



Updated:

1/27/14 @ 11:00am

Added communications for the following items:

Item 2 - Preliminary Plat for Going South Addition; 1338 E 1600 Rd

Item 4 - Conditional Use Permit for Good Earth Gatherings; 858 E 1500 Rd

Item 6 - Text Amendment to Zoning Regulations; Agritourism

1/22/14 @ 3:30pm

****The Wednesday, January 29th Planning Commission meeting has been cancelled****

**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
CITY HALL, 6 EAST 6TH STREET, CITY COMMISSION MEETING ROOM
AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS
JANUARY 27 & ~~29~~, 2014 6:30 - 10:30 PM**

GENERAL BUSINESS:

PLANNING COMMISSION MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of December 16 & 18, 2013.

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.

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

REGULAR AGENDA (JANUARY 27, 2014) MEETING

PUBLIC HEARING ITEM:

ITEM NO. 1 RS7 & IG TO OS; .6 ACRE; 547 MAPLE ST & 500 PERRY ST (MKM)

Z-13-00479: Consider a request to rezone approximately .6 acre from RS7 (Single-Dwelling Residential) District & IG (General Industrial) District to OS (Open Space) District. Property contains four lots located at 547 Maple St. and 500 Perry St. and adjacent alley right-of-way. Submitted by Bartlett & West, for the City of Lawrence, property owner of record.

NON-PUBLIC HEARING ITEM:

ITEM NO. 2 PRELIMINARY PLAT FOR GOING SOUTH ADDITION; 1338 E 1600 RD (SLD)

PP-13-00343: Consider a 2 lot Preliminary Plat for Going South Addition, located at 1338 E 1600 Rd/O'Connell Rd for multi-dwelling residential development. Submitted by Grob Engineering Services, for Going South, LLC, property owner of record.

RESUME PUBLIC HEARING:

ITEM NO. 3 REVISED PRELIMINARY DEVELOPMENT PLAN FOR BELLA SERA AT THE RESERVE; 4500 BOB BILLINGS PKWY (SLD)

PDP-13-00477: Consider a Revised Preliminary Development Plan for Bella Sera at the Reserve, located at 4500 Bob Billings Pkwy. Submitted by GOKU LLC, for Bella Sera LLC, property owner of record.

ITEM NO. 4 CONDITIONAL USE PERMIT; GOOD EARTH GATHERINGS; 858 E 1500 RD (MKM)

CUP-13-00482: Consider a Conditional Use Permit for Good Earth Gatherings, a recreational facility including education, community outreach, and ancillary retail sales on approximately 10 acres located at 858 E 1500 Rd. Submitted by Tamara Fairbanks-Ishmael, property owner of record.

ITEM NO. 5 CONDITIONAL USE PERMIT; LODGING HOUSE & RECREATION; 1804 E 1500 RD (SLD)

CUP-13-00492: Consider a Conditional Use Permit for a Lodging House and Recreation facility to be known as a hostel and banquet hall, located at 1804 E 1500 Rd. Submitted by Shane Powers, for Earl Stagg, property owner of record.

ITEM NO. 6 TEXT AMENDMENT TO THE ZONING REGULATIONS; AGRITOURISM (MKM)

TA-13-00451: Consider a Text Amendment to Section 12-319-7 of the Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas to establish criteria and review process for Agritourism uses which may have significant off-site impacts. *(Amendment was initiated by the Board of County Commissioners at their October 16, 2013 meeting.)*

****DEFERRED****

~~ITEM NO. 7 CONDITIONAL USE PERMIT; METEOROLOGICAL TOWER; E OF N 400 RD & E 1000 RD AND S OF N 400 RD (SLD)~~

CUP-13-00480: Consider a Conditional Use Permit for a meteorological tower located east of the corner of N 400 Rd & E 1000 Rd and on the south side of N 400 Rd. Submitted by Tower Associates, for Donald & Jane Schwartz, property owners of record.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

MISC NO. 1 VARIANCE FOR CERTIFICATE OF SURVEY; 51 N 2190 RD (MKM)

CSR-13-00517: Consider a variance associated with a Certificate of Survey for approximately 44 acres located at 51 N 2190 Rd. The variance is requested from Section 20-806(d)(2)(i) of the Subdivision Regulations [Section 11-106(d)(2)(i) of the County Code] to allow the creation of Residential Development Parcels which do not comply with the RDP dimensional requirements of the

Zoning Regulations. Submitted by Stebbins Surveying LLC, for Louis and Betty Eakes, property owners of record.

ADJOURN

****The Wednesday, January 29th Planning Commission meeting has been cancelled****
BEGIN PUBLIC HEARING (JANUARY 29, 2014):

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.

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

REGULAR AGENDA (JANUARY 29, 2014) MEETING

PUBLIC HEARING ITEMS:

****DEFERRED****

~~ITEM NO. 8 — TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; PARTICIPANT SPORTS & RECREATION, OUTDOOR USES WITH SUP IN CN2 (SMS)~~

~~TA-13-00488:~~ Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, to allow for Participant Sports & Recreation, Outdoor uses with a Special Use Permit in the CN2 (Neighborhood Shopping Center) District.

****DEFERRED****

~~ITEM NO. 9A — RSO TO CN2; 10.97 ACRES; 4300 W 24th PLACE (TLH)~~

~~Z-13-00483:~~ Consider a request to rezone approximately 10.97 acres from RSO (Single Dwelling Residential Office) District to CN2 (Neighborhood Shopping Center) District, located at 4300 W 24th Place. Submitted by Paul Werner Architects, for Corporate Holdings II LLC, property owner of record.

****DEFERRED****

~~ITEM NO. 9B — SPECIAL USE PERMIT; FAMILY FUN CENTER; 4300 W 24th PLACE (TLH)~~

~~SUP-13-00486:~~ Consider a Special Use Permit for Participant Sports & Recreation, Outdoor uses as part of a Family Fun Center, located at 4300 W 24th Place. The development includes a 28,000 square foot clubhouse and outdoor tot lot, batting cages, electric go kart tracks and an 18 hole miniature golf course. Submitted by Paul Werner Architects, for Corporate Holdings II LLC, property owner of record.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

CALENDAR

December 2013						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

January 2014						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February 2014						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

PCCM Meeting:

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

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<http://www.lawrenceks.org/subscriptions>



PLANNING COMMISSION MEETING
December 16 & 18, 2013
Meeting Minutes **DRAFT**

December 16, 2013 – 6:30 p.m.

Commissioners present: Britton, Culver, Denney, Graham, Josserand, Kelly, Liese, Struckhoff, von Achen

Staff present: McCullough, Stogsdill, Crick, Halm, Larkin, M. Miller, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of November 18, 2013.

Commissioner Struckhoff said in his ex parte from last month he initiated contact with the Douglas County Zoning & Codes officer.

Motioned by Commissioner von Achen, seconded by Commissioner Kelley, to approve as amended

Motion carried 8-0. Commissioner Britton was not present for the vote.

COMMITTEE REPORTS

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

Mr. Scott McCullough said the Oread Design Committee continued to meet about every two weeks to keep working on the Oread Design Guidelines.

Commissioner Culver said the Metropolitan Planning Organization (MPO) met in November and had a small revision to a few items to reconcile the actual cost compared to the projected cost. He said they would not reconvene until after the first of the year.

COMMUNICATIONS

Mr. McCullough said that general public communications and general staff communications were included in the packet for their review.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No abstentions.

PC Minutes 12/16/13 **DRAFT**

**ITEM NO. 1 PRELIMINARY PLAT FOR WAKARUSA WASTEWATER TREATMENT PLANT
ADDITION; 4380 O'CONNELL RD (MKM)**

PP-13-00444: Consider a one-lot Preliminary Plat for Wakarusa Wastewater Treatment Plant Addition on approximately 537 acres located at 4380 O'Connell Rd. Submitted by the City of Lawrence, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Ms. Melinda Harger and Mr. Dave Wagner, City Utility Department, were present for questioning.

PUBLIC COMMENT

No public comment.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Britton, to approve the Preliminary Plat for the Wakarusa Wastewater Treatment Plant Addition subject to the following conditions:

- 1) Submittal of a revised preliminary plat with the following changes:
 - a. A note added to the plat which states that "Sidewalks on N 1175 and E 1600 Roads are not required at this time; however, 5 ft wide sidewalks shall be installed along these street frontages when connecting sidewalks are installed."
 - b. Note 1 on Sheet 3 revised to provide the State Historical Preservation Office's determination on the eligibility of the cultural, historical, and archeological sites on the property to be registered on the National Historic Registry.
 - c. Label the existing Baldwin City waterline north and west of the metering station as 'abandoned'.
 - d. Revise the 20 ft wide general utility easements along the roadways as follows:
Provide a 10 ft wide waterline and a 10 ft wide general utility easement on the north side of N 1175 Road.
Provide a 10 ft wide general utility easement and a 20 ft wide waterline easement on the east side of E 1600 Road.
- 2) Public improvement plans for the extension of utilities shall be submitted and approved prior to the recording of the final plat.
- 3) The Minimum Maintenance Designation for North 1175 Road between E 1550 and E 1600 Roads and for E 1600 Road between N 1100 and N 1175 Roads shall be reversed to provide access to the site prior to the recording of the Final Plat.
- 4) The City shall participate in future improvements to N 1175 and E 1600 Roads adjacent to the property when necessary as the area urbanizes.

Commissioner von Achen asked staff about the historical or archeological site on the area.

Ms. Miller said there were some archeological, historical, or cultural sites noted, such as WPA culverts. She said they were discovered with a survey done earlier on. She said staff was not aware when writing the staff report that it had already been reported to the State Historical Preservation office so that was one of the conditions. She said a letter was given to her today from the State Historical Preservation office showing that it was reported to them back in 2007. She said they concurred that these sites were not significant and could go ahead and be developed but that if

anything archeological was unearthed it would need to be reported to the State Historical Preservation office.

Unanimously approved 9-0.

PC Minutes 12/16/13 **DRAFT**

ITEM NO. 2A RS10 TO RM12-PD; 19.3 ACRES; 3901 PETERSON RD (MKM)

Z-13-00440: Consider a request to rezone approximately 19.3 acres from RS10 (Single-Dwelling Residential) District to RM12-PD (Multi-Dwelling Residential with PD Overlay) District, located at 3901 Peterson Rd. Submitted by Americare, for Jeffrey E. Smith Homes LC, property owner of record.

ITEM NO. 2B PRELIMINARY DEVELOPMENT PLAN FOR ASSISTED LIVING BY AMERICARE; 3901 PETERSON RD (MKM)

PDP-13-00441: Consider a Preliminary Development Plan for Assisted Living by Americare, located at 3901 Peterson Rd with a variance request from right-of-way requirements in Section 20-810(e)(5)(i) of the Subdivision Regulations and a modification request from the off-street parking requirements in Section 20-902 of the Development Code. Submitted by Americare, for Jeffrey E. Smith Homes LC, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented items 2A and 2B together.

APPLICANT PRESENTATION

Mr. Neal Slattery, Americare, gave a Powerpoint presentation showing renderings of the project and described what assisted living, memory care, and independent living meant. He also provided the history of Americare. He stated they were aiming to break ground on construction in the Spring of 2014.

PUBLIC HEARING

Mr. Aaron Jones expressed concern about losing trees in the area and the noise generated from emergency vehicles dispatched to the site. He stated the roundabout was tough to navigate, especially for emergency vehicles.

APPLICANT CLOSING COMMENTS

Mr. Slattery said all the interior roadways would be built 27' wide, the same as a local street. He said the projected traffic generation would be 75 trips per day. He said there were three entrances and that the northern entrance had a projected 40 trips per day distributed over a 24 hour period. He said the amount of traffic going through the roundabout would be minimal. He said the design would allow emergency vehicles to get through.

COMMISSION DISCUSSION

Commissioner von Achen asked staff to comment about the League of Women Voters concerns about adequate parking and the "what if" scenario.

Ms. Miller said the applicant could probably better answer the comments submitted by the League of Women Voters. She said there would be more parking provided than required by the Code because the plan included employee parking. She said extra parking typically required mitigation. She said the use was limited by the Preliminary Development Plan to assisted living so if the site was sold and a different project was proposed a new Preliminary Development Plan would need to be submitted for review. She said Planning Commission would have the opportunity to approve or deny it.

Mr. Slattery said Americare used actual case studies for the parking requirements. He said the number of parking spaces was based on case studies, not speculation. He felt the amount of parking

was adequate but that more parking could be added later if needed. He said Americare had been in business for 30 years and have not sold any of the facilities.

Commissioner Josserand inquired about independent living and if transportation would be provided for those without vehicles.

Ms. Jean Summers, Americare, said many residents do not drive and prefer not to so there would be some type of bus or vehicle to provide periodic transportation. She said they would also utilize community transportation services for the residents.

Commissioner Josserand asked what other services were available in independent living.

Ms. Summers said there would be a clubhouse to keep residents connected with activities. She said they would have a full kitchen in their cottage. She said each unit would have an emergency cord so they would be connected to assistance when needed.

Commissioner Josserand inquired about the PD Overlay for the undeveloped portion. He asked if it would have the same restrictions.

Mr. McCullough said that was correct, the entire property would be zoned RM12-PD. He said Americare would bring any future phase or change forward through the public hearing process.

Commissioner Josserand asked if it would go through Planning Commission.

Mr. McCullough said yes.

ACTION TAKEN on Item 2A

Motioned by Commissioner Liese, seconded by Commissioner Denney, to approve the rezoning request for approximately 19.3 acres from RS10 (Single-Dwelling Residential) District to RM12-PD (Multi-Dwelling Residential with Planned Development Overlay) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 9-0.

ACTION TAKEN on Item 2B

Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the variance to allow the right-of-way for Peterson Road to remain at 100 ft in this location based on the findings of fact presented in the staff report and to approve the Assisted Living By Americare Preliminary Development Plan based upon the findings of fact presented in the body of the staff report and subject to the following conditions:

1. Provision of a revised Downstream Sanitary Sewer Analysis with minor technical revisions per the City Utilities Engineer's approval.
2. Southern Star and Black Hills Energy approval of the proposed changes in their easements along Monterey Way.
3. Provision of a revised Preliminary Development Plan with the following changes:
 - a. Include the same uses in the 'proposed' and 'permitted' use sections on Sheet 2.
 - b. Addition of the following note: "The density of this development shall not exceed 4.6 dwelling units per acre."
 - c. Remove Note 5 if there are no covenants, easements or other restrictions proposed for the use of the land.

- d. Revise Note 11 regarding ADA compliance to read: "The site has been designed to comply with the provisions of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities, appendix A to 28 CFR Part 36."
- e. Provide a pedestrian walkway to connect the Independent Living units in the southwest corner of the property with the club house north of the drive.
- f. Show a 6 ft wide sidewalk along Peterson Road to be installed with this development; or, if the existing sidewalk is in good condition, a note may be added to the plan which states that 'When the sidewalk along Peterson Road deteriorates or is damaged to the degree that the City Engineer determines replacement is necessary, a 6 ft wide sidewalk will be installed at the property owner's expense.'
- g. Label the RWD No 1 Easement as 'To be vacated with this plat' and label the waterline along the east side of the property as abandoned.
- h. Revise utility layout per the City Utility Engineer's approval.
- i. Note the height and slope of the perimeter parking lot landscaping berm.
- j. Delineate and dimension the Common Open Space and Common Open Recreational Space areas on the plan to insure that the area requirements are met.
- k. Extend the right-of-way for Spring Hill Drive across Lot 2 to connect with Monterey Way. The plan may note that the location is conceptual and the exact alignment will be determined with the Final Plat of Lot 2.
- l. Provide an easement or tract for the protection of Environmentally Sensitive Lands if the trees in the southern portion of Lot 2 are found to meet the definition of 'stands of mature trees' provided in Section 20-1701 of the Development Code.
- m. Show street trees along Monterey Way west of the easements at a ratio of 1 tree per 40 ft of street frontage.
- n. Bufferyard landscaping, including the request for Alternative Compliance, will be reviewed and determined with the Final Development Plan.

Unanimously approved 9-0.

PC Minutes 12/16/13 **DRAFT**

**ITEM NO. 3 TEXT AMENDMENT TO THE ZONING REGULATIONS; AGRITOURISM
(MKM)**

TA-13-00451: Consider a Text Amendment to Section 12-319-7 of the Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas to establish criteria and review process for Agritourism uses which may have significant off-site impacts. *(Amendment was initiated by the Board of County Commissioners at their October 16, 2013 meeting.)*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

Mr. Jim Hendershot expressed concern about the Kansas City Pumpkin Patch. He said at a stakeholder meeting in November one of the items that came up was looking at tiers of classification for different types of events. He said County Commissioner Flory was concerned about the arbitrary number of 100 people. He stated 20 people could be just as disruptive to a neighborhood as 100 people. He felt the County Commission was struggling with their ability or authority to impose conditions upon an application. He felt the Conditional Use Permit process worked and allowed everyone the flexibility of imposing conditions or looking at conditions that may be important for one application but not another. He felt it was important to distinguish between agritourism and a commercial business operating under the guise of an agritourism business.

Ms. Michelle Kooz felt the guidelines were vague and would allow people to have a 24/7 party house. She said the Kansas City Pumpkin Patch was allowed to have paintball on the property under the current guidelines and regulations. She did not feel that paintball had anything to do with agriculture.

Mr. Rick Hird said he was involved in forming the agritourism committee about four years ago. He said for the majority of agritourism businesses it has worked perfectly. He said there had only been one applicant that had caused a problem, the Kansas City Pumpkin Patch. He said it was his understanding that the Kansas City Pumpkin Patch was denied by the County Commission and paintball was not approved. He named some agritourism businesses that had registered in Douglas County; Pinwheel Farm, Washington Creek Lavender Farm, Pendleton's Farm & County Market, Schaake's Pumpkin Patch, Prairie Elf Christmas Tree Farm, and Strawberry Hill Christmas Tree Farm. He said he had not heard of any complaints about any of these agritourism businesses. He said the only agritourism that had complaints was Kansas City Pumpkin Patch. He said the Kansas City Pumpkin Patch was denied by the County Commission and the process worked perfectly in that case. He said when the agritourism committee was formed all stakeholders were included in the process; state, local, operators, and townships. He said the current text amendment protects the neighbors in several ways. He said if it was an activity of more than 100 people it required notice to neighbors within a 1000', required notice to all neighbors on a gravel road up to an improved road, and required adherence to noise ordinances, parking ordinances, and sanitation rules. He said the goal of the agritourism text amendment was to foster and encourage agritourism, not to include additional layers. He stated if a tiered approach was used they should keep in mind that the average wedding was probably around 100 people. He said the agritourism committee discussed a much higher number than 100 people. He said the committee rejected the idea of a Conditional Use Permit for agritourism uses. He said when considering further amendments they should ask themselves whether the actions would be making agritourism easier and fostering it or adding more layers of rules.

COMMISSION DISCUSSION

Commissioner Josserand asked Mr. Hird about any benefits that a Conditional Use Permit may provide.

Mr. Hird discussed the issue of the Conditional Use Permit and why the agritourism committee felt it was not appropriate. He said he owned a vineyard south of town and would like to build a winery and be an agritourism operator someday. He said while studying that and talking to other wineries he discovered that the winery and tasting room were allowed by right and did not require a permit. Although the minute a wine glass was sold it would require a Conditional Use Permit, which he did not feel made sense. He said in dealing with the stakeholders in the agritourism committee meetings they felt the worst part would be the Conditional Use Permit process, which would be a 4-6 month process to get through. He said agritourism was meant to be a simple process and the time, expense, and trouble could be avoided.

Commissioner Josserand asked if Mr. Hird felt the County Commission already had the tools to make the decisions they needed to.

Mr. Hird said he did not feel the County Commission was trying to skirt the issue. He said County Commissioner Flory was justifiably concerned about the lack of legal standards for imposing conditions and tweaking it may make sense.

Commissioner Josserand said a 25 member rock band could be more noxious than a 100 person wedding. He wondered how they should create or judge standards.

Mr. Hird said the existing noise ordinance would cover a rock band. He said he did not want to see another set of rules covering the same territory. He said noise had not been an issue with the one exception of the Kansas City Pumpkin Patch.

Commissioner von Achen asked if the agritourism committee wanted to avoid Conditional Use Permits for any level of use.

Mr. Hird said there may have been a point when the agritourism committee considered a Conditional Use Permit.

Ms. Miller said the agritourism committee had a lot of trouble figuring out the dividing line of when a Conditional Use Permit would be needed versus a Site Plan. She said since the committee was not able to find a dividing line they left it at 100 people with County Commission approval, which included a public hearing.

Mr. Hird said some members of the agritourism committee wanted the amount of people to be 250 so 100 people was a compromise.

Commissioner Denney said he wanted to avoid reinventing the wheel since the agritourism committee spent a lot of time and effort on the issue. He asked if staff was looking at text amendments that would give the County Commission some guidelines to use in making decisions or if staff was looking to open it up widely to any kind of agritourism.

Ms. Miller said the County Commission wanted parameters to set the dividing line of what activities needed additional review by the County Commission, not just 100 people. She said it could be the activity, such as a rock band, since it had the potential for noise. She said the proximity of neighbors could also be taken into account, as well as if the rock band would be in the middle of 180 acres,

which would be different than being adjacent to small lots. She said the County Commission could also benefit from general standards, such as exterior lighting late at night. She said they weren't trying to reinvent the wheel, just add to it.

Mr. McCullough said the issue started out with all permitted uses requiring a Conditional Use Permit. He said the State was advocating for encouraging agritourism and a Conditional Use Permit could be an onerous process for the applicant. He said the agritourism committee came up with the "mini Conditional Use Permit" process where it would go directly to the County Commission which was a quicker process and would require notice for over 100 people. He said if there were less than 100 people there would be no notice or process past the administrative process. He said there had been six administrative ones so far.

Commissioner Culver said he would like to see in the draft language the general nature of some of the activities and taking that a little further beyond the threshold of 100 people. He felt there should be a balance so as not to make this too much of an onerous process. He said looking at some of the impacts could be helpful for Planning Commission when looking at draft language.

Commissioner Josserand said the frequency of use was one parameter to help distinguish between them. He said for example, a wedding of 300 people could happen once or a wedding facility could have six weddings a year. He said that was different than a pumpkin patch that was really a commercial use. He said the connection to agritourism for such an ongoing facility should have a stronger case that it was agricultural. He agreed with Mr. Hird's observation that a 100 people may be too low for infrequent uses.

Commissioner von Achen inquired about the difference between seasonal sale of products raised on site and a fruit and vegetable stand.

Ms. Miller said there wasn't a whole lot of difference. She said seasonal sale of products raised on site could be done by any farmer at any time. She said a fruit and vegetable stand doesn't necessarily need to be grown on site.

Ms. Kooz said she was familiar with noise ordinances because she was a police officer. She said noise ordinances were near impossible to enforce without the proper equipment, such as decibel readers. She would like to see some sort of regulation added about products being grown on the property and not resold.

Mr. Hird said Ms. Kooz was correct, noise ordinances were hard to enforce. He said there was no requirement as an agritourism operator that anything be grown on the land. He said there were agritourism operators on the edge of the Flint Hills who provided walking trails and did not grow anything, but instead provide an experience in the country. He asked them not to confuse a requirement of growing something with agritourism. He said they may or may not have anything to do with each other.

Commissioner Josserand said to a degree an application for agritourism was being described as crop related. He said Ms. Kooz made a good point. He said it wasn't necessarily related to a crop but if that is what the business is, such as a pumpkin patch, they should be grown on site and not trucked in.

Mr. Hird said there were wineries in Kansas that did not own a single grapevine and it was still agritourism. He said it was agriculturally exempt unless they sell an item such as a wine glass.

Commissioner Josserand said he did not feel that wineries that did not grow their own grapes were agritourism. He felt they would be wine producers.

Commissioner Denney asked if any thought was given to when something stopped being agritourism and started being an amusement park. He wondered if an amusement park with cow rides in the county would be considered agritourism.

Mr. Hird said those questions were valid and the agritourism committee struggled with those types of questions. He said the example used in the committee was that nobody wanted to see a Tractor Supply pop up in the country contending it was an agritourism use. He said a petting zoo that involved farm animals for children to visit would be an agritourism use. He said it would be a difficult call in some circumstances. He hoped that in writing guidelines for the County Commission that they would be given something to latch onto with abusive situations, while preserving agritourism in Douglas County.

NO ACTION TAKEN

PC Minutes 12/16/13 **DRAFT**

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

**MISC NO. 1 UPDATE ON PROCEDURAL OPTIONS REGARDING CLARIFICATION OF
CAMPING REGULATIONS**

Receive staff memo update regarding procedural options regarding clarification of camping regulations.

Commissioner Liese reminded Planning Commission about their retreat on Friday, January 24th.

Mr. McCullough introduced new Planning staff member, Mr. Jeff Crick.

Recess at 8:13pm until 6:30pm on December 18, 2013

PC Minutes 12/18/13 **DRAFT**

Reconvene December 18, 2013 – 6:30 p.m.

Commissioners present: Britton, Culver, Denney, Kelly, Josserand, Liese, Struckhoff, von Achen
Staff present: McCullough, Stogsdill, Day, Halm, Larkin, Ewert

BEGIN PUBLIC HEARING (DECEMBER 18, 2013):

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No Abstentions.

PC Minutes 12/18/13 **DRAFT**

**ITEM NO. 4A A TO OS-FP; 8.68 ACRES; NW CORNER OF W 31ST ST & LOUISIANA ST
(SLD)**

Z-13-00445: Consider a request to rezone approximately 8.68 acres from County A (Agricultural) District to OS-FP (Open Space-Floodplain Overlay) District, located on the northwest corner of 31st St & Louisiana Street. Submitted by the City of Lawrence, property owner of record.

**ITEM NO. 4B PRELIMINARY PLAT FOR PUMP STATION NO. 10; NW CORNER OF W
31ST ST & LOUISIANA ST (SLD)**

PP-13-00447: Consider a 1 lot Preliminary Plat for Pump Station No. 10 Addition, located at the northwest corner of 31st St & Louisiana St. Submitted by the City of Lawrence, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented Items 4A and 4B together.

APPLICANT PRESENTATION

Ms. Melinda Harger and Mr. Dave Wagner, City Utility Department, were present for questioning.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner von Achen inquired about the protections of the floodplain overlay.

Ms. Day said the floodplain overlay district had a requirement that flood proofing would occur 2' above the base flood elevation. She said the improvements would be flood proof to 2' additional freeboard. She said the intent was to recognize as it was built out that over time the floodplain could rise.

Commissioner Denney asked for more details about the pump station.

Mr. Dave Wagner, Utility Department, said pump station 10 was part of the Capital Improvement Program that the City Commission adopted and integrated in planning documents with the Kansas Department of Health and Environment to address some existing overload issues along the 31st Street corridor. He said it would be a critical part of the system to relieve weather overloading on the 31st Street corridor and provide extended capacity to other areas of the city. He said it would provide additional treatment capacity and relieve some of the load of the existing treatment plant. He said the facility was expected to be operational in late 2017.

Commissioner Denney asked if the pump station would have an effect on potential flooding in the area during heavy weather.

Mr. Wagner said as it was developed it would have to meet the City's requirements for not influencing additional flooding in the area. He said because of the management of that area versus what alternatively might go there it was a better situation than if something else was there.

Commissioner Denney asked if rainwater from that area would be pumped elsewhere.

Mr. Wagner said it was designed as a sanitary system, not a storm system.

Commissioner Josserand asked if there would be a structure on top.

Mr. Wagner said yes. He said there would be opportunity for comments on how it would look and function. He said it did not have to look like a traditional pump station.

ACTION TAKEN on Item 4A

Motioned by Commissioner Liese, seconded by Commissioner Britton, to approve the request to rezone 8.68 acres from A (Agricultural) District and F-F (County-Floodway Fringe Overlay) to OS-FP (Open Space-Floodplain Overlay) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 8-0.

ACTION TAKEN on Item 4B

Motioned by Commissioner Liese, seconded by Commissioner Britton, to approve the Preliminary Plat of Pump Station No. 10.

Unanimously approved 8-0.

PC Minutes 12/18/13 **DRAFT**

ITEM NO. 5A ANNEXATION OF 14.53 ACRES; NW CORNER OF N 1300 RD/W 31ST ST & LOUISIANA ST (SLD)

A-13-00437: Consider a request to annex approximately 14.53 acres, located at the NW corner of N 1300 Rd/W 31st St and Louisiana St. Submitted by Landplan Engineering PA on behalf of Savannah Holdings LC, property owner of record. *Initiated by City Commission on 11/5/13.*

ITEM NO. 5B A TO RM12D & RM12D-FP; 14.53 ACRES; NW CORNER OF N 1300 RD/W 31ST ST & LOUISIANA ST (SLD)

Z-13-00438: Consider a request to rezone approximately 14.53 acres from County A (Agricultural) District to RM12D (Multi-Dwelling Residential) District and portions to RM12D-FP (Multi-Dwelling Residential-Floodplain Overlay District) District, located at the NW corner of N 1300 Rd/W 31st St and Louisiana St. Submitted by Landplan Engineering PA on behalf of Savannah Holdings LC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented Items 5A and 5B together.

APPLICANT PRESENTATION

Mr. Brian Sturm, Landplan Engineering, agreed with the staff report.

PUBLIC HEARING

Ms. Cille King, League of Women Voters, recapped the letter sent regarding flooding issues and fill on the land.

APPLICANT CLOSING COMMENTS

Mr. Sturm said the homes on the south side of W 29th Terrace were built in the late 1950's and early 1960's so a lot had changed with this part of Lawrence in the 50 years since. He said there had been significant fill brought to this portion of the Snodgrass property in the last decade, primarily between the years 2000-2010. He said the fill was done under a permit from the State. He said Landplan Engineering conducted a topographic survey and estimated the grounds were stable and was well done. He said the rezoning request conformed with the recommendations of the revised Southern Development Plan. He said the area had been vetted by a lengthy community process and it made sense for medium-density residential housing. He said, in his opinion, it was completely in line with what the community envisioned for this part of Lawrence.

COMMISSION DISCUSSION

Commissioner Kelly asked if they were just looking at a rezoning. He asked if there was a development would they be looking at a drainage study that would involve the fill.

Ms. Day said Planning Commission's action tonight was looking at the rezoning and annexation. She said in light of the League of Women Voter's letter she contacted the City Stormwater Engineer and the Codes Enforcement Administrator. She read a statement from Mr. Barry Walthall, Codes Enforcement Administrator: *"Soil testing and evaluation by a licensed engineer would be required for construction projects on this property. The evaluation report would include instructions to correct any issues within sufficient compaction or improper fill. Final acceptance report would also be required from the engineer that would confirm those corrections were completed."* She said there were adequate reviews and processes in place to be sure those things were taken care of. She said regarding flooding there had been no repetitive loses in more than twelve years for those properties

due to flooding reported. She said the South Lawrence Trafficway project would improve drainage in the area by changing the small culvert at 31st Street and Louisiana Street with a larger open span bridge to allow the flow to move more freely. She said there would still be ponding overall in the area.

Commissioner Denney said not too long ago Planning Commission approved items concerning a new detention pond in the area for Menards. He asked if that pond would drain into this system that goes through there. He wondered about any potential effect from that, positive or negative.

Ms. Day said that pond had been specifically reviewed in light of all of the improvements going on in the area.

ACTION TAKEN on Item 5A

Motioned by Commissioner Kelly, seconded by Commissioner von Achen, to approve the annexation, A-13-00437, of approximately 14.53 acres, located at the NW corner of N 1300 Rd/W 31st St and Louisiana Street, based on the findings in the body of the staff report and forwarding the request to the City Commission with a recommendation for approval.

Unanimously approved 8-0.

ACTION TAKEN on Item 5B

Motioned by Commissioner Kelly, seconded by Commissioner von Achen, to approve the request to rezone 14.53 acres from A (Agricultural) District and F-F (County-Floodway Fringe Overlay) to RM12D (Multi-Dwelling Residential District and RM12D-FP (Multi-Dwelling Residential and Floodplain Overlay) District located at the NW corner of N 1300 Rd/W 31st St. and Louisiana St. based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following condition:

1. Maximum density shall be restricted to 8 dwelling units per acre or less.

Unanimously approved 8-0.

