: “Identify wildlife habitats in conjunction with the Kansas Biological Survey and other professional ecologists and establish rules and regulations prioritizing their protection and conservation to establish corridors.”

2.9 Implementation strategies should include training for city and county staff on invasive species management techniques specific to Sensitive Lands.

Section 6, Urban Environment

6.1 Implementation strategies should include the prioritization of native ecosystems as a component of any climate adaptation plan.

Add provision 6.11 stating:

*Promote pollinator health and sustainable landscaping practices by increasing the use of native plants in city and county landscaping and eliminating the use of pesticides which harm pollinator populations.*

Thank you for your time and effort in writing and reviewing this plan. If you have any questions about our suggested revisions, please feel free to contact me at 913-449-3621 or by email at sholc@comcast.net.

Sincerely,

Sue Holcomb, President
On behalf of the Board of Governors
My comments are regarding the "Natural Resources" chapter of 2040 proposed plan. I am suggesting the Climate Protection Task Force Report of 2009 as a good resource for addressing several concerns. In that report, actions were recommended to achieve greenhouse gas emissions reduction goals - the following is the timeline and the seven strategies developed to meet reduction timeline:

"The Climate Protection Task Force’s overarching goal is to achieve an 80% reduction in greenhouse gas (GHG) emissions measured in carbon dioxide equivalence (CDE) by 2050, using baseline data from 2005.

CPTF suggests the following timeline for achieving incremental GHG reductions:

- 30% reductions by 2020
- 50% reductions by 2030
- 70% reductions by 2040
- 80% reductions by 2050

Many actions are needed to achieve this emissions reduction goal. CPTF believes the following seven strategies can have an immediate impact and will help the City of Lawrence:

1. Provide dedicated staffing and adequate funding to support climate protection and sustainability initiatives.
2. Strengthen energy conservation policies and building standards.
3. Incorporate the goal of reducing greenhouse gas emissions into land
4) Develop transportation policies and programs to consume less energy and reduce emissions.

5) Establish outreach and education programs on emission reduction issues.

6) Expand source reduction and waste reduction programs and initiatives.

7) Exercise leadership by prioritizing efforts to reduce greenhouse gas emissions in municipal operations.

These recommended strategies have been prioritized based on their potential impact to the goal of greenhouse gas reduction. Each strategy will have an immediate impact and can help the City of Lawrence effectively reduce GHG emissions from both government operations and the community as a whole. They are not linear, and can be undertaken concurrently. However, the amount of time required to implement these strategies effectively will depend on the implementation of Strategy #1 (the application of appropriate human and financial resources) and the priority City government gives to achieving these goals. CPTF recognizes the importance of leadership in implementing the seven strategies. Based on the success factors of like programs in similar communities, CPTF strongly recommends providing dedicated staffing and adequate funding as the highest priority.

Through the reduction of local GHG emissions, the City of Lawrence can recognize cost savings, attract environmentally friendly businesses to the area, and help Lawrence establish a leadership role in climate risk mitigation in Kansas.

(Personal Note: *These strategies can be also applied to Douglas County.* These goals could be accomplished sooner than indicated if renewable energy and energy conservation were made more of a priority.)

It is beyond the stated mission of the 2040 Plan to instigate all areas listed, but the seven strategies recognize climate disruption/change that is occurring and the need to include ways to address it. As stated, the "CPTF" strongly recommends providing dedicated staffing and adequate funding as the highest priority." (Fortunately, a Sustainability Coordinator was employed.) *It is for this reason and others, that we ask the Commission to strongly consider moving Chapter 6 of the 2040 Plan to being Chapter 2, b

----- Message truncated -----
22 February 2019

Lawrence/Douglas County Planning Commission
c/o Jeff Crick
6 East Sixth Street
Lawrence KS 66044

Dear Commission members;

The Jayhawk Audubon Society is the chapter of the National Audubon Society that serves Lawrence, Douglas County, and surrounding communities in eastern Kansas. Our mission is to provide opportunities for greater understanding and appreciation of birds and other wildlife, to encourage sustainable practices, and to advocate for actions and policies which result in protection and preservation of intact ecosystems. We have been reviewing the August 2018 draft of Plan 2040: A Comprehensive Plan for Unincorporated Douglas County and the City of Lawrence and would like to provide the comments below. We anticipate providing additional comments in the future as we continue our review.

Comments pertaining to specific parts of the Plan:

1) **Introduction: “Our Community Vision”.** Insert “We recognize that the natural environment is important to our wellbeing as individuals and as a community. We celebrate our natural and cultural heritage by protecting our remaining remnants of native prairie and woodlands, and endeavoring to restore native plants to the built environment” right before the sentence starting “Our citizens value preserving…”

2) **Chapter 2A – Growth and Development: Growth Management.** Goal 2 Item 2.2. We support retaining the Community Benefit provision as a mechanism for preserving Sensitive Lands, with special consideration given to the few remaining tracts of high-quality native prairie. We support using the Community Benefit mechanism to encourage inclusion of public green space in new residential developments.

Providing housing in and of itself does not meet the definition of a Community Benefit since its main objective is to provide benefits to the developer, not the community. Ordinances and policies establishing baseline community benefits should be established to ensure that the community shares in the benefits of development projects that encroach upon the rural character of the County.

3) **Relevant chapters throughout the Plan including Growth and Development, Transportation, Natural Resources, and Community Resources.** The Plan should provide guidance on mitigating the loss of native ecosystems through policies that encourage the use of native plants in new developments, in city and county-owned parks, along trails such as the Lawrence Loop, along roadways, and in landscaped areas around City and County buildings. Relevant policies and codes should dictate that native plants always be given first consideration. Native plants are heat and drought-tolerant, and have deep roots that improve water infiltration thereby reducing storm water runoff, and are hosts to our native pollinators. Landscaping with native plants provides visual separation between the built and natural environments.

Examples of sections where such language can be inserted:

**Chapter 2B – Growth and Development: Residential.** Goal 7. Add new item 7.11. ‘Mitigate the loss of native ecosystems through policies that encourage the use of native plants in new residential developments.’

**Chapter 2B – Growth and Development: Commercial.** Goal 3. Add new item 3.10. ‘Mitigate the loss of native ecosystems through policies that encourage the use of native plants in new commercial developments.’

**Chapter 2B – Growth and Development: Industrial.** Goal 4. Add new item 4.4. ‘Mitigate the loss of native ecosystems through policies that encourage the use of native plants in new industrial developments.’
4) **Chapter 6 – Natural Resources.** Goal 2. Add new item 2.10. 'Establish a Douglas County Open Space program to protect sensitive lands and provide public lands for recreation.'

We urge the County to move forward on establishing a program to protect Sensitive Lands and provide public access for recreation throughout the County, both inside and outside the urban growth area. Parks and open space boost land values and property taxes, attract a skilled workforce and retirees, preserve ecosystem services such as carbon sequestration and reducing storm water runoff, and reduce health costs by promoting an active lifestyle.

An Open Space program should protect watersheds by protecting land prone to flooding and creating buffers along stream corridors. An Open Space program should provide options to private landowners who want to protect their land. An Open Space program should include a mechanism to generate voluntary conservation easements on private land, with priority given to high-quality native prairies and woodlands.

5) **Chapter 6 – Natural Resources.** Goal 2. Items 2.2 and 2.4. Combine into a single item that reads ‘Preserve all sensitive lands through the development of regulations and incentives.’

Develop rules and regulations for the protection of Sensitive Lands, and provide links to those in the Plan. One of the major criticisms of Plan 2040 is that it lacks the specificity of Horizon 2020. We recognize Plan 2040 as a ‘vision’ document but citizens need to see how the vision will be implemented. Many parts of the Plan refer to Specific Land Use Plans but there is no such plan that specifically guides implementation of the natural resource chapter. We support creating a comprehensive Natural Environment Management Plan.

6) **Chapter 6 – Natural Resources.** Sidebar. Redefine Sensitive Lands following recommendations by the Kansas Biological Survey (slightly modified):

Sensitive Lands are places that have unique environmental attributes worthy of retention or special care. They are critical to the maintenance of ecosystem services and healthy plant and wildlife populations. Protection of Sensitive Lands reduces vulnerability to natural hazards, and enhances the quality of places where people live, work, and play. These lands would be identified in consultation with the appropriate advisory boards and would include:

- Floodways and floodplains
- High quality agricultural soils
- Steep slopes
- Wetlands
- Stream corridors
- Habitats for rare plants and animals
- Native prairies
- Urban forests and rural, high-quality, native woodlands

**General comments:**

- Create a Natural Resources Advisory Council as an official board.
- Include the Kansas Biological Survey as an advisory board for Chapter 6, Natural Resources, and Chapter 7, Community Resources, B. Parks, Recreation and Open Space.

Respectfully submitted,

[Signature]

James F. Bresnahan, President
Jayhawk Audubon Society
P.O. Box 3741, Lawrence, KS 66046
To Whom It May Concern,

Hello, and thank you for your service and commitment to the betterment of our community. The very concept of a 20 year planning guide is a testament to the forward-looking that is necessary for us to end up somewhere where we’d like to be instead of ending up where we didn’t necessarily want to be because we didn’t have a plan.

My name is Ken Lassman and I was born and raised in Lawrence, went to its schools and am a two-time graduate of KU. My sisters hold 3 KU degrees, my Mom graduated from KU and my Dad was a longtime employee of Lawrence High School. I’m also the 5th generation to live in Douglas County, with my great granddad being in the third party of the New England Emigrant Society that arrived in October 1854. So I can say with confidence that I’m a Lawrencian, a Douglas Countian and a Kansan.

In 2007 I wrote a book called *Wild Douglas County* which outlines the natural history and seasonal cycles that typify the landscape our community is embedded in, a landscape that is full of life and history that puts our community in an important context from which to consider whenever considering the future of Lawrence and Douglas County. When my kids have kids, they will be the proverbial 7th generation that has resided here, and I think it is truly a useful perspective to consider: what can we do today to ensure for the NEXT 7 generations that they will have access to the biological and natural heritage that still surrounds us today?

It is with this in mind that I will be bringing by a copy of my book to each city commissioner and also a copy for the Planning Department. I think it is inherent to citizens concerned about our future to consider the natural heritage that still unfolds every day around us, and I believe that documents such as the 2040 plan should be done with these things in mind. What will be important steps for our community to take today to ensure that after the next 165 years has passed, in 2184, that the same natural cycles that we share the land with today will still be nurtured and strong?

I think my book has some clues to answering this question, and so I offer it for your long term perusal. One thing to consider: how best to connect the wildlife areas we already have to each other? Consider creating and strengthening links between the Kaw River, Clinton, the Wakarusa River, Baker Wetlands, and the Baldwin Woods.

I know that you have much to sift through, and I could go on about how to mitigate and adapt to the changing climate that we’ll be facing, etc. but want to keep this simple and want to thank you once again for looking at the big picture an encourage you to look even bigger and longer into our future as a community.

Thanks so much,

Ken Lassman

[www.kawvalleyalmanac.com, wilddouglascounty@gmail.com, 785-843-0253, 1357 N 1000 Road, Lawrence, KS 66046]
February 24, 2019  

Lawrence/Douglas County Planning Commission  
c/o Jeff Crick  
6 E. 6th Street  
Lawrence, Kansas 66044  

Dear Commission Members,  

Thank you for providing an opportunity for public comment as you draft the 2040 Comprehensive Plan. I have been fortunate to work on public and private land throughout Douglas County, surveying and restoring prairies and forests. My work has allowed me to discuss these sensitive spaces with hundreds of landowners, volunteers, non-profits, city staff, and elected officials. We all have one opinion in common – we are proud of the natural landscapes of Douglas County and we want to see them protected.

Douglas County is gifted with a great variety of ecosystems that must be conserved as our communities grow. Our prairies, woodlands, river, and wetlands are under threat due to the rapid growth of our cities. As we plan for growth, I support the development of laws and regulations that protect our sensitive lands and the ecosystem services they provide. Those services are innumerable. Remnant prairies and old growth forests harbor diversity that we cannot recreate. They protect our wildlife and provide spaces for recreation and education. Native vegetated stream buffers help to filter the water running into our river and anchor the soil in streambanks. Wetlands provide protection from heavy rain events and floods, while serving as vital habitat to birds and other wildlife. In past developments, these important natural areas have been replaced with man-made spaces that will not provide the ecosystem services lost. However, new development in our county can consider our sensitive lands, incorporate them and embrace their services – providing long-lasting resources for wildlife, our residents, and visitors to Douglas County.

Please guide future development by preserving the Community Benefit provision, as it will help us work with developers to protect sensitive lands. I ask that you also encourage the use of native plants in all new developments, as they provide important resources and protections. In addition, please consider the development of an Open Space Program that assists in the protection of private and public lands, in order to protect the remaining natural resources in our county and encourage the addition of native vegetation.

As an ecologist, small business owner, and resident of Lawrence, I support the position of the professionals working at state agencies and non-profits including the Kansas Biological Survey, Grassland Heritage Foundation, Friends of the Kaw, and Jayhawk Audubon Society. I have reviewed their commentary on the 2040 Comprehensive Plan and I agree with their suggested revisions.

If I may be of any assistance in your review process, please feel free to reach out. I appreciate your time and thoughtful consideration of the feedback you have received on this chapter of the plan.

Respectfully,

Courtney Masterson, Owner/Ecologist  
Native Lands, LLC  
419 Lyon Street  
Lawrence, KS 66044
24 February 2019

Lawrence/Douglas County Planning Commission
c/o Jeff Crick
6 East Sixth Street
Lawrence, Kansas 66044

Dear Commission members:

I apologize for the last-minute timing of this comment. I have been studying with concern the portion of Plan 2040 that involves the area west of K-10. I live on a 40-acre remnant of a farm that has been in my family since Kansas Territory, located west of the intersection of K-10 and Bob Billings Parkway. With the aid of the Kansas Land Trust, I have placed a conservation easement on this property, which includes 10 acres of native prairie. Upon my death it will become the Colman Biological Preserve, managed by the Kansas Biological Survey under the terms of the conservation easement, which does not allow development on any of the acreage. My trust directs that, if the University of Kansas cannot manage the property within the specified conservation values, the land will become the property of the City of Lawrence as undeveloped green space, still protected by the conservation easement. At least one other conservation easement, also held by the Kansas Land Trust, exists within the planning area. I do not see these designated on any of the land use maps, perhaps because of scale, but the planning commission must be cognizant of them.

I realize that development is inevitable. However, I believe that natural and historic cultural areas enrich a community in ways that cannot be measured in monetary terms. The Community Benefit provision, mentioned in Chapter 2A, appears to be a common sense mechanism for preserving Sensitive Lands and encouraging inclusion of public green space within residential developments. In my view there could be no greater Community Benefit than preserving native prairie and woodlands, landscaping with native plants that reduce water runoff and host native pollinators, and retaining some of the rural character of the area.

I am hopeful that the Planning Commission will create an open space program to protect Sensitive Lands, providing options to private landowners who want to protect their lands with voluntary conservation easements. Our community is very fortunate to have many knowledgeable scientists at the Kansas Biological Survey and citizen scientists in organizations, such as the Jayhawk Audubon Society and Native Plant Society, who should be included in an official natural resources advisory council.

Sincerely,

[Signature]

Virginia A. Wulfkuhle
840 North 1500 Road
Lawrence, Kansas 66049
785-843-0846
maplehillfarm1854@gmail.com
24 February 2019

Lawrence/Douglas County Planning Commission
c/o Jeff Crick
6 East Sixth Street
Lawrence KS 66044

To the Commission members;

I would like to comment regarding the August 2018 draft of “Plan 2040: A Comprehensive Plan for Unincorporated Douglas County and the City of Lawrence” prior to the 25Feb19 Commission meeting. Considering the assumption that global climate change has already begun, and water reserves in Kansas rivers and aquifers already have begun to change, the future of native prairie and woodlands deserve discussion.

Comments pertaining to specific parts of the Plan:

1) **Chapter 2A – Growth and Development: Growth Management**: Goal 2 Item 2.2. I support the retention of the Community Benefit provision as a mechanism for preserving Sensitive Lands, with special consideration given to the few remaining tracts of high-quality native prairie. We support using the Community Benefit mechanism to encourage inclusion of public green space in new residential developments. Ordinances and policies specifying baseline community benefits should be established, with the goal of ensuring that the Lawrence community shares in the benefits of development projects that affect the rural character of Douglas County.

2) **Chapters including Growth and Development, Transportation, Natural Resources, and Community Resources**: As development continues, the Plan should provide guidance on mitigating the loss of native ecosystems through policies that encourage the use of native plants in new developments, in city and county-owned parks, along trails such as the Lawrence Loop, along roadways, and in landscaped areas around City and County buildings. Relevant policies and codes should dictate that native plants always be given first consideration. Native plants are heat and drought-tolerant, and have deep roots that improve water infiltration thereby reducing stormwater runoff, and are hosts to our native pollinators. These plants have long histories in our environment and are the most suited to it without requiring extensive irrigation; this will contribute to conserving our water resources. In addition, the use of native plants around developments and city or county facilities will provide an integration of the buildings into the surrounding natural environments.

Chapter 2B, Goal 7: Text should be incorporated into sections on **Growth and Development: Residential**. “‘Mitigate the loss of native ecosystems through policies that encourage the use of native plants in new residential developments.” Likewise, into **Growth and Development: Commercial** and **Industrial** sections, “Mitigate the loss of native ecosystems through policies that encourage the use of native plants in new commercial/industrial developments”.

From: Marilyn Smith <msmith835@gmail.com>
Sent: Monday, February 25, 2019 9:58 AM
To: Jeff Crick <jcrick@lawrenceks.org>
Subject: Planning 2040 comments
3) **Chapter 6 – Natural Resources.** Goal 2: Add new item 2.10. 'Establish a Douglas County Open Space program to protect sensitive lands and provide public lands for recreation.’ I strongly urge the County to establish a program to protect Sensitive Lands and provide public access for recreation throughout the County. Parks and open space boost the value of neighborhoods by raising property taxes and attract skilled employees as well as retirees. Such open spaces preserve the ecosystem by increasing carbon sequestration, reducing stormwater runoff, and also reduce health costs by promoting a more active lifestyle.