PC Minutes 12/18/13 **DRAFT**

ITEM NO. 6A ANNEXATION OF 21.17 ACRES; N OF 1352 N 1300 RD (SLD)

A-13-00443: Consider a request to annex approximately 21.17 acres located directly north of 1352 N 1300 Rd for an extension of Naismith Valley Park. Submitted by the City of Lawrence, property owner of record. *Initiated by City Commission on 11/5/13.*

ITEM NO. 6B A TO OS-FP; 21.17 ACRES; N OF 1352 N 1300 RD (SLD)

Z-13-00449: Consider a request to rezone approximately 21.17 acres from A (Agricultural) District to OS-FP (Open Space-Floodplain Overlay) District, located directly north of 1352 N 1300 Rd for an extension of Naismith Valley Park. Submitted by the City of Lawrence, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented Items 6A and 6B together.

PUBLIC HEARING

No public comment.

ACTION TAKEN on Item 6A

Motioned by Commissioner Kelly, seconded by Commissioner Britton, to approve the annexation, A-13-00443, of approximately 21.17 acres, located directly north of 1352 N 1300 Rd for an extension of Naismith Valley Park, based on the findings in the body of the staff report and forwarding the request to the City Commission with a recommendation for approval.

Unanimously approved 8-0.

ACTION TAKEN on Item 6B

Motioned by Commissioner Kelly, seconded by Commissioner Britton, to approve the request to rezone 21.17 acres from A (Agricultural) District and FW-FW (County Floodway and Floodway Fringe Overlay) Districts to OS-FP (Open Space-Floodplain Overlay) District located directly north of 1352 N 1300 Rd for an extension of Naismith Valley Park based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 8-0.

PC Minutes 12/18/13 **DRAFT**

**ITEM NO. 7 FINAL PLAT FOR LANGSTON HEIGHTS ADDITION; E SIDE OF K-10 HWY
& S OF W 6TH ST, N & S OF CRYSTAL LN & PALISADES DR (SLD)**

PF-13-00084: Consider a Final Plat for Langston Heights Addition, an 80 lot subdivision that includes detached, duplex and multi-family residential lots. This Final Plat deviates from the approved preliminary plat. This application specifically subdivides the original Lot 1, Block 1 into 15 separate duplex lots. Section 20-809(m) of the Subdivision Regulations requires a Final Plat that varies from the approved Preliminary Plat to be placed on the Planning Commission agenda for consideration. The property is located along the east side of K-10 highway and south of W. 6th Street, north and south of Crystal Lane and Palisades Drive extended to the west. Submitted by Landplan Engineering, for Langston Heights, LC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Brian Sturm, Landplan Engineering, said the developer wanted to change the plan by taking one lot on the very west side of the subdivision, between Renaissance Drive and the South Lawrence Trafficway, and change the use from a row home concept to a more traditional attached single family townhome style units. He said the developer felt it was prudent to remove the restriction on development of that property. He said the use likely for the lots was permitted within RM12 zoning. He said the unit count and traffic would drop with a less intense use type.

PUBLIC HEARING

Mr. Ryan Fike, thanked the development team with keeping the neighborhood up to date on the changes. He said the neighborhood understood and appreciated the changes. He said they would like the connection to the south to be made but felt the new plan was really not that much of a change. He requested a stipulation that once the higher density housing was built that the road be connected to the south.

COMMISSION DISCUSSION

Commissioner Liese inquired about the timeline of the development to the south, Langston Commons.

Mr. McCullough said the rezoning application would come before Planning Commission in February.

Mr. Tim Herndon, RSR Development, said the first phase was the 30 acre platted area they were looking at tonight. He said it would be significantly development prior to moving southward because the south piece was generally dependent upon the South Lawrence Trafficway interchange being operational. He said KDOT's timeline for the completion of that interchange was the first or second quarter of 2016. He said it was likely that several pad sites would be opened at the time of the interchange. He said that interchange to the south was the key to opening up to the property to the south.

Commissioner Liese asked Mr. Herndon about his thoughts on the access road to the south that was mentioned during public comment.

Mr. Doug Rainey, RSR Development, said Langston Way and Renaissance Drive would connect with Bob Billings Parkway to the south around the same time of the second phase/commercial phase of the project. He said a general estimate would be the first or second quarter of 2016.

Mr. McCullough said he thought the neighborhood concern was that they don't want any more of the south section to develop before it's connected to Bob Billings Parkway.

Commissioner Josserand inquired about access to the north side and if it would connect through.

Mr. Herndon showed a map on the overhead that showed an area that was supposed to be multi-family row house development. He said the developer agreed to defer construction of that piece until the connection to Bob Billings Parkway to the south was complete. He said the density of the lot had now been reduced by 50% and overall density of the neighborhood reduced by 25%.

Commissioner Britton asked if the connection of Renaissance Drive to Bob Billings Parkway would be part of a traffic study.

Mr. McCullough said it would depend on the timing and phasing of development and the applicant had indicated the north phase would occur first.

Commissioner Britton felt a condition should be included for developing of that portion.

Mr. McCullough said it was staff's understanding that anything to the south would necessitate building that road.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Struckhoff, to approve the Final Plat for Langston Heights Addition including the removal of Note No. 17 of the original preliminary plat that stated: *"Building Permits for structures in Lot 1, block one will not be made available until such time that Renaissance Drive is constructed and completed south to Bob Billings Parkway."*

Commissioner Britton said he would support the motion and felt it was a good compromise of decreasing the density of what would have been row housing in exchange for not requiring the connection to Bob Billings Parkway at this point. He said his support was contingent upon that when the southern development did happen there would be a requirement that the connection to Bob Billings Parkway be completed.

Commissioner Josserand agreed with Commissioner Britton. He said some of the property had a final site plan that was never filed and would have required it to be all single family. He said it caused him heartburn on behalf of the neighbors but that he would support the motion.

Unanimously approved 8-0.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

Mr. McCullough advised Planning Commission of the 2014 American Planning Association conference.

ADJOURN 7:30pm

2014
LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
MID-MONTH & REGULAR MEETING DATES

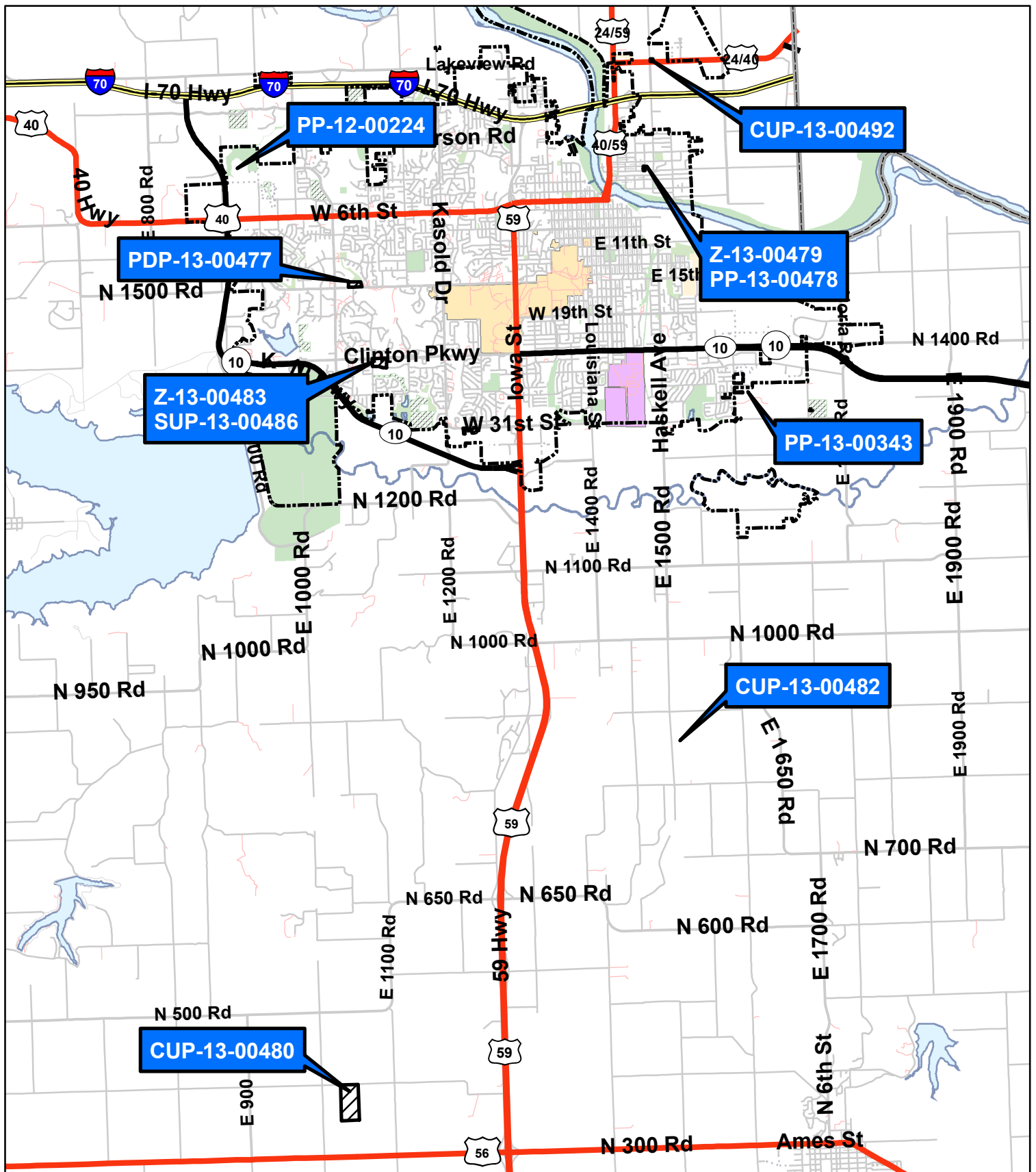
Mid-Month Meetings, Wednesdays 7:30 – 9:00 AM (*Friday Meeting)	Mid-Month Topics		Planning Commission Meetings 6:30 PM, Mon & Wed	
Jan 24*	Planning Commission Retreat - half day Friday		Jan 27	Jan 29
Feb 12	HERE @ KU	Topics for 2014	Feb 24	Feb 26
Mar 12			Mar 24	Mar 26
Apr 9			Apr 21	Apr 23
May 14			May 19	May 21
Jun 18			Jun 23	Jun 25
Jul 11*	PC Orientation - all day Friday		Jul 21	Jul 23
Aug 13			Aug 25	Aug 27
Sep 10			Sep 22	Sep 24
Oct 8			Oct 20	Oct 22
Nov 5			Nov 17	Nov 19
Dec 3			Dec 15	Dec 17
	Suggested topics for future meetings: <i>How City/County Depts interact on planning issues</i> <i>Stormwater Stds Update – Stream Setbacks</i> <i>Overview of different Advisory Groups – potential overlap on planning issues</i> <i>Joint meeting with other Cities’ Planning Commissions</i> <i>Joint meeting with other Cities and Townships – UGA potential revisions</i>		<i>New County Zoning Codes</i> <i>Tour City/County Facilities</i> <i>Oread Overlay Districts</i> <i>Comprehensive Plan – Goals & Policies</i>	
Meeting Locations	The Planning Commission meetings are held in the City Commission meeting room on the 1 st floor of City Hall, 6 th & Massachusetts Streets, unless otherwise noticed.			
Planning & Development Services Lawrence-Douglas County Planning Division 785-832-3150 www.lawrenceks.org/pds				

Revised 10/28/13

2013 PLANNING COMMISSION ATTENDANCE												
	Jan 28 2013	Jan 30 2013	Feb 27 2013	Mar 25 2013	Apr 22 2013	May 20 2013	June 24 2013	June 26 2013	July 22 2013	Aug 26, 2013	Sept 23, 2013	Oct 21, 2013
Britton	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes
Burger	Yes	Yes	Yes	No	Yes	Yes						
Culver	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Denney							Yes	Yes	Yes	No	Yes	Yes
Graham					Yes	Yes	Yes	No	No	Yes	Yes	Yes
Josserand	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Kelly									No	Yes	Yes	No
Lamer	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes				
Liese	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Rasmussen							Yes	Yes	Yes	Yes	Yes	Yes
Struckhoff										Yes	Yes	Yes
von Achen	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes

2014 PLANNING COMMISSION ATTENDANCE												
	Jan 27 2014											
Britton												
Culver												
Denney												
Graham												
Josserand												
Kelly												
Liese												
Rasmussen												
Struckhoff												
von Achen												

2013 MID-MONTH ATTENDANCE												
	Jan 9 2013	Feb 13 2013	Mar 13 2013	Apr 10 2013	May 8 2013	June 12 2013	July 12 2013	Aug 14 2013	Sept 11 2013	Oct 9 2013	Nov 6 2013	
Britton						No	Yes	Yes	No	Yes	No	
Burger												
Culver						No	Yes	Yes	Yes	Yes	Yes	
Denney						Yes	Yes	No	Yes	Yes	Yes	
Graham						Yes	Yes	Yes	Yes	Yes	No	
Josserand						Yes	Yes	Yes	Yes	Yes	Yes	
Kelly							Yes	Yes	Yes	Yes	Yes	
Lamer						No						
Liese						Yes	Yes	Yes	Yes	Yes	Yes	
Rasmussen						Yes	Yes	Yes	Yes	Yes	Yes	
Struckhoff								Yes	Yes	Yes	Yes	
von Achen						Yes	Yes	No	Yes	Yes	Yes	



Lawrence-Douglas County Planning Commission January 2014 Agenda Items



PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
1/27/14

ITEM NO. 1: RS7 & IG TO OS; .6 ACRE; 547 MAPLE ST & 500 PERRY (MKM)

Z-13-00479: Consider a request to rezone approximately .6 acre from RS7 (Single-Dwelling Residential) District & IG (General Industrial) District to OS (Open Space) District. Property contains four lots located at 547 Maple St. and 500 Perry St. and adjacent alley right-of-way. Submitted by Bartlett & West, for the City of Lawrence, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately .6 acres from RS7 (Single-Dwelling Residential) and IG (General Industrial) Districts to OS (Open Space) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report

REASON FOR REQUEST

Applicant's Response:

"To conform to the land use for the proposed stormwater pump station facility."

KEY POINTS

- The subject property contains 2 platted lots south of the alley right-of-way and 2 platted lots north of the alley right-of-way. These are being replatted through the Minor Subdivision process in conjunction with this rezoning so there is 1 platted lot to the north and 1 platted lot to the south of the alley right-of-way.
- The property is completely encumbered with the Regulatory Floodway Fringe.

ASSOCIATED CASES

- MS-13-00507: Minor Subdivision for 6th & Maple Addition. Under administrative review.
- SUP-14-00007 Special Use Permit for stormwater pump station, a *Minor Utility* which will serve more than one subdivision. This application will be before the Planning Commission at their February meeting.

OTHER ACTION REQUIRED

- City Commission approval of rezoning request and adoption/publication of ordinance.
- Administrative approval of the Minor Subdivision/Replat.
- Recording of the Minor Subdivision/Replat with the Douglas County Register of Deeds.
- Planning Commission consideration and recommendation of Special Use Permit application.
- City Commission approval of Special Use Permit application, SUP-14-00007, and adoption/publication of ordinance.
- Submittal and administrative approval of Floodplain Development Permit prior to release of Building Permits.
- Application and release of Building Permits prior to development.

PUBLIC COMMENT

A neighbor to the east contacted the Planning Office to discuss the proposed rezoning to determine if the rezoning would have any impact on the use of their property. The rezoning will not impact the use of other properties in the area.

Project Summary

This project includes the rezoning of approximately .6 acres located on the west side of N. 6th Street between Maple Street and Perry Street. The property is being rezoned and replatted to accommodate the development of a City Stormwater Pump Station, which is a *Minor Utility*. As the minor utility will serve more than one subdivision approval of a Special Use Permit is required.



Figure 1. Zoning Exhibit. Subject property outlined.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The south lot fits with what is laid out in the Horizon 2020 document. The north lot calls for Low Density Residential and we are rezoning it to the Open Space-Flood Plain."

A review of the Comprehensive Plan recommendations follows with staff's comments in red.

- **The Lawrence Future Land Use Map (Map 3-2, page 3-4)**, shows this area as Office, Research, Industrial/Warehouse Distribution and Low Density Residential. The property is currently zoned in compliance with these recommendations with the north lot being zoned for low density residential uses (RS7) and the south lot being zoned for general industrial uses (IG). The proposed use, a minor utility, is a 'Community Facility' type use which is permitted in these zoning districts. The OS District does not permit the uses which are shown on the land use map; however, the discussion below reviews other recommendations in *Horizon 2020* related to the zoning and use of this property.
- **Chapter 10-Community Facilities City of Lawrence Stormwater Management (page 10-11)** *Horizon 2020* recommended that a community-wide stormwater management study should be conducted to provide the city with the following:
 - *"Any remedial actions and improvements to correct existing conditions should be identified. This should include a re-evaluation of conditions in North Lawrence."*
 - *Recommended stormwater improvements throughout the planning area should be incorporated into the development review process."*A drainage study of North Lawrence, *The North Lawrence Drainage Study*, was prepared in 2005 by HNTB. One of the recommendations in this study was the replacement of the existing pump station near this location in order to increase the capacity. This project is the implementation of that recommendation.
- **Chapter 9-Parks, Recreation, Open Space:** *Horizon 2020* defines the purpose of the open space areas as: *"..... open space areas; areas can be used by the public, but the*

purpose is to preserve unique areas such as floodplains, wetlands, wildlife habitat, steep slopes & rock outcroppings, native prairie remnants, historic sites, agricultural lands, & other environmentally sensitive areas.” (Page 9-5

Policy 3.1 Identify Future Parklands and Open Space Areas (page 9-16):

(e) *“Encourage open space uses in the community’s privately or publicly owned floodplains and drainageways.”*

The property is completely encumbered with regulatory floodplain; therefore, the rezoning to OS would be in conformance with the open space recommendation in *Horizon 2020*. The southern portion of the property will be developed with a stormwater pump station; however, no development is being proposed for the lot to the north of the alley. (Figure 2)

Community Facilities:

Policy 2.4: Utilize Locational Criteria for Utility Structures (page 10-17): *“Choose locations and design sites in a manner which minimizes the impact on adjacent properties.”*

The pump station will be located on a lot that is adjacent to industrial zoning. The pump station will be adjacent to a tow company on the west and is separated from the residence to the east by Maple Street. The pump station will be an unmanned, low intensity use and will be designed to be compatible with nearby development. The location and design of the site will minimize the impact on adjacent properties.

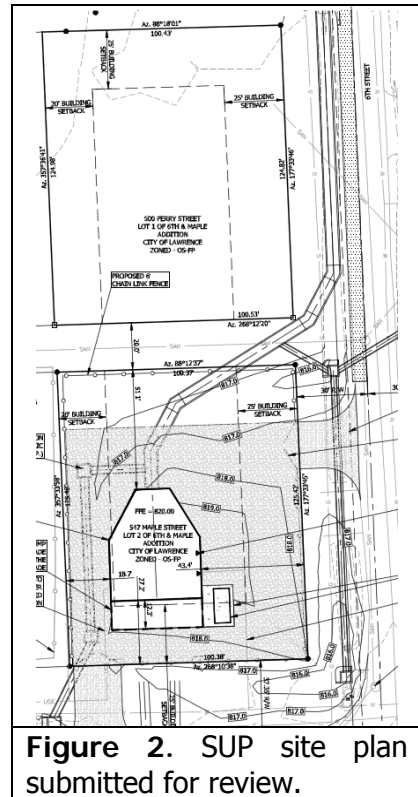


Figure 2. SUP site plan submitted for review.

Staff Finding – The proposed rezoning request conforms with *Horizon 2020* policies related to community facilities/public utilities and open space as well as floodplain.

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

Current Zoning and Land Use: RS7 (Single-Dwelling Residential) and IG (General Industrial) Districts with FP (Floodplain Management Regulations) Overlay District; undeveloped lots with unimproved alley right-of-way.

Surrounding Zoning and Land Use: To the west:
RS7 (Single-Dwelling Residential) District with FP (Floodplain Management Regulations Overlay) District; *Detached Dwellings*
IG (General Industrial) District with FP (Floodplain Management Regulations) Overlay District, *Inoperable Vehicles Storage* and a *Detached Dwelling*.
To the north:
RS7 (Single-Dwelling Residential) District with FP (Floodplain Management Regulations) Overlay District; *Detached Dwellings*.

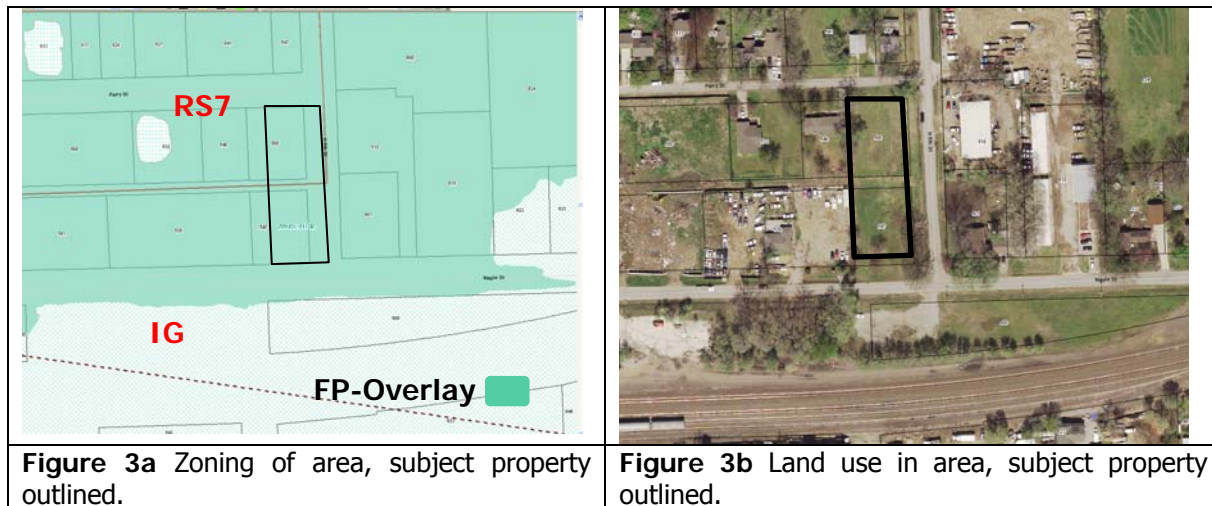
To the east:

IG (General Industrial) District with FP (Floodplain Management Regulations) Overlay District; *Construction Sales and Services* to the east of the northern lot, *Detached Dwelling*, to the east of the southern lot.

To the south:

IG (General Industrial) District with FP (Floodplain Management Regulations) Overlay District; Undeveloped land and Railroad right-of-way.

(Figure 3.)



Staff Finding – The subject property is located near properties that are zoned for single-dwelling residential and industrial uses. Residential and industrial land uses are located in close proximity to the subject property. The proposed land use, *Minor Utility*, will be adjacent to industrial zoning to the east and west and will be adjacent to a *Inoperable Vehicles Storage* use on the west and across the street from a *Detached Dwelling* to the east. The pump station will be low impact and the site design will be compatible with the character of the area. The north lot will remain undeveloped at this time.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"The existing neighbors surrounding this property are residential, industrial, and commercial. There is a railroad to the south, a tow service and single family home to the west, a single family home to the north, and a business and single family home to the east."

The Union Pacific Railroad passes east/west through this area south of the subject property. Uses near the railroad corridor include a landscape company (*Contractor Sales and Services*), a tow lot (*Inoperable Vehicles Storage*), a recycling facility (*Processing Center*) and other light industrial uses as well as some single-dwelling residences. The majority of the residential uses are located further to the north. Most of the area is located within the floodplain and the streets have been constructed with ditches rather than curb and gutter. The area surrounding the subject property is served with local streets with the nearest Collector Streets being Lyons to the north, N 7th to the east, and Locust to the south.

Staff Finding – The neighborhood contains a mix of land uses (single-dwelling residential, vehicle storage, recycling, landscape company, and light industrial uses) with the non-residential uses located closer to the railroad corridor which passes east/west south of the subject property. The area is heavily encumbered with floodplain and has a rural/small town character as the streets have been constructed with ditches rather than curb and gutter.

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

Staff Finding – The property is located within the North Lawrence Improvement Association area. No area or neighborhood plans have been adopted for this area. The Comprehensive Plan is the guiding plan for this area.

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

Applicant's Response:

"The proposed rezoning is in clear compliance with any land use restrictions or guidelines that could happen inside the zoning district. The granting of this rezoning application in no way opposes the general spirit of the Zoning Ordinance, Subdivision Regulations or City of Lawrence Land Development Code."

The property is currently zoned RS7 (Single-Dwelling Residential) north of the alley right-of-way, and IG (General Industrial) to the south. Both districts permit the proposed use, a *Minor Utility*. The lots north of the alley meet the dimensional requirements for residential lots; however, the property is completely encumbered with the 100 year floodplain. The suitability of these lots for residential development is limited by the amount of floodplain present on the property. (Figure 3a)

The lots south of the alley, combined, contain approximately 13,000 sq ft which meets the dimensional requirements of the IG District; however, it may not be adequate for some of the more intense industrial uses permitted in the district. These southern lots are also completely encumbered with the 100 year floodplain. The suitability of these lots for industrial development is limited by the amount of floodplain present on the property.

The OS Zoning is being requested to provide the property with a uniform zoning designation and to limit development, thereby protecting the floodplain. Uses permitted in the OS District are fairly limited as shown in the following table:

Permitted by Right	Require Special Use Permit
Cemetery	Cultural Center/Library
Minor Utility which serves a specific development	Minor Utility which serves more than one specific development
Passive Recreation	Major Utility
Nature Preserve/Undeveloped	Active Recreation
Private Recreation	Entertainment and Spectator Sports
	Campground
	Adaptive Reuse of Designated Historic Property
	Telecommunication Tower
Table 1. Uses permitted in the OS District	

Staff Finding – The property is suited for the uses to which it is currently restricted under the existing RS7 and IG Zonings; however the suitability is limited by the fact that the property is completely encumbered by the floodplain. The property is well suited to the uses to which it would be restricted with the OS Zoning.

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

Applicant's Response:

"South lot had a residence as recently as 2009; however, the north portion is assumed to have always been a vacant piece of land and was zoned with original adoption of the zoning ordinance."

The property is currently vacant. The City purchased the property in 2010 and removed a house and accessory structure from the southern lot in March of 2011 in preparation for the pump station improvements. There are no records on file regarding development on the northern lots.

Staff Finding – The property has remained vacant as zoned since 2011. Structures were removed at that time in preparation for the pump station improvements.

7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicants Response:

"The proposed use for a storm water pump station conforms appropriately with current and future land use goals laid out by the City of Lawrence. We believe the approval of this rezoning request will in no way detrimentally affect nearby properties or their associated business operations."

Staff Finding – Development on this site will be more limited following the rezoning as rezoning from the RS7 and IG District to the OS District will add use restrictions to the property rather than remove them. The change in zoning will benefit nearby properties by not only limiting development in the floodplain but by accommodating the development of a stormwater pump station to manage stormwater in North Lawrence more effectively.

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

Applicants Response:

"The rezoning of this property will help ensure public safety by allowing for a storm water pump station to be constructed to help control flooding in the area."

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

Staff Finding – The pump station could be developed with the existing zoning but the denial of the rezoning application would leave the area open for development of the uses permitted within the RS7 and IG Districts. Approval of the rezoning would restrict development options for the property to the limited uses permitted within the OS District. This would provide protection for the floodplain.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed location for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning request is compliant with recommendations in *Horizon 2020* and the *North Lawrence Drainage Study*. Staff recommends approval of the rezoning request for approximately .6 acres from RS7 (Single-Dwelling Residential) and IG (General Industrial) Districts to the OS (Open Space) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.



**Z-13-00479: Rezone from RS7 & IG to OS & GPI approx. .58 acres
Located at 547 Maple Street & SW Corner of Perry St & N 6th Street**

**PLANNING COMMISSION REPORT
NON PUBLIC HEARING ITEM**

PC Staff Report
1/27/14

ITEM NO 2: PRELIMINARY PLAT FOR GOING SOUTH ADDITION (SLD)

PP-13-00343: Consider a 2 lot Preliminary Plat for Going South Addition, located at 1338 E 1600 Rd/O'Connell Rd for multi-dwelling residential development. Submitted by Grob Engineering Services, for Going South, LLC, property owner of record.

STAFF RECOMMENDATION:

Staff recommends approval of the Preliminary Plat for Going South Addition.

Reason for Request:

Predevelopment requirement. Planned multi-dwelling residential development.

KEY POINTS

- Platting required as pre-development step.
- Medium density residential development planned for this property.

SUBDIVISION CITATIONS TO CONSIDER

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 10, 2012.

ATTACHMENTS

Attachment A: Preliminary Plat

Attachment B: Conceptual Development Plan

ASSOCIATED CASES/OTHER ACTION REQUIRED

Associated Cases

- A-13-00291; annexation of 10.684 acres. Planning Commission recommended approval on 11/18/13, City Commission approved on 12/10/2013
- Z-13-00290 A to RM15. Planning Commission recommended approval on 11/18/13, City Commission approved on 12/10/2013

Other Action Required:

- Submittal of final plat for administrative approval and recordation.
- City Commission acceptance of dedication of easements and rights-of-way on the Final Plat.
- Submittal and approval of public improvement plans and provision of means of assurance of completion shall be submitted prior to the recording of the Final Plat.
- Submittal and approval of building plans prior to release of building permits for development.

PLANS AND STUDIES REQUIRED

- *Downstream Sanitary Sewer Analysis* – The downstream sanitary sewer analysis and cover letter dated December 18, 2013 provided by Grob Engineering Services has been reviewed and is accepted for this project to satisfy the criteria required for the DSSA as outlined in Administrative Policy 76.

- *Drainage Study* – Not provided at this time. Will be required prior to future development of this property.
- *Traffic Study* – Accepted by Staff

PUBLIC COMMENT

Phone calls from public requesting clarification of reason for preliminary plat.

Site Summary	
Gross Area:	10.15 acres
Additional Right-of-Way (acres):	2.071 – extension of Prairie View Drive to the south and E. 28 th Street to the east
Number of Proposed Lots:	2
Lot 1	2.988 acres
Lot 2	5.087 acres
Total Developable area	8.075 acres (121.125 units maximum development at 15 du/AC)

GENERAL INFORMATION

Current Zoning and Land Use: RM15 (Multi-Dwelling Residential) District; vacant land

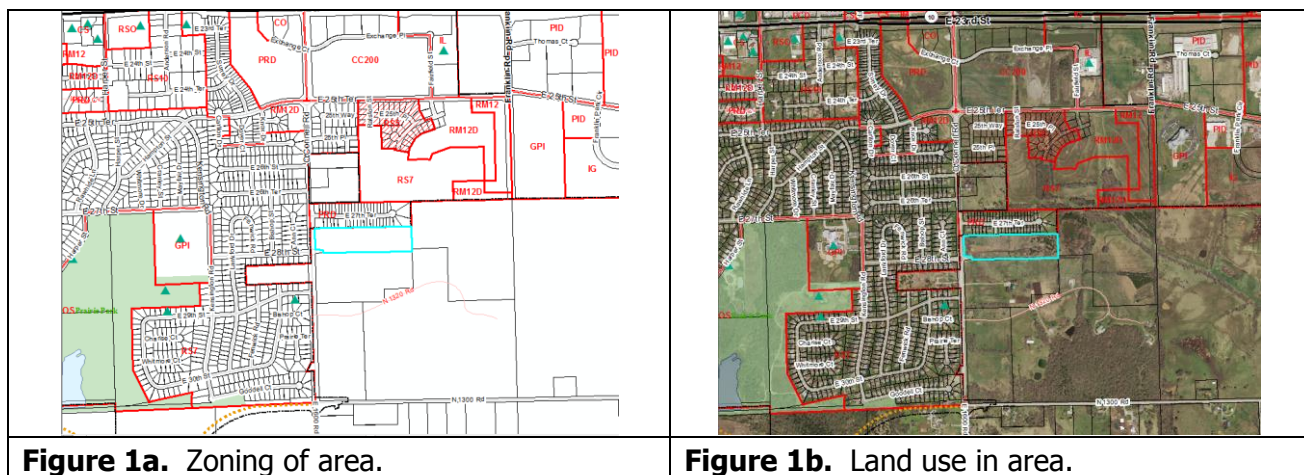
Surrounding Zoning and Land Use:

To the north:
PD [Prairie View PRD]; existing duplex development

To the east:
A (County-Agricultural); open space part of O'Connell Youth Ranch group home.

To the south:
A (County-Agricultural); Heart of America, Teen Challenge group home.

To the west:
RS7 (Single-Dwelling Residential); developed subdivision with detached residences.