As climate change has already shown, extreme weather events are becoming more common; this includes storms producing heavy rainfall and flooding. An Open Space program should protect watersheds by protecting land prone to flooding and by creating buffers along stream corridors. Such buffers would also serve to keep housing and other buildings away from flood damage, reducing effects of disasters. An Open Space program should provide options to private landowners who want to protect their land; this should include procedures to generate voluntary conservation easements on private land, with priority given to high-quality native prairies and woodlands.

4) **Chapter 6 – Natural Resources.** Goal 2. Items 2.2 and 2.4. Combine into a single item that reads “Preserve all sensitive lands through the development of regulations and incentives.” I support creating a comprehensive Natural Environment Management Plan. Develop rules and regulations for the protection of Sensitive Lands and provide links to those in the Plan. Many parts of the Plan refer to Specific Land Use Plans, but we need a plan that specifically guides implementation of the natural resource chapter.

5) **Chapter 6 – Natural Resources.** Redefine Sensitive Lands following recommendations by the Kansas Biological Survey (slightly modified):

Sensitive Lands are places that have unique environmental attributes worthy of retention or special care. They are critical to the maintenance of ecosystem services and healthy plant and wildlife populations. Protection of Sensitive Lands reduces vulnerability to natural hazards, and enhances the quality of places where people live, work, and play. These lands would be identified in consultation with the appropriate advisory boards and would include:

- Floodways and floodplains
- High quality agricultural soils
- Steep slopes
- Wetlands
- Stream corridors
- Habitats for rare plants and animals
- Native prairies
- Urban forests and rural, high-quality, native woodlands

**General comments:** Include the Kansas Biological Survey as an advisory board for Chapter 6, Natural Resources, and Chapter 7, Community Resources, B. Parks, Recreation and Open Space. Create a Natural Resources Advisory Council as an official board.

--
Marilyn Smith
4800 W. 26th St
Lawrence, KS 66047
PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
02/27/2019

ITEM NO. 3
SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 1500 RHODE ISLAND ST (BJP)

SUP-18-00571: Consider a Special Use Permit for a non-owner occupied short-term rental, located at 1500 Rhode Island St in RS5 (Single-Dwelling Residential) Zoning District. Submitted by Jones Group LLC, property owner of record.

STAFF RECOMMENDATION: Planning Staff recommends approval of a special use permit for a non-owner occupied Short Term Rental use located at 1500 Rhode Island Street and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental Use shall comply with the occupancy limits of the zoning district in which the property is located. The subject property is zoned RS5 (Single-Dwelling Residential) District, which allows a maximum number of 3 unrelated occupants per dwelling unit.

2. Per Section 20-901 of the Land Development Code, the maximum number of available guest rooms associated with the non-owner occupied Short-Term Rental use may not exceed the number of off-street vehicle parking spaces available on the property. The off-street parking available for the subject property is 2 spaces; therefore, the maximum number of guest rooms that may be rented on a short-term basis is 2.

3. Per Section 20-554(3)(iii), the dwelling unit and site shall remain residential in appearance and characteristics. Internal or external changes that will make the dwelling unit and site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

4. Per Section 6-13A04(a) of the City Code, a short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use permit application.

Applicant’s Reason for Request: To license short-term rental

ASSOCIATED CASES/OTHER ACTION REQUIRED
• No active cases

Other Action Required
• City Commission approval of special use permit and adoption of ordinance.
• Publication of special use permit ordinance.
• Submission and approval of the short-term rental license application.
PLANS AND STUDIES REQUIRED

- Traffic Study - Not required for this project.
- Downstream Sanitary Sewer Analysis - Not required for this project.
- Drainage Study - Not required for this project.

KEY POINTS

- The maximum number of dwelling units permitted on a property (density) and the maximum number of occupants permitted in a dwelling is determined by the property’s zoning. The subject property is located within the RS5 (Single-Dwelling Residential) District. Per Section 20-601(d) of the Land Development Code a detached dwelling in a RS5 (Single-Dwelling Residential) District is permitted a maximum occupancy of 3 adults, if any one of the adults is unrelated to the others. The maximum occupancy of this short term rental unit would be 3 unrelated adults.

BACKGROUND

- Section 20-1781 of the Land Development Code defines the Short-Term Rental use as, “a use where all or part of a dwelling unit may, in exchange for consideration, accommodate transient guests for a period of time less than 30 consecutive days. The use may be considered an accessory use when the dwelling unit is concurrently owner-occupied. For the purpose of this definition, a dwelling unit shall include all legally established dwelling unit, but shall exclude Dormitory, Fraternity or Sorority House, Group Home (General or Limited), Motel, Hotel, Extended Stay, and Bed and Breakfast uses.”

- The two types of short-term residential rental property include owner occupied and non-owner occupied. A short-term rental property is classified as owner occupied when the dwelling unit being rented is occupied by the owner more than 182 days per calendar year. In cases where the owner resides in the dwelling unit less than 183 day per calendar year, the short-term residential rental property is classified as non-owner occupied.

- A non-owner occupied dwelling unit requires a special use permit (SUP) to be granted for the Short-Term Rental use before the dwelling unit can be rented as a short-term residential rental property.

- On October 2, 2018, the City Commission adopted Ordinance No. 9481, which amended the Land Development Code, by establishing text amendments to the Transient Accommodation use category to permit dwelling units to be used as a short-term residential rental property throughout the City of Lawrence. The text amendments included use specific standards (Section 20-554) that provide the criteria used to evaluate the appropriateness of a Short-Term Rental use. With the adoption of the Short-Term Rental use into the City Code, the transient nature of this use has been determined by the City Commission to be generally compatible with residential uses.

ATTACHMENTS

Attachment A: Site Plan/Aerial
Attachment B: Reviews provided by the applicant with the application
Attachment C: House rules provided by the applicant with the application

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None
**GENERAL INFORMATION**

**Current Zoning and Land Use:** RS5 (Single-Dwelling Residential) District; *Detached Dwelling*.

**Surrounding Zoning and Land Use:**
- GPI (General Public and Institutional Use) District to the north; *School*.
- RS5 (Single-Dwelling Residential) District to the east, south, and west; *Detached Dwellings*.

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**SUMMARY OF SPECIAL USE**

This special use permit request accommodates a non-owner occupied *Short-Term Rental* use at 1500 Rhode Island Street. The subject property contains a *Detached Dwelling* and is zoned RS5 (Single-Residential Dwelling) District. The applicant indicated that the maximum number of guest rooms available to rent is 2. The applicant also indicated that the number of off-street parking available is 2 spaces.

**Characteristics of the property**
- Legal use: *Detached Dwelling*
- Zoning: RS5 (Single-Residential Dwelling) District
- Permitted occupancy limit: Maximum of 3 unrelated occupants per dwelling unit
- Number of existing off-street parking spaces: 2
- Number of existing guest rooms: 2
- Number of proposed guest rooms: 2

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

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

Applicant’s Response: Yes, please see attached reviews.

A. Occupancy Compliance

Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental use shall comply with the occupancy limits established in Section 20-601(d). The subject property is zoned RS5 (Single-Residential Dwelling) District, which permits a maximum number of 3 unrelated occupants per dwelling unit. The applicant indicated that the dwelling unit contains 2 guest rooms.

B. Access and Parking

On-site Parking:

Per Section 20-601 of the Land Development Code, the parking requirement for the non-owner occupied Short-Term Rental use is 1 vehicle space per guest room. The owner indicated that the maximum number of guest rooms available to rent is 2. The number of off-street parking is 2 spaces. The amount of available off-street parking does meet the off-street parking requirement.

Figure 2. Aerial of the property showing off-street parking that takes access from E. 15th Street.
**Access:** Access to this site is provided via a single driveway from E. 15th Street, a local street. There are no changes to the existing access proposed with this request.

**C. Lighting**
Per Section 20-554(3)(iii), the addition of commercial-like exterior lighting is not permitted. Section 20-1103(b)(2) also prohibits spot lights and flood lights that create a glare on neighboring properties.

**D. Floodplain**
The property is not located within the regulatory floodplain and is not subject to a local floodplain development permit.

**E. Historic Resources Review**
The property is not located within the environs of a historic property and is not subject to review by the Historic Resources Commission.

**Staff Finding** - The proposed *Short-Term Rental* use complies with the applicable provisions of the Land Development Code as an allowed use in the RS5 (Single-Residential Dwelling) District subject to a special use permit.

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

Applicant’s Response: *Yes, please see our attached house rules*

Section 20-554 of the Land Development Code provides the site-related standards to ensure compatibility with the surrounding area. An evaluation of these standards as they apply to the proposal is provided below.

**Occupancy Limits**
All properties containing a *Short-Term Rental* use shall comply with the occupancy limits of the zoning district in which the property resides. The subject property is zoned RS5 (Single-Residential Dwelling) District, which permits a maximum number of 3 unrelated occupants per dwelling unit. The applicant indicated that the maximum number of guest rooms available to rent is 2, which is compatible with the occupancy limits.

**Residential Appearance**
The dwelling unit and the site are required to remain residential in appearance and characteristics. Internal and external changes that would make the dwelling unit and the site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

There are no proposed changes to the building and the property proposed with the special use permit. The property contains an existing residential use and the request does not alter the residential nature of the property.
Legally Established Dwelling Unit
Any dwelling unit used for a Short-Term Rental use shall be a legally established dwelling unit or shall obtain a registration of nonconforming use. The Short-Term Rental will be located in a detached dwelling, which was built in 1910. The Detached Dwelling is a permitted use in the RS5 zoning district.

Signs
Signs shall comply with the provisions outlined in Chapter 5, Article 18 of the City Code. Approval of a special use permit does not constitute approval of any associated signs on the property. An application for a sign permit must be approved prior to installation of signs.

Parking
Parking for a non-owner occupied Short-Term Rental use must be provided at a rate of 1 parking space per guest room. The applicant indicated that the maximum number of guest rooms available to rent is 2, which complies with the number of off-street parking spaces provided.

Staff Finding - The subject property contains an existing residential use. The project does not include exterior modifications or changes to the site that would alter the residential nature of the property. The Short-Term Rental use is restricted to the same occupancy limits of the zoning district in which the property is located. Also, the number of guest rooms available for rent is limited to the number of off-street parking spaces available. The proposed use is compatible with the adjacent uses in terms of size, massing, orientation, hours of operation and other external impacts.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED
Applicant's Response: No

The subject property contains a residential use. The use standards for the Short-Term Rental use regulate the appearance and characteristics of the site. Specifically, Section 20-545(3)(iii) of the Land Development Code dictates that internal or external changes to the dwelling unit or the site which reduce the residential character or function are prohibited. Examples of prohibited alterations include construction of parking lots, paving of required setbacks, and the addition or commercial-like exterior lighting.

Also, as discussed above, the level of intensity will be restricted by the occupancy limits permitted in the applicable zoning district and the amount of off-street parking provided.

Staff Finding - Substantial diminution of other property values in the area is not anticipated.

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

Staff Finding - The subject property contains an existing residential use. Adequate public facilities and transportation access is provided for the proposed Short-Term Rental use.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED
Staff Finding - The proposed request provides an enforceable tool to address the use and continued maintenance of the property with regard to occupancy limits and off-street parking. Adequate assurances of continued maintenance are inherent in the use and the special use permit approval process.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT
Applicant’s Response:  No

The proposed use is subject to regulatory controls to protect the significant natural features. This property is free from regulatory floodplain encumbrances. The subject property is developed and the project does not propose changes to the site.

Staff Finding - There are no significant adverse impacts on the natural environment associated with the proposed Short-Term Rental use.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE
The special use permit associated with the Short-Term Rental use is tied with the subject property. If the applicant relocates to a different property, the special use permit will not transfer to the new property; however, any future owners of the subject property may maintain the Short-Term Rental use approved with the special use permit, if desired.

A short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use permit application.

Staff Finding - Staff does not recommend a time limit on the special use permit.

CONCLUSION
The subject property is zoned RS5 (Single-Residential Dwelling) District and contains a residential use. The R5 District permits a maximum number of 3 unrelated occupants per dwelling unit. The applicant indicated that the maximum number of guest rooms available to rent is 2 and the number of off-street parking provided is 2 parking spaces. The proposed special use permit for the Short-Term Rental use aligns with the occupancy limits of the zoning district and meets the off-street parking requirement.

Based on the findings in this report, and as conditioned, staff recommends approval of the special use permit.
Hey, I’m Barbara!

Lawrence, Kansas, United States · Joined in June 2017

Report this user
Edit Profile

Superhost 40 Reviews Verified

Listings (1)

Reviews (40)

Reviews From Guests

Brian
November 2018 ·
Excellent location in a nice older 2 bedroom home. Extremely clean and excellent TV and Internet with a nice kitchen and special touches like a coffee machine with coffee and tea selection with it. Really nice to have a place to park the car in this quiet area. Short walk to downtown area and only a couple blocks to grocery store. Everything as advertised.

+ More
Melissa
November 2018 ·
The house was very clean and the location was perfect for visiting both downtown and KU!

+ More

Dan
October 2018 ·
Great place.

+ More

Ann
October 2018 ·
We could not have found a better place to stay while in Lawrence for a family wedding! Barbara's house was perfect for our needs since we were in town for a week. Having two full bathrooms was great and being able to do laundry was also a huge plus. Everything was spotlessly clean - not sure how you even keep a basement that clean, but they did! Barbara was quick to respond from the start and went above and beyond by providing a full size ironing board when I needed one. The location was excellent; an easy distance to downtown and the grocery store, plus many other locations. We truly spent our week at the house "living like a local," and could not have been more comfortable. I would highly recommend staying here when visiting Lawrence - thank you, Barbara, for making our visit so pleasant and enjoyable!

+ More
Philip
October 2018
Very responsive, and great location. All amenities we excellent.

+ More

Dawn
October 2018
Immaculate, tastefully decorated and well-stocked home in a convenient and safe location. My daughter and I stayed here for a tour at KU and it was far superior to a sterile hotel room. If we come back to Lawrence, we'll definitely stay here again!

+ More

Elizabeth
September 2018
We had a great time staying at Barbara's! Perfect Location.

+ More

Scott
This was painless and efficient. Though I didn't see Barbara in person, everything was set up perfectly for a quick trip overnight with a late arrival.

+ More
Paul

+ More

Kristine
This home was wonderful! Enjoyed the extra perks of bottled water and a Keurig with coffee pods and creamer. This home was right off Mass street and close to my daughters house. The house was very clean and beds were comfortable! Fabulous communication! We would definitely stay here again!

+ More

Serafin
Highly recommend. Great communication.

+ More

Abby
I would highly recommend staying here. It was a very clean, comfortable place to stay. It was very easy to communicate with the owner and I was very pleased with everything.

+ More
Catherine
Very comfortable home. Nice way to spend the weekend visiting my children. A good space and great neighborhood. Would love to stay again. Thank you

+ More

Robert
Great place to stay. Very close to Mass Street.

+ More

Morial
My family had a great time. Thanks Barbara!

+ More

Fernando
Perfect place! Not far from Mass or campus, yet far enough that it is quiet. Highly recommend it!

+ More
Alan
Great place great location

Patrick
Barbara was wonderful. House was very clean and comfortable. Great location. Barbara was very responsive and helpful. Great place to stay in Lawrence

Donna
Barbara's place worked out perfectly for us! We were there to celebrate my daughter's graduation from KU. Barbara's was comfortable, the neighborhood very friendly and close to all our events. We loved sitting on the front porch in the evenings and early mornings!

Mari
Lovely space, fabulous residential neighborhood within walking distance to Mass Ave, I'd definitely recommend it to anyone and hope to stay here again sometime!
Shane

Cute comfy and a great value. Really great location. Off the path enough to be quiet busy super close to all the fun stuff.

+ More

Jim

Great place and great host! The cottage is very cute, close to KU and Mass. Street. It is nicely decorated and very comfortable. Barbara is a great host and is super responsive.

+ More

J

I loved everything about this place. It had everything we needed, the location was perfect, and it was really quiet and peaceful at night. If only it was warmer weather we would’ve walked to Mass St, but the Uber trips were easy, convenient and cheap. I really hope we have the opportunity to stay here again. Thanks so much for the hospitality!!

+ More

Graham

This is an amazing house in a great location. When you step out the front door you can see Mass St. Don't worry Mass is far enough away so it's perfectly quiet. Barbara was also gracious and always had quick responses to my questions. If I need an airbnb in Lawrence again I am staying here.

+ More
Tina
This is a really nice, comfortable and cute cottage-like place very near downtown. Everything was easy, accommodating and enjoyable. Highly recommend!

+ More

蛋蛋
A great house.

+ More

Madelynne
We loved our stay at Barbara's place! It was so well prepared, clean, and cute. Would definitely stay again!

+ More

Julian
Great location. Great house. Great host. I will definitely consider staying here again the next time I'm in town for a KU basketball game. Highly recommend!

+ More
If you are looking for an Airbnb in Lawrence, Barbara's house is perfect for your stay. It is clean, adorably decorated and conveniently located two streets off Massachusetts Street. Barbara was a fantastic host giving us recommendations, as well as accommodating our check-in time. I would highly recommend anyone visiting Lawrence to check if Barbara's house is available before looking at any other listings.

Jessica

Jayant

Great home, very helpful.

Grant

The house is very comfortable and a place I will definitely visit again.

Abby

Such a cute place in a great location just a couple blocks from Mass. Kitchen and bathrooms were stocked with anything we could've needed and it was really clean, well decorated and homey.
Jessica
Cute cozy house, very well appointed. Anything we needed was there - coffee, soaps, washer, everything was thought of. Very nice linens, appliances, cookware, furniture, etc. Stayed for 4 nights with our children while visiting family for the holidays. It was perfect! Great location - close to downtown Lawrence, grocery, bars, anything you need.

+ More

John
Our time in Lawrence was fantastic. The house is in a great location, perfect quiet neighborhood yet walking distance to downtown shopping, restaurants and the KU campus. We were able to catch the basketball season opener and much of what Mass street has to offer! The Cool Breeze Cottage is the perfect place to stay while visiting this beautiful town.

+ More

Brandon
Very nice place! Quite neighborhood. Everything that fit the description was right on point! Had an amazing time.

+ More

Nadia
Very nice space in a beautiful, quiet neighborhood, conveniently minutes from anywhere in the area! This little home felt like home, it was clean and the beds were very comfortable. Full kitchen appliances for use, linens like new, neatly prepared, and ready to go. They even provided bathroom goods (soaps, hair dryer, etc). The hosts were very kind,
flexible, and happy to host us. They made the stay easy and I cant emphasize comfort and cleanliness enough; this is by far the nicest AirBnB I have stayed in.

+ More

Cori

Cool Breeze Cottage is a great place to stay in Lawrence. Very comfortable and in a cute quiet neighborhood that is easy to navigate. Close to shops and restaurants on Mass, making it a great location to check out what Lawrence has to offer!

+ More

John

I came in for Dad's day events with my daughter at KU. Great location, cute house, easy to get to campus.

+ More

Jennifer

We loved staying at Cool Breeze Cottage! It is located in a quiet neighborhood close to KU campus, Lawrence's charming downtown (shops, restaurants, events), a grocery store, and gas station. The house is beautifully furnished, well-equipped, and very clean. Barbara was a lovely hostess. Check-in and check-out was a breeze. Barbara made our stay even more comfortable by providing us with thoughtful touches and little extras such as toiletries, laundry detergent, coffee, books, and games. Our stay was exceptional in every regard.

+ More
Reviews From Hosts

Aimee
July 2018

Barbara was a wonderful guest, great communicator and very respectful of the space. We would welcome her back anytime!

+ More
$109 per night

$5  39

Dates
Check in → Check out

Guests
1 guest

Exact
You won't be charged yet

Report this listing

Policies

House Rules

Not safe or suitable for infants (under 2 years) and pets - The stairwell to the basement has open access and no stair rails.

No smoking, parties, or events

Check-in is anytime after 3PM and check out by 11AM

- Please be respectful of the quiet family neighborhood.

- Per zoning requirements-no more than a group of three persons un-related by blood, marriage or adoption may reside within such a dwelling unit.

You must also acknowledge

Amenity limitations - The bathroom on the main level has to be accessed through one of the bedrooms. The other bathroom is in the basement.
SUP-18-00571: Special Use Permit for a non-owner occupied short-term rental, located at 1500 Rhode Island Street in RS5 (Single-Dwelling Residential) District.
PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
02/27/2019

ITEM NO. 10 SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 1321 New Hampshire Street (KEW)


STAFF RECOMMENDATION: Planning Staff recommends approval of a special use permit for a non-owner occupied Short Term Rental use located at 1321 New Hampshire Street and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental Use shall comply with the occupancy limits of the zoning district in which the property is located. The subject property is zoned RS5 (Single-Dwelling Residential) District. The zoning district in this area is single-family residential; therefore, a maximum of 3 unrelated occupants are permitted per dwelling unit.

2. Per Section 20-601 of the Land Development Code, the maximum number of available guest rooms associated with the non-owner occupied Short-Term Rental use may not exceed the number of off-street vehicle parking spaces available on the property. The off-street parking available for the subject property is four spaces; therefore, the maximum number of guest rooms that may be rented on a short-term basis is limited to four.

3. Per Section 20-554(3)(iii), the dwelling unit and site shall remain residential in appearance and characteristics. Internal or external changes that will make the dwelling unit and site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

4. Per Section 6-13A04(a) of the City Code, a short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use application.

Applicant’s Reason for Request: “Non-residing Airbnb.”

ASSOCIATED CASES/OTHER ACTION REQUIRED
• No active cases

Other Action Required
• City Commission approval of special use permit and adoption of ordinance.
• Publication of special use permit ordinance.
• Submission and approval of the short-term rental license application.

PLANS AND STUDIES REQUIRED
• Traffic Study – Not required.
• Downstream Sanitary Sewer Analysis – Not required.
• Drainage Study – Not required.

KEY POINTS
• The maximum number of dwelling units permitted on a property (density) and the maximum number of occupants permitted in a dwelling is determined by the property’s zoning. The subject property is located within the RS5 (Single-Dwelling Residential) District. Per Section 20-601(d) of the Land Development Code a detached dwelling in a RS5 (Single-Dwelling Residential) District is permitted a maximum occupancy of 3 adults, if any one of the adults is unrelated to the others. The maximum occupancy of this short term rental unit would be 3 unrelated adults.

BACKGROUND
• Section 20-1781 of the Land Development Code defines the Short-Term Rental use as “a use where all or part of a dwelling unit may, in exchange for consideration, accommodate transient guests for a period of time less than 30 consecutive days. The use may be considered an accessory use when the dwelling unit is concurrently owner-occupied. For the purpose of this definition, a dwelling unit shall include all legally established dwelling unit, but shall exclude Dormitory, Fraternity or Sorority House, Group Home (General or Limited), Motel, Hotel, Extended Stay, and Bed and Breakfast uses.”

• The two types of short-term residential rental property include owner occupied and non-owner occupied. A short-term rental property is classified as owner occupied when the dwelling unit being rented is occupied by the owner more than 182 days per calendar year. In cases where the owner resides in the dwelling unit less than 183 day per calendar year, the short-term residential rental property is classified as non-owner occupied.

• A non-owner occupied dwelling unit requires a special use permit (SUP) to be granted for the Short-Term Rental use before the dwelling unit can be rented as a short-term residential rental property.

• On October 2, 2018, the City Commission adopted Ordinance No. 9481, which amended the Land Development Code, by establishing text amendments to the Transient Accommodation use category to permit dwelling units to be used as a short-term residential rental property throughout the City of Lawrence. The text amendments included use specific standards (Section 20-554) that provide the criteria used to evaluate the appropriateness of a Short-Term Rental use. With the adoption of the Short-Term Rental use into the City Code, the transient nature of this use has been determined by the City Commission to be generally compatible with residential uses.

ATTACHMENTS
Attachment A: Site Plan/Aerial

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
• N/A
**GENERAL INFORMATION**

**Current Zoning and Land Use:** RS5 (Single-Dwelling Residential) District. Current land use: *Detached Dwelling*.

**Surrounding Zoning and Land Use:**
- To the north, east, and south: RS5 (Single-Dwelling Residential) District; *Detached Dwellings*.
- To the west: RM32 (Multi-Dwelling Residential) District; *Detached Dwellings*. (Figure 1)

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**SUMMARY OF SPECIAL USE**

This special use permit application proposes the using the residence at 1321 New Hampshire Street as a *Short-Term Rental* use. The property will not be owner occupied and, therefore, requires approval of a special use permit. As the property is currently developed as a *Detached Dwelling* and no physical changes are being proposed to the site, an aerial photograph serves as the plan for the new use.

**Characteristics of the property**

- Legal use: *Detached Dwelling*
- Zoning: RS5 (Single-Dwelling Residential Dwelling) District
- Permitted occupancy limit: Maximum of 3 unrelated occupants per dwelling unit.
- Number of existing off-street parking spaces: 4 (3 surface + 1 garage)
- Number of existing guest rooms: 4
- Number of proposed guest rooms: 4

The amount of off-street parking required to be provided for the non-owner occupied *Short-Term Rental* use is 1 parking space per guest room. The number of guest rooms is equal to the number of available off-street parking spaces. Parking is discussed in more detail in Section 1 below.

**Review and Decision-Making Criteria (Land Development Code Section 20-1306(i))**
1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE
Applicant's Response: “Yes.”

A. Occupancy Compliance
Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental use shall comply with the occupancy limits established in Section 20-601(d). The subject property is zoned RS5 (Single-Dwelling Residential) District. A maximum of 3 unrelated occupants are permitted per detached dwelling in the RS5 Districts. The applicant indicates that the dwelling unit contains 4 guest rooms. This rentals will comply with the occupancy limit requirements.

B. Access and Parking
On-site Parking:
Per Section 20-902-Schedule A of the Land Development Code, the parking requirement for the non-owner occupied Short-Term Rental use is 1 vehicle space per guest room. The owner indicated that the maximum number of guest rooms available to rent is 4. The number of off-street parking is 4 spaces, 3 surface and 1 garage space. The amount of available off-street parking meets the off-street parking requirement.

Access: Access to this site is provided via the alley at the rear of the structure. Parking is also located off the alley. There are no changes to the existing access proposed with this request.

C. Lighting
Per Section 20-554(3)(iii), the addition of commercial-like exterior lighting is not permitted. Section 20-1103(b)(2) also prohibits spot lights and flood lights that create a glare on neighboring properties.

D. Floodplain
The property is not located within the regulatory floodplain and is not subject to a local floodplain development permit.
E. Historic Resources Review
The property is located within the South Rhode Island Historic District but is not altering any exterior features of the structure or the site. The Historic Resources Commission has the opportunity to comment on the special use permit application but has not provided any comments. The historic review as part of the special use permit process has been administratively approved.

Staff Finding - The proposed Short-Term Rental use, as conditioned, is compliant with all applicable provisions of the Land Development Code as an allowed use in the RS5 (Single-Dwelling Residential) District subject to a special use permit.

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

Section 20-554 of the Land Development Code provides the site-related standards to ensure compatibility with the surrounding area. An evaluation of these standards as they apply to the proposal is provided below.

Occupancy Limits
All properties containing a Short-Term Rental use shall comply with the occupancy limits of the zoning district in which the property resides. The subject property is zoned RS5 (Single-Dwelling Residential) District, which permits a maximum number of 3 unrelated occupants per dwelling unit.

Residential Appearance
The dwelling unit and the site are required to remain residential in appearance and characteristics. Internal and external changes that would make the dwelling unit and the site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

There are no proposed changes to the building and the property proposed with this special use permit. The property contains an existing residential use and the request does not alter the residential nature of the property.

Legally Established Dwelling Unit
Any dwelling unit used for a Short-term Rental use shall be a legally established dwelling unit or shall obtain registration of nonconforming use. This short-term rental will be located in the primary residential structure. A residential structure is a permitted use in the RS5 zoning district.

Signs
Signs shall comply with the provisions outlined in Chapter 5, Article 18 of the City Code. Approval of a special use permit does not constitute approval of any associated signs on the property. An application for a sign permit must be approved prior to installation of signs.

Parking
Parking for non-owner occupied Short-Term Rental use must be provided at a rate of 1 parking space per guest room.
**Staff Finding** - The subject property contains an existing residential use. The project does not include exterior modifications or changes to the site that would alter the residential nature of the property. The *Short-Term Rental* use is restricted to the same occupancy limits of the zoning district in which the property is located. Also, the number of guest rooms available for rent is limited to the number of off-street parking spaces available. The occupancy limit of 3 unrelated adults will ensure that the use is similar in nature to the surrounding uses, with the exception of the rental term. The parking provided is sufficient to accommodate the number of guest rooms available. The use should be compatible with surrounding land uses as it is a residential use.

3. **WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED**
   Applicant’s Response: “No.”

The subject property contains a residential use. The use standards for the *Short-Term Rental* use regulate the appearance and characteristics of the site. Specifically, Section 20-545(3)(iii) of the Land Development Code dictates that internal or external changes to the dwelling unit or the site which reduce the residential character or function are prohibited. Examples of prohibited alterations include construction of parking lots, paving of required setbacks, and the addition or commercial-like exterior lighting.

Also, as discussed above, the level of intensity will be restricted by the occupancy limits permitted in the applicable zoning district and the amount of off-street parking provided.

**Staff Finding** - Substantial diminution of other property values in the area is not anticipated.

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

As an existing legal use, the property already has safety, transportation, and utility infrastructure in place and no the *Short-Term Rental* use will not trigger a need for additional services or infrastructure.

**Staff Finding** - The subject property contains an existing residential use. Adequate public facilities and transportation access is provided for the proposed *Short-Term Rental* use.

5. **WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED**

**Staff Finding** - The proposed request provides an enforceable tool to address the use and continued maintenance of the property with regard to occupancy limits and off-street parking. Adequate assurances of continued maintenance are inherent in the use and the special use permit approval process.

6. **WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT**
   Applicant’s Response: “No.”
**Staff Finding** - The proposed use is subject to regulatory controls to protect the significant natural features. This property is free from regulatory floodplain encumbrances. The subject property is developed and the project does not propose changes to the site. There are no significant adverse impacts on the natural environment associated with the proposed *Short-Term Rental* use.

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

The special use permit associated with the *Short-Term Rental* use is tied with the subject property. If the applicant relocates to a different property, the special use permit will not transfer to the new property; however, any future owners of the subject property may maintain the *Short-Term Rental* use approved with the special use permit, if desired.

A short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use permit application.

**Staff Finding** - Staff does not recommend a time limit on the special use permit.

**CONCLUSION**

The subject property is zoned RS5 (Single-Dwelling Residential) District and contains a detached dwelling. The RS5 District permits a maximum number of 3 unrelated occupants per detached dwelling. The applicant indicated that the maximum number of guest rooms available to rent is 4 and the number of off-street parking provided is 4 parking spaces. The proposed special use permit for the *Short-Term Rental* use aligns with the occupancy limits of the zoning district and meets the off-street parking requirement.

Based on the findings in this report, and as conditioned, staff recommends approval of the special use permit.
PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
02/27/2019

ITEM NO. 5  SPECIAL USE PERMIT FOR SHORT TERM RENTAL; 630 Indiana Street (LRM)


STAFF RECOMMENDATION: Planning Staff recommends approval of a special use permit for a non-owner occupied Short Term Rental use located at 630 Indiana Street and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental Use shall comply with the occupancy limits of the zoning district in which the property is located. The subject property is zoned RS5 (Single-Dwelling Residential) District. The zoning district in this area is single-family residential; therefore, a maximum of 3 unrelated occupants are permitted per dwelling unit.

2. Per Section 20-601 of the Land Development Code, the maximum number of available guest rooms associated with the non-owner occupied Short-Term Rental use may not exceed the number of off-street vehicle parking spaces available on the property. The off-street parking available for the subject property is zero spaces; therefore, the maximum number of guest rooms that may be rented on a short-term basis is limited to two.

3. Per Section 20-554(3)(iii), the dwelling unit and site shall remain residential in appearance and characteristics. Internal or external changes that will make the dwelling unit and site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

4. Per Section 6-13A04(a) of the City Code, a short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use application.

Applicant’s Reason for Request: “We wish to create a Non-Owner-Occupied Short-Term Rental for the purpose of generating income. We wish to rent it on a short-term basis because we also use the property about 3-4 days a week.

ASSOCIATED CASES/OTHER ACTION REQUIRED
• No active cases
Other Action Required

- City Commission approval of special use permit and adoption of ordinance.
- Publication of special use permit ordinance.
- Submission and approval of the short-term rental license application.

PLANS AND STUDIES REQUIRED

- Traffic Study – Not required.
- Downstream Sanitary Sewer Analysis – Not required.
- Drainage Study – Not required.

KEY POINTS

- The maximum number of dwelling units permitted on a property (density) and the maximum number of occupants permitted in a dwelling is determined by the property's zoning. The subject property is located within the RS5 (Single-Dwelling Residential) District. Per Section 20-601(d) of the Land Development Code a detached dwelling in a RS5 (Single-Dwelling Residential) District is permitted a maximum occupancy of 3 adults, if any one of the adults is unrelated to the others. The maximum occupancy of this short term rental unit would be 3 unrelated adults.

BACKGROUND

- Section 20-1781 of the Land Development Code defines the **Short-Term Rental** use as “a use where all or part of a dwelling unit may, in exchange for consideration, accommodate transient guests for a period of time less than 30 consecutive days. The use may be considered an accessory use when the dwelling unit is concurrently owner-occupied. For the purpose of this definition, a dwelling unit shall include all legally established dwelling unit, but shall exclude Dormitory, Fraternity or Sorority House, Group Home (General or Limited), Motel, Hotel, Extended Stay, and Bed and Breakfast uses.”

- The two types of short-term residential rental property include owner occupied and non-owner occupied. A short-term rental property is classified as owner occupied when the dwelling unit being rented is occupied by the owner more than 182 days per calendar year. In cases where the owner resides in the dwelling unit less than 183 day per calendar year, the short-term residential rental property is classified as non-owner occupied.

- A non-owner occupied dwelling unit requires a special use permit (SUP) to be granted for the **Short-Term Rental** use before the dwelling unit can be rented as a short-term residential rental property.

- On October 2, 2018, the City Commission adopted Ordinance No. 9481, which amended the Land Development Code, by establishing text amendments to the Transient Accommodation use category to permit dwelling units to be used as a short-term residential rental property throughout the City of Lawrence. The text amendments included use specific standards (Section 20-554) that provide the criteria used to evaluate the appropriateness of a **Short-Term Rental** use. With the adoption of the **Short-Term Rental** use into the City Code, the transient nature of this use has been determined by the City Commission to be generally compatible with residential uses.

ATTACHMENTS

Attachment A: Site Plan/Aerial
PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
• No public comment received prior to printing.

GENERAL INFORMATION

Surrounding Zoning and Land Use: RS5 (Single-Dwelling Residential) District to the north, south, east, and west. Detached Dwelling Residential use to the north, south, east, and west.

SUMMARY OF SPECIAL USE
This special use permit application proposes the using the residence at 630 Indiana Street as a Short-Term Rental use. The property will not be owner occupied and, therefore, requires approval of a special use permit. As the property is currently developed as a Detached Dwelling and no physical changes are being proposed to the site, an aerial photograph serves as the plan for the new use.
Characteristics of the property

- Legal use: Detached Dwelling
- Zoning: RS5 (Single-Dwelling Residential Dwelling) District
- Permitted occupancy limit: Maximum of 3 unrelated occupants per dwelling unit.
- Number of existing off-street parking spaces: 0
- Number of existing guest rooms: 2
- Number of proposed guest rooms: 2

The amount of off-street parking required to be provided for the non-owner occupied Short-Term Rental use is 1 parking space per guest room. The number of guest rooms is greater than the number of available off-street parking spaces. Parking is discussed in more detail in Section 1 below.

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

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

Applicant’s Response: “Operating a Non-Owner-Occupied Short-Term rental complies with the applicable provisions of the Development Code because for the past 12 months, it has placed no more burden on the surrounding area than it did as a Long-Term Rental (1996-2017)”.

A. Occupancy Compliance
Per Section 20-554(3)(i) of the Land Development Code, all properties containing a Short-Term Rental use shall comply with the occupancy limits established in Section 20-601(d). The subject property is zoned RS5 (Single-Dwelling Residential) District. A maximum of 3 unrelated occupants are permitted per detached dwelling in the RS5 Districts. The applicant indicates that the dwelling unit contains 2 guest rooms. This request complies with the occupancy limit requirements.