STAFF REVIEW

This property is proposed to be platted as a two lot multi-dwelling residential subdivision. A floodplain development permit is not required for the development of this property. A specific

development plan is not proposed at this time. A concept plan is included in the staff report for reference.

Zoning and Land Use

The property has recently been annexed and rezoned in anticipation of future development. A concept plan is provided with this application. This concept plan articulates the intensity of development planned for this property. It does not address in any detail the needs for infrastructure or compliance with minimum Land Development Code Regulations. This plan was also include with the previous annexation and zoning applications to show development intent.

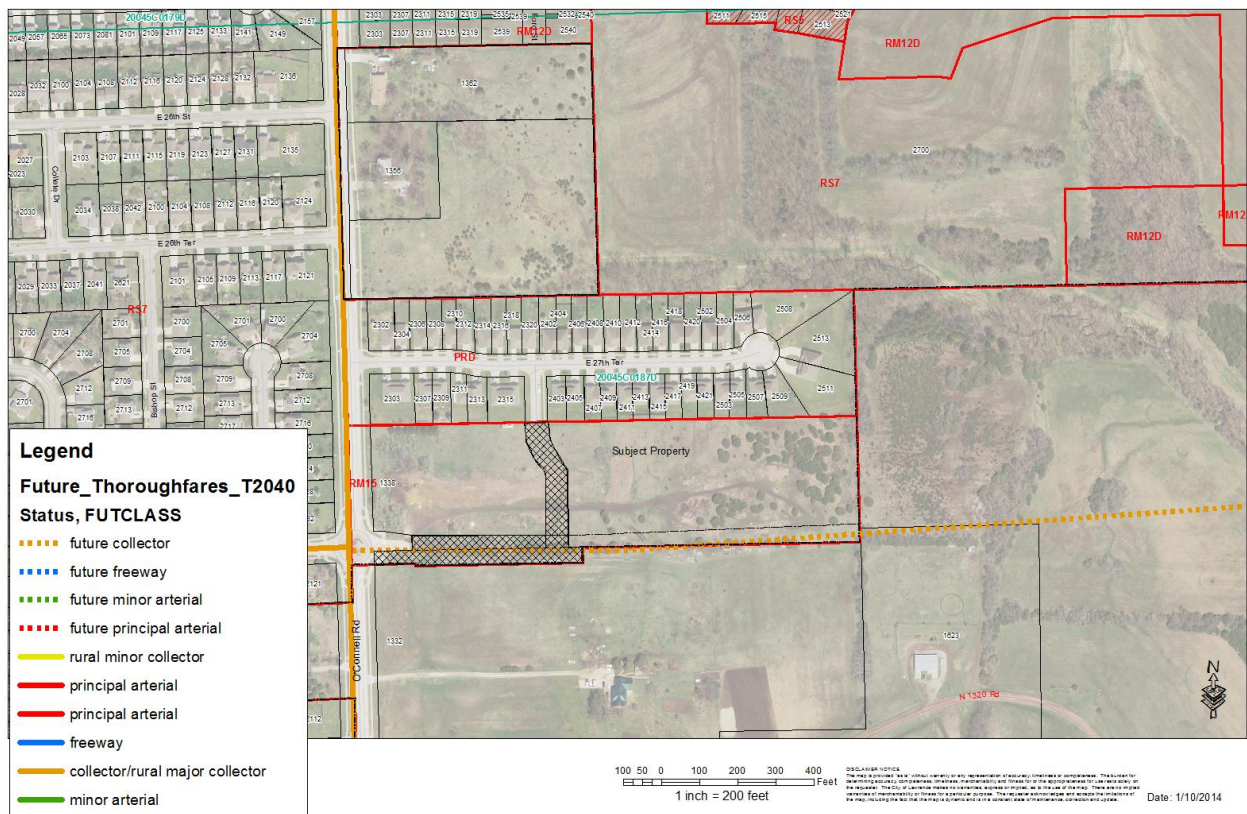
Streets and Access

Approval of this request includes the dedication of additional right-of-way for access to this property. Prairie View Drive will be extended south and intersect with E. 28th Street to be extended east of O'Connell Road.

E. 28th Street will be partially located on adjacent property and will be dedicated by separate instrument. The south ½ of the right-of-way for E. 28th Street should be dedicated prior to the final plat and shown on the face of the final plat with the applicable deed book and page reference.

Full development of this property will require dedication of the remaining street right-of-way. East of Prairie View Drive the subdivision proposes the dedication of only the north half of E. 28th Street. The south half will be dedicated when the adjacent property is developed in the future.

- Public improvement plans will be required for these new streets.



Utilities and Infrastructure

City sanitary sewer and water service lines will need to be extended to serve this property. The developer anticipates that creation of internal easements (within the lots) to serve the development. At this time, a final site plan is not available and the interior system has not been designed.

The applicant has been advised that a drainage study will be required with the submission of a specific development plan. The preliminary plat shows the location of detention ponds across the two lots based on a conceptual development. The applicant is working with the City Stormwater Engineer to assure that design standards are met. At this time, there are no additional easements that are needed for the Stormwater utility plan.

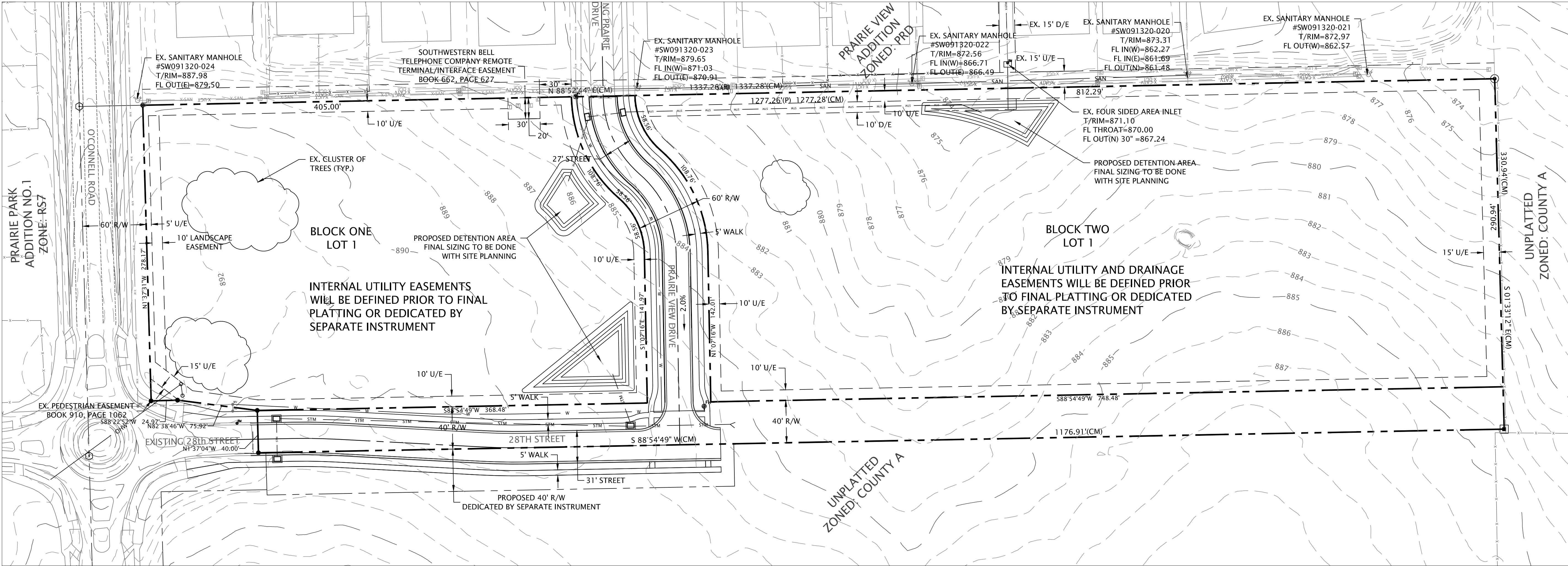
Easements and Rights-of-way

As noted above this site will include the dedication of right-of-way and utility easements. The current preliminary plat shows only the boundary streets and easements. As the site plan is fully developed internal easements will be established to coordinate with the planned routes for utility infrastructure.

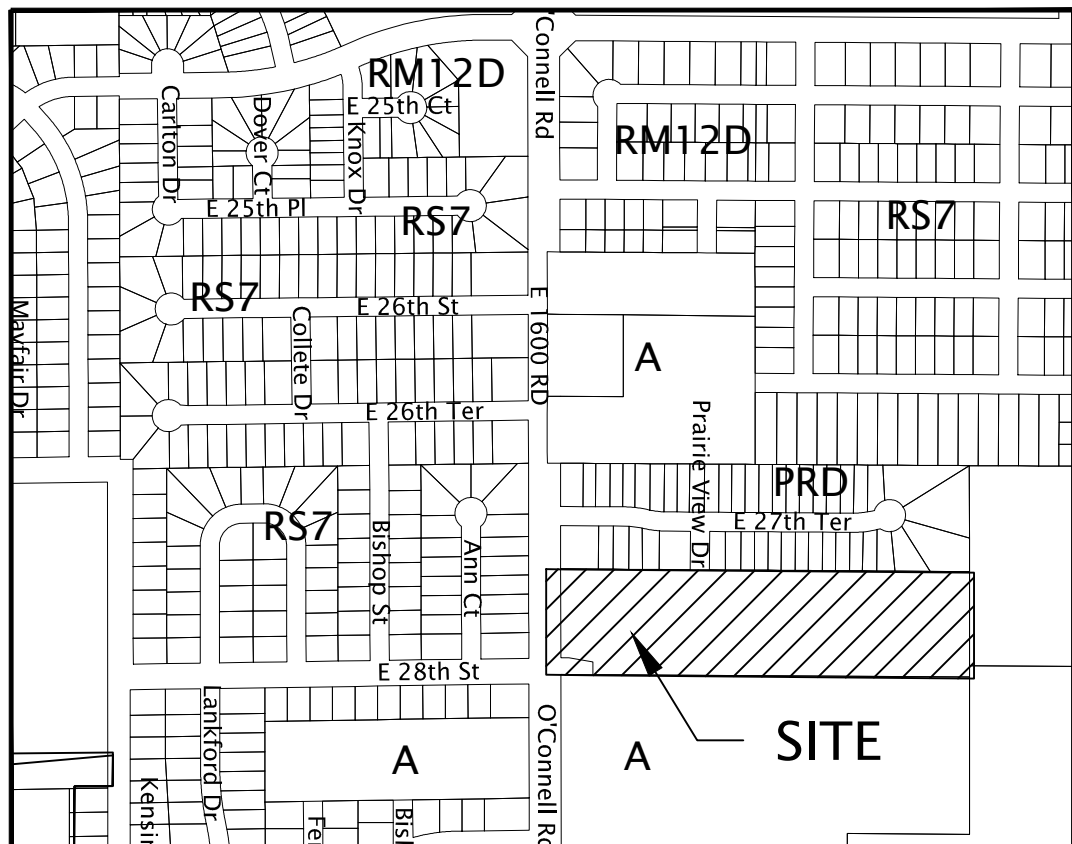
This preliminary plat includes a 10' landscape easement east of the proposed 5' utility easement along O'Connell Road. This dedicated space will accommodate street trees as this property is developed. A type 1 buffer yard will be required along O'Connell Road. This landscape easement can be included in that area with future site specific development.

Conformance

The preliminary plat is in conformance with the standards and requirements of the Subdivision Regulations and the Development Code.



LOCATION MAP



SCALE 1"= 600'

BENCHMARKS

BM1 - Chiseled square , top of East end north curb on 28th Street stub, East of O'Connell Road.
Elev=887.68

BM2 - Center of North fish on 5' x 7' area inlet located just North of SW corner of Lot 5, Prairie View Addition.
Elev=871.13

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 01°37'04" EAST, ALONG THE WEST LINE OF SAID QUARTER SECTION, 330.14 FEET; THENCE NORTH 88°52'44" EAST, 60.00 FEET TO POINT OF BEGINNING; THENCE NORTH 88°52'44" EAST, 1277.26 FEET; THENCE SOUTH 01°33'12" EAST, 330.94 FEET; THENCE SOUTH 88°54'49" WEST, 1176.91 FEET; THENCE NORTH 01°37'04" WEST, 40.00 FEET; THENCE NORTH 82°38'44" WEST, 75.92 FEET; THENCE SOUTH 88°22'52" WEST, 24.99 FEET; THENCE NORTH 01°37'04" WEST, 279.26 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 10.15 ACRES, MORE OR LESS, THE ABOVE CONTAINING 10.15 ACRES MORE OR LESS.

GENERAL NOTES

1. OWNER: Going South LLC - Heath Seitz, President, 1563 E 650 RD, Wakarusa TWP, Kansas 66049
2. LANDPLANNER: Grob Engineering Services LLC, 3210 Mesa Way, Suite A, Lawrence, Kansas 66049
3. SURVEYOR: Allpoints Surveying LLP, PO BOX 4444, Lawrence, Kansas 66044
4. Topography obtained by County Maps and boundary survey performed by Allpoints Surveying 2013.
5. Existing land use: Undeveloped
6. Existing zoning: County A; Proposed zoning: RM-15
7. Proposed land use: Multi Family Residential Development.
8. Typical soil types: Sogn-Vinland Complex, Kennebec Silt Loam, Oska Silt Clay Loam, Woodson Silt Loam.
9. This project is not located within the 100 year floodplain per FEMA map #20045C0187D. Effective date: August 5th, 2010.
10. All new telephone, cable television and electrical lines must be located underground.
11. Developer is responsible for the cost of relocation of existing utilities, if necessary to serve the proposed subdivision.

PROVISIONS OF FINANCING OF ROADS, SEWER, WATER AND OTHER PUBLIC SERVICES

1. The subdivision will have public streets.
2. The subdivision will provide connections to existing City of Lawrence waterlines.
3. The subdivision will provide connections to an existing City of Lawrence sanitary sewer system.
4. Purchasers of the lots in the subdivision will not be subject to special assessments or other costs or fees specific to improvements within the subdivision.
5. Proposed improvements will not depend on a vote, petition or other collective action of property owners in the subdivision.
6. Financing for installation of the public improvements shall be guaranteed by either an escrow deposit or letter of credit.

SITE SUMMARY

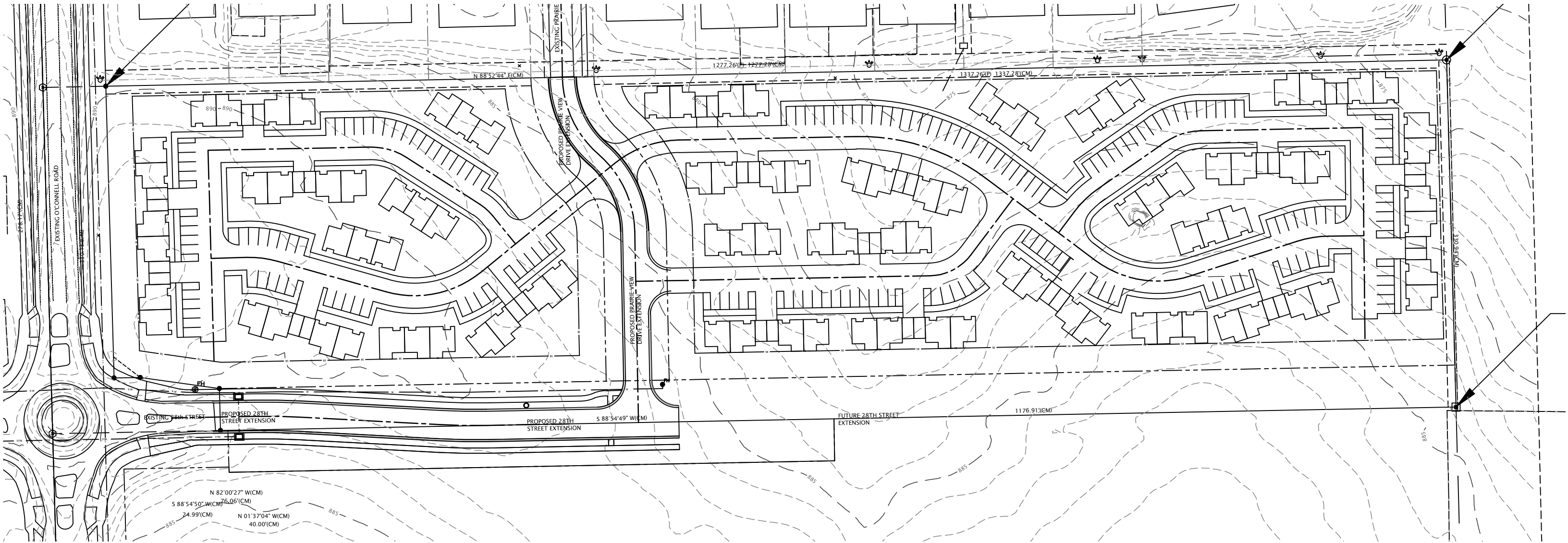
GROSS AREA: 10.146 acres
RIGHTS-OF-WAY AREA: 2.071 acres
NET AREA: 8.075 acres

TOTAL NUMBER OF LOTS: 2 Lots
AVERAGE LOT SIZE: 4.037 acres
MINIMUM LOT SIZE: 2.988 acres
MAXIMUM LOT SIZE: 5.087 acres

LEGEND

— OHW —	— OHW —	OVERHEAD WIRE	⊕	SANITARY MANHOLE	B/B	BACK OF CURB TO BACK OF CURB
— OHE —	— OHE —	OVERHEAD ELECTRICAL	⊕	STORM MANHOLE	ROW	RIGHT-OF-WAY
— UOT —	— UOT —	UNDERGROUND TELEPHONE	⊕	STORM DRAIN	CL	CENTERLINE
— GAS —	— GAS —	GAS	⊕	GUY ANCHOR	D/E	DRAINAGE EASEMENT
— W —	— W —	WATERLINE	⊕	UTILITY POLE	U/E	UTILITY EASEMENT
— SAN —	— SAN —	SANITARY SEWER LINE	⊕	WATER METER	A/E	ACCESS EASEMENT
— SS —	— SS —	SANITARY SEWER SERVICE	⊕	WATER VALVE	(P)	PLATTED
— STM —	— STM —	STORMWATER LINE	⊕	FIRE HYDRANT	(M)	MEASURED
— — — — —	— — — — —	PROPERTY LINE	⊕	TRAFFIC SIGNAL STR.	(CM)	CALCULATED FROM MEASUREMENTS
— — — — —	— — — — —	OFF SITE SURVEYED PROP.	⊕	GAS VALVE	●	FOUND BAR - ORIGIN UNKNOWN
— — — — —	— — — — —	CENTERLINE	⊕	GAS METER	⊕	SET 3" x 24" REBAR W/CAP "APS 1391"
— — — — —	— — — — —	PAVEMENT	⊕	LIGHT POLE	⊕	
— — — — —	— — — — —	UTILITY EASEMENT	⊕	SIGN	⊕	
— SB —	— SB —	BUILDING SETBACK LINE	⊕	ELECTRIC BOX	⊕	
			⊕	CABLE TV BOX	⊕	

NOTE: "X" IN UTILITY LINE DENOTES EXISTING FEATURE





LEAGUE OF WOMEN VOTERS®
OF LAWRENCE/DOUGLAS COUNTY

January 26, 2014

RECEIVED

JAN 27 2014

City County Planning Office
Lawrence, Kansas

To Mr. Bryan Culver, Chairman, and Planning Commissioners
Lawrence-Douglas County Metropolitan Planning Commission

RE: ITEM NO. 2: PRELIMINARY PLAT FOR GOING SOUTH ADDITION

Dear Chairman Culver and Planning Commissioners:

We understand from the Staff Report that the Concept Plan for this subdivision will not be reflected in the actual Site Plan that is approved prior to development of this project. We hope this is the case.

The reason for our concern, besides the fact that this development illustrates a basic lack of clarity in our Land Development Code, is that this Concept Plan, and in fact, the size of the two lots and number of units that will be developed on each lot, could result in an unsafe living environment for the residents. The fact that this has been characterized as designed for low-income residents makes the project even more problematic. Our reasons are listed below.

1. There are only two platted lots accommodating a possible total of 121 units. The only access to each of these units is through shared driveways. The problem:

The configuration of the driveways in the Concept Plan shows **all of the parking spaces accessing directly onto the driveways**. These driveways are the only accessways for cars to enter and leave the parking spaces, but no provision or space has been designed to avoid blocking the drives when cars enter and leave these parking spaces. This must be the reason that the Land Development Code reads as follows (20-915(g)(1) "Joint-Use Driveways shall not be used as aisles for Access to Parking Spaces." (Whether the driveways are "shared" or "joint use" is not the point. The danger to the residents is the same.)

2. **The number of units accessing from a single driveway onto the local street may be more than is allowed by the Fire Code.**

Problem: In any event, in the case of fire, there would be a problem for fire trucks attempting to reach the units and/or residents attempting to leave.

We ask that the Planning Commission take two actions regarding this issue:

- A. Instruct the staff to require a safer design regarding access for this "Going South" project when they review the Site Plan.
- B. Ask the staff to propose better standards as Text Amendments for multiple family development than our present Land Development Code seems to permit.

Please see the attachment. We hope that the Planning Commission will take action on these issues.

Sincerely yours,
Cille King
Cille King
Co-President

Alan Black
Alan Black, Chairman
Land Use Committee

Attachment

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Midge Grinstead

Marlene Merrill

PLANNING COMMISSION REPORT
Regular Agenda -Public Hearing Item

PC Staff Report
1/27/14

ITEM NO. 3: REVISED PRELIMINARY DEVELOPMENT PLAN FOR BELLA SERA AT THE RESERVE; 4500 BOB BILLINGS PKWY (SLD)

PDP-13-00477: Consider a Revised Preliminary Development Plan for Bella Sera at the Reserve, located at 4500 Bob Billings Pkwy. Submitted by GOKU LLC, for Bella Sera LLC, property owner of record.

STAFF RECOMMENDATION ON PRELIMINARY DEVELOPMENT PLAN: Planning Staff recommends approval of the revised Bella Sera Preliminary Development Plan based upon the findings of fact presented in the body of the staff report and subject to the following conditions:

1. Provision of a revised Development Plan that includes the following notes and changes:
 - a. A note stating who shall maintain the common open space.
 - b. Provide an exhibit to show the common open areas with a note on the face of the plan stating the total area of common open space for the pool, patio and courts within the development.
 - c. Show additional fire hydrant locations per City Fire Department review and approval.
 - d. Identifies the permitted uses as (Pre-2006 Zoning Ordinance uses).
 - e. Include the calculated density of 5.7 Dwelling Units per acre based on Section 20-701 (f)(3)
 - f. Indicate parking requirements for Buildings 2, 3, 4, and 5 are based on Section 20-901 (1 space per bedroom + 1 space per ten units)

Reason for Request: [Construction of 4 multi-family residential structures with a total of 22 units along with associated parking and other site improvements](#)

KEY POINTS

- A modification is being requested to modify the preliminary development plan in anticipation of a revised development form for phase II of the development.
- This property is platted and no additional subdivision action is required.
- No changes are proposed to the existing development or access for this site.

FACTORS TO CONSIDER

- Conformance with the purpose of Planned Developments (Section 20-701, Development Code) and Article 10 of the 1966 Zoning Code.
- Compliance with Development Code.
- Conformance with *Horizon 2020*.
- Conformance with Subdivision Regulations.
- Conformance with Ordinance 7860 establishing certain conditions for the zoning district including:
 - *There shall be a maximum of 14.2 dwelling units per net residential acre.*

- *No building permit shall be used on the above described property that is not in substantial conformance with the approved preliminary development plan for Bella Sera at the Preserves.*
- *No portion of the development shall exceed a maximum height of 1,035' elevation above mean sea level.*
- *The maximum development area of the above described property shall be no greater than 39% of the entire property. There shall be a minimum of 61% of the above described property constructed and used as common open space and/or common recreation area, pursuant to the approved preliminary development plan.*

ASSOCIATED CASES/OTHER ACTION REQUIRED

Associated Cases

- Z-12-53-04 M-1 to PRD-2 (Ordinance No. 7860)
- Final Plat Bella Sera at the Preserve
- Preliminary and Final Development Plans Bella Sera (Phase 1) existing development.
 - PDP-12-14-04 approved by the City Commission on 2/22/05 for entire development.
 - FDP-5-6-05 approved by the Planning Commission on 06/21/05.

Other Action Required

- City Commission approval of Revised Preliminary Development Plan and requested modifications.
- Submittal and approval of Final Development Plan.
- Recording of Final Development Plan with the Douglas County Register of Deeds.
- Building permits must be obtained prior to construction of structures.

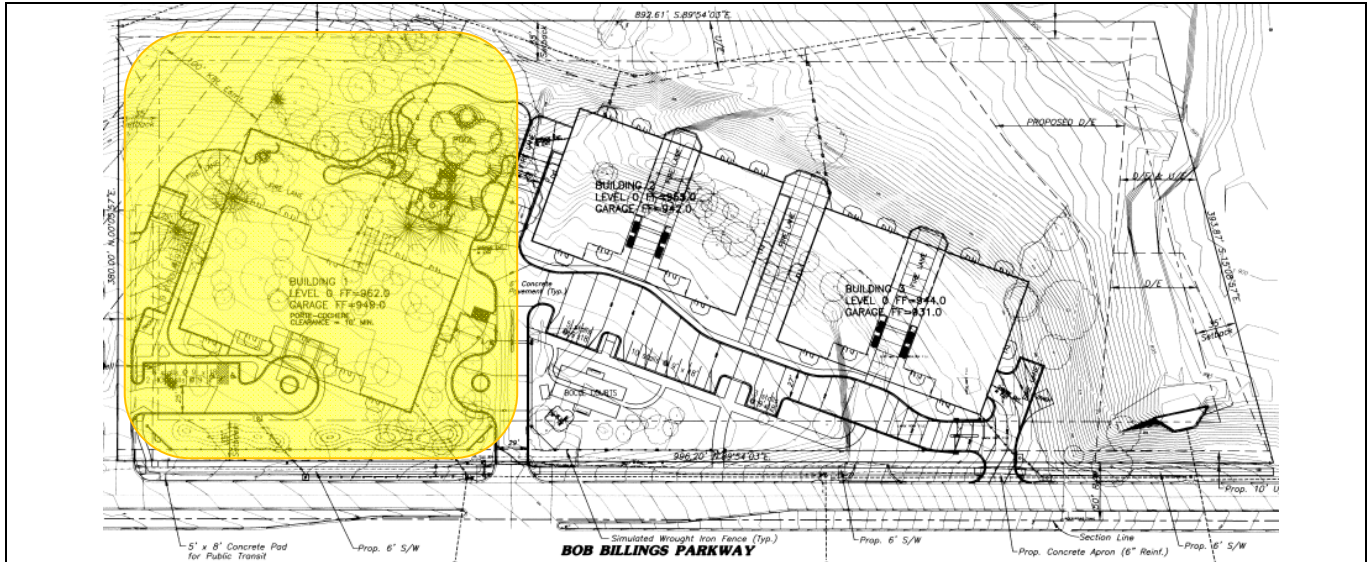
ATTACHMENTS

1. Proposed Preliminary Plat
2. Approved Final Plat

PUBLIC COMMENT

- Representative of existing residents of Bella Serra (Phase I) contacted staff by telephone to request copy of plan.

GENERAL INFORMATION	
Current Zoning and Land Use:	PD [Bella Serra PRD]; developed building 1 37-unit multi-dwelling, multi-story building with office and underground parking. Building 2 and Building 3 approved, but not developed.



Surrounding Zoning and Land Use:

To the north:

IBP (Industrial Business Park) District and OS (Open Space) Districts; Undeveloped lot and Viola and Conrad McGrew Nature Preserve.

To the west:

GPI (General Public and Institutional) District; City Police facility.

To the east:

OS (Open Space) District; Viola and Conrad McGrew Nature Preserve.

To the south:

RM12 (Multi-Dwelling Residential) District; Existing Brandon Woods retirement facility and detached single-dwelling residences.



Existing Zoning



Existing Land Use

This preliminary development plan shows original condition of site prior to development of Phase 1. The proposed site characteristics include the existing and proposed development condition as this is a single platted lot. The area summary included in the Existing column were provided by the applicant.

SITE SUMMARY	Existing	Proposed (with existing development)
Land Use:	<i>Multi-Dwelling Residential with accessory parking</i>	<i>Multi-Dwelling Residential with accessory parking</i>
Land Area (sq ft):	358,847 SF (8.2 acres)	358,847 SF (8.2 acres)
Existing Building Footprint Building 1	22,100 SF	No changes
Proposed Building Footprint Building 2, 3 & 4 Building 5	0 SF 0 SF	7,231 SF (each) 7,985 SF
All Building		52,198 SF (All Buildings)
Total Pavement:	52,425 sf	91,815 SF
Total Impervious Area	74,525 sf	144,013 SF
Total Pervious Area	284,349 sf	214,861 SF

SITE CHARACTERISTICS TABLE:

EXISTING BUILDINGS	0	S.F.	PROPOSED BUILDINGS	52,198	S.F.
EXISTING PAVEMENT	2,365	S.F.	PROPOSED PAVEMENT	91,815	S.F.
EXISTING IMPERVIOUS	2,365	S.F.	PROPOSED IMPERVIOUS	144,013	S.F.
EXISTING PERVIOUS	356,509	S.F.	PROPOSED PERVIOUS	214,861	S.F.
PROPERTY AREA	358,874	S.F.			

1/7/14 revision (5 total buildings)

Site Characteristics Table:

LOT 1 & LOT 2					
EXISTING BUILDINGS	0	S.F.	PROPOSED BUILDINGS	85,378	S.F.
EXISTING PAVEMENT	2,365	S.F.	PROPOSED PAVEMENT	67,518	S.F.
EXISTING IMPERVIOUS	2,365	S.F.	PROPOSED IMPERVIOUS	152,896	S.F.
EXISTING PERVIOUS	356,509	S.F.	PROPOSED PERVIOUS	205,978	S.F.
PROPERTY AREA	358,874	S.F.			

Per approved Final Development Plan (3 total buildings)

Finding: The proposed plan reduces the total imperiovus surface in this project from 152,896 SF (42.6% to 144,013 SF (40.1%).

The proposed development reduces the total number of units and therefore the total of required off-street parking spaces. The following table provides a summary of the parking required based on the 1966 Code consistent with the original approval and the parking required based on the current Land Development Code design standards. The proposed development exceeds the required off-street parking for the use.

PARKING SUMMARY			
Use	Req. per Sec 20-1212 [1966 Code]	Parking Required	Parking Provided
<i>Multi-Dwelling Residential Per Approved Final Development Plan</i>	1.5 spaces per 2 br units 2.5 spaces per 3 br units 1 space per 300 SF (office use)	Building 1: 17 2BR 20 3BR <u>4,200 SF Office</u> 90 required spaces Building 2: 21 2BR <u>14 3BR</u> 67 required spaces Building 3: 13 -2BR <u>14 3BR</u> 55 required spaces Total Required Spaces 212	Building 1: 97 Provided. Building 2: 77 Shown on plan, not constructed Building 3: 58 Shown on plan, not constructed Total: 232 provided
Use	Req. per Sec 20-902	Parking Required	Parking Provided
<i>Multi-Dwelling Residential Per Proposed Preliminary Development Plan</i>	1 vehicle space / bedroom + 1/10 units	140 bedrooms= 140 spaces 59 units = 6 spaces Total = 146 spaces	80 garage spaces 17 surface spaces [Existing] 44 garage spaces <u>9 surface spaces [Proposed]</u> Total 150 spaces

STAFF ANALYSIS

This Revised Preliminary Development Plan is intended to modify the undeveloped portion of an approved multi-dwelling residential project approved prior to the adoption of the Land Development Code. The original project included two phases within the approved Final Development Plan. Phase 1 was developed with a multi-story, 37 unit apartment building with office space and common open space intended to serve the entire development. Phase 2 was intended to be developed with two additional buildings for a total of 99 units. This proposed Preliminary Development Plan adds 22 new units for a total of 59 units and therefore reduces the development density and associated parking.

Density Review

Per Section 20-701(f)(3), density within a Planned Development is calculated based on the number of bedrooms rather than the number of dwelling units. The density for this development is calculated: is reduced even further with the calculated density provision.