B. Access and Parking

On-site Parking:
Per Section 20-902-Schedule A of the Land Development Code, the parking requirement for the non-owner occupied Short-Term Rental use is 1 vehicle space per guest room. The applicants have indicated that the maximum number of guest rooms available to rent is 2. The subject property has no off-street parking spaces and historical aerial imagery indicate no off-street parking has ever existed on the subject property.

The amount of available off-street parking does not meet the off-street parking requirement; however, the subject property came into existence (1922 per Douglas County Appraiser’s Office) prior to the establishment of off-street parking requirements via the 1927 Zoning Code. As the lack of off-street parking is an existing non-conformity, the subject property shall be granted an allowance of two parking spaces. Two parking spaces is the required amount for the Detached Dwelling Residential use. The applicant has indicated the subject property has two guestrooms; therefore, the parking requirement is satisfied.
If the applicants wish to amend the special use permit for additional guestrooms, she will need to provide one off-street parking space per proposed guestroom or obtain a variance from the Board of Zoning Appeals from the parking requirements associated with the *Short-Term Rental* use.

**Access:** Access to this site is provided via the alley at the rear of the structure. There are no changes to the existing access proposed with this request.

**C. Lighting**
Per Section 20-554(3) (iii), the addition of commercial-like exterior lighting is not permitted. Section 20-1103(b) (2) also prohibits spot lights and flood lights that create a glare on neighboring properties. The applicant has indicated there are no proposed lighting improvements.

**D. Floodplain**
The property is not located within the regulatory floodplain and is not subject to a local floodplain development permit.

**E. Historic Resources Review**
The property is located within the environs of a historic property (Wilder-Clark House) and within the Old West Lawrence Historic District (National Register) but is not altering any exterior features of the structure or the site; therefore, it is not subject to review by the Historic Resources Commission. The historic review as part of the special use permit process has been administratively approved.

**Staff Finding** – The proposed *Short-Term Rental* use, as conditioned, is compliant with all applicable provisions of the Land Development Code as an allowed use in the RS5 (Single-Dwelling Residential) District subject to a special use permit.

**2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS**
Applicant's Response: “Operating as a Non-Owner-Occupied short-Term Rental is compatible with adjacent uses in terms of scale, site design, operating characteristics, including hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts. It is used for up to 5 people from no more than three families, typically travelling in up to two automobiles. Smoking is not allowed on the premises. Guests are asked to arrive after 3:00 pm and typically arriving at 6:00 pm or earlier. Guests are required to depart by 11:00 am and typically depart 9:00 am – 11:00 am. We impose quiet hours form 9:00 PM – 9:00 AM.

Section 20-554 of the Land Development Code provides the site-related standards to ensure compatibility with the surrounding area. An evaluation of these standards as they apply to the proposal is provided below.

**Occupancy Limits**

All properties containing a Short-Term Rental use shall comply with the occupancy limits of the zoning district in which the property resides. The subject property is zoned RS5 (Single-Dwelling Residential) District, which permits a maximum number of 3 unrelated occupants per dwelling unit.

**Residential Appearance**

The dwelling unit and the site are required to remain residential in appearance and characteristics. Internal and external changes that would make the dwelling unit and the site appear less residential in character or function are prohibited. Examples of such prohibited alterations include, but are not limited to: construction of parking lots, paving of required setbacks, or the addition of commercial-like exterior lighting.

There are no proposed changes to the building and the property proposed with this special use permit. The property contains an existing residential use and the request does not alter the residential nature of the property.

**Legally Established Dwelling Unit**

Any dwelling unit used for a Short-term Rental use shall be a legally established dwelling unit or shall obtain registration of nonconforming use. This short-term rental will be located in the primary residential structure. A detached-dwelling residential structure is a permitted use in the RS5 zoning district.

**Signs**

Signs shall comply with the provisions outlined in Chapter 5, Article 18 of the City Code. Approval of a special use permit does not constitute approval of any associated signs on the property. An application for a sign permit must be approved prior to installation of signs. The applicant has indicated there are no proposed signage improvements.

**Parking**

Parking for non-owner occupied Short-Term Rental use must be provided at a rate of 1 parking space per guest room.

**Staff Finding** - The subject property contains an existing residential use. The project does not include exterior modifications or changes to the site that would alter the residential nature of the property. The Short-Term Rental use is restricted to the same occupancy limits of the zoning district in which the property is located. Also, the number of guest rooms available for rent is limited to the number of off-street parking spaces available. The occupancy limit of 3 unrelated
adults will ensure that the use is similar in nature to the surrounding uses, with the exception of the rental term. An allowance of two parking spaces has been provided due the site's existing nonconformity based on construction prior to city zoning regulations; therefore, the parking is considered adequate for the legal detached dwelling and Short-Term Rental uses. The use should be compatible with surrounding land uses as it is a residential use.

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

Applicant's Response: “In the City of Lawrence, it has not been an established trend that Rentals negatively affect property values in the area. There has been no study by the Appraisers Office of the impact of Short-term rentals”.

The subject property contains a residential use. The use standards for the Short-Term Rental use regulate the appearance and characteristics of the site. Specifically, Section 20-545(3)(iii) of the Land Development Code dictates that internal or external changes to the dwelling unit or the site which reduce the residential character or function are prohibited. Examples of prohibited alterations include construction of parking lots, paving of required setbacks, and the addition or commercial-like exterior lighting.

Also, as discussed above, the level of intensity will be restricted by the occupancy limits permitted in the applicable zoning district and the amount of off-street parking provided.

Staff Finding - Substantial diminution of other property values in the area is not anticipated.

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

As an existing legal use, the property already has safety, transportation, and utility infrastructure in place within the Indiana Street right-of-way and the rear alley. The Short-Term Rental use will not trigger a need for additional services or infrastructure.

Staff Finding - The subject property contains an existing residential use. Adequate public facilities and transportation access is provided for the proposed Short-Term Rental use.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

Staff Finding - The proposed request provides an enforceable tool to address the use and continued maintenance of the property with regard to occupancy limits and off-street parking. Adequate assurances of continued maintenance are inherent in the use and the special use permit approval process.
6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT

Applicant’s Response: No. The burden on sewer, gas, electricity and water and the volume of traffic would remain consistent with past use, perhaps less due to the intermittent occupancy. It is used for up to 5 people from no more than three families, typically travelling in up to two automobiles. Smoking is not allowed on the premises.

Staff Finding - The proposed use is subject to regulatory controls to protect the significant natural features. This property is free from regulatory floodplain encumbrances. The subject property is developed and the project does not propose changes to the site. There are no significant adverse impacts on the natural environment associated with the proposed Short-Term Rental use.

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

The special use permit associated with the Short-Term Rental use is tied with the subject property. If the applicant relocates to a different property, the special use permit will not transfer to the new property; however, any future owners of the subject property may maintain the Short-Term Rental use approved with the special use permit, if desired.

A short-term rental license is required to be obtained annually from the Planning and Development Services Department. If the short-term rental license lapses for a period more than 12 consecutive months, the special use permit will be assumed to be abandoned. Reinstatement of the use will require review and approval of a new special use permit application.

Staff Finding - Staff does not recommend a time limit on the special use permit.

CONCLUSION
The subject property is zoned RS5 (Single-Dwelling Residential) District and contains a detached dwelling. The RS5 District permits a maximum number of 3 unrelated occupants per detached dwelling. The applicant indicated that the maximum number of guest rooms available to rent is 2. The existing nonconformity of no on-site parking is a condition of the subject property’s age and construction prior to city zoning. Section 20-901.(b)(2)(ii) of the Land Development Code notes that there is no requirement to address lawfully created existing nonconforming parking deficits; therefore, an allowance of two parking spaces is granted. The Code requires additional off-street parking spaces at rate of one space per guestroom be added if the non-owner occupied Short-Term Rental use is expanded.

The proposed special use permit for the Short-Term Rental use aligns with the occupancy limits of the zoning district and meets the off-street parking requirement.

Based on the findings in this report, and as conditioned, staff recommends approval of the special use permit.
SUP-18-00625: Special Use Permit for a non-owner occupied short-term rental, located at 630 Indiana Street in RS5 (Single-Dwelling Residential) District.
February 19, 2019

Lawrence Douglas County Metropolitan Planning Commission
City Hall
6 East 6th Street
Lawrence, Kansas 66044

Re: SUP-18-00625

Greetings:

The Air B&B at 630 Indiana has been operating for some time and has caused us no major problems, so we have no objection to letting it continue as it is. The Sedlocks are good and responsible neighbors and landlords. Should they transfer the property, or should problems arise, we would like to revisit the issue, but so far so good.

However, we think that one such rental is enough for our block, or any block in our neighborhood. Were another one to be proposed, we would lodge a firm objection. Lawrence, like many others cities, is losing its affordable housing, and Air B&B operations are a major contributor to that problem. Lawrence has no shortage of hotel rooms, but it does have shrinking numbers of units (and concomitant increasing costs) of long-term housing.

We can see other potential problems with B&B operations, ones that fortunately have not arisen in the case at hand. Should numbers of dogs on the block increase, even with overnight visitors, we would object, since we already have barking dogs seemingly all night. We also want to make sure that the alley is not obstructed. A fire truck at full speed should be able to roll down the alley without impairment. The fence behind 630 Indiana limits space for alley parking and tends to make cars parking there, if their drivers are not cautious, intrude on alley space.

In short, we have no problem with the existing arrangement. We hope that it continues to be compatible with this single-family neighborhood, and we hope it is not regarded as a precedent for future Air B&B establishments.

Sincerely,

Tim Miller
Tamara Dutton
620 Indiana
The Planning Commission considered the application referenced above at their January 23, 2019 meeting and voted to defer the item with direction to the applicant to obtain current bids for the reclamation work. The applicant submitted the bids provided in Attachment A. Staff had requested that they obtain bids from the same firms that provided bids in 2008, but they noted that one company was out of business and there was a competitive relationship bidding work against Schmidtlein and Lexeco; therefore, they were unable to obtain bids from those companies.

The applicant provided bids from Carlson Utility, LLC, Hamm Inc., and Kings Construction Co., Inc. The following information was obtained online for each company:

- Carlson Utility, LLC is an excavation/utility contractor specializing in water distribution, storm and sanitary sewer systems.
- Hamm Inc. provides a range of services, including aggregate production, waste services, ready-mix, ready-mix, and excavation.
- Kings Construction Co., Inc. is an excavating contractor.

The companies are all experienced in excavation and earthmoving, which is a principal component of the reclamation work.

**BIDS: 40 acre reclamation**

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<th>Hamm, Inc.</th>
<th>Kings Construction Co., Inc.</th>
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The County Engineer reviewed these bids and noted the following:

1) The bids were for reclamation to the minimum state standards. The approved reclamation plans for the Big Springs Quarry require seeding with a native grass/wildflower mix. He noted this mix costs approximately three times the cost of fescue seed, which is the seeding proposed in the reclamation bids. He estimated this could double the line item cost for seeding.

2) The bids do not account for inflation. He noted that if the current amount for reclamation is $3,000 an acre and we assume 3% annual inflation, the needed amount in 20 years would be $5,260 acre.

The County Engineer indicated that, given that the provided bids are approximately $3,000 per acre and the issues noted above, along with Mid-States Materials’ good track record he would be comfortable setting the bond amount at $5,000 per acre.

In staff’s opinion, while the conditional use permit will expire in 30 years, using the 20 year inflation rate seems reasonable as there may be many unknowns increasing or decreasing costs in the future.

**STAFF’S RECOMMENDATION**

Forward CUP-18-00570 to the Board of County Commissioners with a recommendation for approval of a reduction of the performance bond amount noted in Condition 10(b) and (c) in the Restrictions and Conditions of use from $40,000 per acre to $5,000 per acre based on the findings of fact in the staff report and memo, subject to the revised restrictions/conditions of use provided in Attachment B.
Carlson Utility, L.L.C.

300 SE 21st Street
Topeka, KS 66607

Phone 785.232.1116
Fax 785.232.9005

Proposal Date: January 31st, 2019
Estimated by: Greg Carlson

For: Mid-States Materials, LLC

Job Name: Big Springs Quarry Reclamation

Attention: Cole Andersen

WE PROPOSE TO FURNISH THE FOLLOWING ITEMS OF WORK ON THE ABOVE NAMED JOB:

MID-STATES QUARRY RECLAMATION

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Total

$115,700.00

Total per Acre

$2,892.50

Note: This quote includes all labor, equipment, and materials needed to reclaim 40 acres at the Big Springs Quarry in any phase to the State minimum requirement.
THE FOLLOWING ITEMS ARE NOT PART OF THIS PROPOSAL UNLESS OTHERWISE LISTED ABOVE: BONDS (IF NEEDED ADD 2%), REMOVAL OF HAZARDOUS MATERIALS, ENGINEERING, STAKING, GEOLOGY SERVICES, SEEDING, SODDING, EROSION CONTROL, DEMOLITION, SURFACE RESTORATION, INSPECTION FEES, PERMITS, FLARES AND BARRICADES, PUMPING OR DEWATERING.

THE ABOVE WORK SHALL BE COMPLETED FOR:

ONE HUNDRED FIFTEEN THOUSAND SEVEN HUNDRED DOLLARS

Greg Carlson
Carlson Utility

Proposal accepted by: ____________________________________________________________

Title: ______________________________________    Date: ____________________________

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED. ALL WORK TO BE COMPLETED IN AN APPROPRIATE MANNER ACCORDING TO STANDARD PRACTICES. ANY ALTERATION OR DEVIATION FROM ABOVE SPECIFICATIONS INVOLVING EXTRA COSTS, WILL BE EXECUTED ONLY ON WRITTEN ORDERS, AND WILL BECOME AN EXTRA CHARGE OVER AND ABOVE THE ESTIMATE. ALL AGREEMENTS CONTINGENT UPON STRIKES, ACCIDENTS, OR DELAYS BEYOND OUR CONTROL. OWNER TO CARRY FIRE, TORNADO, AND OTHER NECESSARY INSURANCE. OUR WORKERS ARE FULLY COVERED BY WORKMANS COMPENSATION INSURANCE.
Chad Gerhardt
Mid-States Materials, LLC
2 N 1700 Road, Lecompton, KS 66050

Hamm is pleased to quote the Big Springs Quarry Project. Scope includes all Equipment, Labor, and Materials to reclaim 40 acres at the Big Springs Quarry

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
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<td></td>
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**Notes:**

Grading and Topsoil includes sloping to a 3:1 or less, spreading of stockpiled topsoil over the area, erosion control, and removal of large rocks in topsoil.

Personnel and Equipment will meet MSHA requirements.

**Exclusions:**

Hamm will not be required to apply for any permitting.

**Payment Terms: Net 30 Days.**

**Acceptance of Proposal will expire in 30 days.**

By: __________________________ Date __________________

Printed Name: ____________________

Thank you for letting us bid your project,

Ryan Blosser
President, Hamm Inc.
02/08/2019

ESTIMATE TO: Mid-States Materials, LLC
ADDRESS: 2 N 1700 Road, Lecompton, KS 66050

JOB NAME: Reclamation
LOCATION: Big Springs Quarry

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
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<td><strong>GRAND TOTAL PER ACRE (40)</strong></td>
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**SCOPE:** PROVIDE ALL LABOR, EQUIPMENT, AND MATERIAL NEEDED TO RECLAIM 40 ACRES AT THE BIG SPRINGS QUARRY IN ANY PHASE TO THE STATE MINIMUM REQUIREMENT.

By: [Signature]
RESTRICTIONS AND CONDITIONS OF USE:

1) Setbacks
   Purple Phase (former phase 6)
   - 400 foot setback along the south perimeter
   - 260 foot setback along County Route 442
   - Triangular area in the southeast corner a corner of which is 1,800 feet north of the
     south property line along the setback line of County Road 442 / E. 50 Road and
     another corner of which is 1,100 feet west of the right-of-the way of County Road
     442/E. 50 road along the south setback line.

   Green Phase (former Phase 4):
   - 100 foot setback to the north and 700 foot setback to the south sides
   - 100 foot setback on the east side

   Pink Phase
   - 100 foot along north property line

   Blue Phase
   - 100 foot along east property line

   Orange Phase
   - 100 foot along east property line

   All Phases—
   - 100 foot setback from the property line along the east side of the private haul road.
   - 100 foot setback from the property line along E. 50 Road and E. 100 Road
   - 500 foot residential setback (residences existing at the time of CUP approval)

2) Operation Restrictions
   a. Methods shall be adopted to minimize dust in stage area as well as along the haul
      roads.
   b. Quarry hours of operation shall be restricted to:
      i.  sale and removal of rock: 6 a.m. – 6 p.m., Monday- Friday; 7 a.m. – 12:00 p.m.
         Saturday
      ii. Production and extraction: 6 a.m. – 10 p.m., Monday – Thursday; 6 a.m. – 6:00
          p.m., Friday
      iii. Blasting: 1 p.m. – 5 p.m., Monday – Friday
      iv. No quarry operations shall take place on holidays observed by the State of Kansas:
          (New Year’s Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day;
          the day immediately following Thanksgiving Day, and Christmas Day.
Activities occurring after these hours: In the event of an emergency or other situation that requires quarrying, or sell of product after these hours, the request must be provided to the Board of County Commissioners prior to the after hours activity commencing.

c. No more than 40 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site. No more than 10 acres shall be open, mined and extracted from in a subsequent phase until reclamation is complete on the previous phase.

3) Fencing
The entire site shall be fenced with a five-strand barbed wire fence. Fencing shall be maintained by the operator. A security gate and fence shall be placed/maintained at the entrance to the quarrying site across the main haul road. The fence shall be signed periodically (minimum of 500 feet intervals) stating: “Mid-States Materials No Trespassing”

4) Berms
a. All setbacks along roadways shall contain berms to screen operations. Berms are to be 6 to 8 feet high (8 feet maximum), built at a 3 to 1 slope and vegetated.

b. Topsoil removed from each phase will be used to construct the berms. Berms shall be constructed as quarrying progresses in each phase.

5) Blasting
a. Blasting shall be set only in sequential delays; no single delay to be over 150 lbs. of explosives.

b. No fly-rock shall leave the property.

c. Prior to each blast, the operator shall contact adjoining neighbors who request individual notice of each blast. A signaling system, siren, horn, or other signaling system, shall be used to alert people in the neighboring vicinity before each blast takes place.

d. No explosives will be set in the ground overnight unguarded.

6) Monitoring Blasting
a. Operator shall contact with independent seismology firm to monitor blasts at the commencement of quarrying operations, at each residence within ½ mile of the blast site to assure that the blast design will not be harmful to any structures or wells and that all associated vibrations are below currently recognized safety levels. A report on the monitoring of initial blasting shall be made available to owners of the residences and such report shall include a full frequency analysis of vibrations.

b. After the initial blasting, operator shall contract for a continuous monitoring program commencing with the start of continuous regular blasting by an independent seismology firm at stations chosen by the seismology firm. A monthly report, which analyzes the impacts of daily blasting, will be available at operator’s offices for inspection. Residents may request positioning of the seismograph to measure the
impact at their property; provided, however, the applicant shall not be required to conduct tests in excess of those it determines, based on professional advice of its independent seismology firm, will provide adequate seismic readings at resident’s properties. Any resident desiring to appeal the decision of the applicant concerning this condition may appeal it to the Douglas County Public Works Director who may order seismic tests at such locations as it deems appropriate under the circumstances at the expense of the operator.


7) Air and Water Quality
The quarry operator shall adhere to air quality standards of KDHE, not to exceed 20% of opacity more than 1 time in a one year period as observed by KDHE observers over a 5 minute period.

8) Other Regulatory Restrictions
All applicable regulations of EPA, KDHE, and Kansas Department of Agriculture, and other applicable agencies shall be adhered to and subsequent revisions to these regulations shall apply.

9) Noise and Light Pollution
Vehicles used in plant operation (extraction & production) after 6:00 PM shall be equipped with manufactured lighting in addition to a back-up audible signal alarm.

Permanent outdoor lighting in the quarry, including the plant area, mining area, and haul roads, shall be shielded and directed down with a solid screen to prevent light pollution beyond the site boundaries.

10) Reclamation Bond
Mid-States shall be responsible for reclamation of all quarried land.
(a) A performance bond in the amount of $100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk’s Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.

(b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of $50,000.00 $400,000.00 with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk’s office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.
(c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of \$50,000.00 $400,000.00 with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk’s office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.

(d) Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.

11) Insurance
The operator shall carry liability insurance in the amount of $1,000,000.00. Certificates of insurance shall be submitted to the Zoning and Codes Department on an annual basis.

12) Operation Report and Plan
a. Prior to the issuance of the CUP permit and every 5 years thereafter, the operator shall submit a detailed report and plan of quarrying operations to the Planning Office.

b. The plan shall show the phases of quarrying; location of stockpile area; estimated volume of material being extracted; and a detailed monitoring and management plan for the areas undergoing reclamation.

13) Reclamation and Review
a. The quarry shall utilize sequential reclamation. With the exception of the first cut in a phase, overburden within a cut shall be placed in the previous cut thereby removing the need to stockpile large amounts of overburden.

b. Detailed reclamation plans shall be submitted for each phase of the reclamation process for review and recommendation by the Planning staff and approval by the County Commission. The Detailed Reclamation Plan shall be submitted and approved prior to opening of a quarry phase.

c. The detailed reclamation plans would include a site plan showing elevations, cross-sections, and the proposed plan for revegetation of the area.

d. The property shall be reclaimed to a state that is compatible with the surrounding area with regard to slopes, and plant and animal life supported by the established ecosystem.

e. Terraced areas shall be shaped to blend with the existing, adjoining contours. The land must be graded to final contours as shown on the approved reclamation plan, top-soil, which had been used to construct the berms of each quarry phase shall be removed as areas are reclaimed and the topsoil shall be spread over the land area and seeding of appropriate native plants must occur. It is not necessary for vegetation to be established before moving fully to the next phase.
14) Studies/Surveys Required Prior to Opening New Phase
   a. Pre-Blast Survey. A pre-blast survey (by an independent seismology firm or structural
      engineer approved by the applicant and the owners of existing structures within one-
      half mile of the quarry site) shall be offered to the property owners and conducted, if
      the property owners request, prior to operating in each phase.

      (Notice shall be mailed, by certified mail, to all property owners within one-half mile
      of the phase to be quarried, at least 1 month prior to the beginning of that phase,
      indicating that a new phase is about to be quarried and letting the property owner
      know about the pre-blast survey.)

   b. Hydrologic Study
      The quantity/quality of water in the wells within one-half mile of each quarry phase
      shall be documented prior to the commencement of quarrying operations in that
      phase. A study shall be done, at the operator's expense, for all wells within ½ mile of
      each phase (with property owner consent). Notice shall be provided to all property
      owners within one-half mile of the phase boundary as noted in Condition 13a.

      This study is intended to provide an inventory of area residential and stock wells and
      determine their capacities and current volumes/levels of operation; and to determine
      the impact of quarrying, per phase, based on the depth of mining proposed. If mining
      is proposed at a depth lower than 1042 or the local water table, the County Engineer
      may require a hydrologic study to analyze the impact on area wells.

   c. Drainage Study
      Prior to work progressing in each phase of the quarrying operation, a detailed grading
      plan showing site runoff and its relationship to the adjoining properties shall be
      submitted to the Planning Office for review and approval prior to work progressing in
      each phase.

15) Site Access and Road Restrictions
   a. Except for vehicles traveling to and from the site on 45th Street in Shawnee County,
      the principal access to the site for transport truck traffic and hauling of rock shall be
      restricted to the use of U.S. Highway 40 from the direct haul route north of the
      proposed quarry. (The haul road is currently in place and the intersection with
      Highway 40 was designed in accordance with KDOT requirements.)

      Any other haul route options must first be approved by the Douglas County
      Commission.

   b. Except for local deliveries of rock from the quarry site, Route 442 shall not be used
      by transport trucks to travel to and from the east. The operator shall post signs and
      adopt appropriate restrictions on the quarry site, including restrictions on sale of rock
      where necessary, to ensure strict compliance with this restriction by all transport
      trucks.
In the event the Board of County Commissioners determines, after due notice and hearing, that such restrictions have proven ineffective in prohibiting transport trucks which originate from or travel to the quarry site from using Route 442 east of the quarry entrance in violation of this restriction, the Board may order such improvements to Route 442 as it deems necessary, including, but not limited to, appropriate shouldering, surfacing, and signing, and assess such costs to the applicant which shall be paid in a timely manner. In the alternative, the Board may order the operator to cease operation or order such steps as the Board deems necessary under this CUP.

c. No township roads shall be used as access to the quarry.

d. Restrictions which shall be posted at the entrance to the plant, regarding vehicles hauling from the site are to include:
   - no flatbed trucks without sides or tailgates;
   - tailgates shall be in place and in an upright position; and
   - all trucks leaving the site must be covered by a tied-down tarp.

  e. Operator is responsible for spillage and cleanup of aggregate within one mile of the plant site, which includes the intersection of the access road to the north and U.S. Highway 40. The failure by the applicant to clean up spilled aggregate of such roads within a reasonable period of time shall be grounds for action under Section XVII, Inspection/Violation/Revocation.

  f. The operator will not allow trucks to exceed State of Kansas legal weight limits or legally posted weight limits since different truck configurations have different legal weight limits.

  g. Weight limitations shall be posted on appropriate roads adjacent to the quarry.

  h. Access points across township roads between phases of operation require prior review and authorization from the Douglas County Public Works Director. Access is restricted to one point of crossing per phase as shown on the operation plan. Road crossings between the phases of the site shall be maintained by operator at all times.

  i. During the term of this Conditional Use Permit, the applicant shall not request the vacation of any township roads in the vicinity of the site.

16) Transfer of Operator
    Because the operator’s track record is an important consideration, a change in the quarry operator shall require the conditional use permit to come back to the Planning Commission for review and to the County Commission for reapproval.

17) Sanitary Landfill
    The property shall not be used or requested for use as a sanitary landfill within the life of this conditional use permit.

18) Shop Facility
Repair and maintenance activities shall be limited to service of vehicles and equipment in use at this specific quarry location.

19) Inspection/Violation/Revocation
The Douglas County Commission, or the appointed representative(s) thereof, shall have the right, without advance notice, to enter the premises and inspect any aspect of the quarry operation for compliance with the conditions of this permit. Upon entering the premises, the County shall first request an escort by the applicant's representatives.

Further, the Douglas County Commission, or the appointed representative(s) thereof, shall be authorized to:

a. Order the stoppage of any operation occurring without a permit or in violation of the terms of this permit.

b. Order the operator or its agents and employees to adopt such remedial measures as are necessary to comply with the terms of this CUP. In such cases, the operator shall be given no more than ninety (90) days to rectify any condition of noncompliance.

c. Order the immediate suspension of operations if, after due notice and an opportunity to be heard before the County Commission, it is determined by the Board of County Commissioners that the permitted operation is causing, or can reasonably be expected to cause, a significant, imminent danger or threat to the health, safety or welfare of the public or to the environmental quality of the surrounding area.

d. In cases such as those described in Paragraph (C) that do not pose an imminent threat to the public health, safety and welfare, the operator shall be given no more than 90 days to rectify the condition. If the condition has not been rectified, the County Commission, after due notice and hearing, may order the suspension of operations and suspend or revoke part or all of the CUP.

e. If the operator or the agents or employees thereof, fail to comply with a lawful order under this section, or violate any of the restrictions of use enumerated for this permit, the County Commission, after due notice and an opportunity for a hearing, may suspend or revoke part or all of the CUP.

20) The timeframe for completion of any phase is dependent on the market demand; however, the operator agrees to continuously quarry Phase 6 (within the limits of the CUP restrictions) so that Phase 6 will be completed as soon as possible.
PLANNING COMMISSION REPORT  
Regular Agenda - Public Hearing Item  

PC Staff Report  
01/23/19  
ITEM NO. 7:  CONDITIONAL USE PERMIT FOR BIG SPRINGS QUARRY; 2 N. 1700 ROAD (MKM)  

CUP-18-00570: Consider an amended Conditional Use Permit to reduce the amount of the performance/reclamation bond required for Big Springs Quarry, located at 2 N. 1700 Road, Lecompton. Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record.  

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit to reduce the performance bond amount required in Condition 10(b) and (c) from $40,000 per acre to $10,000 per acre based on the findings of fact listed in this report, subject to the revised restrictions/conditions of use provided in Attachment A.  

Attachments:  
Attachment A  -  Restrictions of Use and Conditions of Approval, with recommended revision  
Attachment B  -  Original Reclamation Amount Estimate, 1992  
Attachment C  -  Reclamation Amount Estimate provided in 2008 with amended CUP application, CUP-7-05-08.  
Attachment D  -  Reclamation cost spreadsheet for Phases II and III  

Reason for Request:  
Applicant’s response: “This request is to reduce the reclamation bond required by Douglas County CUP-18-00299 Restrictions 10) b. and c. The current reclamation bond amount is not based on the market conditions of our prior reclamation completed at the Big Springs Quarry.”  

KEY POINTS  
§ The performance bond for reclamation was established as Restriction of Use/Condition No. VII with the original conditional use permit for the quarry, CUP-7-2-90, which is listed below:  

VII. PERFORMANCE BOND FOR RECLAMATION  
(a) A performance bond in the amount of $100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk’s Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.  

(b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of $400,000.00 with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be
filed with the Douglas County Clerk’s office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.

(c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of $400,000.00 with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk’s office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.

- This performance bond was based on reclamation cost estimates provided with the original Conditional use Permit application in 1992.

- The condition is listed as Item No. 10 in the Restrictions of Use and Conditions of Approval which the Board of County Commissioners approved on October 10, 2018 with Conditional Use Permit, CUP-18-00299. That conditional use permit revised the previously approved permit to remove completed areas from the quarry, add new areas, and revised several of the conditions. The applicant indicated at that time that they were interested in requesting a reduction in the amount of reclamation bond, but decided to request it separately from the other changes.

- The applicant is requesting a reduction in the performance bond for reclamation amount per acre from $40,000 approved with the original conditional use permit application to $3,000.

- The County Engineer reviewed the application materials and recommended a reduced performance bond in the amount of $10,000 per acre.

**Public Communications**
Staff met with Michelle and Robert Best on January 4, 2019 to discuss the proposed change.

**Project Summary**
The recently approved conditional use permit for Big Springs Quarry, CUP-18-00299, removed the phases which had been quarried and reclaimed: Phases 1 (with the exception of the plant area), 1A, 2, and 3; and added approximately 569 acres to the remaining phases: Phase 6 which is currently being quarried, and Phase 4. A new 30 year timeframe was approved to allow time for quarrying of the additional area. Other changes approved included an increase in the area that can be open at a time from 30 acres to 40 acres due to the larger equipment that is used today than when the CUP was originally approved in 1992; and changes to the restrictions/conditions of use.

A conditional use permit application that proposed similar changes, CUP-07-05-08, was submitted in 2008, a few years after Mid-States Materials became the operator of the quarry. At that time, compliance issues that had occurred under the previous operator were identified. Mid-States agreed to withdraw the conditional use permit application at that time and entered into a consent decree to resolve the compliance issues. Compliance with the consent decree
was evaluated and a memo was provided to the County Commission on March 9, 2011 indicating that the quarry was in compliance with these requirements.

One item that was requested with the 2008 amended conditional use permit application which was not included with CUP-18-00299 was a reduction of the performance bond for reclamation.

The performance bond for reclamation must be adequate to provide reclamation in the event that the quarry operator fails to fulfill that obligation. Currently the bond is set at $400,000 for every 10 acres that is open and mined. This is higher than the bonds required by other counties in the state, but was determined with the original application from an engineer’s assessment of the actual cost of reclamation. A copy of this assessment is included in Attachment C.

The applicant provided spreadsheets of their actual costs of their reclamation per the finished phases, Phases II and III, provided in Attachment C, and is requesting that the bond amount be reduced from $40,000 per acre to $3,000.

**ASSOCIATED CASES**

- Conditional Use Permit (CUP-7-2-90) approved by Board of County Commissioners on Dec. 19, 1990 for Martin Marietta Aggregates to operate a 720 acre limestone quarry.
- Conditional Use Permit (CUP-6-6-92) approved by the Board of County Commissioners on Sept. 16, 1992 to include an additional 80 acre tract (Phase I-A) in the overall quarry operation. A condition of approval was that no future requests to expand the size of the quarry site would be allowed.
- Revision to the original CUP (CUP-7-2-90) was approved by the Board of County Commissioners on March 17, 1993 to allow the addition of a shop maintenance facility on the site.
- Conditional Use Permit (CUP-12-09-06) approved by the Board of County Commissioners on July 16, 2007 to allow the transfer of operator to Mid-States Materials and a revision to the landscaping plan.
- Conditional Use Permit (CUP-07-05-08) for expansion of quarry and other changes. This application was withdrawn and the applicant entered into a consent decree with the County Commission to resolve previous compliance issues. (Staff memo confirming compliance with the consent decree was provided to County Commission on March 9, 2011.)
- Conditional Use Permit (CUP-13-00126) to allow phasing to occur in any sequence. Approved by the Board of County Commissioners on June 5, 2013. As a result quarrying moved from Phase 3 to Phase 6 and left Phases 4 and 5 to be completed later. The current conditional use permit uses colors to designate the phases so that sequencing can be determined as quarrying progresses.
- Conditional Use Permit (CUP-18-00299) approved by the Board of County Commissioners on October 10, 2018 to allow a change in the area within the conditional use permit and revise the conditions of use.

**OTHER ACTION REQUIRED**

- Consideration of the conditional use permit by the Board of County Commissioners.
- If the conditional use permit is approved, issuance of a permit for the CUP by the Zoning and Codes Office when any conditions of approval have been met.
GENERAL INFORMATION

Current Zoning and Land Use: A (Agricultural) District and F-F (Floodway Fringe) Overlay district; Limestone Quarry, Mining and Excavation, permitted with a conditional use permit and agricultural uses on portions not being quarried.

Surrounding Zoning and Land Use:

To the west: The property abuts the Douglas/Shawnee County Line to the west and the quarry extends westward into Shawnee County. Agriculture, rural residences and woodland are located west of the proposed expansion.

To the north, east, and south: A (Agricultural District) with F-F (Floodway Fringe Overlay District) to the south and east; agricultural uses and scattered rural residences. An undeveloped platted rural subdivision is located south of the completed Phase 3 of quarry property. (Figure 2)

I. ZONING AND USES OF PROPERTY NEARBY

The quarry extends across the county line and is also located within Shawnee County. The surrounding area consists primarily of agricultural land uses; however, there are rural residences scattered throughout the area. Figure 2b shows the location of these residences,
and identifies those that are owned by Mid-States. There are nearby residences in Shawnee County as well. Notice of the public hearing for this CUP at the Planning Commission was mailed to property owners within Shawnee County and the CUP was provided to the Shawnee County Planning Office for comments. At the time this report was written, no comments had been provided from Shawnee County residents or the Shawnee County Planning Office.

**Staff Finding** - Most of the land in the area is zoned and used for agriculture. However, there are residential land uses nearby which should be considered when establishing setbacks and restrictions of use. No changes in land use or activity are being proposed with this amended conditional use permit application. The proposed reduction in the performance bond for reclamation should have no impact on surrounding properties, provided reclamation occurs as shown on the approved plans.

II. **CHARACTER OF THE AREA**

Big Springs Quarry is located on the west boundary of Douglas County and extends into Shawnee County. (Figure 3) This area is primarily agricultural in nature with scattered rural residences.

Access to the plant site is taken from County Route 442 for local deliveries; all other access is taken from the main access point on Highway 40 to the north. This access point is west of the community of Big Springs.

A portion of Big Springs is zoned B2 (General Business) and is developed with uses permitted in that district. Other uses in the community include a church and residences.

The quarry has been operating in the area since the 1990s and is a feature of the area. As phases are completed and reclaimed they are returned to a state suitable for agriculture. These parcels could be used for any use permitted in the A Zoning District.
**Staff Finding** - The quarry is located in a rural area with predominately agricultural land uses and scattered farm/rural residences. The principal land use is agricultural grassland and row crops. The character of the area has not changed much in the past 30 years. The proposed reduction in the performance bond for reclamation should have no impact on the character of the area provided reclamation is carried out as shown on the approved plans.