Density Calculations for a Planned Development			
Number of bedrooms	Density factor	Actual # of units	Calculated dwelling units
Studio or one-bedroom	.4 dwelling unit	4 units	0 units
Two-bedroom	.6 dwelling unit	29 units	1.6 units
Three-bedroom	.8 dwelling unit	26 units	17.4 units
Four-bedroom or more	1 dwelling unit	0 units	20.8 units
Total units:		59 units (37 existing) (22 new)	39.8 units (40 Units)

This development was originally approved per the 1966 Zoning Regulations that allowed a maximum density of 15 dwelling units per acre. The approved plan included 99 units with an overall density of 14.1 units per acre. This revised Plan includes only 59 total units with a density of 8.4 units per acre (or using the calculated density allowed in Section 20-701, 5.7 units per acre).

Landscape Review

Section 20-701(d) states that all of the standards of the Development Code apply to development within a PD District except as expressly authorized by regulations of Section 20-701. This property was partially developed under the 1966 Development Code. Regardless, some design standards such as Street Trees are the same or similar in the Land Development Code. The proposed plan shows street trees along Bob Billings Parkway. These trees will need to be coordinated with the overhead lines as the remainder of the property is developed.

A natural buffer yard is provided along the north and east sides of the property. A No Build Line was established with the Final Plat which prohibits development below a specific elevation. The proposed Development Plan complies with this subdivision plat requirement. Development is generally more than 60' south of the north property line. The area to the north is an existing public park maintained in a natural state with paved and unpaved walking paths in through the area.

The property is adjacent to multi- dwelling zoning along the south side of Bob Billings Parkway. Buffering is not typically required for similar zoning districts. The property to the west is an existing City Police facility and includes a shared driveway access to the office building to the west and the developed phase of Bella Sera to the east. Buffering was not required with the initial development of this property.

Interior parking lots are generally small and well screened consistent with current landscape design standards.

Subdivision Review

This property was previously platted with easements, access and development restrictions. No additional subdivision approval is required for this project.

Preliminary Development Plan Review

The proposed Preliminary Development Plan for Bella Sera has been evaluated based upon findings of fact and conclusions per Section 20-1304(d)(9) of the Development Code for the City of Lawrence, requiring consideration of the following nine items:

1) The Preliminary Development Plan's consistency with the Comprehensive Plan of the City.

This property was rezoned for medium density residential development in 2005 as part of the original plan approvals. It was determined at that time the proposed development was compliant with *Horizon 2020*. This proposed preliminary plat amends the building form but does not modify the underlying land use of this property.

Recommendations for medium- and higher-density residential development from Chapter 5 of *Horizon 2020* are listed below.

"Development proposals shall be reviewed for compatibility with existing land uses. The review should include use, building type, density and intensity of use, architectural style, scale, access and its relationship to the neighborhood, and the amount and treatment of screening and open space." (Policy 1.1, page 5-23)

"Encourage new and existing medium- and higher-density residential development which is compatible in size, architectural design, orientation, and intensity with the surrounding land uses in established areas." (Policy 3.4, page 5-29)

This project must consider and respond to the existing development within the PRD to provide compatibility through the design and form of the project. The physical design of this project is discussed later in this report. This is an infill development which is compatible with surrounding land uses.

Staff Finding – The proposed development complies with the land use goals and policies for medium- and higher-density residential development of the Comprehensive Plan.

2) Preliminary Development Plan's consistency with the Planned Development Standards of Section 20-701 including the statement of purpose.

The purpose statement includes the following (staff comments follow in *italics*):

- a) Ensure development that is consistent with the comprehensive plan.
As discussed previously, the development is consistent with the comprehensive plan.
- b) Ensure that development can be conveniently, efficiently and economically served by existing and planned utilities and services.
This property was previously approved for development. This application represents a change to the form rather than the use of the property. This property can be adequately served by utilities. The City and the applicant are working to provide an internal design acceptable to the City to facilitate this development. This design includes the need to provide additional fire hydrants to serve this development as noted in the technical review.
- c) Allow design flexibility which results in greater public benefits than could be achieved using conventional zoning district regulations.
The design flexibility allows the undeveloped portion of the property to be developed in a compatible fashion to the existing phase. The intent of the developer is to provide units that can benefit from the natural grade and view making units more attractive to future residents.
- d) Preserve environmental and historic resources.
There are no known historical or environmental resources on this property.
- e) Promote attractive and functional residential, nonresidential, and mixed-use developments that are compatible with the character of the surrounding area.
The proposal is for an attractive residential development that will be compatible with the existing development to the west and the open space area to the north.

Staff Finding – The proposed Preliminary Development Plan is consistent with the Statement of Purpose of Planned Development.

3) The nature and extent of the common open space in the Planned Development.

Section 20-701(j) notes that 20% of the site must be located within common open space. Additionally, the property was zoned with a condition that states: *"There shall be a minimum of 61% of the above described property constructed and used as common open space and/or common recreation area, pursuant to the approved Development Plan (Ord 7860)".*

Common open space for this project includes the pool area, patios areas as well as the undisturbed preserve area on northeast portion of this lot. The total common open space exceeds the minimum required standard. [71,775 SF required, 239,154 SF (which is 66% of the site)provided]

Staff Finding – This plan includes developed common open spaces as well as areas that will remain in their undisturbed condition.

4) The reliability of the proposals for maintenance and conservation of the common open space.

The applicant indicated that the property owner will own and maintain the common open space. The plan must be revised to include the note regarding the maintenance and conservation of the common open space. This element will also be reviewed as part of the Final Development Plan. The applicant should anticipate the submission of a copy of the covenants and restrictions to be recorded with the final version of the Final Development Plan in the future.

Staff Finding –The property owner will own and maintain the common open space. The placement of the note on the Preliminary Development Plan will identify the ownership and maintenance responsibilities.

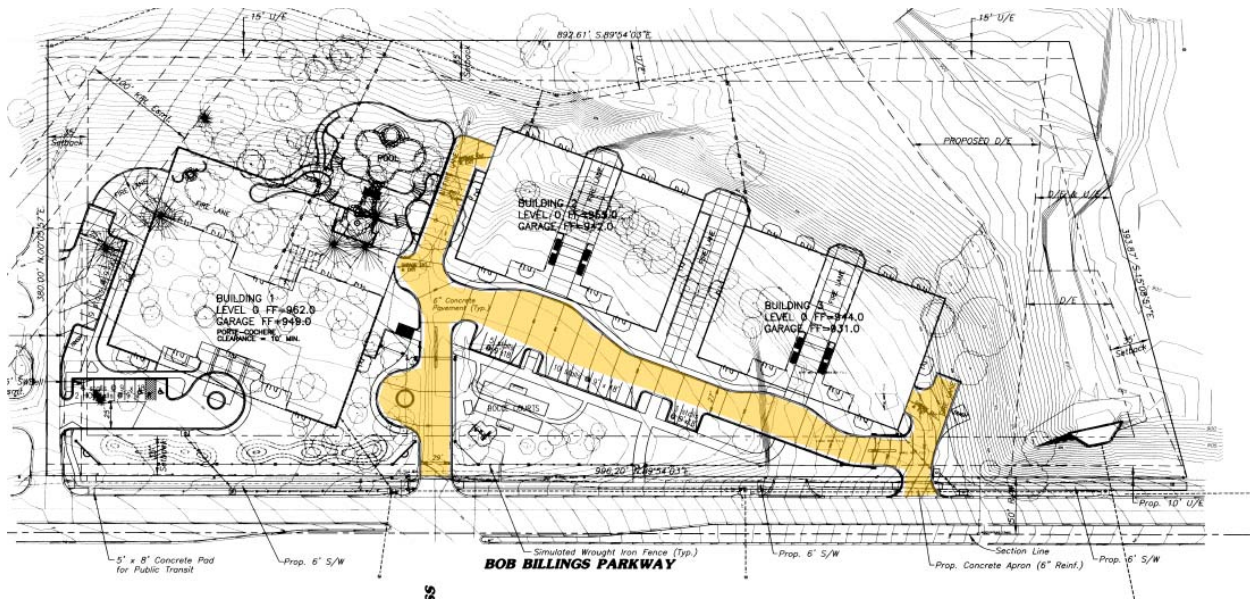
5) The adequacy or inadequacy of the amount and function of the common open space in terms of the densities and dwelling types proposed in the plan.

A condition of the zoning for this property established an area within the northeast corner that will remain in a natural state other common open space and recreation areas are provided throughout the development and are accessible to all residents. As noted above the plan exceeds the required open space for this development. The overall density and intensity has been reduced.

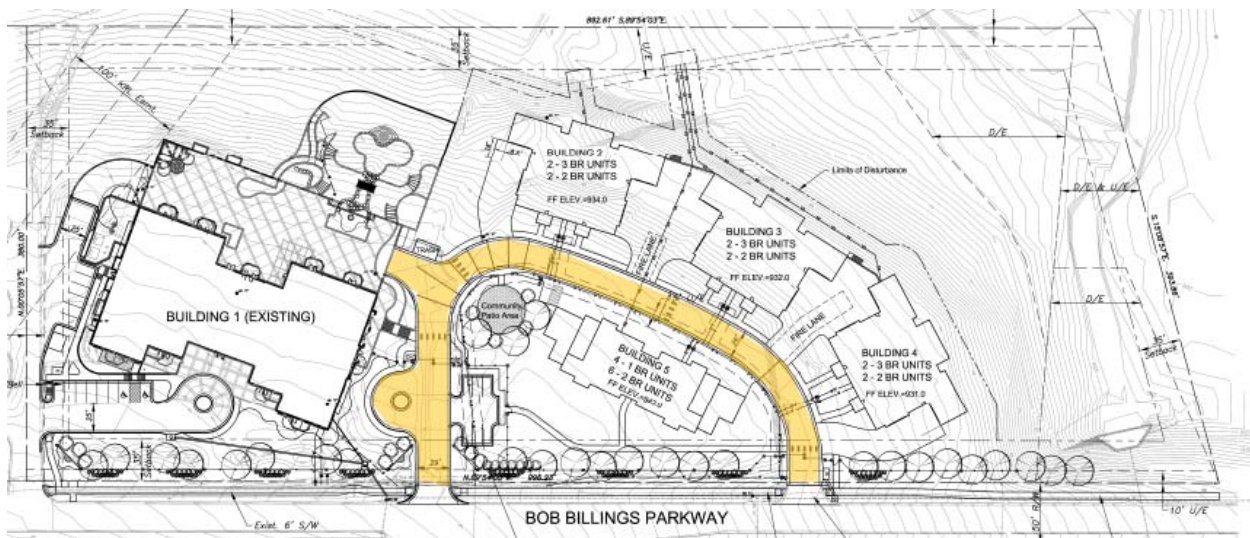
Staff Finding – The amount and function of the common open space exceeds the requirements of the 1966 Zoning Code and complies with the conditional zoning for this property. An exhibit identifying the common open areas is noted as a condition of approval.

6) Whether the Preliminary Development Plan makes adequate provisions for public services, provides adequate control over vehicular traffic, and furthers the amenities of light and air, recreation and visual enjoyment.

The project was approved with two driveway access points to Bob Billings Parkway for the main circulation and a shared access drive along the west property line with the adjacent development.



This proposed Preliminary Development Plan modifies the access somewhat by providing an interior drive with driveways to the proposed buildings rather than providing surface parking and underground garage access. The location of the access drives at Bob Billings Parkway are not modified with this application. Fire lanes are required between buildings in the revised plan.



Staff Finding_ The Preliminary Development Plan's provisions for Fire/Medical access will continue to be reviewed as part of the Final Development Plan as well as the construction documents. The access to the development from Bob Billings Parkway is not altered by this proposed plan.

7) Whether the plan will measurably and adversely impact development or conservation of the neighborhood area by:

a) doubling or more the traffic generated by the neighborhood;

This property is located on the north side of Bob Billings Parkway a designated arterial street. The proposed development is self-contained and will not impact neighborhood traffic in the area.

b) proposing housing types, building heights or building massings that are incompatible with the established neighborhood pattern; or

The building type is reduced in mass and intensity within this development compared to the previous plan that included buildings of a similar scale to the initial phase.

c) increasing the residential density 34% or more above the density of adjacent residential properties.

This property is surrounded by a variety of uses that do not equate to residential neighborhood density. An isolated residential subdivision is located at the southwest corner of Bob Billings Parkway and Inverness Drive. The proposed development was previously approved with a total of 99 units. This revised Preliminary Development Plan a total of 59 units. The overall density is reduced with this project.

Staff Finding-- Staff has determined that the Preliminary Development Plan will not have measurable and adverse impact on the development or conservation of the neighborhood area.

8) Whether potential adverse impacts have been mitigated to the maximum practical extent.

Potential adverse impacts with multi-dwelling apartments can occur with lighting that extends onto adjacent properties, or with balconies that overhang single-dwelling residences. A photometric plan will be required prior to approval of the Final Development Plan to insure there is no negative impact from the exterior lighting. Parking is dispersed throughout the development and includes garage parking. Surface parking is provided in a small lot near the main entrance to the development and in driveways serving the new buildings.

A majority of the property is retained in a natural state or is incorporated into organized common areas throughout the development. There are no nearby single-dwelling residences that will be impacted by this development.

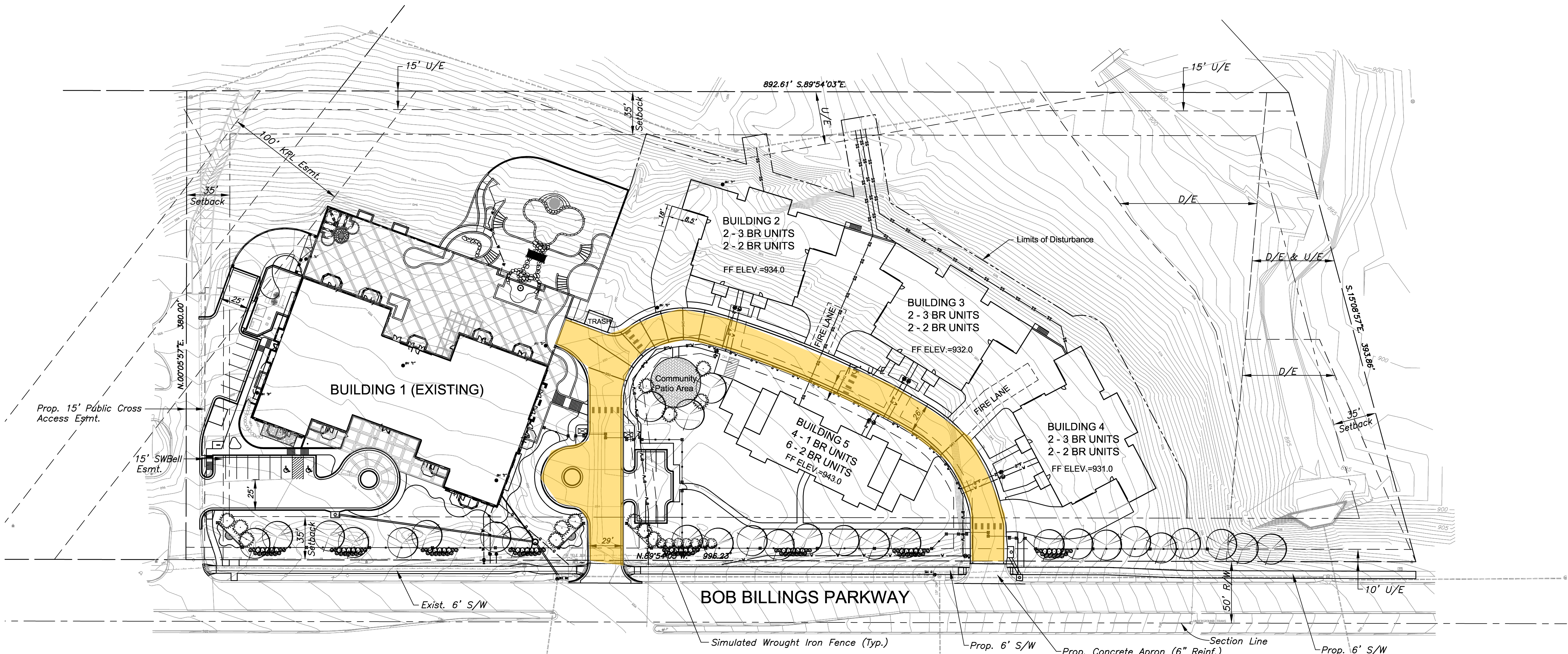
Staff Finding – Possible adverse impacts of exterior lighting will be addressed with a photometric plan to insure there is no spillover light. No other possible adverse impacts have been identified.

9) The sufficiency of the terms and conditions proposed to protect the interest of the public and the residents of the Planned Unit Development in the case of a plan that proposes development over a period of years.

Staff Finding- A phased development has not been proposed.

Staff Review and Conclusion

The proposed Preliminary Development Plan conforms to the land use recommendations for medium- to high-density residential development in the Comprehensive Plan. This proposed development is less dense than the development originally approved. This property was originally approved prior to the adoption of the Land Development Code but exceeds the design standards for open space. There are minor technical changes needed to the plan and these have been listed in the conditions of approval.



OWNER

BELLA SERA LLC, C/O HINKLE LAW FIRM
8621 E 21ST ST N STE 200
WICHITA, KS 67206

APPLICANT

GOKU LLC
4500 BOB BILLINGS PARKWAY
LAWRENCE, KS 66049

DESCRIPTION

LOT 1, BELLA SERA AT THE PRESERVE, A REPLAT OF PARKVIEW 15, A REPLAT OF LOTS 1 AND 2A, UNIVERSITY CORPORATE AND RESEARCH PARK SUBDIVISION NO. 1 IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS

ZONING

THE SUBJECT PROPERTY IS ZONED PRD.

THE PROPERTY TO THE SOUTH IS ZONED RM12 & PUD.

THE PROPERTY TO THE EAST IS ZONED OS.

THE PROPERTY TO THE WEST IS ZONED GPI.

THE PROPERTY TO THE NORTH IS ZONED IBP AND OS.

FLOODPLAIN DATA

THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE 100 YEAR FLOODPLAIN. RE: THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL INSURANCE ADMINISTRATION PUBLICATIONS: FLOOD INSURANCE RATE MAP, MAP NUMBER 20045C0158D, EFFECTIVE DATE AUGUST 5, 2010.

SITE CHARACTERISTICS TABLE:

EXISTING BUILDINGS	0	S.F.	PROPOSED BUILDINGS	52,198	S.F.
EXISTING PAVEMENT	2,365	S.F.	PROPOSED PAVEMENT	91,815	S.F.
EXISTING IMPERVIOUS	2,365	S.F.	PROPOSED IMPERVIOUS	144,013	S.F.
EXISTING PERVIOUS	358,509	S.F.	PROPOSED PERVIOUS	214,861	S.F.
PROPERTY AREA	358,874	S.F.			

PERMITTED USES:

Proposed uses and use restrictions to the planned residential development:

Uses permitted in the PRD-2 Planned Residential District shall include all of those uses permitted in Use Group 3 - Residential Single-Family Detached; Use Group 3A - Residential Duplex; and Use Group 4 - Residential Multi-Family.

USAGE AND PARKING REQUIREMENTS

RESIDENTIAL MULTI-FAMILY

BUILDING 1 - EXISTING
17 - 2 BEDROOM UNITS, 20 - 3 BEDROOM UNITS, 4,200 SF OFFICE
90 REQUIRED (1.5/2 BR, 2.5/3 BR, 1/300 SF OFFICE)
97 PROVIDED (4 - HANDICAP)
80 UNDERGROUND PARKING GARAGE
17 SURFACE PARKING
8 BICYCLE SPACES REQUIRED
8 BICYCLE SPACES PROVIDED

BUILDINGS 2, 3, 4 & 5
4 - 1 BEDROOM UNITS, 12 - 2 BEDROOM UNITS, 6 - 3 BEDROOM UNITS
39 REQUIRED (1.5/1 & 2 BR, 2.5/3 BR)
53 PROVIDED (1 - HANDICAP)
44 STRUCTURE GARAGES
9 SURFACE PARKING
4 BICYCLE SPACES REQUIRED
4 BICYCLE SPACES PROVIDED

BUILDING INFORMATION AND PHASING

BUILDING 1 - EXISTING
BUILDING HEIGHT = 69'
FLOOR AREA = 107,400 S.F.
FOOTPRINT = 22,100 S.F.

BUILDING 2, 3 & 4
BUILDING HEIGHT = 36'
FLOOR AREA = 12,670 S.F. (+2,296 GARAGES)
FOOTPRINT = 7,371 S.F.
ESTIMATED CONSTRUCTION = 2014

BUILDING 5
BUILDING HEIGHT = 49'
FLOOR AREA = 17,612 S.F. (+7,372 GARAGES)
FOOTPRINT = 7,985 S.F.
ESTIMATED CONSTRUCTION = 2015

DWELLING UNIT DENSITY

59 units / 7.01 acres = 8.4 units/acre

GREENSPACE CONSERVATION ELEVATION

No building or parking will be allowed below the elevation of 905.0 (Lot 1) or 930.0 (Lot 2). Lot references refer to Parkview 15 subdivision. Utility construction will be allowed.

GENERAL NOTES

1. THE TOPOGRAPHY SHOWN HEREON WAS GENERATED BY ACTUAL FIELD SURVEY.
2. THIS SITE PLAN HAS BEEN DESIGNED TO COMPLY WITH PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES (ADAAG) FOR BUILDINGS AND FACILITIES, APPENDIX A TO 28 CFR PART 36.
3. THE CITY OF LAWRENCE SHALL NOT BE RESPONSIBLE FOR DAMAGE TO THE DRIVE DUE TO THE WEIGHT OF THE REFUSE TRUCKS.
4. A STORMWATER POLLUTION PREVENTION PLAN WILL BE SUBMITTED PRIOR TO THE APPLICATION FOR A BUILDING PERMIT.
5. PAVEMENT WILL MEET THE CITY OF LAWRENCE REQUIREMENTS.
6. THE TRASH ENCLOSURE WILL BE CONSTRUCTED TO MEET CITY STANDARDS.
7. A WAIVER HAS BEEN GRANTED TO ALLOW PARKING ACCESS DRIVES WITHIN THE 35' SETBACK.
8. THE DRAINAGE EASEMENT WILL REMAIN FREE OF ANY NATURAL OR NON-NATURAL STRUCTURES OR VEGETATIVE BARRIERS (INCLUDING BUT NOT LIMITED TO TREES, SHRUBBERY, BERMS, FENCES, AND WALLS). (CITY CODE 20-1101(G))

STREET TREES

Street trees shall be provided in accordance with the Master Street Tree Plan filed with Douglas County Register of Deeds at Book 992, Page 1930.

The City is hereby granted temporary right of entry to plant the required street trees pursuant to Chapter 21, Article 7, Section 21-708a of the City Subdivision Regulations.

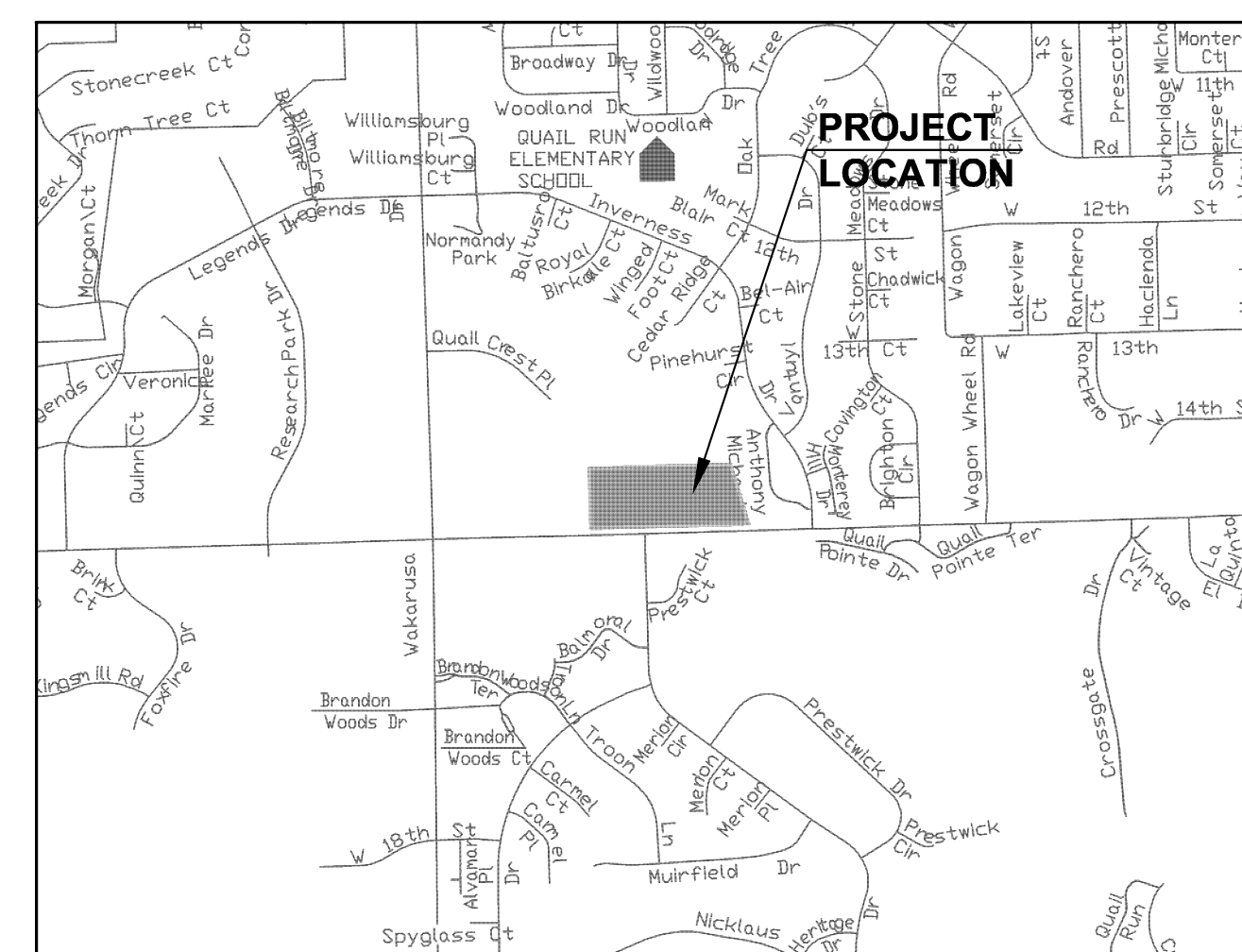
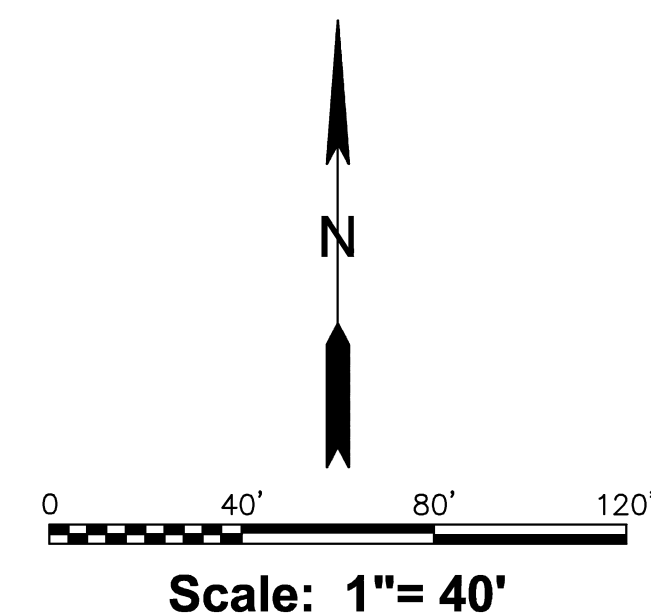
COMMON OPEN AREA

The common open area shall consist of the Pool area, the Patio areas and the undisturbed Preserve area on the northeast portion of this lot.

The total common open area for this lot is 220,000 s.f. The required 20% area is 71,775 s.f.

FUTURE REVISIONS

All property owners of all properties waive their right to approve or disapprove any alterations or modifications to the preliminary development plan.



LOCATION MAP

BELLA SERA AT THE PRESERVE
4500 BOB BILLINGS PARKWAY, LAWRENCE, KS 66049

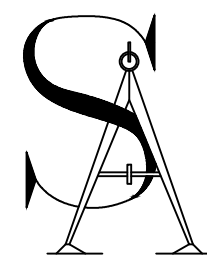
PRELIMINARY
DEVELOPMENT
PLAN

BG
CONSULTANTS
architects
engineers
planners

Project No. 13-1465L
Date: Nov. 18, 2013
Revised: Jan. 7, 2014

SHEET NO.

1



SCHNEIDER & ASSOCIATES
ARCHITECTS
2859 FOUR WHEEL DR. SUITE 16B
LAWRENCE, KS 66047
(785) 841-3752

BELLA SERA AT THE RESERVE LAWRENCE, KS

Certification

Fred A. Schneider - Architect
KS # 3976

This drawing has been prepared by the Architect, or under his supervision. This drawing is provided as an instrument of service by the Architect/Consultant and is intended for use on this project only. Pursuant to the Architectural Works Copyright Protection Act of 1990, all drawings, specifications, ideas and designs, including the overall form, arrangement, and composition of spaces and elements appearing herein, constitute the original, copyrighted work of the Architect/Consultant. Any reproduction, use, or disclosure of information contained herein without the prior written consent of the Architect is strictly prohibited.

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SITE
ELEVATIONS

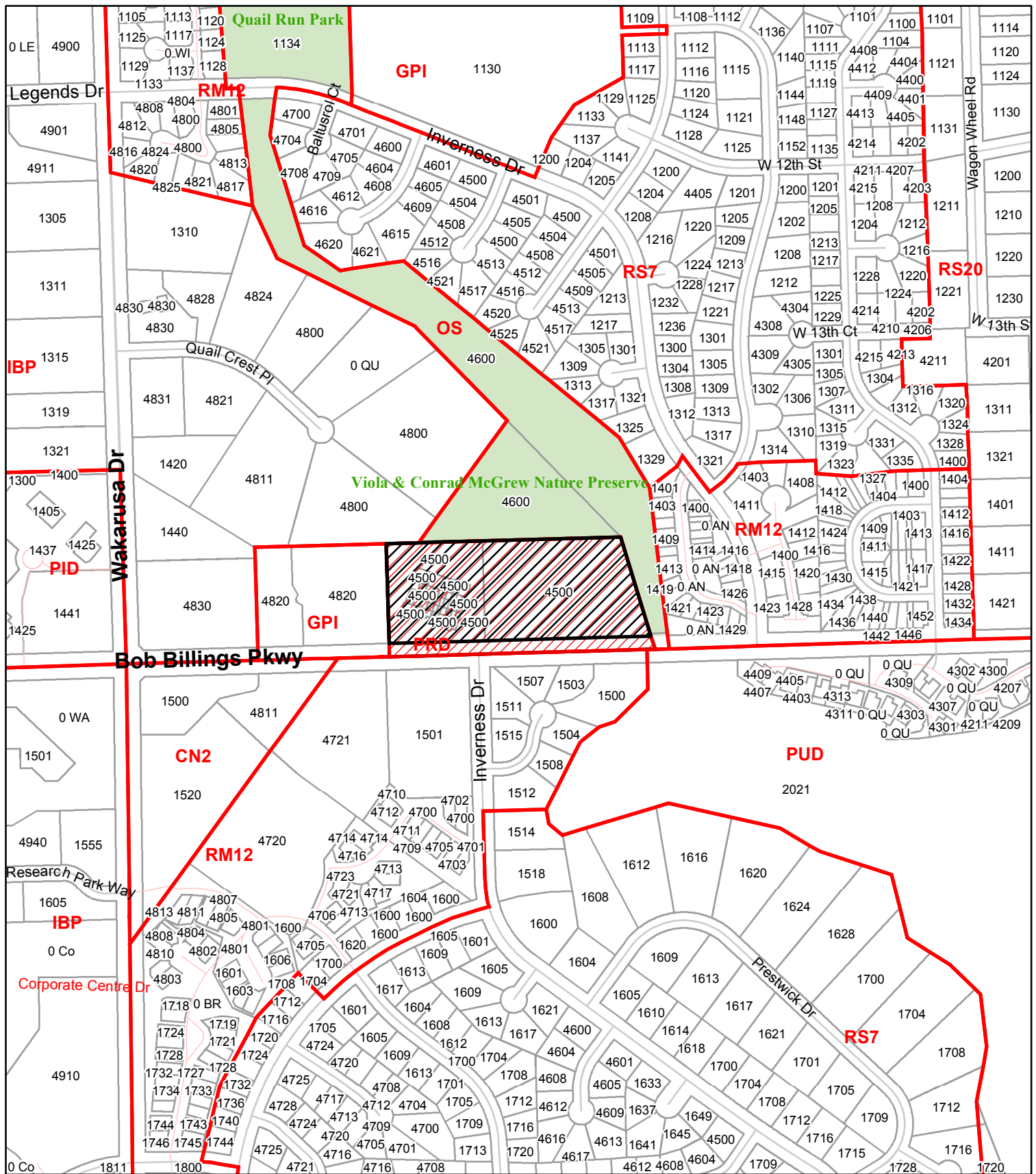
Issue Date:
01-08-2014
Sheet:
SE-1



1
SE-1 EAST SITE ELEVATION
1" = 30'-0"



2
SE-1 SOUTH SITE ELEVATION
1" = 30'-0"



**PDP-13-00477: Preliminary Development Plan for Bella Sera at the Reserve
Located at 4500 Bob Billings Parkway**



PLANNING COMMISSION REPORT
Regular Agenda –Public Hearing Item

PC Staff Report
1/27/14

ITEM NO. 4 CONDITIONAL USE PERMIT; GOOD EARTH GATHERINGS; 858 E 1500 RD (MKM)

CUP-13-00482: Consider a Conditional Use Permit for Good Earth Gatherings, a recreational facility including education, community outreach, and ancillary retail sales on approximately 10 acres located at 858 E 1500 Rd. Submitted by Tamara Fairbanks-Ishmael, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of a Conditional Use Permit for a recreation facility, to provide community outreach, education, and ancillary retail sales on approximately 10.5 acres, located at 858 E 1500 Rd subject to the following conditions:

1. A driveway shall be installed from the access point provided on the property prior to the commencement of the CUP use.
2. Provision of a revised site plan to include the following notes
 - a. Operating hours will conclude at 9 PM.
 - b. No more than one class shall be conducted/offered at a time.
 - c. Use of the lake for public, business, commercial, and recreation activities associated with the conditional use is prohibited.

Reason for Request: *"A home occupation requiring a Conditional Use Permit."*

KEY POINTS

- The subject property is located on and takes access from E 1500 Road which is classified as a Minor Collector in the Douglas County Access Management Standards.
- The property is not located within the Urban Growth Area of any city within Douglas County.

ATTACHMENTS

- Attachment A: Good Earth Gatherings Business Plan
- Attachment B: Public communications

ASSOCIATED CASES/OTHER ACTION REQUIRED

- Approval of CUP application by the Board of County Commissioners.
- Release of permit for the Conditional Use from the Zoning and Codes Office.
- Building permit from the Zoning and Codes Office may be required for the change of use in the accessory building.
- Construction of an onsite access drive to E 1500 Road prior to the commencement of the use.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- Karen Watney, a nearby resident and property owner, called to ask that the letter she provided in 2011 be included in the communications. She indicated that traffic is her principal concern.
- Letter from Eugene and Pamela Carvalho expressing concerns with the increased traffic. These letters are included with this staff report as an attachment.

GENERAL INFORMATION

Current Zoning and Land Use: A (Agricultural) District and FF (Flood Fringe) Overlay District; existing residence and accessory buildings.

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

Site Summary

Subject Property: 10.48 acres

Existing

Accessory Building	1,440 sq ft
Residence including basement	3,876 sq ft
Total Building area:	5,316 sq ft

Summary of Request

The proposed use will utilize the existing accessory building as a classroom/studio space and will include limited retail sales. The use may meet the definition of Agritourism but the applicant decided to pursue approval through Conditional Use Permit. The County Zoning Regulations allow a range of uses as Rural Home Business Occupations that include the instruction of students, and the use of detached accessory structures; however, the number of students proposed at one time (10-18 students) exceeds the maximum permitted for a Rural Home Business Occupation (6 students) and the retail sales may include items that were not produced on the site. A Rural Home Business Occupation permits the sale only of products that are produced on the premises. No specific conditional use enumerated in Section 12-319-4 of the Zoning Regulations definitively describes the proposed activity; however, the Zoning and Codes Director determined that the proposed use is most similar to a Recreation Facility (12-319-4.11).

The applicant's Business Plan indicates that this will be a small part-time business with 2 to 4 classes per week. Ancillary retail hours are proposed from 9 AM to 4 PM on Friday and Saturdays. Between 10 to 18 roundtrips are anticipated during weeknight classes and between 15 to 30 roundtrips are anticipated on Friday and Saturday. The sample calendar provided in the Building Plan indicates that no classes will be conducted past 9 PM and that these will occur between Tuesday and Thursday. Friday and Saturday daytime only classes are planned from 9 AM to 4 PM. No classes are planned for Sunday and Monday.

The property owner had requested a Conditional Use Permit for a similar use in 2011 which was approved by the Board of County Commissioners. The use was not established and the approval expired as a permit for the use was not obtained from the Zoning and Codes Office within 1 year, as required in Section 12-319-2.

I. ZONING AND USES OF PROPERTY NEARBY

The property is zoned A (Agricultural) District as is the surrounding area. The F-F (Floodway Fringe) Overlay District is located on the east portion of the subject property and extends to the north, south and east. (Figure 1) The immediate area contains rural residences and agricultural land uses. Parcels located on the east side of E 1500 Road, including the subject property, and parcels on the south side of N 900 Road in this area share common property lines and extend to a privately owned and maintained lake.

Staff Finding – The area is rural in character and is zoned A (agricultural) with portions being also zoned F-F (Floodway Fringe) Overlay District. Surrounding uses are predominantly rural residential and agricultural. The proposed request will not alter the base zoning or land uses of the area.

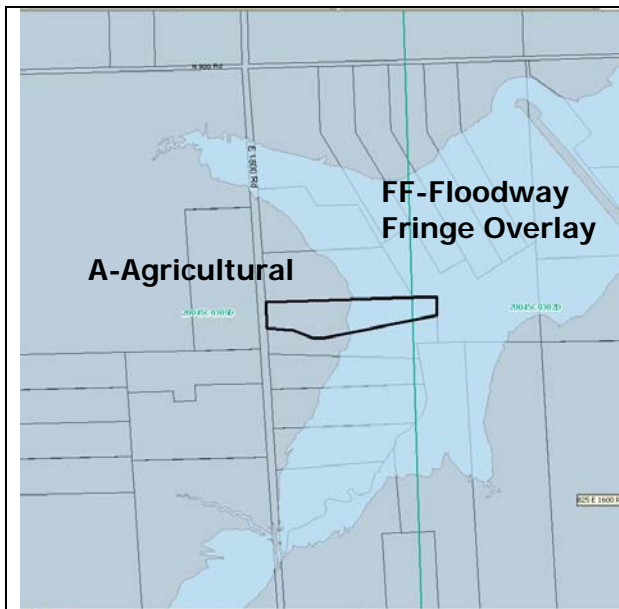


Figure 1a. Zoning in the area. Subject property outlined.



Figure 1b. Land uses in the area. Subject property outlined.

II. CHARACTER OF THE AREA

This is a rural area with rural residences and agriculture being the predominate land uses. Residential parcels tend to be long and narrow with access to the abutting County roads. The section that the subject property is located on, Section 5, is bounded by Minor Collector roads on the west (E 1500 Road), the south (N 500 Road), and the east (E 1600 Road). East 1600 Road provides access to County Route 1055, a principal arterial (Figure 2).

Staff Finding – This is a rural area with a mix of rural residential and agricultural land uses. The subject property is located in a predominately rural residential area. The area has access to the road network with minor collectors providing access to a principal arterial, County Route 1055. The proposed use will occur within the accessory building and should be compatible with the character of the area. The road network should be able to accommodate the anticipated traffic.

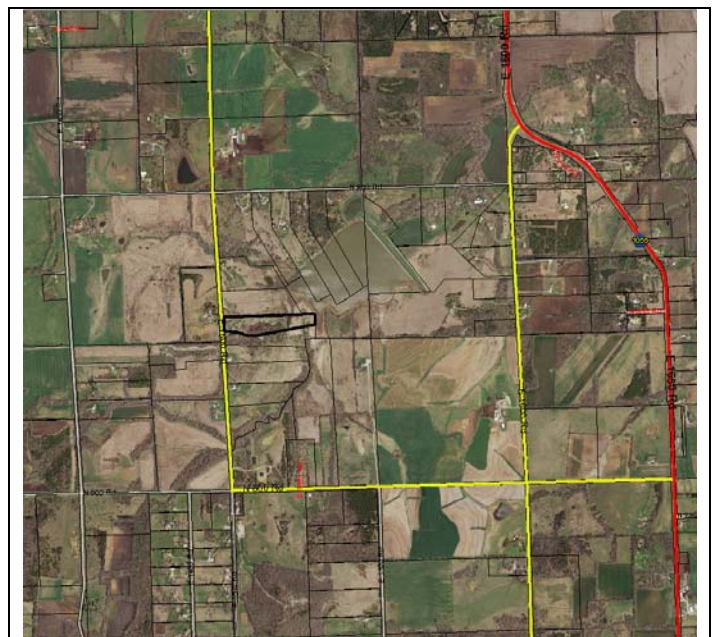


Figure 2: Road network in the area. Yellow roads are Minor Collectors and the red road is a Principal Arterial.

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

Applicant's response:

"A Conditional Use Permit does not alter suitability of property."

This property is zoned A (Agricultural) District. The purpose of this district is identified in Section 12-306 of the County Zoning Regulations and states: *"...The purpose of this district is to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises, and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses."*

Uses allowed in the A district include: farms, truck gardens, orchards, or nurseries for the growing or propagation of plants, trees and shrubs in addition other types of open land uses. It also includes residential detached dwellings, churches, hospitals and clinics for large and small animals, commercial dog kennels, and rural home occupations. The A District also allows retail nurseries that do not exceed a total of 3,500 SF of net retail space. The property is suited to the uses to which it is restricted in the A District.

The property is developed with a residence and an accessory building. No physical changes are being proposed with this Conditional Use. A Conditional Use Permit (CUP) does not change the base, underlying zoning.

Staff Finding – The property is suitable for the uses to which it is restricted under the A Zoning and is also suitable for the proposed recreation use with a limited retail element. The overall space dedicated to retail sales is clearly subordinate and accessory to the recreation activity.

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

This property is developed with a residence and accessory building. The residence was initially built in 1992 (2,276 sq ft). The detached garage building was constructed in 1997 (1440 sq ft). The A (Agricultural) District was adopted as part of the September 23, 1966 Zoning Regulations when the County adopted county zoning.

Staff Finding – The subject property is developed as a residential use. The County Zoning Regulations were adopted in 1966.

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

Applicant's Response:

"Nearby properties will suffer no detriment. Additional road traffic is estimated to increase by 20 to 40 trips per week. Additional road traffic will be limited. No unusual noise will be generated. Building and parking are screened from public view by vegetation."

Section 12-319-01.01 of the County Zoning Regulations recognize that *"Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district certain conditional uses listed in section 12-319-4 below,*

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 Section 12-319-4.11 ‘Recreation Facility’ of the Zoning Regulations for the Unincorporated Territory of Douglas County.

The use is adjacent to a designated rural minor collector road. The proposed use is similar to a Type II Home Occupation but because class size exceeds the maximum permitted as a home occupation (6 students) and the limited retail element includes items not produced on the premises, approval as a Conditional Use is necessary. Activity is primarily intended to be conducted indoors. No use of the lake is proposed as part of the application.

Staff received two communications from nearby property owners/residents who were primarily concerned with the amount of traffic being generated by this use. One letter expressed concern that the additional traffic may cause issues for the township that maintains the road. The Palmyra Township Trustee indicated the amount of traffic being generated with this proposed use would be acceptable and would not create issues with their maintenance of the road.

One concern raised by neighbors with the review of the previous Conditional Use Permit application was that the visitors to the CUP might use the lake that is jointly owned by the property owners in this area. A condition was applied to the previous CUP that restricted the patrons of the Conditional Use to utilize the lake. This condition should be applied to the current CUP to reduce the possibility of trespass onto the privately owned lake.

The limited scope of the project and inclusion of a condition limiting the hours of operation and restricting the size of the classes, as well as prohibiting the use of the lake, should mitigate any negative impacts that could result from the proposed use.

Staff Finding – The significant concern generated by this request was the impact of the additional traffic. The significant concern generated by the previous request was the potential for trespass to private property. The township indicated the amount of traffic being anticipated would not create a maintenance issue for them. The addition of conditions restricting the size of classrooms, the hours of operation and prohibiting the use of the lake should mitigate any detrimental effects. The proposed use as described in the applicant’s Business Plan does not pose detrimental impacts to the surrounding area.

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 gains the opportunity to engage in learning experiences in a natural environment which relates to agriculture and ag-related products. No hardship is expected to impact neighboring landowners.”

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.

Approval would benefit the property owner by allowing her to pursue the use according to her Business Plan. The benefit to the public from the approval of the CUP is limited to personal improvement skills related to a specified topic: *“Low-cost classes will be offered to adults on topics*

of interest to the community, primarily focusing on arts/crafts, home decorating, and health and sustainable living (gardening, food preservation, etc.)”

Denial of this request would affect the individual landowner by prohibiting the scope of the proposed use. The use could occur as a Type II Home Occupation but would be limited in the total number of students to six per class and the retail element of the business would be limited to those items which are produced on the premises.

As no negative impacts have been identified from the proposed use, there would be no gain to the public from the denial of the CUP.

Staff Finding – Denial of this request would create a hardship for the applicant in that she would be required to reduce the scope and nature of her proposal so it would meet the requirements of a Type II Home Occupation. There would be no gain to the public health, safety, and welfare as a result of the denial of this request as the recommended conditions would mitigate any negative impacts of the use.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The Comprehensive Plan does not address Special Use Permits"

The Comprehensive Plan recommends that agricultural uses continue to be the predominant land use within the areas of the county beyond the designated urban growth areas and that uses permitted in the rural area should continue to be limited to those which are compatible with agricultural production and uses. The subject property is not located within an identified urban growth area and is currently developed with a residence and an accessory structure. The only physical change being proposed is the creation of a parking area for the visitors. The proposed use would be compatible with agricultural production and uses

Staff Finding – The comprehensive plan recommends that uses in the rural area be limited to those compatible with agricultural uses and that the design should be consistent with the rural character. A Conditional Use Permit can be used to allow specific non-residential uses subject to approval of a site plan. This tool allows proportional development in harmony with the surrounding area. No physical changes, with the exception of a parking area, are proposed with this Conditional use. The proposed request is consistent with the Comprehensive Plan.

STAFF REVIEW (Site Plan)

The use will be housed in the accessory structure. Off street parking would be provided in a 61' by 60' area for up to 12 off-street parking spaces.

Parking and Access: The site plan identifies 12 parking spaces to be located along the existing buildings and to include a paved area for an accessible space. The application states that a maximum of 18 students plus one instructor would be expected. There is not a specific use to classify the parking requirement for this activity; however, a recreation use typically uses the parking requirements for a church or other assembly use: 1 space per 5 seats. As this use is a classroom setting, the school parking requirement might be appropriate. This is also 1 space per 5 seats. As the facility has seating for 18 students, 4 parking spaces would be required per the Parking Regulations in Section 12-316 of the Zoning Regulations. Additional parking is being

provided for the retail use, and in anticipation of patrons driving separately. The site is large enough to accommodate occasional overflow parking.

Access to the site is accommodated via a residential driveway to E 1500 Road. The Zoning and Codes Office noted that this driveway is not Code compliant, as each parcel is required to have its own access to the adjacent road. Installation of an access drive providing direct access for this parcel to E 1500 Road is a condition of approval for the CUP.

Landscape and Screening: The plan shows landscape along the county road and along the south property line. Various stands of mature trees are located throughout the property. There is no exterior storage or activity associated with this use that requires screening. The existing landscape is consistent with the residential character of the property and surrounding area.

Limits and Conditions: Typical business hours are identified in the Business Plan as between 1 PM and 9 PM Tuesday through Thursday and between 9 AM and 4 PM on Friday and Saturday. A condition should be included which limits the business hours to 9 PM and this should be noted on the plan. A limitation on class size to no more than 18 persons and 1 instructor is noted on the plan. The plan should also note that only one class will be held at a time.

As discussed earlier in the staff report, the use of the lake for business or commercial activity either as part of a class or as a public recreation facility, was identified as a concern to area residents and property owners with the previous CUP. A condition prohibiting the use of the lake for business and commercial activities associated with this CUP should be included to address this concern.

With the proposed conditions, the use should be compatible with the surrounding land uses.

Conclusion

This property is primarily to be used as a residence with a classroom/retail sales area in the accessory structure. The size of the classes and the inclusion of a retail element requires a Conditional Use Permit rather than registration as a Home Occupation. Changes to the accessory building to comply with Douglas County Construction Code standards for a non-residential use may be necessary. The proposed CUP complies with the County Zoning Regulations and the land use recommendation of *Horizon 2020*.

Business Profile for *Good Earth Gatherings*

Mission Statement

Good Earth Gatherings (GEG) will offer unique learning opportunities and related retail items.

Description

GEG will be a small, part-time business featuring community outreach, education and ancillary retail.

Affordable classes will be offered for adults on topics of interest to the community, primarily focusing on arts/crafts, home decorating, and healthy and sustainable living (gardening, food preservation, etc.).

Ancillary retail offerings will reflect the content of the class topics. Retail offerings will include supplies for projects taught in the classes, items handcrafted by the owner and other regional artisans, and some will be related items purchased at wholesale for resale.

Classes will be offered two to four times per week. The ancillary retail shop will be open in conjunction with classes and three to four weekends per month.

Targeted Market

GEG will attract patrons from the community (*Lawrence, Baldwin, and surrounding areas*) who are interested in arts/crafts, home decorating, and sustainable living practices.

Growth Plan

GEG will be a small, part-time business. Operating hours will include 2-4 classes per week and ancillary retail hours 3-4 weekends per month.

Competition

GEG will be unique in that the intention of the business is not to compete with area businesses. Rather, *GEG* is intended to fill a gap. The classes which will be offered are not available anywhere else locally, and the ancillary retail offerings will likewise be unique.

GEG will practice **cooperation** rather than competition with existing local businesses. It is *GEG's* intention to work with local businesses which may have related offerings in order to enhance both businesses. The classes offered will be sometimes taught by the owner and sometimes taught by other local experts – many with businesses of their own they can promote through *GEG*. For example, *GEG* may offer a class on growing herbs and partner with a local nursery to provide plants in conjunction with the class. In this way, *GEG*, the local nursery, and the community all benefit.

Marketing

GEG will market through advertising in the Merc News, listing relevant classes in the “Sustainable Lawrence” e-newsletter, and producing a newsletter, website and blog for the business. *GEG* will partner with local businesses for mutual promotion.

Neighborhood Impact

The business will be located in an existing building adjacent to the owner’s rural residence.

Additional traffic to the area will be limited. The maximum occupancy of the business will accommodate the anticipated range of 10-18 students plus an instructor.

The residence and business will be landscaped. Parking and building will be screened from public view by vegetation.

No unusual noise will be produced by this business.

Expected hours of operation will be daytime to early evening.

Depending on the classes offered, 10 to 18 roundtrips may be generated during weeknight classes. Weekend ancillary retail hours may generate approximately 15 to 30 roundtrips from a Friday to Saturday.

Sample *GEG* Calendar:

MON.	TUES.	WED.	THUR.	FRI.	SAT.	SUN.
		1 7pm-9pm CLASS: <u>Freeing Creativity:</u> <u>Art Journaling</u>	2	3 9am-4pm OPEN	4 9am-4pm OPEN 1pm-4pm CLASS: <u>Thyme for Herbs:</u> <u>10 Herbs for Every</u> <u>Garden</u>	5
6	7 7pm-9pm CLASS: <u>Wool Appliqué</u>	8	9 1pm-3pm CLASS: <u>Creating Table-Top</u> <u>Gardens (featuring</u> <u>plants from Sunrise</u> <u>Nursery)</u>	10	11 9am-4pm OPEN 1pm-4pm CLASS: <u>Beautiful Wools</u> <u>with Nature’s Dyes</u>	12
13	14 7pm-9pm CLASS: <u>Making & Using</u> <u>Herbal Vinegars</u> <i>(featuring herbs from</i> <i>Vinland Valley</i> <i>Nursery)</i>	15 1pm-3pm CLASS: <u>Nature Printing</u>	16 7pm-9pm CLASS: <u>Silk Scarves with</u> <u>Dyes from Nature</u>	17 9am-4pm OPEN 1pm-4pm CLASS: <u>Creating Miniature</u> <u>Gardens</u>	18	19
20	21 1pm-3pm CLASS: <u>Wool Appliqué</u>	22	23 7pm-9pm CLASS: <u>Decorating with</u> <u>Naturals for the</u> <u>Holidays</u>	24 9am-4pm OPEN 1pm-4pm CLASS: <u>Easy & Safe Food</u> <u>Preservation</u>	25 9am-4pm: OPEN	26
27	28 7pm-9pm CLASS: <u>Beautiful & Simple</u> <u>Decorating Tips</u> <i>(Guest Instructor: Jane</i> <i>Doe from Lawrence</i> <i>Home Design)</i>	29 7pm-9pm CLASS: <u>Freeing Creativity:</u> <u>Art Journaling</u>	30			

Operating Procedures/Personnel

GEG will be a small, sole-proprietorship business. The business will be operated by the owner.

Relevant Education/Experience of Owners

GEG will be the sole proprietorship of Tamara Fairbanks-Ishmael. Tamara has worked as a sales manager, business owner, public school teacher, community college instructor, and professional speaker. She has a master's degree in Liberal Arts from Baker University.

Community Benefits

GEG will benefit the community in several ways:

- *GEG* offers unique classes primarily related to arts/crafts, decorating, and healthy and sustainable living, benefiting individuals and the local community.
- *GEG* offers unique, often hand-made, class-related retail items which are not available otherwise locally.
- *GEG* partners with other local business owners to enhance existing businesses.

Contact

Tamara Fairbanks-Ishmael
858 E. 1500 Rd.
Baldwin City, KS 66006
785-331-4213
tsfairish@sbcglobal.net



Plan Not to Scale

Legal Description:

Legal Description: 10.1Ac 5-14-20 COM AT SW COR NWQR TH N 0DEG52'02"W 183.39 FT TO PT BEG, SD PT BEING ON W LINE NW QR; TH CONT ALONG SD LINE N 0DEG52'02"W 250 FT TH S88DEG42'52"E 1663.08 FT TH S01DEG17'33"W 180.85 FT TH S83DEG35'03"W 1122.94 FT TH 87DEG41'38"W 100 FT TH N69DEG38'13"W 202.36 FT TH N85DEG35'51"W 250 FT TO PT BEG WW35(DIV 2006 7000331)

Proposed Use:

Part-time business featuring community outreach, education and ancillary retail. Low-cost adult classes on topics of interest to community, focusing on arts/crafts, home decorating, and healthy and sustainable living (gardening, food preservation, etc.). Ancillary retail will reflect class topics and include project supplies for classes.

General Area



General Notes:

1. Maximum occupancy of business will accommodate a total of 18 students and 1 instructor.
2. No more than 1 class shall be conducted /offered at a time.
3. Use of the lake for public, business, commercial and recreational activities associated with the home occupation is prohibited.

Parking:

1. 11 spaces provided 9' by 18'
2. One space provided paved 16' by 18' for accessible parking.

858 E 1500 Road
CUP-10-5-11; Good Earth Gatherings

Tamara Fairbanks-Ishmael
858 E 1500 Road
Baldwin, KS 66006



**CUP-13-00482: Conditional Use Permit for Good Earth Gatherings, a Small Business
Located at 858 E 1500 Road**



Lawrence-Douglas County Metropolitan Planning Commission

RE: CUP-10-5-11 Conditional Use Permit for Good Earth Gatherings.

We write this to express concern about a Conditional Use Permit for Good Earth Gatherings at 838 E 1500 Road submitted by Tamara Fairbanks-Ishmael. East 1500 Road is primarily agricultural and residential. A business that “provides community outreach, education, and ancillary retail sales” has a very different flavor and can change the character of the neighborhood. By definition, a “community” enterprise involves a group of people at one set time (such as for a class). And “retail” implies that customers would come and go throughout the day. I offer the following items for the Commission’s consideration:

- There may be home-based businesses in the neighborhood, but I am not aware of any that I would consider a “retail” business. We have not observed other home businesses in the neighborhood, such as the one on 1450 Road, to have multiple customers at any one time. A car or two now and then is not intrusive.
- In rural areas, sound carries incredibly far. We could reasonably expect the traffic noise, possible traffic congestion, car doors, people noise, etc., (especially if there is a class having several participants) to be heard and magnified in the immediate neighborhood. . Additionally, most of the activities would probably occur on weekends when residents are home and most bothered by noise. .
- This particular stretch of E 1500 road has had its share of problems with noise over time. Gradually, with the help of a noise ordinance and the Sheriff’s office, things have improved, but there are still pockets of noise that are irritants. Approving a retail business along that road may take us another direction-- back to a noise level that is infringes of the personal expectations of peacefulness and may prevent some neighbors from their enjoyment of peace and quiet (which is why some of us moved to the rural areas in the first place). . During some years, we were literally confined to the house.
- I also have a concern about increased traffic on that road. The landowners along the road all contributed to surfacing the road. The township maintains the road, but the wear and tear of customer traffic can be detrimental to stretch of road that already is prone to potholes and cracking. We have learned in the past that we have to dodge potholes for many months before the crew shows up to fix them.
- I understand this venture is primarily a “community outreach” (???), “education,” and “ancillary retail sales,” but I am concerned that enterprise, will grow which will increase the problems listed above. At that point it would be too late for the neighborhood to object to the business. We have our chance now.
- Ms. Fairbanks-Ishmael has not lived in the neighborhood very long—if she had intended to start a business venture, she should have bought property that was already zoned for business. When we bought property, we looked for a neighborhood that had no apparent existing businesses and was primarily agricultural and residential.

We write this with great reluctance because we want to be a good neighbors and don’t wish to block someone from fulfilling a dream, but we also don’t want to be blaming ourselves for not

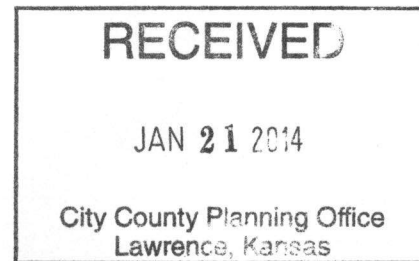
voicing an objection when given the opportunity. We moved to the “country” to leave the traffic noise and congestion of town behind. We accept the noise related to farming, ranching, improving one’s property (such as cutting trees or adding an outbuilding, mowing, etc.) because those activities are central to a rural community. But we cannot stand back and implicitly approve increased intrusion in a neighborhood through a retail business.

I ask the Planning Commission to seriously consider our comments about the impact on the neighborhood as they make their decision. . Thank you for the opportunity to comment.

Karen and Lynn Watney

847 E 1500th Road

Ms. Mary Miller
City of Lawrence, Douglas County
Planning & Development Services
6 East 6th St
P.O. Box 708
Lawrence, KS 66044



Dear Ms. Miller:

I am responding to your letter regarding a conditional use permit for Good Earth Gatherings.

Our concern has mainly to do with the road. When we moved here some 40 years ago, the stretch of E 1500 Rd (about a mile of the Palmyra Township) we currently share with The Good Earth Gatherings was a dirt road with two farmsteads intended primarily to accommodate the traffic of the local residents. This road has always been minimally maintained, and nearly every year, the spring thaw would create impassable mud holes at the bottom of the hill. The school bus could not pass for days to pick up our child. We would have to find circuitous back roads to the 59 Highway to get anywhere.

Since then many families have built homes in the Quantrill's Acres and beyond as well as five additional homes on this short stretch of E1500. The increased traffic created so much dust that for a period, we nearly stopped gardening and shut ourselves in the sealed house. About 10 years ago, some of the people who had to drive through the tunnel of dirt several times a day initiated a petition to the county and the township to pave the road based on the high density of use. The petition resulted in a deal by which the concerned residents raise 60% of the cost of paving and the Palmyra Township will allocate 40% of the cost and will bear the responsibility to maintain the paved road. In this way about 30 families had united to pay \$500-600 each to improve the quality of the road.

Some of the unintended consequences of the improved road have been that it further increased the non-resident traffic and everyone seems to be travelling much faster than they used to. Our farm is at the top of the hill, and our driveway exits at the top of a blind hill, and we've had several near-misses at our driveway. Just picture, if you will, a typical car travelling more than 50mph suddenly appear 50 feet from you. Our trips to the mailbox have become exercises in calculated risks, and we can no longer take a casual walk on the road nor is it safe for a bike ride.

It has been about 10 years since the paving of the road. We are disappointed that the road has not been maintained very well. For a comparison, the Wakarusa Township portion of the E1500 Rd was paved at the same time. Since the paving, the Wakarusa Township portion has been repaved three times, but the Palmyra side has been oiled once without applying new surface. In my casual observation, every square foot of the paving on the Palmyra side seems to be checked with cracks and

ready to be shattered with the spring thaw. Even today, days after a snowy weather, the main hill which faces north remains treacherous with icy patches.

Because of my concern for the road, I have always chosen to market my products (I have operated my small farm-based business, Prairie Found Farm & Studio, for over 30 years) at the Lawrence Farmers Market, teach my classes at the Powell Garden near Kansas City, and participate in various regional shows in Missouri and Kansas.

In conclusion, let me say that I am torn between supporting the Good Earth Gatherings and opposing it. I consider myself a naturalist and much of what I do relates to what I grow and what I gather in the wild, and I see the Good Earth Gatherings as having kindred interests, and I want to give them my full support. On the other hand, as a long time resident on this troubled road already confronting far more risks than we should, it would be difficult to support an activity which will definitely increase drivers unfamiliar with this road thus increasing the risk we face. In considering this request from the Good Earth Gathering, please bring in to the discussion a county road engineer and the Palmyra Township management to get their professional evaluation on the road safety issue. Finally, if you are going to allow a customer based business on this rural road, please consider allowing the business to have large enough signs to be placed strategically to guide their customers to the business. Our experience has been that most people who live in town seem to have difficulty navigating the rural roads which have very few signs or landmarks.

Thank you for giving us an opportunity to express our concerns to the Planning & Development Services.

Sincerely,

Eugene and Pam Carvalho
1-16-14

Eugene & Pamela Carvalho
859 E1500 Rd

January 24, 2014

6 East 6th Street

City of Lawrence, Kansas

Douglas County, Kansas

RECEIVED

JAN 24 2014

City County Planning Office
Lawrence, Kansas

Planning Commission Members,

The **Declaration of Restrictive Covenants** for the section of land, Section 5, Township 14, Range 20 of Douglas County, Kansas, that is described in the CUP-13-00482 denies use of any land for noxious or offensive activities.

As an owner of a home and property around the lake located on the same section of land that Fairbanks-Ishmael is requesting a Conditional Use Permit, I do not want this area and lake to become a for-profit recreational facility for the community. I purchased my home and extra acreage around the home and adjacent to the lake for privacy, and have retired on these acres. I do not want to look out on an amusement and water park.

The property around CUP-13-00482 will be subject to increased noise levels. This will have a negative impact on the number of water fowl and their nesting habitats. Other wild animals such as beaver, turkey, ducks, geese, white pelican, coyotes will then be affected.

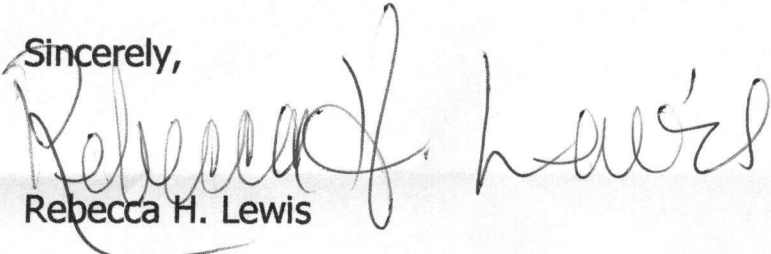
Parking of cars and vehicles on the designated 10 acres of grass will add heat to the area from reflection off metal and glass. The lake has fallen to new low levels due to drought. I feel that any addition of extra heat will add to the decrease in water level.

Increased traffic on E. 1500 Road will add to the deterioration of the back top road that is already patched in numerous places. This is a narrow, hilly

road with no shoulders which adds to the safety problems of increased traffic flow, especially in the summer for farm crops and livestock hauling.

I urge the Planning Commission Members to deny the application for the Conditional Use Permit (CUP-13-00482) for the issues stated above.