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

**Applicant’s response:**

“The current land is zoned agricultural and it is suitable for that purpose. The new CUP was granted on 10-10-18 for a period of 30 years. However, Mid-States Materials, LLC (“Mid-States”) believes the reclamation bond required by the county has no relation to the actual costs of reclaiming the land. Reclamation will be completed in phases. Mid-States can open 40 acres per phase plus an additional 10 acres in the next phase. Under the current restrictions, this would require a $2.0 M bond. This amount would equal $40,000 per acre for reclamation. Mid-States tracked the cost of final reclamation for both Phases II and III that were mined from 2007 – 2016 (since operating the Big Springs Quarry). Phase II reclamation cost $1,877 per acre. Because of our experiences with Phase II, we were able to reclaim Phase III at a cost of $1,068 per acre while performing at the same level. This is almost forty (40) times cheaper than the amount of the required bond! With a 40 acre limitation on an open pit, Mid-States is always reclaiming as it mines. The State of Kansas requires $600 per acre (documentation attached). Previous phases have already been reclaimed and Mid-States won the 2012, 2014, and the 1028 Governor’s Mined Land Reclamation Award for these phases. Mid-States also was the winner of the 2018 national Association of State Land Reclamationists (NASLR) Outstanding Reclamation Award. These awards were presented for returning the land back to its natural state with the added value of significant water features.”

The property is well suited for agricultural uses and the phases that are not currently being quarried will continue to be used for agriculture. The quarried and reclaimed phases have been returned to a state suitable for agricultural land uses and are currently being used for agriculture. The property, due to the reserves of limestone and the infrastructure put in place for previous quarrying activity approved with earlier conditional use permits, is also well suited for the proposed quarry use.

**Staff Finding** - A conditional use permit does not change the base, underlying zoning. The suitability of the property for agriculture or other uses permitted in the agricultural district will not be altered with the proposal to reduce the performance bond for reclamation, provided that reclamation occurs as shown on the approved plans.

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

**Staff Finding** - County Zoning Regulations were adopted in 1966 and this property has been zoned “A (Agricultural)” since that adoption. The property was used for agricultural purposes until the approval of a Conditional Use Permit, CUP-7-2-90, in 1992 for a quarry. The property has been used for agricultural and mining uses since that time.
V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Applicant’s Response:
“It will not detrimentally affect nearby property at all. This site has been a quarry site since at least 1992. The expansion has been approved. Mid-States has reclaimed all previous phases in a professional manner. Mid-States takes pride in reclamation and has proven that since taking over the operation in 2007. Due to the stringent precautions MSM takes with regards to developing the quarry, the nearby property owners will notice zero difference.”

Section 19-01 of the County Zoning Regulations recognize that “certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district... when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited.” The proposed use falls under Use No. 5, Mining and Excavation, listed in Section 19-4 Conditional Uses Enumerated, of the Douglas County Zoning Regulations.

Mining is an activity which can have a significant impact off-site; however, the quarry was originally approved in 1993 and is in operation. This application would not revise the mining area or activity, but proposes only to reduce the amount of the performance bond for reclamation. If the quarry operator were to cease operations without completing reclamation, these funds would be used by the County to insure reclamation was completed as shown on the approved plans. Insuring that reclamation will occur is important to nearby properties. When reclamation is completed the land is returned to a state suitable for agricultural uses or other uses permitted in the A District. The reclamation efforts for former phases illustrate how good reclamation can benefit nearby properties. Conversely, poor reclamation, or the lack of reclamation, can create unsightly areas that could negatively impact nearby properties.

Figure 4. Phase 3 reclamation complete.

Staff Finding - The application requests the reduction of the performance bond for reclamation from $400,000 for every 10 acres ($40,000 per acre) to $3,000 per acre. A reduction in the performance bond would not detrimentally affect nearby properties provided the amount of the bond remains adequate to reclaim the quarried area as shown on the approved reclamation plans.
VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicant’s Response:
“The public gain is an inexpensive reliable supply of construction grade limestone aggregate that serves two of the five most populous counties in the state of Kansas. The Quarry has been in existence for over thirty-six years, thus any hardship imposed upon the individual landowners has already been factored and accounted for in the intervening years. The reduction in bond fees will allow Mid-States to sell cheaper aggregate and be more competitive in the market.”

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.

Reducing the performance bond may result in a lower cost product; however, the cost of aggregate is dependent on many other items such as fuel and labor costs so it isn’t possible to quantify what reduction in cost might occur. The applicant did not provide a cost reduction estimate.

A performance bond for reclamation that provides adequate financial assurance that reclamation shall occur as shown on the approved plan, even if the operator ceases business, is an important component of a quarry conditional use permit. Reducing the bond should neither harm nor benefit the public good, provided the bond remains at an adequate level.

**Staff Finding** - No significant public benefit is expected from a reduction in the performance bond for reclamation. No public harm is expected provided the amount of performance bond remains adequate to insure reclamation will occur as shown on the approved plans.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant’s Response—
“The principal strategies for the identification, development, and maintenance of industrial and employment-related areas are:

- Increase the number and diversity of jobs available to the citizens of Douglas County to stabilize the future employment base and generate additional wealth in the community.

- Identify an adequate amount of available land in a number of locations in Douglas County to meet diverse industrial and business related development needs.

- Increase community involvement in economic development activities, by partnering with the local business community and area educational institutions to bring new technology and investment to the region for the purpose of meeting the economic development job growth goal of securing twenty thousand new jobs in Douglas County by 2020.

- Protect, enhance, and retain existing industrial-related land use areas serving the community.

- Continue to address the needs of existing businesses and industries to ensure their retention in the community and to help facilitate expansion plans of those businesses and industries for the future.
The Big Springs quarry is the hub for all of MSM's quarries located in a three state region. All ticketing for every individual truck that rolls out of over twenty different quarries goes through the Big Springs Control Center. There are thirty (30) employees on-site and up to sixty (60) positions created in the trucking industry. This quarry is located on agriculturally zoned land located far from any population centers. These two considerations are among the best possible factors in locating a quarry. It is clear that this quarry is consistent with the Horizon 2020 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. One of the strategies listed in the comprehensive plan is to protect, enhance, and retain existing industrial-related land uses serving the community (Page 7-2, Horizon 2020) Reducing the performance bond, while maintaining adequate levels of financial assurance for reclamation, may help enhance and retain the quarry industry.

The Resource Management section of Chapter 16 of the comprehensive plan, the Environment Chapter, notes: This section encourages the responsible use of marketable natural resources within Douglas County through proper extraction and reclamation methods. They are essential to sustainable development activity, primarily in the form of low cost raw materials, such as sand, gravel, timber, oil, gas, and stone, etc.” (Page 16-21 Horizon 2020) Setting an appropriate performance bond for reclamation ensures that proper reclamation will occur and is compliant with this recommendation.

Staff Finding – The quarry use has been found to be in conformance with the comprehensive plan with previous conditional use permits. The reduction in the performance bond for reclamation would be compliant with the recommendations provided the performance bond amount remains adequate to insure proper reclamation.

STAFF REVIEW
The performance bond for reclamation must be adequate to provide reclamation in the event that the quarry operator fails to fulfill that obligation. This application is a request to revise Item 10 of the Conditional Use Permit, CUP-18-00290, to reduce the amount of the performance bond for reclamation from $40,000 per acre to $3,000. While researching performance bonds, staff looked at the bonds for other quarries in Douglas County, other counties in Kansas, and researched online for information regarding the performance bonds or financial assurances that other communities require. This information is summarized in Table 1. Big Springs Quarry has the highest performance bond of any quarry in the county. The only other quarry which was approved after the Big Springs Quarry was the Eudora Quarry, approved by the Board of County Commissioners in 2003. The minutes reflect that the Board of County Commissioners revised the condition related to the performance bond to require an amount ‘required by applicable Kansas statutes’.

Kansas Statutes require a reclamation bond of $600 per acre for limestone quarries to ensure reclamation will occur if the quarry is abandoned. Scott Carlson, Manager of the Kansas Mined Land Reclamation Program, noted that this amount is inadequate to cover the cost of reclamation. He wasn’t able to provide a set amount as the cost varies widely based on the depth of the cut, water impoundment, amount of overburden repurposing, and surrounding terrain, but he indicated he would like to see the state amount raised to $2,000 per acre along with a supplemental fund for those quarries that require more earthwork to reclaim. He noted that abandonment of sites is rare in Kansas but is typically due to bankruptcy. In his opinion,
the $10,000 per acre bond that the County Engineer recommended should be more than sufficient for any limestone quarry in Douglas County.

Table 1. Performance Bond Information

<table>
<thead>
<tr>
<th>County/ State</th>
<th>Quarry Info</th>
<th>Reclamation Bond</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pottawatomie, KS</td>
<td>160 acres</td>
<td>$400 per acre for sand and gravel. Paid to KS Department of Ag/Division of Conservation</td>
</tr>
<tr>
<td>Marion, KS</td>
<td>13 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Johnson County - Edgerton Quarry</td>
<td>7.5 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Franklin County-Princeton Quarry</td>
<td>10 acres</td>
<td>$1,500 per acre</td>
</tr>
<tr>
<td>Elk County-Grand Summit Quarry</td>
<td>40 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Linn County—Greely Quarry</td>
<td>10 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Linn County—LaCygne Quarry</td>
<td>10 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Coffey County—Wolf Creek Quarry</td>
<td>20 acres</td>
<td>$3,000 per acre</td>
</tr>
<tr>
<td>Miami County—Drexel Quarry</td>
<td>10 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Miami County—New Lancaster Quarry</td>
<td>10 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Anderson County—Lone Elm Quarry</td>
<td>10 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Anderson County—Colony Quarry</td>
<td>10 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Osage County—Plummer Creek Quarry</td>
<td>40 acres</td>
<td>$3,000 per acre</td>
</tr>
<tr>
<td>Morris County—Wilsey Quarry</td>
<td>20 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Anderson County—Garnett Quarry</td>
<td>10 acres</td>
<td>$600 per acre</td>
</tr>
<tr>
<td>Shawnee County—Big Springs Quarry</td>
<td>10 acres</td>
<td>$125,000 + $1,500 per acre</td>
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<tr>
<td>DG County—Big Springs Quarry CUP-7-2-90, replaced by 18-00299</td>
<td>Bond amount approved in 1992 1,049 acres</td>
<td>$100,000 for plant site on Phase 1, for life of quarry. $400,000 for first site excavated—up to 10 acres—($40,000 per acre)</td>
</tr>
<tr>
<td>DG County—Eudora Quarry CUP-12-16-02</td>
<td>Approved 2003, 129 acres</td>
<td>As required by KS statutes. $600 per acre</td>
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<tr>
<td>DG County—Harrell Quarry CUP-1-3-75</td>
<td>Approved 1975, 160 acres</td>
<td>None</td>
</tr>
<tr>
<td>DG County—Hamm-Buchheim Quarry CUP-11-5-76</td>
<td>Approved 1976, 73 acres</td>
<td>“an amount set by the BoCC” $1,500/acre for any land disturbed and not reclaimed</td>
</tr>
<tr>
<td>DG County—Globe Quarry Pre-dated zoning, no CUP 50 acres</td>
<td>$600 per acre</td>
<td>The amount of financial assurance shall equal as closely as possible the cost to the Buffalo County Land Resources Department</td>
</tr>
<tr>
<td>Buffalo County, MN</td>
<td></td>
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</tr>
</tbody>
</table>
of hiring a contractor to complete either final reclamation or progressive reclamation. Any financial assurance filed with the department shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits; with annual review.

| Santa Cruz County, CA | The Planning Director shall base the amount of financial assurances necessary to secure adequate reclamation on estimates prepared by a registered civil engineer and a botanist, horticulturist or plant ecologist retained by the operator and approved by the Planning Director; with annual review. |

| County Engineer Recommendation | Reduce bond from $40,000 to $10,000 per acre to include contracting costs |

The applicant noted the disparity between the performance bond required for Big Springs and that required for other quarries in Douglas County and various other counties in the state. Staff agrees that a disparity exists, but each conditional use permit is evaluated on its own basis and conditions are crafted for each particular site and use. After evaluating the amounts required for other quarries and discussing the bond amount with the Manager of the Kansas Mined Land Reclamation Program, it is staff’s opinion, that the original performance bond for Big Springs Quarry may be higher than necessary but that the bond amount for other quarries may have been set too low and shouldn’t be used for comparison.

The original estimate the performance bond was based on was provided by Landplan Engineering with the original 1992 application, Attachment B. The estimate was for a cut of approximately 1,000 feet by 300 feet by 28 feet in depth, which was noted as the average depth of overburden on the site. The estimate determined this cut would yield approximately 300,000 cubic yards of overburden. The firm estimated the cost for reclamation would be $0.80 per cubic yard or $240,000. This amount was for a cut of 1,000 feet by 300 feet or 300,000 feet or 6.8 acres. The amount per acre would have been $35,294. The amount recommended and approved with the conditional use permit was $40,000 per acre.

In 2008 the applicant requested a reduction in the bond amount with an application to amend the conditional use permit, CUP-07-05-08. The application was withdrawn in association with a consent decree to address compliance issues resulting from the former operator. Attachment C contains the materials that were provided with the 2008 request to amend the conditional use permit, including the request to reduce the performance bond. The applicant contracted with PEC, their consultant for the 2008 amendment, for an estimate of the reclamation costs. PEC estimated the cost at $9,481 per acre and sent the item out to three firms for bids. The bids ranged from $7,981 per acre to $13,093 per acre.

Spreadsheets showing the actual cost of reclamation of the various phases that Mid-States Materials has reclaimed at the Big Springs Quarry were provided with the current application. 50 acres were reclaimed in Phase 2 at a cost of $93,859 ($1,877 per acre) and 80 acres were reclaimed in Phase 3 at a cost of $85,445 ($1,068 per acre). The County Engineer reviewed the materials provided with this application and noted that the performance bond for reclamation may be higher than necessary, particularly with Mid-States Materials track record for reclamation. He suggested the performance bond be reduced to $10,000 per acre. This is higher than the actual cost the quarry operator incurred, but they used their own equipment.
and reclaimed in conjunction with their quarrying operations. If the quarry is abandoned and reclamation has to be completed by a third party, the County Engineer noted that the costs to award a contract for the reclamation work would exceed Mid-State Material’s in-house costs. His recommended performance bond amount of $10,000 per acre aligns with PEC’s estimate of the costs and is comparable with the bids that were provided with the request in 2008.

Looking beyond the state of Kansas, Wisconsin and California both require an estimate from an engineer for the reclamation costs before establishing the amount of financial assurances which are required. Each quarry would have a different reclamation bond depending on the end reclamation desired and the specific nature of the property.

Many of the counties in Kansas require only the $600 bond that the Kansas Division of Conservation (DOC), which administers the Mined Land Reclamation Program, requires. As noted earlier A few counties: Coffey, Franklin, and Osage Counties, require a higher reclamation bond than the state does. Staff contacted these county zoning officials for information on these bond amounts, but they noted that the quarries were approved quite some time in the past and they don’t have information on the basis for the bond amounts.

In staff’s opinion, the County Engineer’s recommendation of $10,000 per 10 acres is reasonable given that it aligns with the estimates provided by the applicant’s consultant in 2008. Staff recommends that Condition of Approval/Restriction of Use No. 10 be revised as shown below (deleted text shown as strikethrough and new text in **bold.**)

10. **[PERFORMANCE BOND FOR RECLAMATION]**

   (a) A performance bond in the amount of **$100,000.00** with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk’s Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.

   (b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of **$100,000.00** with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk’s office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.

   (c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of **$100,000.00** with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk’s office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.
(d) Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.
RESTRICTIONS AND CONDITIONS OF USE:

1) Setbacks
   Purple Phase (former phase 6)
   • 400 foot setback along the south perimeter
   • 260 foot setback along County Route 442
   • Triangular area in the southeast corner a corner of which is 1,800 feet north of the south property line along the setback line of County Road 442 / E. 50 Road and another corner of which is 1,100 feet west of the right-of-the way of County Road 442/E. 50 road along the south setback line.

   Green Phase (former Phase 4):
   • 100 foot setback to the north and 700 foot setback to the south sides
   • 100 foot setback on the east side

   Pink Phase
   • 100 foot along north property line

   Blue Phase
   • 100 foot along east property line

   Orange Phase
   • 100 foot along east property line

   All Phases—
   • 100 foot setback from the property line along the east side of the private haul road.
   • 100 foot setback from the property line along E. 50 Road and E. 100 Road
   • 500 foot residential setback (residences existing at the time of CUP approval)

2) Operation Restrictions
   a. Methods shall be adopted to minimize dust in stage area as well as along the haul roads.

   b. Quarry hours of operation shall be restricted to:
      i. sale and removal of rock: 6 a.m. - 6 p.m., Monday- Friday; 7 a.m. - 12:00 p.m. Saturday
      ii. Production and extraction: 6 a.m. - 10 p.m., Monday - Thursday; 6 a.m. - 6:00 p.m., Friday
      iii. Blasting: 1 p.m. - 5 p.m., Monday - Friday
      iv. No quarry operations shall take place on holidays observed by the State of Kansas: (New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day: the day immediately following Thanksgiving Day, and Christmas Day.

   Activities occurring after these hours: In the event of an emergency or other situation that requires quarrying, or sell of product after these hours, the request must be
provided to the Board of County Commissioners prior to the after hours activity commencing.

c. No more than 40 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site. No more than 10 acres shall be open, mined and extracted from in a subsequent phase until reclamation is complete on the previous phase.

3) Fencing
The entire site shall be fenced with a five-strand barbed wire fence. Fencing shall be maintained by the operator. A security gate and fence shall be placed/maintained at the entrance to the quarrying site across the main haul road. The fence shall be signed periodically (minimum of 500 feet intervals) stating: “Mid-States Materials No Trespassing”

4) Berms
a. All setbacks along roadways shall contain berms to screen operations. Berms are to be 6 to 8 feet high (8 feet maximum), built at a 3 to 1 slope and vegetated.

b. Topsoil removed from each phase will be used to construct the berms. Berms shall be constructed as quarrying progresses in each phase.