Sincerely,



Rebecca H. Lewis

1548 N. 800 Road

Baldwin City, KS 66006

785-594-3456

8243

Cash

DECLARATION OF RESTRICTIVE COVENANTS

We, the undersigned, being the owners of the following-described property, to-wit:

The Northwest Quarter (NW $\frac{1}{4}$) of Section 5,
Township 14, Range 20, in Douglas County,
Kansas (see attachment for lot numbers),

do hereby declare and publish the following as restrictions upon the use of said property, building requirements, and occupancy restrictions, and do declare and publish that said restrictions shall constitute a covenant running with the land.

1. The described restrictions shall be imposed upon the above described land which shall hereinafter be referred to as the "property".
2. No residence or home may be built or erected upon any of said lots having less than 1,500 square feet of living area excluding porches, basement and garage and all of said residences or homes shall have no less than a two-car garage.
3. All buildings, including out buildings, to be constructed on the property must be completed, including paint or its equivalent, within six months from the starting date of said construction.
4. No residence or any other building may be built upon said lots without first obtaining the approval of the plans for said building by the declarant.
5. No hogs, goats or poultry may be maintained or kept on any of said property.
6. No kennel for the raising or boarding of dogs shall be maintained on the property.
7. No mobile homes, house trailers, travel trailers, or double wide mobile homes may be used as a residence or occupied in any manner on any of the above described property.
8. No unuseable cars, machinery, appliances or other items of junk or salvage shall be stored or kept upon said property, and any owner of such items shall within one week from the date of notification by declarant, remove all said items from the property.

9. No one shall occupy a basement on said property while his residence is being completed upon said property.

10. No noxious or offensive activity shall be carried on upon the property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any of the other owners of the property.

11. No portion of the property may be divided into or sold in tracts containing less than 10 acres.

12. These restrictions may be amended by the consent of the owners of three-fourths of the total land area located within said property description.

13. These covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from recordation, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless amended as hereinabove provided.

14. Enforcement of these restrictions may be by any proceeding allowable at law or equity.

15. Invalidity of any provision here in shall not affect any other provision contained herein.

IN WITNESS WHEREOF, the undersigned owners have placed said restrictions upon all property hereinabove described, which restrictions shall run with the land.

Roger N. Harris
Roger N. Harris

Jane R. Harris
Jane R. Harris

STATE OF KANSAS)
COUNTY OF DOUGLAS) ss:

BE IT REMEMBERED, that on this 2nd day of September, 1986, before me, the undersigned, a notary public in and for said county and state, came Roger N. Harris and Jane R. Harris, husband and wife, personally known to me to be the same persons who executed the foregoing instrument, and duly acknowledged the execution of the same.

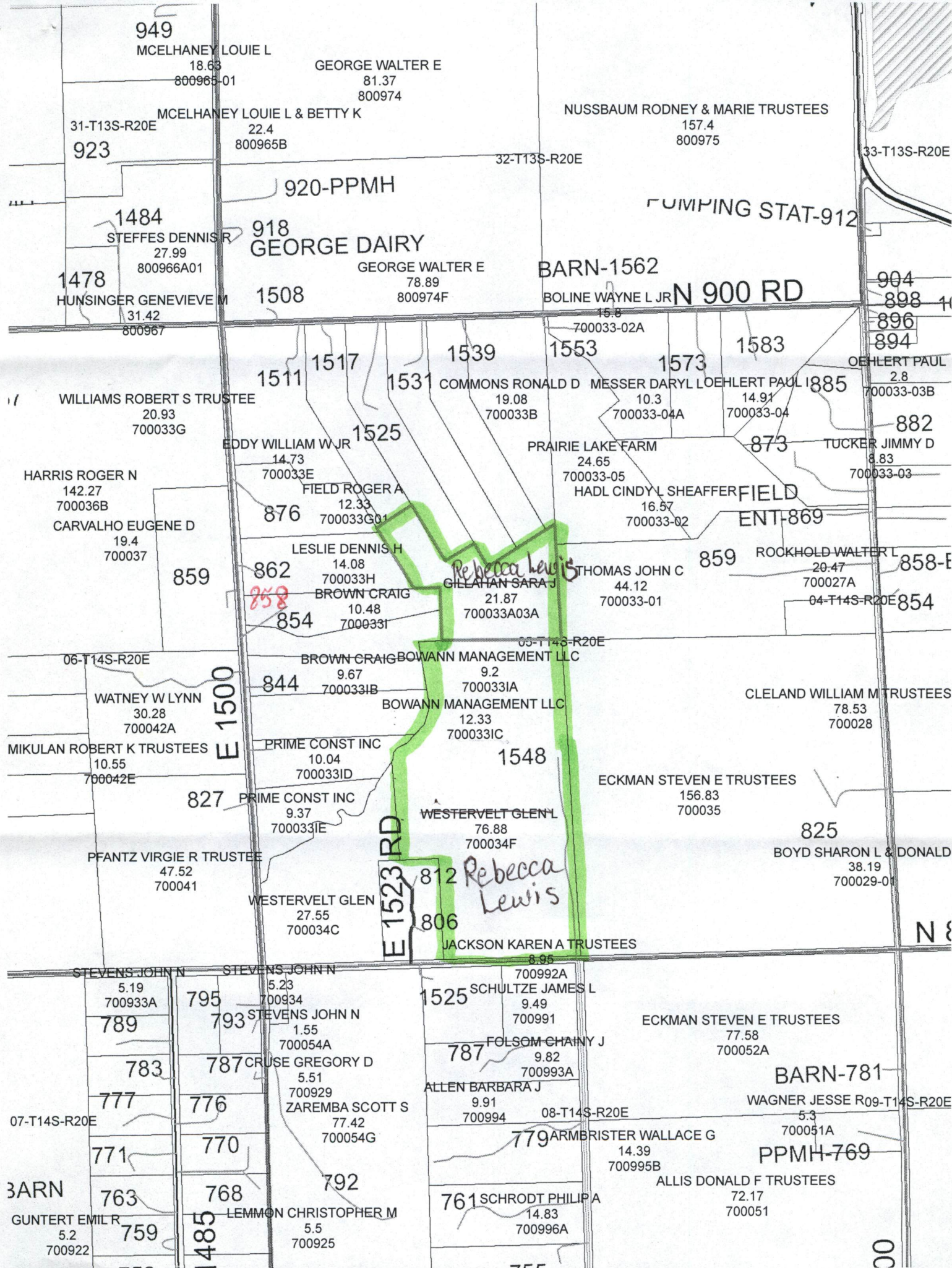
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

Susan S. Postlethwaite
Notary Public

My commission expires July 10, 1990



396mc 245



January 27, 2014

Lawrence-Douglas County Metropolitan Planning Commission
RE: CUP-13-00482; Good Earth Gatherings

Dear Commission Members,

Thank you for the opportunity to comment on the Conditional Use Permit for Good Earth Gatherings. I provided comments when GEG applied for the CUP two years ago, which is also included in your information, but I wanted to write again to restate and reinforce my position.

I wish to make the following comments about the Business Profile for Good Earth Gatherings:

Traffic

The people who live on this portion of 1500 Road paid for the construction of the road. It was intended to be local traffic only—those who live along 1500 Road and connecting roads. Maintenance of the road, which is the responsibility of the township, has been haphazard, slow and piecemeal. If GEG is allowed to open, traffic will significantly increase proportionately adding wear and tear to the strip of road between 950 Road and the business, which is the part of the road that is always in the worst condition. If the township needs to add staff to keep the road repaired in that section (I have been told they have had to lay off three people), will GEG provide the funds for the additional crew and materials?

Noise

Noise carries far and wide in rural areas. We live a quarter mile from a neighbor, and we can hear their hot tub running and when they are talking outside. While GEG will not have outdoor activities, the simple acts of opening and closing car doors; people greeting one another; and cars parking, starting and running will cause significant noise. Eighteen at the same time plus the comings and goings during retail hours! Classes and retail operations being held evenings and Saturdays are when most people are home and enjoying the benefits of country life. These benefits will be greatly diminished if GEG is allowed to operate in this neighborhood community.

Setting Precedent

1500 Road is a rural and primarily residential neighborhood. People live here because they enjoy the rural nature of the area and living in a natural environment. We want to preserve that setting.

I am most concerned about setting precedent. If this business is allowed, other businesses may spring up and it will be difficult to deny future requests when a precedent has been set. There are several lots along this road and the opportunity for a business may lure others to open businesses. This is hard to predict but most troubling.

Additional Neighborhood Impact

I am concerned that the business plan is misleading about the impact on the community.

- The owner states that the business will be located in an existing building adjacent to the owner's residence. Technically that may be true, but it is my understanding that another outbuilding will be built to store the equipment that is currently stored in the existing building. So the final

outcome will be an additional building on the property. In fact, there is already a builder's sign in the driveway. Of concern here is if Ms. Fairbanks-Ishmael is misleading you in this fact, what other parts of her proposal are misleading?

- Landscaping does not screen public view overnight. It takes years for "vegetation" to grow to the size that it would screen cars, people, and activity.
- A sign is to be erected next to the driveway. How big will this sign be? Will it be lighted? This is the only business sign on this road and this certainly will have an impact on the neighborhood.
- Her plan indicates 10 to 18 roundtrips generated during the weeknight and retail hours may generate 15 to 30 roundtrips on the weekend. According to her sample calendar, there may be up to four classes per week; up to 18 students + 1 instructor per class which is 76 roundtrips for classes alone. Add the retail operation two days per week and there will easily be over 100 roundtrips per week. Another misleading fact in her proposal. And if the business grows and retail sales increase, there is no way to estimate the number of roundtrips evenings and weekends. The Commission can limit the number of people attending a class, but there is no way to limit the number of customers at a retail facility.
- Another impact is the trash. Trash is picked up in this neighborhood on Tuesdays. Usually the Fairbanks-Ishmael's do not take the empty trash cans back from the driveway for 1-2 days later. If this generates more trash, that is additional empty trash cans sitting in the driveway for days.

I am not opposed to the business—I am opposed to its location. With the number of classes she plans to have, and especially since there is a retail operation involved, why can't she buy or rent business space in zoned areas like other businesses? I am confident there are plenty of spaces in Lawrence, Baldwin City, or Eudora that would be suitable, reasonably priced, and draw from the same customer base as her home. I'm sure those communities would welcome her business. From my viewpoint, when other space is available, there is no reason to allow a zoning variance to a neighborhood that is zoned agricultural/residential.

For the reasons I have stated, I am strongly opposed to this use permit. I do not know how Ms. Fairbanks-Ishmael can state unequivocally that "nearby properties will suffer no detriment" and that "no hardship is expected to impact neighboring landowners." In reality, Ms. Fairbanks-Ishmael has not approached neighbors to explain her plan, has not asked for their feedback so it could be addressed before she finalized her plan, and, in fact, she has never introduced herself to us since she has lived here. How can she be so sure that there will be no hardship or suffer no detriment when she doesn't even know our expectations for the neighborhood or concerns about a business in the neighborhood? Had she done that long ago, I would have hoped that as a responsible neighbor she would have changed her plans and selected another location.

I urge you to deny this request. Thank you again for the opportunity to comment.

Sincerely,

Karen Watney
847 E 1500th Road
Baldwin City, KS

**PLANNING COMMISSION REPORT
Regular Agenda**

PC Staff Report
1/27/14

ITEM NO. 5: CONDITIONAL USE PERMIT FOR LODGING HOUSE AND RECREATION FACILITY TO BE KNOWN AS A HOSTEL AND BANQUET Hall; 1804 E 1500 RD (SLD)

CUP-13-00492: Consider a Conditional Use Permit for a Lodging House and Recreation Facility to be known as a hostel and banquet hall, located at 1804 E 1500 Rd. Submitted by Shane Powers, for Earl Stagg, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit for the Lodging House and Recreation Facility and forwarding it to the Board of County Commissioners with a recommendation for approval based on the findings of fact found in the body of the staff report subject to the following conditions:

- 1) The provision of a revised Conditional Use Permit Site Plan with the following changes:
 - a. Addition of the following note regarding the building requirements: *"Submission and approval of building plans to the Zoning and Codes Office is required for the hostel and assembly area uses. Adaptations to the existing buildings to bring them into code compliance shall be completed prior to release of a certificate of occupancy for the use."*
 - b. Revise the site plan to show the location of additional off-street parking spaces per staff approval prior to issuance of an occupancy permit for capacity more than 85 people prior expansion of the assembly use.
 - c. Provide a note on the site plan that states *"Well water is not an approved water source for public use. the operator will supply bottled water or another public water supply for the use per the approval of the Douglas County Health Department."*

Reason for Request: *"We would like to use the property to operate a small (5 guests) Hostel style lodging house, as well as host events such as wedding receptions, banquets, private parties, and corporate outings."*

KEY POINTS

- The proposed uses, Lodging Facility and Recreation Facility, are permitted in the B-1 District with approval as a Conditional Use.
- Section 12-319-4.11 and 12-319-4.22 of the Zoning Regulations for the Unincorporated Territory of Douglas County lists *Recreation Facility* and *Rooming, Boarding and Lodging Houses and Similar Uses* as uses which may be approved as a Conditional Use.

ATTACHMENTS

- A – CUP Plan
- B – Floor Plan
- C -- Final Plat
- D – Airport Master Plan
- E – Northeast Sector Plan Land Use Map 3-1.

DESCRIPTION OF USE

The applicant is requesting a Conditional Use Permit to allow the development of a recreation facility that will accommodate special events and lodging. The property is developed with an existing house and accessory buildings.

The site plan includes a floor plan of the assembly and hostel use. The first floor includes a 575 SF space with a 200 SF kitchen. The first floor also includes a bathroom, and storage space. The second floor includes an additional 700 SF of assembly space and a 120 SF room identified as "multi-purpose". Two bedrooms are located on the second floor of the building and would accommodate the proposed hostel use. (See attachment)

The existing residence will remain a resident occupied use. The 2,596 SF building to the north is intended for use for the reception/event space use and hostel use as available. The plan for the property is to primarily be a reception/event space with the Hostel use being provided during off-peak times so that the two uses do not overlap.

The existing garage accommodates the required residential parking. The remaining surface parking accommodates the proposed assembly use.

The applicant indicated that the initial intensity would be for a maximum occupancy of 85 with the eventual occupancy expanding to 150. Building improvements are required to accommodate the maximum planned occupancy. Until such improvements are made, the occupancy is capped per the applicable building codes.

ASSOCIATED CASES/

- SP-7-67-98: Site Plan for auto sales
- SP-3-25-99: Site Plan for photography studio.
- SP-12-79-00: Site Plan for photography studio.
- Miller's Subdivision – platted 1984 w/access restriction along the south and west property lines.
- Z-1-1-98; B-3 to B-1; Lot 1, Miller Subdivision. (1804 E. 1500 Rd.) [Olmstead] [Resolution 99-24].

OTHER ACTION REQUIRED

- Approval of Conditional Use Permit by the Board of County Commissioners.
- Conditional Use Permit Plan released to the Zoning and Codes Office.
- Issuance of permit for the Conditional Use by the Zoning and Codes Department following application and determination that all conditions have been met.
- Building plans submitted for approval and issuance of building permit from the Douglas County Zoning and Codes Office prior to development.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No public comment has been received.

GENERAL INFORMATION

Current Zoning and Land Use: B-1(Neighborhood Business District) existing single-family residence and outbuildings used for office uses.

Surrounding Zoning and Land Use: To the north and east:
A (Agricultural) District. Agricultural uses.
To the south and west:
B-2 (General Business) District. Agricultural uses to

the west, hotel use to the southwest, residential use to the south, agricultural use to the southeast.



Site Summary:	
Subject Property:	1.2 acres including right-of-way
Existing Buildings:	4 existing buildings <ol style="list-style-type: none"> 1,830 two story residence with office [1,058 1st floor; 772 SF 2nd floor]. 2,596 SF two story building for reception use and hostel. 816 Sf metal storage building along rear of property. 480 SF storage building along E 1500 Road [former gas station].
Proposed Buildings:	No new building proposed with this project.
Off Street Parking Required:	Existing Residence; 1 space per residence = 1 Reception Hall; 1 space per 5 seats. Initial occupancy planned for 85. Future occupancy planned for 150. <ol style="list-style-type: none"> 85/5 = 17 spaces 150/5 = 30 spaces Rooming, boarding or lodging house 1 space per 2 sleeping rooms. 2 sleeping rooms (maximum 5 guests) 1 required space. <i>Space requirement met when assembly use not active.</i> 18 spaces (Maximum Occupancy 85) – 31 spaces (Maximum Occupancy 150)
Off Street Parking Provided:	17 surface spaces provided. 1 garage space provided. Total spaces provided 18.

Off Street parking for this use must address the residence (primary use) and the assembly use based on the maximum occupancy. The current off-street parking provides the minimum code required spaces to support the use the initial plans for an assembly use with a maximum occupancy of 85 people. To expand the use to the 150 occupancy level additional off-street parking will need to be

provided. This would require a revised plan to provide the additional 13 parking spaces. Additional clearing of the property and expansion of the parking areas could provide the necessary parking spaces required. Staff recommends that the applicant submit a revised site plan for staff review prior to expansion of the occupancy to review the required off-street parking. Alternatively the applicant could seek a variance from the County Board of Zoning Appeals to address this standard. At this time the use is limited to the maximum occupancy of 85 people with the available parking.

The Code requirement of 1 space per 5 seats may be low and could result in overflow parking along E 1500 Road. If this occurs the applicant should consider providing additional spaces on-site.

I. ZONING AND USES OF PROPERTY NEARBY

This property is zoned commercial and is surrounded by both commercial and agricultural zoning. Land uses include rural residential homes, business uses and agricultural uses along the US Highway 24/40 Corridor.

US Highway 24/40 is a designated principal arterial street. E 1500 Road (west property line) is designated as a rural minor collector road north of the highway and a rural major collector road south of the highway.

Staff Finding – Nearby properties are zoned for commercial and agricultural uses.

II. CHARACTER OF THE AREA

The subject property is located north of the City of Lawrence within the Urban Growth Boundary. This area is dominated by the Lawrence Municipal airport and agricultural uses. Non-residential uses are located along the highway frontages of US 24/40 and 24/59 in the area. Scattered rural residential homes are located along the county roads. This area also includes multiple parcels owned by KU Endowment and represents open space within the area.

Another defining characteristic of this area is the prevalence of Class 1 and 2 soils within this area. This is consistent with the numerous agricultural uses in the area.

The Northeast Sector Plan describes this area as follows:

"The dominant character of the area is rural in nature although there are a variety of uses within the planning area. The main rural uses in the flat lower parts of the planning area are agricultural row crop, livestock production, and pastureland uses.

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

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

Staff Finding -- The area contains agricultural land uses throughout the majority of the area. However, a variety of commercial and industrial uses are located along 24/40 and 59 Highways.

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

Applicant's response:

"The property zoning restrictions were amended to accommodate a photo studio. Since the photo studio moved approximately 1 year ago, the property has been listed for sale or lease, but remains vacant. The open floor plan and number of rooms lend the property greatly to the proposed use."

This property is currently zoned B-1 to accommodate both the commercial and residential uses. The property has a history of mixed use. Approval of the Conditional Use Permit does not alter the base zoning district. The property will remain suitable for residential and commercial uses. The intent of the applicant is to invest in the property by providing a use in the 2,596 SF building north of the residence.

The B-1(Neighborhood Business) District allows automobile parking lots and storage garages, filling stations, retail uses such as dressmaking, tailoring, decorating, shoe repair, household appliance repairs, dry cleaning and similar uses, Personal service uses including barber shops, banks, artist's studio, restaurants and additional commercial uses listed in Section 12-309 of the County Zoning Regulations.

The "Hostel" use is limited to two sleeping rooms. It is proposed as a future use based on needed building safety improvements and would accommodate a maximum of 5 guests as stated in the application. The residence is intended to remain a residence with and not be used for the other proposed activities but may provide some home office space in the management of the proposed uses. The Rooming, Boarding or Lodging House use is very low impact.

The assembly use is associated with peak activity usually on the weekends and evenings. They do not generally occur on a daily basis but certainly could be if approved. Other uses allowed in the B-1 District of an assembly nature include churches, colleges and schools, nonprofit libraries, museums, and art galleries listed in Section 12-308.

Suitability then must be directly related to the ability of the subject property to sustain the activity in terms of utilities and parking.

Parking Suitability

As noted above off-street parking is a consideration. The planned development with a 150 occupant capacity would require more parking than is currently shown on the face of the site plan. The current design and off-street parking accommodates the initial occupancy capacity of 85 people.

Water/Sewer Suitability

It was noted in the review that well water will not be permitted to serve this property for public activities. The applicant will be required to provide bottled water or provide some kind of public water supplier. City Water is adjacent to this property however; access to that water supply would require annexation of the property into the City of Lawrence. Staff recommends a note be added to the face of the site plan indicating how water will be provided for the proposed use.

Compliance with minimum sanitary codes is required for this use. Staff has provided additional detail to the County Health Department for evaluation of the assembly use. The applicant is required to coordinate with the County Health Department as well as the County Zoning and Codes Office to meet minimum required building and health codes for this use. The applicant has been advised of these requirements.

Staff Finding –The property is well suited for commercial use with a limited level of intensity that balances the use with the available parking. The proposed use will facilitate continued investment in the property and existing improvements.

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

Appraisal records indicate this property was developed in 1950. The property was surveyed by the State Historic Preservation Office for possible listing. It was determined that the improvements have been modified and thus make the property ineligible for listing as a historic property.

This property was rezoned from A to B-3 (Limited Business District) in 1984 to accommodate an antique store. The property was rezoned in 1998 from B-3 to B-1. This change allowed the existing residence to be established as a conforming use. Residential uses are not permitted in the B-3 District.

Staff Finding – The property is currently developed with a residence and outbuildings. The current zoning has been in place since 1998.

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

Applicant's Response:

"There are no detrimental effects to nearby property. All effects should be positive, including: increased business traffic in an otherwise commuter-based area, as well as prevention of an historic property from falling into disrepair from lack of inhabitation."

A Conditional Use Permit does not alter the base zoning district. This property has a history of non-residential use. The property is located along arterial and collector streets providing adequate access to the property. Previous site plan approval required the closure of driveways to Highway 24/40. Access to the site is restricted to the north end of the site from E 1500 Road. There are no changes to the access proposed with this application.

The property is zoned commercially and located along a designated commercial corridor within the area.

The proposed assembly uses and accompanying traffic is likely to be more intensive than the previous photographic studio. Residential uses are located on the south side of Highway 24/40 east of E 1500 Road. An existing hotel and large agricultural operation are also located on the south side of Highway 24/40 west of E 1500 Road.

Agricultural fields are located to the immediate north, east and west on the north side of Highway 24/40 and are not anticipated to be impacted by the proposed use. Additionally, the airport property to the east is planned for development that would include airport related uses increasing the presence of non-residential uses in the immediate area.

The agricultural properties to the north east and west of the subject property are limited in the ability to develop due to the proximity of the airport. Long terms plans for the airport include future acquisition of land at the end of the runway northeast of the subject property.

Staff Finding –There should be no negative impacts from the proposed use.

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 proposed Conditional Use Permit would generate more tax revenue for the City of Lawrence and Douglas County than the current office use zoning allows for."

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property. Denial of the request for a Conditional Use Permit would prohibit the use of this property as proposed for lodging (Hostel) and recreation facility (reception hall/event center).

Approval of the CUP request would accommodate private investment in an existing commercially zone property with existing improvements. The property size limits the intensity of the improvements. The lodging use could be accommodated if the property were rezoned to B-2. However that would also increase the scope of commercial uses allowed in the district including drive-in restaurants, warehouse uses, recreation uses including bowling alleys, billiard parlors, and amusement places, skating rinks, or dance halls as well as an auditorium or theater. These uses are currently allowed in the abutting B-2 District to the west of E 1500 Road north of Highway 24/40 and to the south of the subject property along both sides of E 1500 Road on the south side of Highway 24/40. The significant difference is that the proposed uses require a Conditional Use Permit in the B-1 District.

In 2000 a site plan was submitted for the construction of the 2,596 SF building north of the residence for an office type use. At that time, driveway access was required to be removed from Highway 24/40 so that the only access to the property is provided from E 1500 Road at the north end of the property. This improves the traffic flow and safety along the highway.



Staff Finding – There would be no public benefit from the denial of the request which would prohibit the reinvestment in this existing property. The approval of the request would benefit both the public and the applicant by enhancing property and providing an economic benefit.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"With the proximity to North Lawrence, it is reasonable to assume that guests and tourists in the vicinity will reinforce the plan to support/expand N. 2nd & N. 3rd Street commerce."

The subject property is located within the Lawrence Urban Growth boundary and within the boundary of the *Northeast Sector Plan*. Both *Horizon 2020* and the Sector Plan recognize this intersection as a Neighborhood Commercial Center. *Horizon 2020* lists the intersection of E 1500 and Highway 24/40 as a potential location for future neighborhood commercial development in Chapter 6 (page 6-21). The Sector Plan shows this specific property as commercial on Map 3-1 of the plan. The property is currently zoned consistent with these land use recommendations.

Staff Finding – The proposed use is in conformance with the recommendations in the Comprehensive Plan as well as the *Northeast Sector Plan*.

STAFF REVIEW

A recreation facility is being proposed with this CUP application. The CUP is for both an event space (reception hall, weddings, banquets, private parties, and corporate outings) as well as to providing lodging in the form of a hostel. The related code use for the lodging use is considered to be a "rooming, boarding and lodging house or similar use." In this application the lodging will be provided in one of two sleeping rooms in a building separate from the residence. This is proposed as a future use and requires improvements to comply with minimum building safety standards. The applicant has been advised of these requirements and is working with County staff to address these issues. The use can be approved with this Conditional Use Permit, however the structure will need to meet the building requirements prior to actual use. A note on the face of the plan should be added to indicate this requirement.

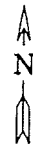
Vehicular access to the property will be limited to E 1500 Road. No changes to the existing vehicular access are proposed with this project.

Parking provided for the initial phase of the use (maximum occupancy capacity of 85 people) meets the minimum Code requirements. The applicant may need to provide additional parking if they find that attendees are parking along the road. Additional off-street parking will be required prior to expansion of the activity (including the 2nd floor of the building). The site plan includes areas that could be expanded to accommodate the required off-street parking needed for the increased capacity. These spaces would need to be constructed concurrently with the expansion of the capacity.

The proposed use will maintain the continued use of this property as a mixed residential/commercial use.

Conclusion

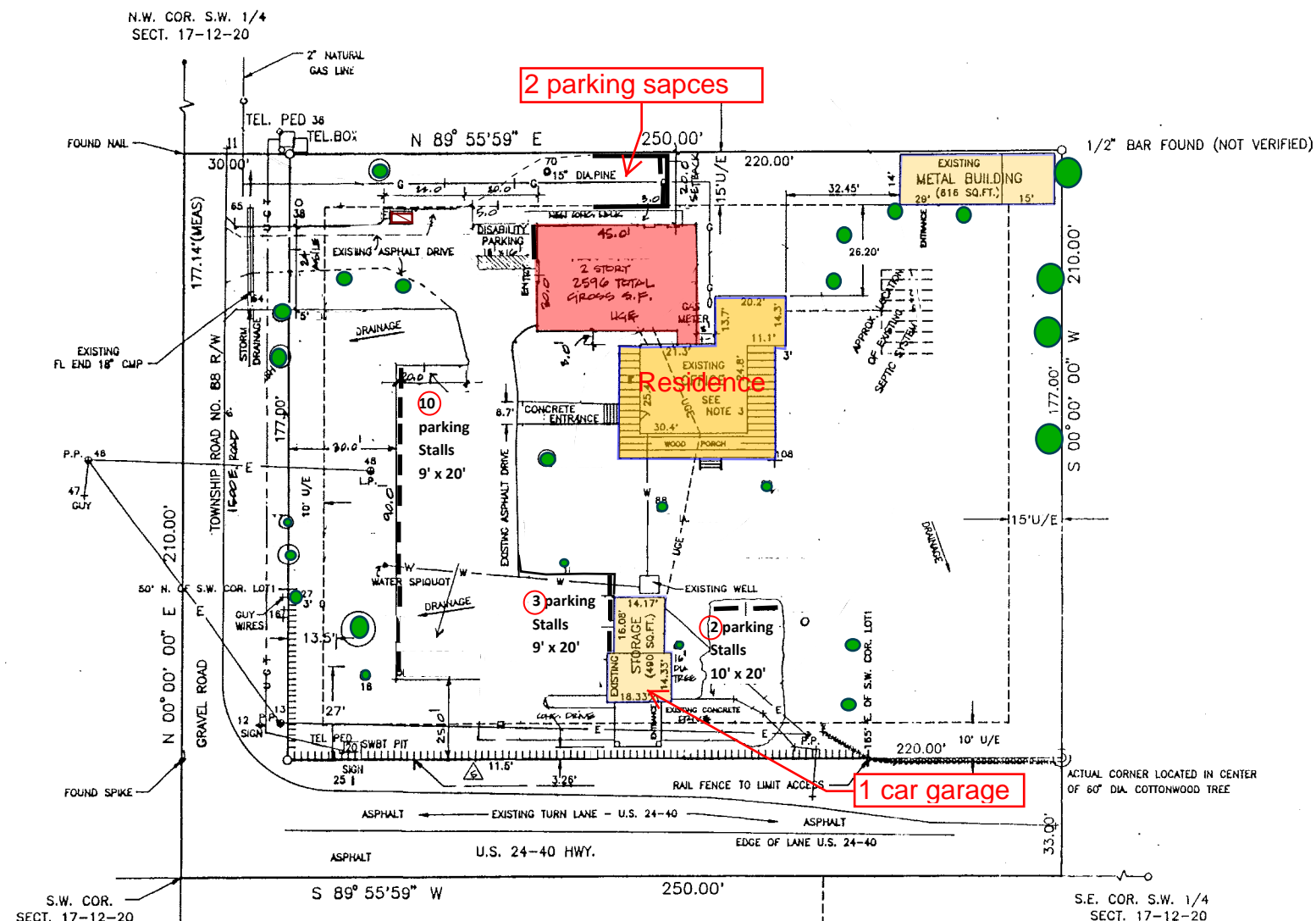
Approval of a Conditional Use can be tailored to address specific issues such as intensity or frequency of use, include time limitations, and provide screening requirements and additional parking requirements. The recreation facility and lodging house, as proposed, should be compatible with nearby land uses for the initial phase with a maximum capacity of 85 people. The recommended conditions are intended to document the areas for additional parking to accommodate an increased capacity not to exceed 150 people for a single event. The increased capacity is dependent upon the applicant's ability to meet the minimum building code requirements for the use. Occupancy of the building will require submission and approval of applicable building permits and the acquisition of an occupancy permit.



SCALE: 1" = 20'

LAWRENCE MUNICIPAL AIRPORT

A BRASS CAP NEAR THE SOUTHWEST ANGLE OF THE JUNCTION OF A TAXIWAY AND A PARALLEL TAXIWAY FOR RUNWAY 14-32 AT THE LAWRENCE MUNICIPAL AIRPORT STAMPED LLOYD 1988. THE PUBLISHED ELEVATION IS 828.75 FEET REFERENCED TO NAD 83.



DESCRIPTION :

MILLER'S SUBDIVISION LOT 1 LEGALLY DESCRIBED AS;
BEGINNING AT THE SOUTHWEST CORNER OF SECTION 17,
TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN;
THENCE N 00° 00' 00" E ALONG THE WEST LINE OF THE SOUTHWEST
QUARTER (S.W. 1/4) OF SAID SECTION 17, 210.00 FEET; THENCE
N 89° 55' 59" E, 250.00 FEET; THENCE S 00° 00' 00" W 210 FEET TO THE
SOUTH LINE OF THE SOUTHWEST QUARTER (S.W.1/4) OF SAID SECTION 17;
THENCE S 89° 55' 59" W ALONG THE SOUTH LINE OF SAID SOUTHWEST
QUARTER (S.W.1/4) 250.00 FEET TO THE POINT OF BEGINNING,
CONTAINING 1.20 ACRES, MORE OR LESS, ALL IN DOUGLAS COUNTY, KANSAS.

VEHICULAR ACCESS CONTROL

PRESENT LIMITS

1. NO VEHICULAR INGRESS OR EGRESS SHALL BE PERMITTED TO LOT 1 WITHIN THESE LIMITS.
2. EXISTING DRIVES WITHIN THESE LIMITS SHALL BE APPROPRIATELY BLOCKED TO PREVENT VEHICULAR ACCESS.

LEGEND

---	UGT	UNDER GROUND TELEPHONE
---	UGE	UNDER GROUND ELECTRIC LINE
---	E	ELECTRIC LINE
---	W	WATER LINE
---	G	GAS LINE

Existing Trees

GENERAL NOTES:

1. THIS EXISTING SITE WAS NOT ORIGINALLY DESIGNED FOR ADA COMPLIANCE. HOWEVER, DESIGNATED LOCATIONS EXIST FOR PARKING COMPLIANCE. THE BUILDINGS ARE EXISTING.
2. EXISTING ZONING IS B-1 **Reception Hall/Hostel**
3. BUILDING INFORMATION: 2 STORY HOUSE= FIRST LEVEL 1058 SQ.FT. - ~~OFFICE~~ WITH LESS THAN 250 SQ. FT. OF PUBLIC ACCESS AREA. SECOND LEVEL = 772 SQ. FT. ~~NON PUBLIC ACCESS~~. STUDIO = 2596 GROSS S.F. STORAGE AREA = NON PUBLIC ACCESS. METAL BUILDING = EXTERIOR OF BUILDING USED FOR PHOTO PROP.
4. PARKING REQUIREMENTS: 18 REQUIRED - PARKING PROVIDED: 18 SPACES INCLUDING 1 ACCESSIBLE (HDP).
5. ALL UTILITIES SHOWN ARE APPROXIMATE AND SHOULD BE VERIFIED PRIOR TO CONSTRUCTION.
6. ALL OWNERSHIP, BOUNDARY, RIGHT OF WAY, AND EASEMENT INFORMATION SHOWN HEREON IS BASED UPON THE PLAT OF MILLER'S SUBDIVISION LOT 1 AS FILED IN THE DOUGLAS COUNTY REGISTER OF DEEDS OFFICE IN BOOK P-15, PAGE 89.

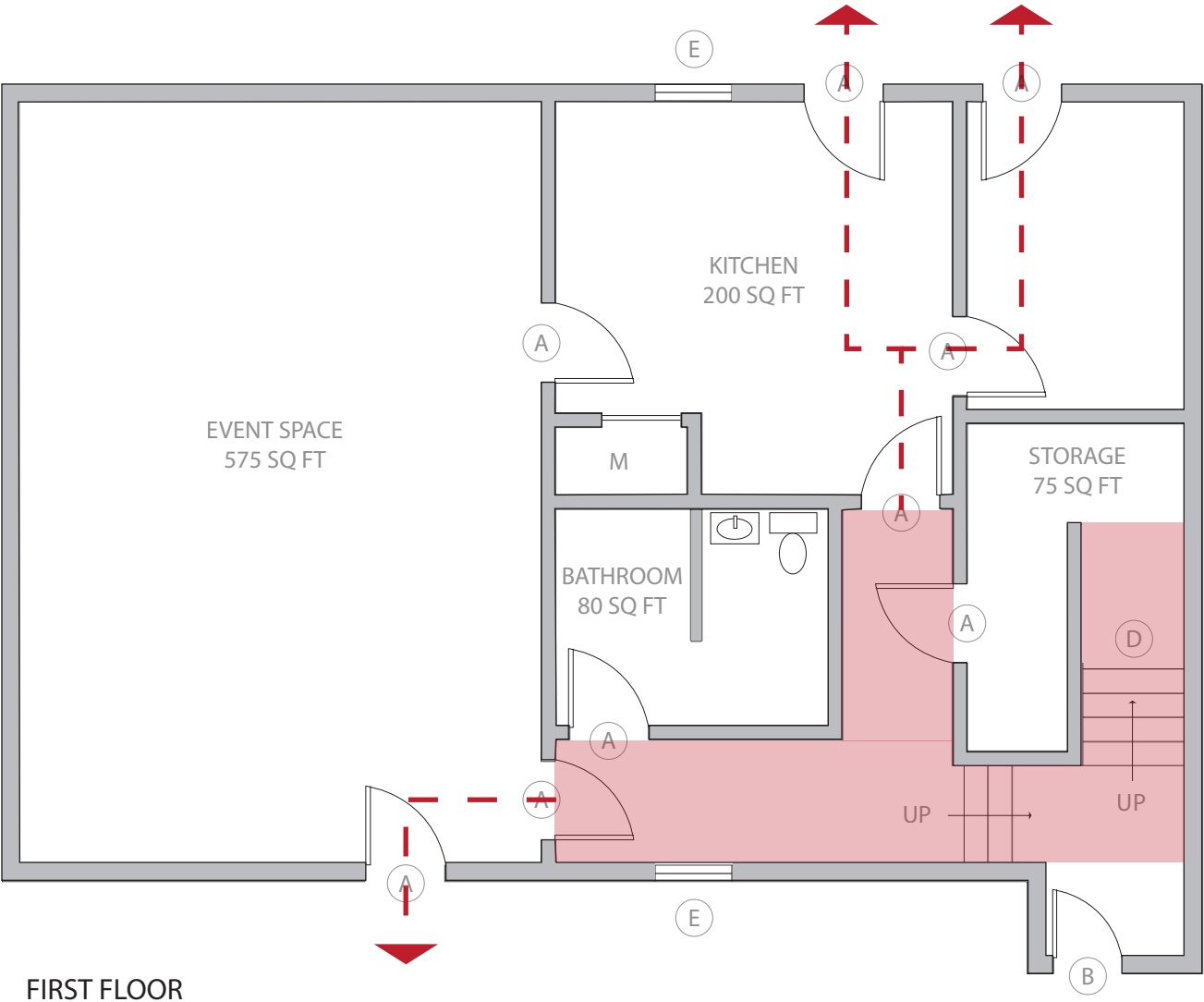
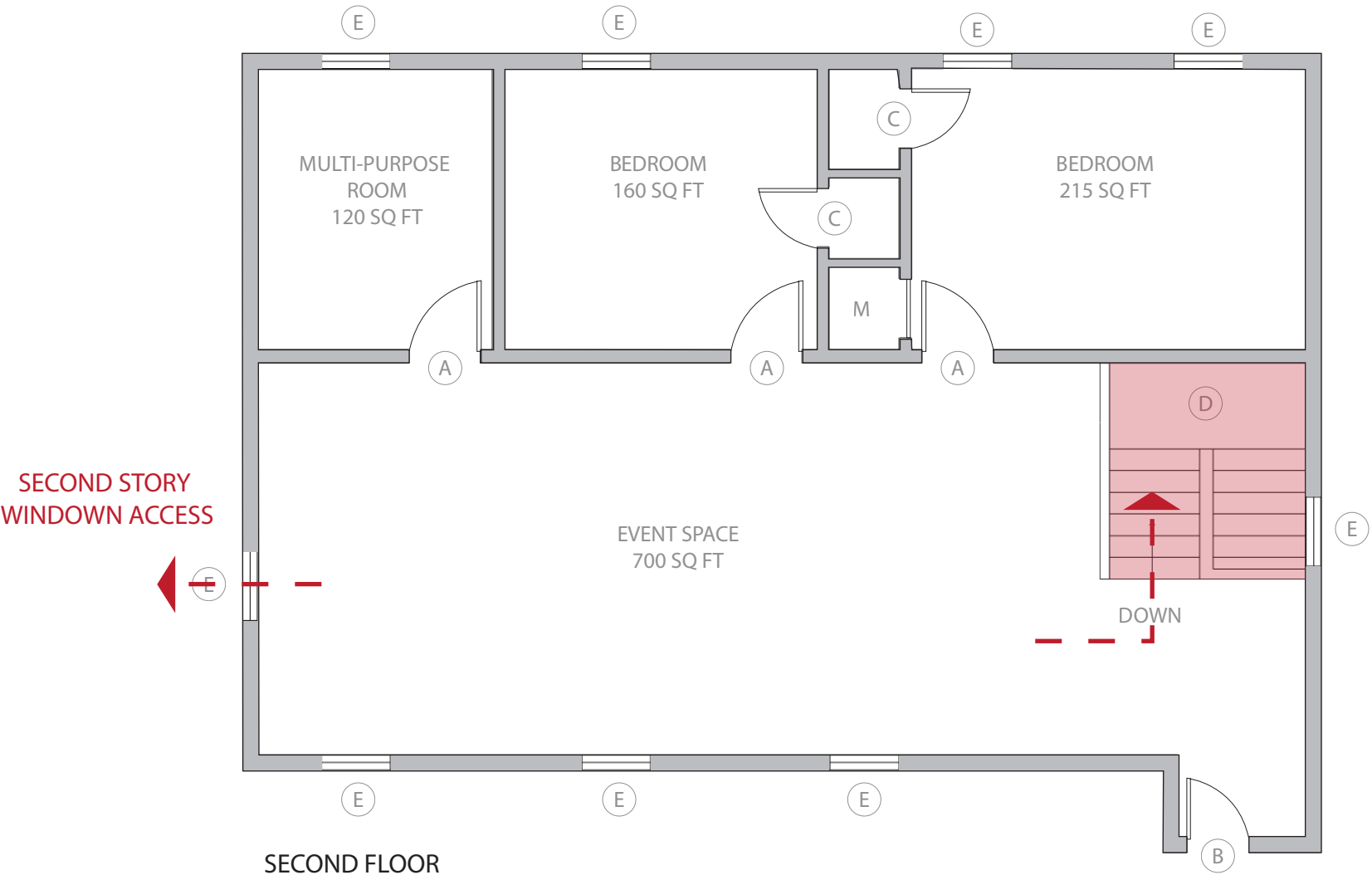
SURVEYORS CERTIFICATION:

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS BASED ON ACTUAL FIELD SURVEY OF THE ABOVE DESCRIBED PROPERTY AS OF THIS DATE, AND WAS MADE UNDER MY DIRECT SUPERVISION. THIS SURVEY IS NOT TO BE CONSTRUED AS A LEGAL SURVEY. THIS DRAWING IS FOR CONSTRUCTION PURPOSES ONLY. NO RESPONSIBILITY IS ASSUMED FOR EASEMENTS OR RIGHT OF WAYS NOT SHOWN ON THE RECORDED PLAT.

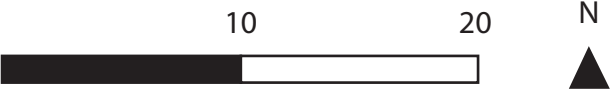
Bradley N. Anson
BRADLEY N. ANSON LS 808

May 5, 1999
DATE

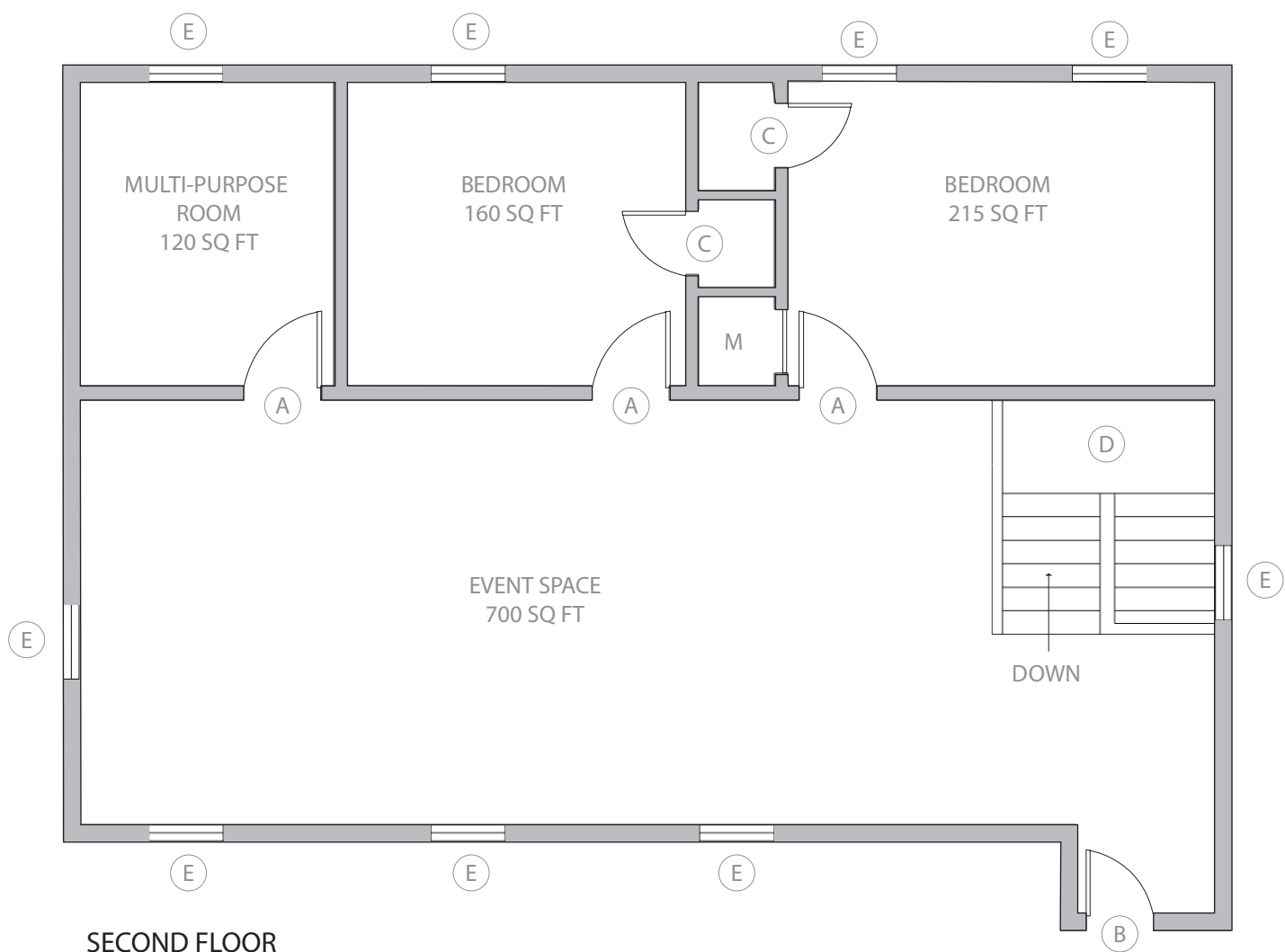
Revised by
Planning Staff
Jan. 2014



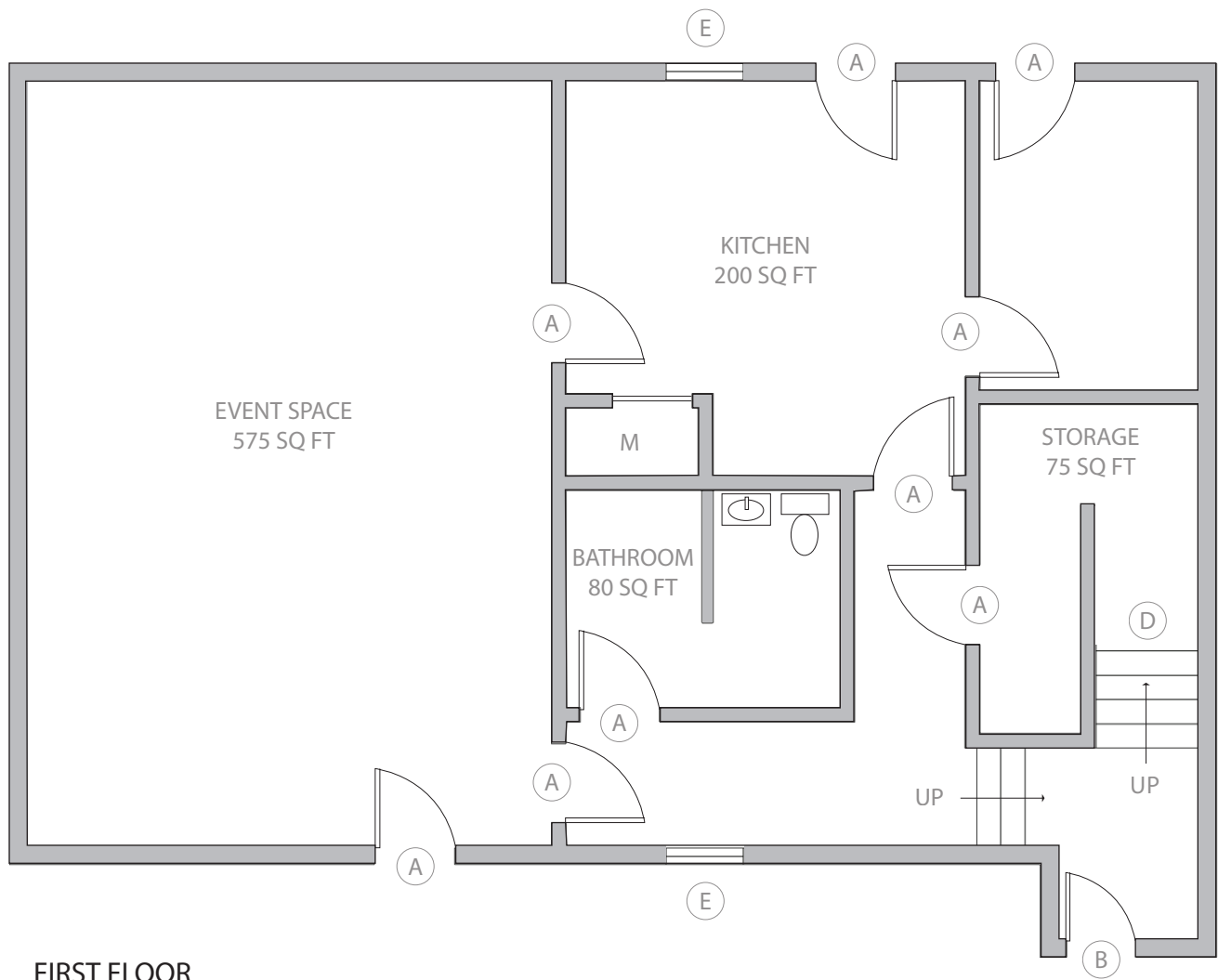
- A 36" DOOR WIDTH
- B 31 1/2" DOOR WIDTH
- C 30" DOOR WIDTH
- D STAIR WIDTH
- E 35" WINDOW WIDTH



SCALE: 1/8" = 1'



SECOND FLOOR



FIRST FLOOR

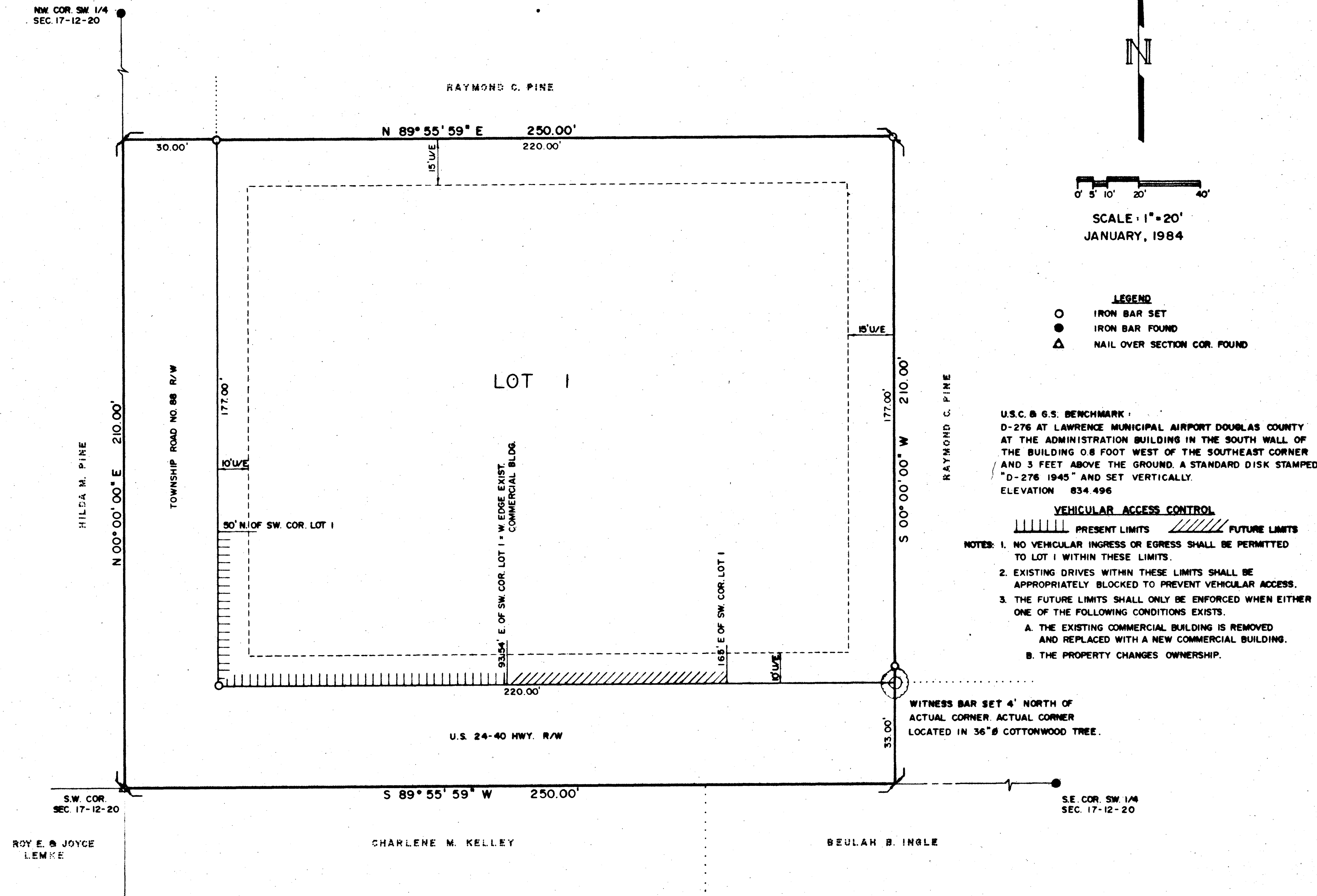
- A 36" DOOR WIDTH
- B 31 1/2" DOOR WIDTH
- C 30" DOOR WIDTH
- D STAIR WIDTH
- E 35" WINDOW WIDTH

SCALE: 1/8" = 1'

N



A FINAL PLAT OF
MILLER'S SUBDIVISION
IN DOUGLAS COUNTY, KANSAS



LEGAL DESCRIPTION

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 17, TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN; THENCE N 00°00'00" E ALONG THE WEST LINE OF THE SOUTHWEST QUARTER (S.W. 1/4) OF SAID SECTION 17, 210.00 FEET; THENCE N 89°55'59" E 250.00 FEET; THENCE S 00°00'00" W 210.00 FEET TO THE SOUTH LINE OF THE SOUTHWEST QUARTER (S.W. 1/4) OF SAID SECTION 17; THENCE S 89°55'59" W ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (S.W. 1/4) 250.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1.20 ACRES, MORE OR LESS, ALL IN DOUGLAS COUNTY, KANSAS.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLATTED AREA SHOWN HEREON REPRESENTS ALL BOUNDARIES AND ACCURATELY GIVES ALL LOT DIMENSIONS; AND IRON BARS HAVE BEEN FOUND OR SET AT PROPERTY CORNERS AS SHOWN ON THE PLAT.

Walter P. Ward
WALTER P. WARD R.L.S. #606
DATE OF RESURVEY:



DEDICATION

KNOWN ALL MEN BY THESE PRESENTS THAT WE THE UNDERSIGNED HAVE CAUSED THE ABOVE DESCRIBED LAND TO BE SURVEYED AND PLATTED UNDER THE NAME A FINAL PLAT OF MILLER'S SUBDIVISION IN DOUGLAS COUNTY, KANSAS AND HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO A LOT AND STREETS IN AND SHOWN HEREIN. THE STREETS ARE HEREBY DEDICATED TO THE PUBLIC FOR STREET, UTILITY, AND DRAINAGE PURPOSES. THE EASEMENTS ARE HEREBY DEDICATED TO THE PUBLIC FOR UTILITY AND DRAINAGE PURPOSES.

IN TESTIMONY WHEREOF

PAUL F. MILLER AND MARY LOU MILLER, HUSBAND AND WIFE, HAVE CAUSED THESE PRESENTS TO BE SIGNED.

Paul F. Miller
PAUL F. MILLER

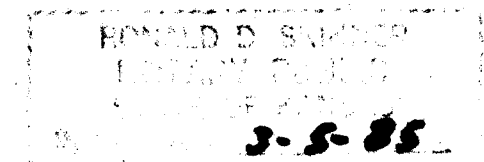
Mary Lou Miller
MARY LOU MILLER
HUSBAND AND WIFE

NOTARY PUBLIC

STATE OF KANSAS SS
COUNTY OF DOUGLAS

BE IT REMEMBERED THAT ON THIS 17th DAY OF January, 1984, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE CAME THE ABOVE NAMED OWNERS TO ME KNOWN PERSONALLY TO BE THE SAME PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME TO BE THEIR VOLUNTARY ACT AND DEED.

Harold D. Skinner
NOTARY PUBLIC



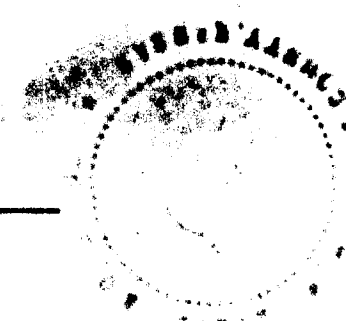
MY COMMISSION EXPIRES March 5, 1985

FILING RECORD

STATE OF KANSAS SS
COUNTY OF DOUGLAS

THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE REGISTER OF DEEDS OFFICE ON THIS 27th DAY OF March, 1984 AT 8:40 A.M., AND IS DULY RECORDED IN BOOK P-15, PAGE 89 OF PLATS.

Shirley Neustetter
REGISTER OF DEEDS



ENDORSEMENT

APPROVED BY
LAWRENCE-DOUGLAS COUNTY PLANNING
COMMISSION, DOUGLAS COUNTY, KANSAS

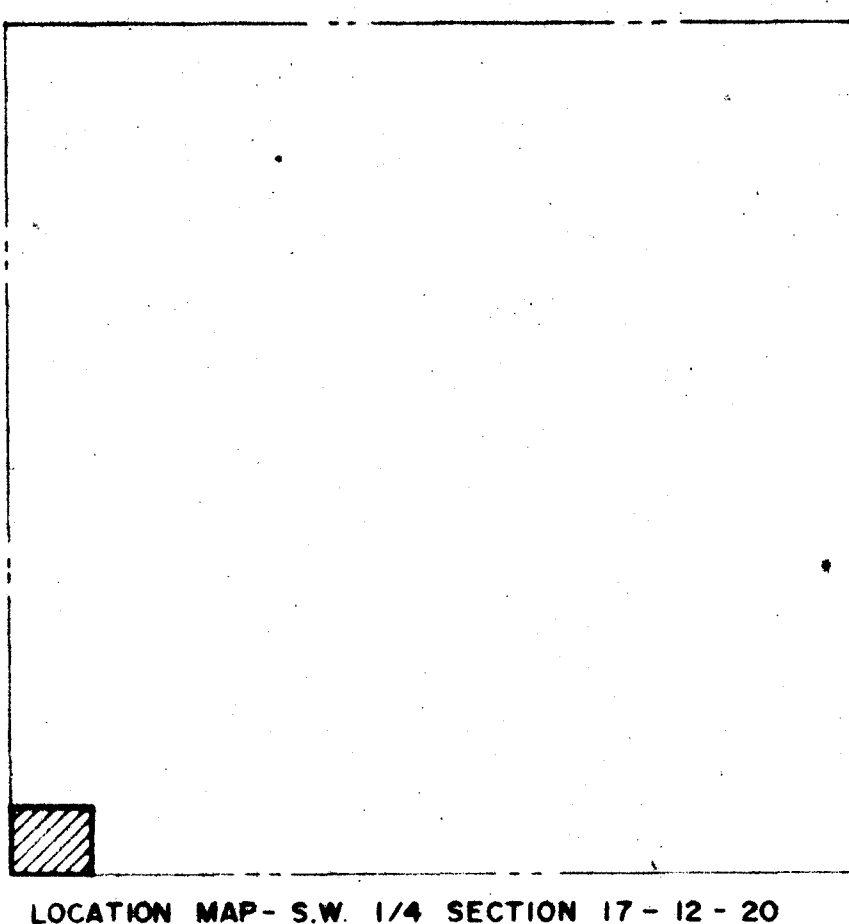
Richard D. Ice
RICHARD ICE CHAIRMAN
DATE Feb 23, 1984

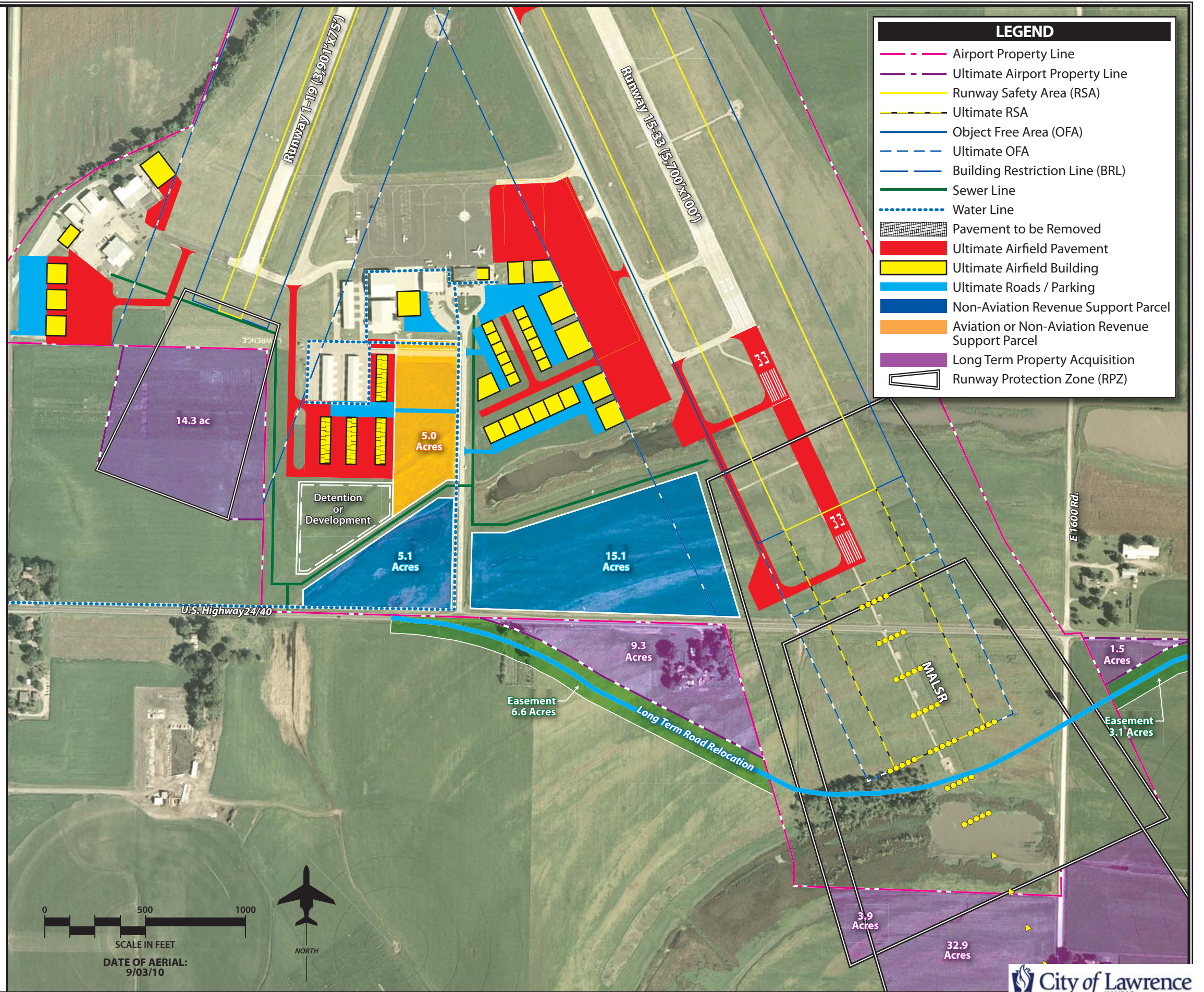
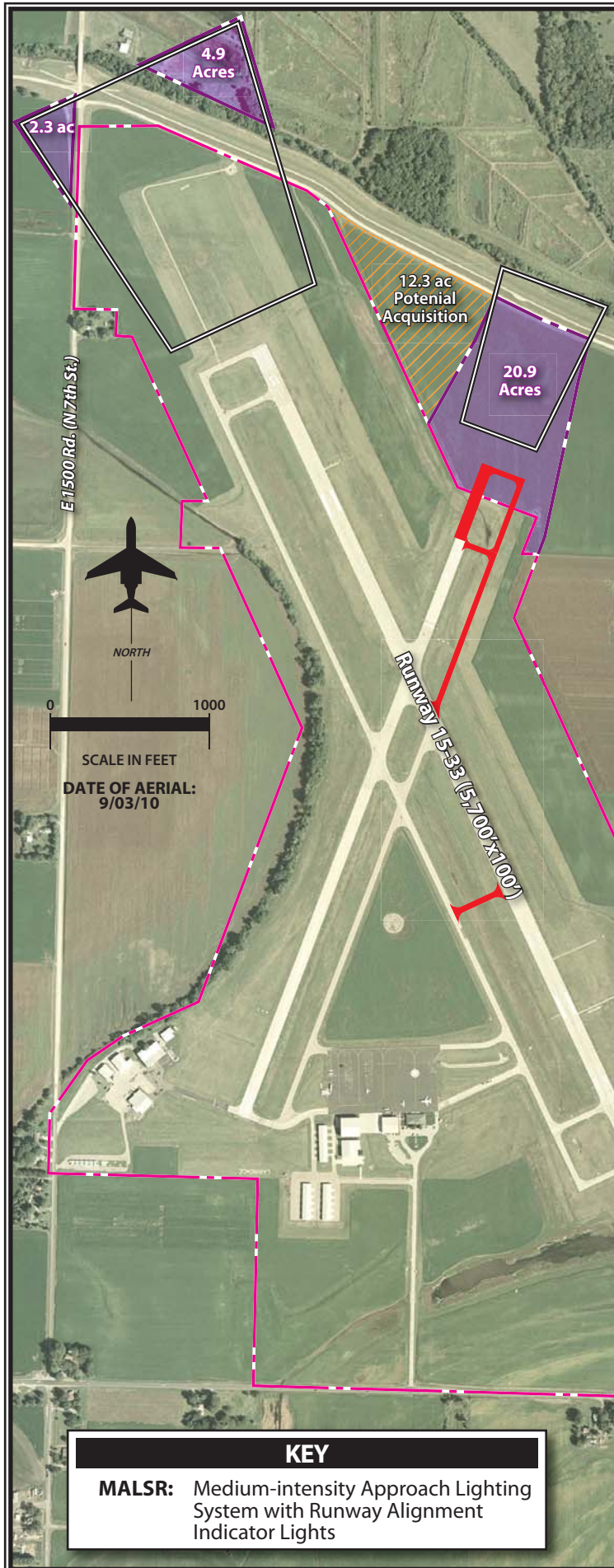
ACCEPTANCE

RIGHTS-OF-WAYS ACCEPTED AND EASEMENTS
APPROVED FOR PUBLIC PURPOSES.