5) Blasting
a. Blasting shall be set only in sequential delays; no single delay to be over 150 lbs. of explosives.

b. No fly-rock shall leave the property.

c. Prior to each blast, the operator shall contact adjoining neighbors who request individual notice of each blast. A signaling system, siren, horn, or other signaling system, shall be used to alert people in the neighboring vicinity before each blast takes place.

d. No explosives will be set in the ground overnight unguarded.

6) Monitoring Blasting
a. Operator shall contact with independent seismology firm to monitor blasts at the commencement of quarrying operations, at each residence within ½ mile of the blast site to assure that the blast design will not be harmful to any structures or wells and that all associated vibrations are below currently recognized safety levels. A report on the monitoring of initial blasting shall be made available to owners of the residences and such report shall include a full frequency analysis of vibrations.

b. After the initial blasting, operator shall contact for a continuous monitoring program commencing with the start of continuous regular blasting by an independent seismology firm at stations chosen by the seismology firm. A monthly report, which analyzes the impacts of daily blasting, will be available at operator's offices for inspection. Residents may request positioning of the seismograph to measure the impact at their property; provided, however, the applicant shall not be required to conduct tests in excess of those it determines, based on professional advice of its independent seismology firm, will provide adequate seismic readings at resident's
properties. Any resident desiring to appeal the decision of the applicant concerning this condition may appeal it to the Douglas County Public Works Director who may order seismic tests at such locations as it deems appropriate under the circumstances at the expense of the operator.


7) Air and Water Quality
The quarry operator shall adhere to air quality standards of KDHE, not to exceed 20% of opacity more than 1 time in a one year period as observed by KDHE observers over a 5 minute period.

8) Other Regulatory Restrictions
All applicable regulations of EPA, KDHE, and Kansas Department of Agriculture, and other applicable agencies shall be adhered to and subsequent revisions to these regulations shall apply.

9) Noise and Light Pollution
Vehicles used in plant operation (extraction & production) after 6:00 PM shall be equipped with manufactured lighting in addition to a back-up audible signal alarm.

Permanent outdoor lighting in the quarry, including the plant area, mining area, and haul roads, shall be shielded and directed down with a solid screen to prevent light pollution beyond the site boundaries.

10) Reclamation Bond
Mid-States shall be responsible for reclamation of all quarried land.

(a) A performance bond in the amount of $100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk’s Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.

(b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of $100,000.00 $400,000.00 with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk’s office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.

(c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of $100,000.00 $400,000.00 with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk’s office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas
no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.

(d) Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.

11) Insurance

The operator shall carry liability insurance in the amount of $1,000,000.00. Certificates of insurance shall be submitted to the Zoning and Codes Department on an annual basis.

12) Operation Report and Plan

a. Prior to the issuance of the CUP permit and every 5 years thereafter, the operator shall submit a detailed report and plan of quarrying operations to the Planning Office.

b. The plan shall show the phases of quarrying; location of stockpile area; estimated volume of material being extracted; and a detailed monitoring and management plan for the areas undergoing reclamation.

13) Reclamation and Review

a. The quarry shall utilize sequential reclamation. With the exception of the first cut in a phase, overburden within a cut shall be placed in the previous cut thereby removing the need to stockpile large amounts of overburden.

b. Detailed reclamation plans shall be submitted for each phase of the reclamation process for review and recommendation by the Planning staff and approval by the County Commission. The Detailed Reclamation Plan shall be submitted and approved prior to opening of a quarry phase.

c. The detailed reclamation plans would include a site plan showing elevations, cross-sections, and the proposed plan for revegetation of the area.

d. The property shall be reclaimed to a state that is compatible with the surrounding area with regard to slopes, and plant and animal life supported by the established ecosystem.

e. Terraced areas shall be shaped to blend with the existing, adjoining contours. The land must be graded to final contours as shown on the approved reclamation plan, top-soil, which had been used to construct the berms of each quarry phase shall be removed as areas are reclaimed and the topsoil shall be spread over the land area and seeding of appropriate native plants must occur. It is not necessary for vegetation to be established before moving fully to the next phase.

14) Studies/Surveys Required Prior to Opening New Phase

a. Pre-Blast Survey. A pre-blast survey (by an independent seismology firm or structural engineer approved by the applicant and the owners of existing structures within one-half mile of the quarry site) shall be offered to the property owners and conducted, if the property owners request, prior to operating in each phase.
(Notice shall be mailed, by certified mail, to all property owners within one-half mile of the phase to be quarried, at least 1 month prior to the beginning of that phase, indicating that a new phase is about to be quarried and letting the property owner know about the pre-blast survey.)

b. Hydrologic Study
The quantity/quality of water in the wells within one-half mile of each quarry phase shall be documented prior to the commencement of quarrying operations in that phase. A study shall be done, at the operator’s expense, for all wells within ½ mile of each phase (with property owner consent). Notice shall be provided to all property owners within one-half mile of the phase boundary as noted in Condition 13a.

This study is intended to provide an inventory of area residential and stock wells and determine their capacities and current volumes/levels of operation; and to determine the impact of quarrying, per phase, based on the depth of mining proposed. If mining is proposed at a depth lower than 1042 or the local water table, the County Engineer may require a hydrologic study to analyze the impact on area wells.

c. Drainage Study
Prior to work progressing in each phase of the quarrying operation, a detailed grading plan showing site runoff and its relationship to the adjoining properties shall be submitted to the Planning Office for review and approval prior to work progressing in each phase.

15) Site Access and Road Restrictions

a. Except for vehicles traveling to and from the site on 45th Street in Shawnee County, the principal access to the site for transport truck traffic and hauling of rock shall be restricted to the use of U.S. Highway 40 from the direct haul route north of the proposed quarry. (The haul road is currently in place and the intersection with Highway 40 was designed in accordance with KDOT requirements.)

Any other haul route options must first be approved by the Douglas County Commission.

b. Except for local deliveries of rock from the quarry site, Route 442 shall not be used by transport trucks to travel to and from the east. The operator shall post signs and adopt appropriate restrictions on the quarry site, including restrictions on sale of rock where necessary, to ensure strict compliance with this restriction by all transport trucks.

In the event the Board of County Commissioners determines, after due notice and hearing, that such restrictions have proven ineffective in prohibiting transport trucks which originate from or travel to the quarry site from using Route 442 east of the quarry entrance in violation of this restriction, the Board may order such improvements to Route 442 as it deems necessary, including, but not limited to, appropriate shoudering, surfacing, and signing, and assess such costs to the applicant which shall be paid in a timely manner. In the alternative, the Board may order the operator to cease operation or order such steps as the Board deems necessary under this CUP.
c. No township roads shall be used as access to the quarry.

d. Restrictions which shall be posted at the entrance to the plant, regarding vehicles hauling from the site are to include:
   - no flatbed trucks without sides or tailgates;
   - tailgates shall be in place and in an upright position; and
   - all trucks leaving the site must be covered by a tied-down tarp.

e. Operator is responsible for spillage and cleanup of aggregate within one mile of the plant site, which includes the intersection of the access road to the north and U.S. Highway 40. The failure by the applicant to clean up spilled aggregate of such roads within a reasonable period of time shall be grounds for action under Section XVII, Inspection/Violation/Revocation.

f. The operator will not allow trucks to exceed State of Kansas legal weight limits or legally posted weight limits since different truck configurations have different legal weight limits.

g. Weight limitations shall be posted on appropriate roads adjacent to the quarry.

h. Access points across township roads between phases of operation require prior review and authorization from the Douglas County Public Works Director. Access is restricted to one point of crossing per phase as shown on the operation plan. Road crossings between the phases of the site shall be maintained by operator at all times.

i. During the term of this Conditional Use Permit, the applicant shall not request the vacation of any township roads in the vicinity of the site.

16) Transfer of Operator
   Because the operator’s track record is an important consideration, a change in the quarry operator shall require the conditional use permit to come back to the Planning Commission for review and to the County Commission for reapproval.

17) Sanitary Landfill
   The property shall not be used or requested for use as a sanitary landfill within the life of this conditional use permit.

18) Shop Facility
   Repair and maintenance activities shall be limited to service of vehicles and equipment in use at this specific quarry location.

19) Inspection/Violation/Revocation
   The Douglas County Commission, or the appointed representative(s) thereof, shall have the right, without advance notice, to enter the premises and inspect any aspect of the quarry operation for compliance with the conditions of this permit. Upon entering the premises, the County shall first request an escort by the applicant’s representatives.

   Further, the Douglas County Commission, or the appointed representative(s) thereof, shall be authorized to:
a. Order the stoppage of any operation occurring without a permit or in violation of the terms of this permit.

b. Order the operator or its agents and employees to adopt such remedial measures as are necessary to comply with the terms of this CUP. In such cases, the operator shall be given no more than ninety (90) days to rectify any condition of noncompliance.

c. Order the immediate suspension of operations if, after due notice and an opportunity to be heard before the County Commission, it is determined by the Board of County Commissioners that the permitted operation is causing, or can reasonably be expected to cause, a significant, imminent danger or threat to the health, safety or welfare of the public or to the environmental quality of the surrounding area.

d. In cases such as those described in Paragraph (C) that do not pose an imminent threat to the public health, safety and welfare, the operator shall be given no more than 90 days to rectify the condition. If the condition has not been rectified, the County Commission, after due notice and hearing, may order the suspension of operations and suspend or revoke part or all of the CUP.

e. If the operator or the agents or employees thereof, fail to comply with a lawful order under this section, or violate any of the restrictions of use enumerated for this permit, the County Commission, after due notice and an opportunity for a hearing, may suspend or revoke part or all of the CUP.

20) The timeframe for completion of any phase is dependent on the market demand; however, the operator agrees to continuously quarry Phase 6 (within the limits of the CUP restrictions) so that Phase 6 will be completed as soon as possible.
September 13, 1990

Linda Finger
City of Lawrence
6 East Sixth Street
Lawrence, Kansas 66044

RE: Martin Marietta - County Line Quarry Project

Dear Linda,

To establish a bond guaranteeing the reclamation of a rock quarry in the event the quarry operator defaults and fails to reclaim the project, we need to first determine the maximum size area disturbed by the operation. Conceptually, the largest area requiring reclamation at any one time is the open excavation. Once the quarry operator begins placing the excavated material into the void generated by the previous quarrying operation, the volume of material required to reclaim the site will remain constant.

When a quarry operation is initiated, the operator begins with an initial cut to remove the overburden and expose the rock. This overburden is placed either at a location that will not be quarried or adjacent to the cut with the intention that the material will eventually be placed back in the open excavation. In any event, the material excavated in the initial excavation will be handled a minimum of two times. At a certain point the operator can no longer afford to haul the material out of the initial cut because 1) the haul distance is too great or 2) the removed overburden begins to cover the remainder of the site to be quarried. Once this point is reached, the quarry operator begins to place the excavated overburden and shale back in the initial cut. This operation allows the operator to backfill the quarried site as new rock reserves are removed. This operation is the most efficient since it causes the operator to handle the overburden only once.

To reclaim the site at this point, only the material removed from the initial excavation would require handling to be placed back in the open cut. The reclamation process would occur exactly as originally planned with the final terrain lower than the original terrain because of the depletion of rock reserves. The final excavation would most likely be a pond.
As an example, a cut of approximately 1000 feet by 300 feet by 28 feet in depth (average overburden on this site) yields approximately 300,000 cubic yards. This size excavation is typical for this project for two reasons. First of all, other Martin Marietta quarry operations in this area have a open excavations of approximately this dimension. Secondly, 1000 feet is estimated to be the largest excavation on the County Line Quarry Project given the configuration of the phases as presented. Any larger excavation would cause the overburden to cover the area being quarried.

I estimate the cost to replace the excavated overburden, grade the site to acceptable slopes and seed the disturbed area at $0.80 per cubic yards. This number is determined through discussions with area contractors and through past experience by Martin Marietta. At $0.80 per cubic yard, the estimated cost to fill the open excavation is approximately $240,000.

Sincerely,

Philip W. Struble, P. E.

PWS/smr
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UNIT PRICE: $9,481,850.00/ACRE
## Job Cost Category Totals Report

**Mid-States Materials, LLC**  
**7/22/2013**  

**Job: BIG2012**  
**Big Springs 2012**  

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**Job Cost Category Totals Report**  
Mid-States Materials, LLC  
7/22/2013

**Job: BIG2013**  
Big Springs 2013

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Job BIG2013 Totals

- **Labor**: 2,636  
- **Overtime Labor**: 884  
- **Burden**: 658  
- **Fringes**: 360  
- **Material**: 13  
- **Internal Equip**: 1,358  
- **Outside Equip Rental**: 6,123  
- **Outside Cont. Servic**: 4,900  
- **Consults/Geol Exp**: 4,197  
- **Un-specified Charges**: 1,960  

Contract: 0.00  
Change Orders: 0.00  
Revised: 0.00  
Prev. Billed: 0.00  
Open: 0.00  

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**PAGE 1**  
7/22/13 13:14  
LO 10.0.130528
## PHASE III RECLAMATION COST

### Job Cost Category Breakdown Report

**Mid-States Materials, LLC**  
**11/5/2018**

**Job: BIG2017**  
**Big Springs 2017**

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**Job BIG2017 Totals**

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<tr>
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<th>Actual Cost</th>
<th>Budget</th>
<th>Pct</th>
<th>Over/Run</th>
<th>Act Hours</th>
<th>Bud Pct</th>
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<td>Overtime Labor</td>
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<td>Internal Equip</td>
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CUP-18-00570: Consider an amended Conditional Use Permit for Big Springs Quarry, located at 2 N. 1700 RD, Lecompton.
TO: Planning Commission
FROM: Mary Miller, Planning Staff
Date: February 27, 2019
RE: Additional information related to Text Amendment TA-18-00251, permitting two residential development parcels on a property outside the urban growth area with 1,320 feet of frontage, but less than 2,640 feet, on a principal arterial provided the parcels utilize a shared access point.

Attachments: A—Text Amendment Staff Report
            B—September 2018 Planning Commission Minutes

The text amendment referenced above was considered by the Planning Commission at their September 26, 2018 meeting. The Commission voted to defer action at that time and directed staff to research the impact the text amendment could have on rural growth and development.

BACKGROUND
The current regulations permit land divisions on property outside the urban growth area that has frontage on, and takes access from, a principal arterial only when a minimum of one-half mile of frontage, (2,640 feet) is provided. The Planning Office received a request for a variance from this frontage requirement to allow a certificate of survey with two residential development parcels on a property with 1,655 feet of frontage, CSR-18-00137. The County Engineer and Zoning and Codes staff supported the variance based on the development pattern of the area in which the property was located. To provide consistency with other applications, the staff report for the variance request included a recommendation that the Planning Commission initiate a text amendment to allow all properties outside the urban growth area that have at least 1,320 feet of frontage on a principal arterial road (the frontage required for an access point on a principal arterial road) but less than the required 2,640 feet to be divided into two residential development parcels provided they share an access point.

ANALYSIS OF IMPACT OF AMENDMENT ON RURAL GROWTH AND DEVELOPMENT
Planning GIS staff conducted an analysis of all parcels with frontage on a principal arterial road and found the following for parcels outside the urban growth area that have frontage on principal arterial roads:

<table>
<thead>
<tr>
<th>Frontage Length</th>
<th>Number of Parcels</th>
<th>Possible Number of Divisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,640 feet</td>
<td>42</td>
<td>2 divisions each: 84 RDPs</td>
</tr>
<tr>
<td>1,320 feet to 2,639 feet</td>
<td>167</td>
<td>1 division each: 167 RDPs currently</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 divisions with t.a., 334 RDPs</td>
</tr>
</tbody>
</table>
With the text amendment the total number of residential development parcels that could be possible outside the urban growth area on a principal arterial would increase from approximately 251 parcels (84 plus 167) to 418 parcels (84 plus 334).

To put this figure into perspective there are a total of 2,494 parcels outside the Urban Growth Area with a minimum of 20 acres, with a total of 406 of those having frontage on a principal arterial.

RECOMMENDED ACTION
Text Amendment to Chapter 12-318 of the Douglas County Zoning Regulations to allow the creation of two residential development parcels outside the urban growth area on property that fronts on, and take access to, a principal arterial with a minimum of 1,320 feet of frontage provided a shared access point is used.

- If the Commission finds the amendment would not increase rural growth and development to a significant degree, staff recommends they vote to forward the amendment to the Board of County Commissioners with a recommendation for approval.

- If the Commission finds the amendment would increase rural growth and development to a significant degree, they could vote to forward the amendment to the Board of County Commissioners with a recommendation for denial.
ITEM NO. 4 TEXT AMENDMENT TO COUNTY ZONING REGULATIONS FOR RDP FRONTAGE AND WIDTH REQUIREMENTS

TA-18-00251: Consider a Text Amendment to Chapter 12-318 of the Douglas County Zoning Regulations to allow the creation of two residential development parcels outside the urban growth area on property that fronts on, and take access to, a principal arterial with a minimum of 1,320 feet of frontage provided a shared access point is used. Initiated by Planning Commission on 5/23/18.

RECOMMENDATION: Staff recommends that the Planning Commission forward the proposed amendment, TA-18-00251, amending Chapter 12-318 of the Douglas County Zoning Regulations to the Board of County Commissioners with a recommendation for approval.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None received

ATTACHMENTS

A. Draft Language

BACKGROUND

One of the changes brought about with the adoption of the Subdivision Regulations, December 19, 2006, was the creation of the certificate of survey process for residential land divisions in the unincorporated portion of the county. The Board of County Commissioners approved revisions to Chapter 9, Public Works of the County Code in April of 2008 adopting access management standards. These standards set minimum frontage requirements for residential properties based on the classification of the road they have frontage on and take access from. The Zoning Regulations Unincorporated Territory of Douglas County, Kansas were then revised implementing the new frontage requirements established in the access management standards for residential development parcels.

This text amendment was initiated following the Planning Commission’s consideration of a variance request associated with a certificate of survey. The variance requested a reduction in the frontage requirement for residential development parcels that front on and take access from principal arterials outside of the urban growth area. The owner of approximately 20 acres located on E. 1650 Road / County Route 1650 had plans to divide the property into two residential development parcels. The property met the 20 acre requirement for a certificate of survey; but did not meet the 2,640 foot frontage requirement (one-half mile) for two residential development parcels. The Zoning Regulations require 1,320 foot of frontage (1/4 mile) for each residential development parcel on a principal arterial. The property had more than a quarter mile of frontage, but did not have the half mile required by Code. The property owner requested a variance from the minimum frontage and width requirement to permit the creation of two residential development parcels.

Staff reviewed the certificates of survey which had been completed since the adoption of the Subdivision Regulations in 2006 and found that few had occurred on properties outside of the urban growth area which had frontage on, and took access from, a principal arterial. (Table 1) Most of these had only one
residential development parcel that took access from the principal arterial. Of the two which had two residential development parcels taking access from the principal arterials:

- One was a reconfiguration of existing property lines and the frontage and width requirements were waived with the approval of an Access Restriction Agreement. An Access Restriction Agreement can be used to allow the creation of residential development parcels with less than the required frontage, provided the total required frontage is restricted so that the number of total access points permitted for a length of road are compliant with the access management standards. When an Access Restriction Agreement is approved, it isn’t necessary for the residential development parcels to comply with the frontage or width requirements. (CSR-14-00051)

- The other was a division of 60 acres into two 30 acre residential development parcels (CSR-12-00285).

<table>
<thead>
<tr>
<th>Certificate of Survey</th>
<th>Frontage</th>
<th>RDP Area</th>
<th>Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>CSR-3-5-09</td>
<td>1,835.29 feet</td>
<td>87.54 acres</td>
<td>N. 700 Road / County Route 460</td>
</tr>
<tr>
<td>CSR-12-00285</td>
<td>2,808.16 feet</td>
<td>30.563 acres</td>
<td>U.S. Highway 40</td>
</tr>
<tr>
<td>CSR-14-00051</td>
<td>1,131 feet</td>
<td>10 acres 36.45 acres</td>
<td>N 300 Road / Highway 56</td>
</tr>
<tr>
<td>CSR-15-00440</td>
<td>1,354.87 feet</td>
<td>75.58 acres</td>
<td>N. 300 Road / Highway 56</td>
</tr>
<tr>
<td>CSR-15-00511</td>
<td>1,328.17 feet</td>
<td>26.87 acres</td>
<td>E 1700 Road / County Route 1055</td>
</tr>
</tbody>
</table>

*Table 1.* Properties divided with certificate of surveys on principal arterial since revision of Subdivision Regulations in 2006. (Shaded sections indicate certificates of survey with two residential development parcels.)

It was staff’s opinion, based on the limited applicability of the standard since the adoption of the Subdivision Regulations in 2006, that the frontage requirement of one-half mile for two residential development parcels was very difficult to meet. Staff recommended approval of the variance request from the frontage/width requirement and further recommended that if the variance was approved, a text amendment should be initiated to revise the frontage/width standard. The Planning Commission approved the variance request and voted to initiate the text amendment at their May 23, 2018 meeting.

**OVERVIEW OF PROPOSED AMENDMENT**

The text amendment proposes the addition of a footnote to Article 13-318 of the Douglas County Zoning Regulations. The footnote would allow parcels outside the urban growth area that have frontage on, and that take access from, a principal arterial road to be divided into two residential development parcels with a minimum of 1,320 feet of frontage provided the residential development parcels utilize a shared access point.

The portion of the Zoning Regulations being revised is attached to this staff report (Attachment A).

**CRITERIA FOR REVIEW AND DECISION-MAKING**

Section 12-324 Changes and Amendments, of the Zoning Regulations provides the process for proposed text amendments, but does not include criteria for review and decision-making. The text amendment was reviewed with the following criteria that are similar to those in the City of Lawrence’s Land Development Code:
1) Whether the proposed text amendment corrects an error or inconsistency in the Douglas County Zoning Regulations or meets the challenge of a changing condition;

The frontage and width requirements were established based on the classification of the roads the property fronts on, and takes access to, in accordance with the Douglas County Access Management Standards. The Access Management Standards are intended to limit the number of access points that are possible on each classification of road. These frontage standards were included in the Zoning Regulations and included a footnote that in the event that the County Engineer approves an access restriction agreement the minimum frontage and width standards may be reduced. (An access restriction agreement restricts the access for the total required frontage even though the entire frontage is not included in the certificate of survey.) In this way, the access points would be governed by the agreement and the driveway spacing would comply with the Access Management Standards even though the required width and frontage wasn’t provided for each residential development parcel. This allowed the access points to comply with the standard of no more than one access point per 1,320 feet of road frontage for a principal arterial.

- The proposed language would allow one access point per 1,320 feet of road frontage; however, it is not achieved by placing restrictions on the road frontage adjacent to the parcel (to a total of 2,640 feet), but rather by requiring the residential development parcels to use a shared access.

The very limited use of the certificate of survey process for properties that front on and take access to a principal arterial indicates that the standard may not be reasonable. In order to create two residential development parcels from a property which takes access from a principal arterial, the property must have a minimum of a half-mile width of frontage of 2,640 feet.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of the Douglas County Zoning Regulations

The general goal of the Comprehensive Plan is to provide “...for the optimum in public health, safety, convenience, general social and physical environment and individual opportunities for all the residents of the community, regardless of racial, ethnic, social, or economic origin. It is the goal of the planning process to achieve a maximum of individual freedom, but public welfare must prevail.” (Introduction, page 3, Horizon 2020)

The proposed language would allow a maximum of individual freedom by allowing residential development parcels to be created on parcels which have the required area when they front on and take access to a principal arterial road. The proposed language would also protect the public welfare by maintaining the driveway spacing required in the access management standards.

Conclusion
The proposed amendment establishes regulations that would permit development of two residential development parcels on a principal arterial road with a total frontage width of 1,320 feet while maintaining the driveway spacing required by the Access Management Standards.
PLANNING COMMISSION MEETING  
September 26, 2018  
Meeting Action Summary

September 26, 2018 – 6:30 p.m.  
Commissioners present: Butler, Carpenter, Carttar, Kelly, Paden, Sands, Sinclair, Struckhoff, Willey  
Staff present: McCullough, Crick, Day, Ewert, M. Miller, Pepper

GENERAL BUSINESS

PLANNING COMMISSION ACTION SUMMARY
Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of August 22, 2018.

Motioned by Commissioner Struckhoff, seconded by Commissioner Sands, to approve the action summary (minutes) from the Planning Commission meeting of August 22, 2018.

Motion carried 8-0-1, with Commissioner Kelly abstaining. Commissioners Butler, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Willey voted in the affirmative.

COMMITTEE REPORTS
No reports to receive from any committees that met over the past month.

Commissioner Struckhoff said the Metropolitan Planning Organization (MPO) Policy Board met and approved a slight change in the Unified Planning Work Program.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST
- No ex parte.
- No abstentions.

GENERAL PUBLIC COMMENT
No general public comment.
ITEM NO. 1  REZONING .150 ACRE FROM CS TO RS5; 829 MISSISSIPPI (BJP)

Z-18-00355: Consider a request to rezone approximately .150 acre from CS (Commercial Strip) District to RS5 (Single-Dwelling Residential) District, located at 829 Mississippi St. Submitted by Homes with Heart LLC, property owner of record.

STAFF PRESENTATION
Ms. Becky Pepper presented the item.

APPLICANT PRESENTATION
Ms. Bonita Yoder was present for questioning.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
Commissioner Kelly inquired about the lot line and distance between houses.

Ms. Pepper said the standard interior side setback would be 5’. She said the setback could be less on one side if the other side exceeded the 5’ setback. She said bay windows could be included in the setback.

Commissioner Sands asked if this would require the property line be changed after the rezoning.

Ms. Pepper said RS5 zoning would be an administrative change.

ACTION TAKEN
Motioned by Commissioner Sands, seconded by Commissioner Paden, to approve the request to rezone approximately 0.150 acres, from (Commercial Strip) District to RS5 (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.

Commissioner Willey said it was a good fit and solved a problem in the neighborhood.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Carttar, Kelly, Paden, Sands, Sinclair, Struckhoff, and Willey vote in favor.
ITEM NO. 2 SPECIAL USE PERMIT FOR LAWRENCE MEMORIAL HOSPITAL; 325 MAINE ST (SLD)

SUP-18-00363: Consider a Special Use Permit/Institutional Development Plan revision for the Lawrence Memorial Hospital for a 6,924 square foot Sterile Processing & Distribution Addition on the east side of the hospital building, located at 325 Maine St. Submitted by Landplan Engineering on behalf of Lawrence Memorial Hospital, property owner of record.

STAFF PRESENTATION
Ms. Sandra Day presented the item.

APPLICANT PRESENTATION
Mr. C.L. Maurer, Landplan Engineering, agreed with staff and was present for questioning.

PUBLIC COMMENT
Mr. Ernest Richardson, 215 Arkansas, said there was not adequate parking around the hospital.

COMMISSION DISCUSSION
Commissioner Kelly asked Mr. Richardson if parking was limited on certain days.

Mr. Richardson said parking was limited on Tuesday, Wednesday, and Thursday. He said it was limited on Tuesday and Wednesday due to the imaging machine taking up 18 parking spaces.

Mr. Maurer said part of the addition would include the imaging machine so it would no longer take up parking spots. He said the imaging machine would be transferred to the east side near the surgery center.

Commissioner Willey asked how many parking spaces the imaging machine currently blocked.

Mr. Maurer said about 18-20 parking spaces.

Commissioner Willey asked Mr. Richardson his thoughts about the imaging machine no longer taking parking spaces.

Mr. Richardson said it was something he would have to wait and see. He asked where the construction workers would park vehicles and construction equipment during the construction process.

Mr. Bob Bosley, ACI Boland Architects, said contractors are required to park off-site.

Mr. Richardson said it would be nice if the construction could stage equipment and park at the nearby vacant school property.

Commissioner Paden inquired about the non-motorized access and connectivity with the Lawrence Loop. She wondered if a 6’ wide sidewalk could be required.

Ms. Day said a study was completed and presented to City Commission but that there was still discussion about what the ultimate alignment would be. She said there seemed to be a preference to

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take the loop further north than through the LMH property. She said putting the sidewalk in as proposed was the short term solution.

Commissioner Kelly inquired about the institutional plan.

Ms. Day said the institutional plan becomes the master plan and typically gets brought forward when there is a specific project. She said if this had been approved in 2017 the building addition would have been processed as a site plan.

Mr. McCullough said the idea of the institutional development plan is to lay out the plan that has the potential to develop over time. He stated those plans change over time. He said the hospital had been trying to balance the parking issue for years.

Commissioner Kelly asked the applicant about the parking.

Mr. Maurer said time and money has impacted the parking. He said some of the services would be moved to the new west campus location.

Commissioner Carpenter asked how high the new addition would be.

Mr. Bosley said single story.

Commissioner Carpenter said he did not see the parking getting better for the neighborhood.

Commissioner Sands inquired about the Lawrence Loop connection crossing the hospital property and why it was mentioned in the staff report.

Ms. Day said the project still reserved space for the Loop to go through there if that was the ultimate alignment.

Commissioner Willey said she valued the community hospital and recognized they have many moving parts. She hoped the west campus would help reduce parking strain on the main campus. She said the hospital was aware of the parking difficulties. She said she would vote in favor of the Special Use Permit.

Commissioner Sands said he was in favor of the Special Use Permit but wished there was a long-term solution to the parking issue.

Commissioner Kelly said the plan met the Code for hospital parking and that was the purview of Planning Commission.

Commissioner Struckhoff said he was generally in favor of the Special Use Permit. He said he was hesitant to approve additional parking at the site unless there was a study conducted of the employee driving behavior to the hospital. He felt the number of cars driving to the hospital should be reduced.

**ACTION TAKEN**
Motioned by Commissioner Sands, seconded by Commissioner Sinclair, to approve a Special Use Permit, SUP-18-00363, for Lawrence Memorial Hospital, located at 325 Maine Street, and forwarding.
the request to the City Commission with a recommendation of approval, subject to the following condition:

1. Prior to recording of the Institutional Development Plan with the Register of Deeds Office the applicant shall provide an exhibit/map (watershed map) indicating which table in the surface summary corresponds to the provided pervious/impervious table breakdown per the approved of the City Stormwater Engineer

Unanimously approved 9-0. Commissioners Butler, Carpenter, Carttar, Kelly, Paden, Sands, Sinclair, Struckhoff, and Willey vote in favor.
PC Minutes 9/26/18

ITEM NO. 3A  COMPREHENSIVE PLAN AMENDMENT TO H2020, CHAPTER 6, COMMERCIAL LAND USE (SLD)

CPA-18-00365: Consider a Comprehensive Plan Amendment to Horizon 2020, Chapter 6, Commercial Land Use, related to development located at 2110, 2120 & 2130 Exchange Ct. Submitted by CFS Engineers, for Eastside Acquisitions LLC, property owner of record.

ITEM NO. 3B  REZONING 4.31 ACRES FROM CO TO CC200; 2110, 2120, 2130 EXCHANGE CT (SLD)

Z-18-00364: Consider a request to rezone approximately 4.31 acres from CO (Office Commercial) District to CC200 (Community Commercial) District, located at 2110, 2120 & 2130 Exchange Ct. Submitted by CFS Engineers, for Eastside Acquisitions LLC, property owner of record.

Items 3A-3B were deferred prior to the meeting.
ITEM NO. 4 TEXT AMENDMENT TO ZONING REGULATIONS; RESIDENTIAL DEVELOPMENT PARCELS (MKM)

TA-18-00251: Text Amendment to the Zoning Regulations revising the frontage and width requirements for Residential Development Parcels which front on, and take access from, a principal arterial to allow the creation of two Residential Development Parcels with a minimum of 1,320 ft of frontage; provided they share an access point on the roadway. *Initiated by Planning Commission on 5/23/18.*

STAFF PRESENTATION
Ms. Mary Miller presented the item.

PUBLIC COMMENT
No public comment.

COMMISSION DISCUSSION
Commissioner Willey inquired about the property that prompted the text amendment. She said that applicant was wanting to divide land into two parcels with each having separate access. She said that scenario wouldn’t fall under this text amendment.

Ms. Miller said it would still come to Planning Commission for the variance.

Commissioner Willey wondered how many applicants requested a certificate of survey but it wasn’t allowed due to the requirement that the text amendment would change.

Ms. Miller said she hadn’t kept track but that there had been quite a few requests of people looking to divide their land on a principal arterial with lots of acreage but not much frontage so they weren’t able to divide at all.

Commissioner Willey asked about the number of parcels allowed if access was limited to only one access within ¼ mile.

Ms. Miller said only two Residential Development Parcels (RDP) no matter how many acres.

Commissioner Willey inquired about the difference between a shared driveway and shared access.

Ms. Miller said shared driveways were no longer allowed unless with a Cluster Certificate of Survey but were called a cross-access easement. She said in the rural area shared access could only occur in the right-of-way.

Commissioner Struckhoff asked if the shared access would be on the lot line between the two parcels.

Ms. Miller said yes, it would have to be on the lot line, or if the topography did not allow them to be on the lot line they would dedicate additional right-of-way.

Commissioner Kelly wondered how many people had been turned away and if there would be more applications to divide property with this change.

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Ms. Miller said not all of the people who had inquired had the ¼ mile frontage. She said some of the property owners only had 200' of frontage. She said the only way they could do a certificate of survey that way would be with a variance and the county engineer would have to approve it. She said property with ¼ mile of frontage was limited.

Commissioner Kelly wondered if there would be more rural subdivisions because of this.

Ms. Miller said there may be some but that she did not expect a dramatic increase.

Commissioner Willey inquired about subdivisions outside of the urban growth area.

Ms. Miller said subdivisions were no longer allowed unless in the A-1 or R-1 zoning districts. She said cluster certificates of survey were allowed in the urban growth area.

Commissioner Willey inquired about how corner properties were figured.

Ms. Miller said a person owns to the center line of the road.

Commissioner Willey said as Planning Commission moves into discussions of the new comprehensive plan there will be conversations about what kind of growth they want to see in the rural areas and what Planning Commission’s role will be. She did not want to make a change before Planning Commission had a chance to discuss it further. She did not want to create a hardship for people but felt this was not quite the time to change it.

Commissioner Struckhoff said the county engineer’s comments about a maximum of two RDP’s while maintaining access distance seemed alright and would probably be alright in a future discussion regarding the comprehensive plan.

Commissioner Kelly said his interpretation of the county engineer’s comments was regarding safety but it may not take into account development patterns and planning. He said they may end up with more rural subdivisions than they intended. He said he would like to have more discussions during the comprehensive plan process.

Mr. McCullough said it was a great discussion to have about how much division they want in the unincorporated county, how a code amendment would impact that, and what controls growth in the unincorporated county. He said growth could be controlled with access restrictions and the number of RDP’s. He said the comprehensive plan may not hit this topic at a deep level. He recommended continuing the discussion with a deferral.

Commissioner Willey said she would be comfortable with a deferral to gain more information.

Commissioner Carpenter wondered how the text amendment would impact rural growth and how the city expands.

Commissioner Carttar wondered about a demand analysis of what the drivers were for lot splits to understand what types of parcels were most at risk for this type of subdivision.

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Ms. Miller said she could try and figure out where the parcels were located that physically could be divided. She said there were many reasons why people divide land.

Commissioner Willey said this would only be on principal arterials; county highways and county routes.

Commissioner Carpenter asked if there were any other roads that were anticipated to be designated as major arterial roads over the next 20 years.

Ms. Miller referenced the Douglas County future maps.

**ACTION TAKEN**
Motioned by Commissioner Willey, seconded by Commissioner Carpenter, to defer the text amendment to the November Planning Commission.

Motioned carried 9-0. Commissioners Butler, Carpenter, Carttar, Kelly, Paden, Sands, Sinclair, Struckhoff, and Willey voted in the affirmative.

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MISCELLANEOUS NEW OR OLD BUSINESS
Consideration of any other business to come before the Commission.

MISC NO. 1  UPCOMING CALENDAR EVENTS

A possible quorum of the Planning Commission may attend the following events:

Planning Commission Social at the Chair’s residence on Friday, October 12, 2018.
Start time of 6:30pm

Annual Planning Commission Orientation on Friday, October 19, 2018

ADJOURN 7:41pm

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