Beverly A. Bradley
BEVERLY A. BRADLEY CHAIRMAN - COUNTY
COMMISSION

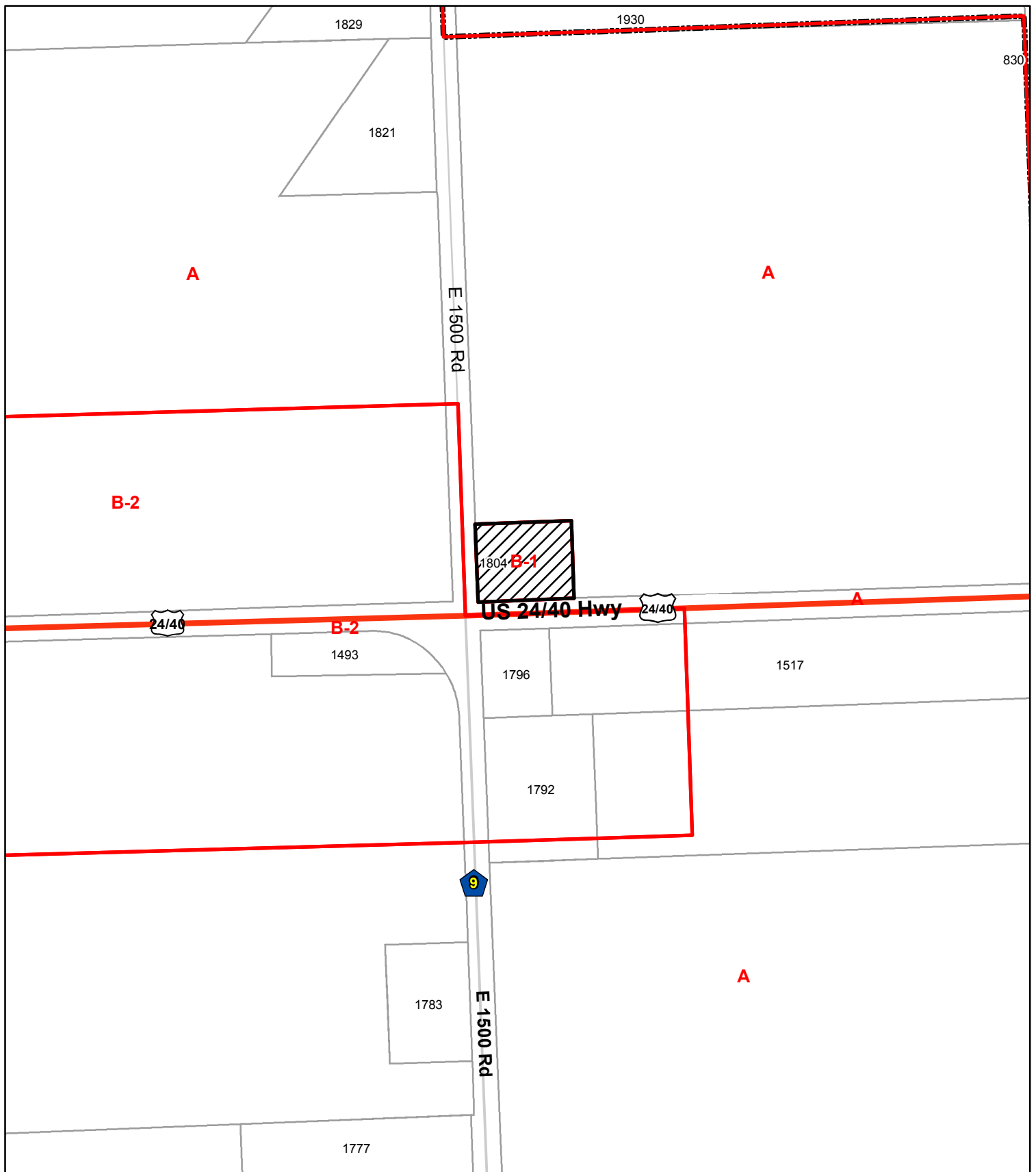
Patty James
PATTY JAMES COUNTY CLERK
DATE March 14, 1984





Northeast Sector Plan





**CUP-13-00492: Conditional Use Permit for a Hostel and Banquet Hall
Located at 1804 E 1500 Road**



PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
1/27/14

ITEM NO. 6 TEXT AMENDMENT TO THE ZONING REGULATIONS; AGRITOURISM (MKM)

TA-13-00451: Consider a Text Amendment to Section 12-319-7 of the Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas to establish criteria and review process for Agritourism uses which may have significant off-site impacts. *(Amendment was initiated by the Board of County Commissioners at their October 16, 2013 meeting.)*

RECOMMENDATION:

Staff recommends approval of the amendment to Section 12-319-7 of the Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas to revise the supplemental use regulations for Agritourism uses.

Reason for Request: To establish additional parameters and standards to address off-site impacts associated with Agritourism uses.

RELEVANT FACTOR:

- Conformance with the Comprehensive Plan.

PUBLIC COMMENT

- A stakeholder meeting was held on November 21, 2013 to discuss the proposed amendment. Attendees included Zoning and Codes Director, planning staff, a member of the Food Policy Group, the former chair of the Planning Commission Agritourism Committee, zoning administrator for Baldwin City, and a neighboring property owner to the site with the proposed KC Pumpkin Patch. The neighbor of the proposed pumpkin patch site requested an evening meeting so more of the property owners/residents in the area could attend to discuss the proposed amendment and explain their concerns with the existing language.
- Staff met with residents who lived near the proposed KC Pumpkin Patch on January 8, 2014. The neighbors explained their concerns with the proposed Agritourism use and suggested measures they felt would protect their properties from off-site impacts of agritourism uses.

ATTACHMENTS

Attachment A: Draft language showing changes.

Attachment B: Draft language with changes incorporated.

BACKGROUND

MORATORIUM:

At their October 16, 2013 meeting the Board of County Commissioners approved a temporary moratorium on the registration of Agritourism uses and initiated a text amendment to revise the Agritourism standards in the *Zoning Regulations for the Unincorporated Territory of Douglas County*. These actions were in response to concerns regarding off-site impacts that could occur with intense Agritourism activities.

STUDY SESSION:

The County Commission held a study session on November 6, 2013 to discuss the concerns and provided staff with the following direction on the type of revisions needed:

- 1) Establish clear parameters to differentiate between the differing intensities of Agritourism activities beyond the current parameter of attendance (over 100 attendees). Possible parameters include:
 - a. The general nature of the Agritourism activity.
 - b. Distance of the Agritourism activity from residences.
 - c. Size and use of the property where the Agritourism activity is proposed.
 - d. Size of facilities (such as structures and parking areas) being proposed for the Agritourism activity.
 - e. Whether the Agritourism operator lives on the site.
 - f. Whether the Agritourism activity is compatible with the rural character of the area.
- 2) Develop standards for Agritourism activities such as parking, screening, and buffering requirements. Provisions related to transportation should also be made for the more intense Agritourism activities such as traffic studies and possible improvements to the roads, if necessary to accommodate the use.

STAKEHOLDER MEETING:

The following suggestions were provided at the stakeholder meeting:

- 1) Develop a clearer limitation on scale of activity than attendance, due to enforcement difficulties. Possibly limit the size of buildings or the number of parking spaces permitted rather than attendees.
- 2) Night-time activity was seen as a factor for off-site impacts.
- 3) Buffering and screening should be required.
- 4) If no residence is on the site, the use may be more intense than if the operator lived on the site.
- 5) Institute a complaint based review of approved uses.

NEIGHBORHOOD MEETING

At the January 8th meeting, the property owners provided the following suggestions:

- 1) Require notification of neighbors for all Agritourism registrations.
- 2) If operator doesn't live on the site or the activity is too close to a residence, the registration should go to the County Commission.
- 3) Attendance is too difficult to measure/enforce. Attendance should be enforced with limitations on parking.
- 4) Neighbors should be notified when a large assembly use is to occur.
- 5) Some of the neighbors suggested that the Conditional Use Permit process should be re-established for all Agritourism uses. (As this exceeded the direction provided by the County Commission, this suggestion was not followed up on.)

OVERVIEW OF PROPOSED AMENDMENT

The proposed draft language was developed based on the County Commission's direction with the suggestions from the stakeholder and neighborhood meetings being taken into consideration. The intent of the amendment is to provide additional safeguards to the nearby properties, insuring the protection of the public health, safety, and welfare while maintaining the intent of the original Agritourism amendment, to facilitate and encourage Agritourism through an abbreviated, streamlined review process.

The following changes are being proposed to the Zoning Regulations:

Housekeeping. A minor housekeeping change is proposed to section 12-319-7.02(a) to correct the section and title for the Special Event Permit reference.

Tiers. The existing language has a two-tiered approach, with all Agritourism uses being reviewed administratively except for assembly uses with more than 100 attendees. The proposed language creates parameters and definitions for these 2 tiers and requires those which may include more intense activities that have more potential for negative off-site impacts to require County Commission approval. The CUP process is re-instated for those Agritourism uses that are of higher intensity than those defined as Tier 2 uses.

Notification. The notification requirement has been expanded to apply to all Agritourism use registrations.

Standards. Standards have been developed for both tiers to assist in the development of uses which do not negatively impact nearby properties. The registration process has been expanded to note the type of plan/information that is needed with the registration materials.

Review criteria. The revised language also provides review criteria. This not only provides guidance for the staff reviewing the registration but also serves as a useful tool for the the potential operator when planning and designing their proposed use.

County Commission Action. The current language notes that the County Commission may place conditions or restrictions on the proposed use. The proposed language improves this by noting the various actions the Commission may take on the registration and providing examples of conditions which could be applied.

Changes to use. The revised language clarifies that any change to the Agritourism use, such as expanding the area of the use, or increasing the amount of parking would require re-registration. The language also clarifies that, in addition to conducting a use that is not listed on the registration, operating out of compliance with the registration site plan or with the conditions/restrictions that were placed on the registration would be considered a violation subject to the enforcement provisions of Section 12-329.

The proposed language will provide the following benefits:

- The proposed revisions will benefit the potential Agritourism Operators by establishing clear parameters and standards as well as review criteria so they can anticipate the type of review the registration will require and can plan the Agritourism use to comply with the established standards. A streamlined and abbreviated review process is still possible for low and medium intensity Agritourism uses.
- The proposed revisions will benefit nearby property owners by including notification so neighbors can be informed of, and have input into, all Agritourism registrations. The standards and review criteria will assist in the development of Agritourism uses that do not negatively impact nearby properties. High intensity Agritourism uses, those which do not meet the definition or parameters of a Tier 1 or Tier 2 use (such as a use which would have more than 100 parking spaces or a use that would utilize motorized vehicles) would require approval through the CUP process or rezoning, or with a Special Event Permit for temporary uses.
- The proposed revisions will benefit staff by providing clear standards and criteria for review and enforcement.

CRITERIA FOR REVIEW AND DECISION-MAKING

The Zoning Regulations outline the process for text amendments in Section 12-314 but does not provide specific criteria for the review of these amendments. The proposed text amendment was reviewed with the following guidance provided in Section 20-1302(f) of the City Development Code:

1) Whether the proposed text amendment corrects an error or inconsistency in the Zoning Regulations or meets the challenge of a changing condition; and

The proposed amendment corrects an error in the Zoning Regulations in that the earlier adopted Agritourism Regulations were found to be deficient in protection standards for nearby property owners. The proposed language includes standards to reduce the potential for negative impacts from Agritourism uses while still providing an abbreviated and streamlined review process for low and medium intensity Agritourism uses.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of the Zoning Regulations. Portions of the referenced documents are below with staff comments following in red:

General goal of the Comprehensive Plan: *"The overall community goal for planning is to provide, within the range of democratic and constitutional processes, 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. It is the intent to meet and safeguard individual rights and vested interests in a manner which will create the minimum disruption in individual freedoms and life values."* (Horizon 2020, Introduction)

The proposed text amendment is consistent with the Comprehensive plan as it provides additional safeguards to protect the public health, safety, convenience while retaining the provisions for a streamlined review process which facilitate and encourage low and medium intensity Agritourism uses.

Stated purpose of the Zoning Regulations: *"The zoning regulations and districts as herein established have been made in accordance with a land use study plan, to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens of Douglas County, Kansas, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for good civic design and arrangement, and for adequate public utilities and facilities by regulating the location and use of buildings, structures, and land for trade, industry, and residence, by regulating and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces, and the density of use. They have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the unincorporated territory of Douglas County, Kansas.* (Section 12-302)

The proposed text amendment is consistent with the stated purpose of the Zoning Regulations as it provides additional safeguards to protect the public health, safety, convenience and general welfare.

Staff Recommendation

Staff recommends approval of proposed revisions to Articles 12-319-7 of the Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas to revise the supplemental use regulations for Agritourism uses.

SECTION 12-319 SUPPLEMENTAL USE REGULATIONS-CONDITIONAL USES-TEMPORARY USES

12-319-7 AGRITOURISM SUPPLEMENTAL USE REGULATIONS

Agritourism is recognized as a vital tool for sustaining the family farm and represents significant economic potential for the community in general. These regulations are intended to foster and promote agritourism in keeping with the State of Kansas policy of encouraging agritourism, while ensuring that the public health, safety, and welfare are protected.

12-319-7.01 AGRITOURISM

- a. Agritourism is the intersection of agriculture and tourism, when the public visits rural areas for recreation, education, enjoyment, entertainment, adventure or relaxation. Agritourism uses the rural experience as a tool for economic development.
- b. Typical agritourism uses include, but are not limited to, the following:
 - 1) Farm markets/roadside stands,
 - 2) U-pick operations,
 - 3) Farm winery tours and tastings,
 - 4) Corn mazes,
 - 5) Farm-related interpretive facilities, exhibits, and tours,
 - 6) Historical, cultural, or agriculturally related educational and learning experiences, including volunteer workers,
 - 7) Farm stays,
 - 8) Bed and Breakfast establishments,
 - 9) Recreation related operations (fishing, hunting, bird watching, hiking, etc),
 - 10) Horseback riding,
 - 11) Garden, nursery tours and exhibits,
 - 12) Pumpkin patch visits and activities,
 - 13) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related; weddings, receptions; etc,
 - 14) Ancillary retail sales,
 - 15) Other uses that may be determined on a case by case basis if it meets the purpose and intent of the regulations.
- c. These Agritourism provisions do not apply to camping.

12-319-7.02 REGISTRATION AND APPROVAL PROCESS OF AGRITOURISM USES

- a. After the use has been registered with the State, a copy of the Agritourism Promotion Act Registration Form shall be provided to the Douglas County Zoning and Codes Office to register the Agritourism use with the County. Agritourism uses which meet the definition set forth in these Regulations and are registered with the State and with the County may occur as permitted in Section 12-319-7 without any additional review under Section 12-319, Conditional Use Permits;

- Section 12-319A, Site Plan Regulations; or Section 319.8 5, Special Event Use Permits, although other State and local regulations shall apply.
- b. **Sections 12-319-7.03 and 12-319-7.06 establish the parameters for Tier 1 (low intensity), and Tier 2 (medium intensity) Agritourism uses.**
- 1) **Tier 1 (low intensity) Agritourism uses may be registered administratively by the Zoning and Codes Director.**
 - 2) **Registration of Tier 2 (medium intensity) Agritourism uses requires approval by the Board of County Commissioners.**
 - 3) **Agritourism uses which do not meet the definition or parameters of a Tier 1 or Tier 2 use require approval through a Conditional Use Permit, Special Event Permit, or rezoning.**

~~Assembly type uses with an attendance of more than 100 persons shall require approval by the Board of Commissioners prior to registration per process in Section 12-319-7.02(c).~~

- c. Registration forms shall be jointly reviewed by the Director of Zoning and Codes Office and the Planning Director to determine if the proposed use(s) meet the definition of Agritourism set forth in these Regulations within 7 working days of submittal.
- 1) Additional descriptive information may be necessary for the determination. This information will be provided by the Agritourism operator and kept as a part of the registration.
 - 2) If the Directors are unable to make a determination, the registration will be referred to the Board of County Commissioners.
 - 3) The applicant for the Agritourism registration may file an appeal from the Director's determination. Appeals from the determination shall be made to the Board of County Commissioners. An appeal must be filed within 30 days of notification of the determination to the applicant. The appeal will be considered at the next available Commission meeting.

12-309-7.03 TIER 1 (LOW INTENSITY) AGRITOURISM USES DEFINED

- a. **Tier 1, or low intensity Agritourism uses are not expected to generate noise, or other impacts, to the level that they would have negative impacts on surrounding properties. Examples of Tier 1 Agritourism uses include, but are not limited to:**
- 1) **Farm Stands;**
 - 2) **Farmers Markets with 4 or fewer vendors;**
 - 3) **U-Pick Operations;**

- 4) Farm Winery Tours and Tastings;
 - 5) Corn Mazes and Pumpkin Patches visits and activities;
 - 6) Farm Related Interpretative Facilities, Exhibits, and Tours;
 - 7) Historical, Cultural, or Agriculturally Related Educational and Learning Experiences, including volunteer workers;
 - 8) Farm Stays and Bed and Breakfasts with no more than 3 guestrooms; and
 - 9) Recreation Related Operations (Fishing, Hunting, Bird Watching, Hiking, etc.)
 - 10) Equestrian Facilities;
 - 11) Garden, Nursery Tours and Exhibits;
 - 12) Assembly type uses such as weddings, receptions; etc,
 - 13) Christmas Tree Sales;
 - 14) Farm Tours and Demonstrations;
 - 15) Small scale entertainment such as the integration of music, theatre, or arts to enhance the rural experience.
 - 16) Other uses that may be determined on a case by case basis to meet the intent of the Tier 1 definition.
- b. In addition to meeting the definition above, a proposed use must meet all the following parameters to be considered a Tier 1 Agritourism use:
- 1) The Agritourism use is accessory to and located on a parcel, or one of a number of contiguous parcels under the same ownership, as agricultural land uses or a working farm or ranch;
 - 2) The Agritourism operator resides on the parcel, or one of a number of contiguous parcels, containing the Agritourism use;
 - 3) Parking for the Agritourism use is limited to 25 parking spaces;
 - 4) No motors or motorized vehicles, with the exception of agricultural machinery and vehicles, will be utilized for the Agritourism Use;
 - 5) No amplification of noise is proposed: such as auctioneering speakers or amplified music (with the exception of a stereo or radio); and
 - 6) All Agritourism activities will occur in the daylight hours.

12-319-7.04 TIER 1 AGRITOURISM USES STANDARDS:

The following standards apply to all Tier 1 Agritourism uses:

- a. The operators of the Agritourism use shall be limited to the property owner or operator, his/her immediate family and employees.

- b. Adequate parking shall be provided on-site for the use, including ADA parking. No parking may occur on adjacent roads. (Parking is calculated at a rate of 1 parking space per 2 attendees.)
- c. Landscaping or fencing shall be provided along the perimeter of parking areas that are within view of residences or the road right of way. Landscaping shall consist of one of the following: a continuous hedge of shrubs or other vegetation at least 3 ft in height, berms that are a minimum of 3 ft in height with a slope of 3:1, or opaque fencing. Fencing to screen a parking area from adjacent residences may be between 4 and 6 ft in height. Fencing or walls between the parking lot and the street right-of-way may be between 3 to 6 ft in height. (In these instances, the location of fencing within the required setback will not require a variance from the Board of Zoning Appeals.)
- d. No exterior lighting shall be provided for the Agritourism use.
- e. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements.

12-319-7.05 TIER 1 AGRITOURISM REGISTRATION PROCESS

- a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:
 - 1) Approved State Agritourism Registration.
 - 2) Completed Douglas County Agritourism Registration form.
 - 3) Site plan
 - The agritourism site plan does not need to meet all the requirements in Section 12-319A, but must be adequate to illustrate the use and its conformance with the Zoning Regulations as well as the relationship of the use to the surrounding properties or right-of-way. At a minimum, the following items must be included:
 - i. All structures to be utilized for the agritourism use with dimensions, including the distance to the nearest property line.
 - ii. Areas where the agritourism use will occur and any areas where visitors would be allowed.
 - iii. Access and parking areas shown and dimensioned, noting the number of spaces provided.

- iv. **Water and sanitation facilities provided per the County Health Department approval.**
 - v. **Hours of operation noted.**
 - vi. **Anticipated attendance noted (parking is required at 1 parking space per 2 attendees).**
 - b. **A minimum 20 day notification period is required. The Douglas County Zoning and Codes Office will provide notice to property owners within 1,000 ft of the proposed Agritourism site.**
 - c. **The registration materials shall be reviewed by the Director of Zoning and Codes with the following approval criteria:**
 - 1) **The proposed use and layout meets the intent and purpose of the Tier 1 definition;**
 - 2) **The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;**
 - 3) **Adequate screening is provided between the parking area and adjacent residences or road right-of-ways.**
 - 4) **The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic;**
 - 5) **The nature of the use is compatible with adjacent land uses and enhances or the rural character of the unincorporated portion of the county.**
 - d. **The Zoning and Codes Director may apply conditions to the registration, such as limitation on the hours, location, or the activity itself, if in the Director's opinion the conditions are necessary to mitigate off-site impacts.**
 - e. **Re-registration is required as noted in Section 12-309-7.08.**
- ~~d. Assembly type uses such as weddings, receptions, fairs, or festivals, that may have an attendance of more than 100 persons require Board of County Commission approval prior to registration as an Agritourism use through the following process:~~
- ~~1) Information regarding the assembly type use shall be included with the registration form. The registration shall include, at a minimum the following information:~~
 - ~~a) The expected attendance;~~
 - ~~b) Activities associated with the assembly use;~~

- ~~e) The number of assembly type events anticipated per year;~~
- ~~d) Where parking will be provided on site;~~
- ~~e) Lighting location and type if assembly is to occur after dark;~~
- ~~f) Means to address health and sanitation at the site;~~
- ~~g) Information from the applicable fire department regarding access to the site/assembly use.~~

12-309-7.06 TIER 2 (MEDIUM INTENSITY) AGRITOURISM USES- DEFINED

- a. Tier 2 uses include higher intensity activities or have higher attendance than Tier 1 uses. Examples of Tier 2 Agritourism uses include, but are not limited to:
 - 1) Uses that would be considered a Tier 1 use that do not meet the Tier 1 parameters;
 - 2) Farmers Markets with more than 4 vendors;
 - 3) Bed and Breakfasts or Farm Stays with more than 3 guest rooms;
 - 4) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related.
- b. In addition to meeting the definition above, a proposed use must meet all the following parameters to be considered a Tier 2 Agritourism use:
 - 1) Parking for the Agritourism use is limited to 100 parking spaces.
 - 2) No motors or motorized vehicles, with the exception of agricultural machinery and vehicles, will be utilized for the Agritourism Use.
- c. Agritourism uses which do not meet the definition of Tier 1 or Tier 2 Agritourism uses may be considered by the County Commission through the Special Event Permit, Conditional Use Permit, or rezoning process established in these Regulations.

12-309-7.07 TIER 2 AGRITOURISM USE STANDARDS

The following use standards apply to all Tier 2 Agritourism uses:

- a. Operators of the Agritourism activity shall be limited to the property owner or operator, his/her immediate family and employees.
- b. Adequate parking, including ADA parking, must be provided on-site. No parking may occur on adjacent roads. (Parking is calculated at a rate of 1 parking space per 2 attendees.)

- c. Landscaping or fencing shall be provided along perimeter of parking areas that are within view of residences or the road right of way. Landscaping shall consist of one of the following: a continuous hedge of shrubs or other vegetation that is at least 3 ft in height, berms that are a minimum of 3 ft in height with a slope of 3:1, or opaque fencing. Fencing to screen a parking area from adjacent residences may be from 4 to 6 ft in height. Fencing or walls between the parking lot and the street right-of-way may be from 3 to 6 ft in height. (In these instances, fencing may be located within the setback without obtaining a variance from the Board of Zoning Appeals.)
- d. If Agritourism activities are to occur outside of daylight hours, a plan shall be provided which shows the location of lighting for the Agritourism activity and the type of lighting fixtures being used as well as means taken to shield the lighting to insure no trespass or glare to adjacent properties.
- e. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements.
- f. With the exception of agricultural activities, no activities associated with the Agritourism use may occur within 200 ft of a property line.

12-309-7.08 TIER 2 AGRITOURISM USES REGISTRATION PROCESS

- a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:
 - 1) Approved State Agritourism Registration.
 - 2) Completed Douglas County Agritourism Registration form.
 - 3) Site plan meeting the requirements outlined in Section 12-319-7.05(a)(3).
 - 4) Information from the applicable fire department regarding access to the proposed Agritourism Activity area.
- b. The County Zoning and Codes Office shall mail notice to all property owners within 1000 ft of the proposed use and the date and time the use will be considered by the Board of County Commissioners. For **Agritourism assembly type** uses that will be located on an unpaved road, the Zoning and Codes Office shall mail notice to all property owners of residentially developed property on an unpaved road which would be considered the most direct route to the nearest hard-surfaced road. A **minimum** 20 day notification period is required. The Commission will hold a public hearing on the proposed use at the time and place listed in the public notice.

- c. The Director of Zoning and Codes shall review the registration application with the criteria noted in this section and provide a report with recommendation to the Commission.
 - 1) The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;
 - 2) Adequate screening is provided between the parking area and adjacent residences or road right-of-ways.
 - 3) The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic including emergency vehicles;
 - 4) The nature of the use is compatible with adjacent land uses and enhances the rural character of the unincorporated portion of the county.
- ~~d. The Board of County Commissioners may impose conditions and restrictions in conjunction with approval of the assembly type use.~~
- d. The Board of County Commissioners may take one of the following actions on the registration:
 - 1) Approve the registration;
 - 2) Approve the registration with conditions/restrictions such as limitation on the size of buildings and parking areas, establishment of operating hours; establishment of buffering, limitation on activities; road improvements; etc;
 - 3) Return the registration to staff with request for more information; or
 - 4) Deny the registration.
- ~~e. With County Commission approval the assembly type use, up to the attendance noted on the registration form, may continue to occur as long as registered as an agritourism use with the State and the County.~~

12-309-7.09 Duration/Review

The Douglas County Agritourism Use registration coincides with the State Registration. Re-registration with the County is required when the State registration is renewed, every 5 years.

- a. The Agritourism Use may continue as long as the use complies with the conditions and standards that were applied with the registration.

- b. Only those activities specifically listed in the registration form and approved by the Directors are allowed to occur as Agritourism. Any change in proposed uses **such as a new activity, increased parking, expanded area of activity** would require:
- 1) The modification of the registration with the State, **if necessary**.
 - 2) Resubmittal of the revised registration form **and revised site plan** to the Zoning and Codes Office for a determination of compliance with the definition of Agritourism provided in this Section by the Director of the Zoning and Codes Office and the Planning Director **and re-registration through the processes established above**.
- ~~13 — The KS Agritourism Act requires Agritourism uses to register with the State every 5 years. Agritourism uses must register with the County each time an agritourism use is registered with the State, every 5 years, or any time a registration form is amended.~~
- c. Engaging in any activity not listed on the registration **or operating out of compliance with the plans and conditions approved with the registration** would be considered a violation subject to the enforcement provisions of Section 12-329.

12-319-7.10 STRUCTURES AND CONSTRUCTION CODES

Structures for Agritourism uses are required to comply with Douglas County Construction Codes, adopted by HR-12-11-5, and amendments thereto.

SECTION 12-319 SUPPLEMENTAL USE REGULATIONS-CONDITIONAL USES-TEMPORARY USES

12-319-7 AGRITOURISM SUPPLEMENTAL USE REGULATIONS

Agritourism is recognized as a vital tool for sustaining the family farm and represents significant economic potential for the community in general. These regulations are intended to foster and promote agritourism in keeping with the State of Kansas policy of encouraging agritourism, while ensuring that the public health, safety, and welfare are protected.

12-319-7.01 AGRITOURISM

- a. Agritourism is the intersection of agriculture and tourism, when the public visits rural areas for recreation, education, enjoyment, entertainment, adventure or relaxation. Agritourism uses the rural experience as a tool for economic development.
- b. Typical agritourism uses include, but are not limited to, the following:
 - 1) Farm markets/roadside stands,
 - 2) U-pick operations,
 - 3) Farm winery tours and tastings,
 - 4) Corn mazes,
 - 5) Farm-related interpretive facilities, exhibits, and tours,
 - 6) Historical, cultural, or agriculturally related educational and learning experiences, including volunteer workers,
 - 7) Farm stays,
 - 8) Bed and Breakfast establishments,
 - 9) Recreation related operations (fishing, hunting, bird watching, hiking, etc),
 - 10) Horseback riding,
 - 11) Garden, nursery tours and exhibits,
 - 12) Pumpkin patch visits and activities,
 - 13) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related; weddings, receptions; etc,
 - 14) Ancillary retail sales,
 - 15) Other uses that may be determined on a case by case basis if it meets the purpose and intent of the regulations.
- c. These Agritourism provisions do not apply to camping.

12-319-7.02 REGISTRATION AND APPROVAL PROCESS OF AGRITOURISM USES

- a. After the use has been registered with the State, a copy of the Agritourism Promotion Act Registration Form shall be provided to the Douglas County Zoning and Codes Office to register the Agritourism use with the County. Agritourism uses which meet the definition set forth in these Regulations and are registered with the State and with the County may occur as permitted in Section 12-319-7 without any additional review under Section 12-319, Conditional Use Permits; Section 12-319A, Site Plan Regulations; or Section 319.8 , Special Event Permits, although other State and local regulations shall apply.

- b. Sections 12-319-7.03 and 12-319-7.06 establish the parameters for Tier 1 (low intensity), and Tier 2 (medium intensity) Agritourism uses.
 - 1) Tier 1 (low intensity) Agritourism uses may be registered administratively by the Zoning and Codes Director.
 - 2) Registration of Tier 2 (medium intensity) Agritourism uses requires approval by the Board of County Commissioners.
 - 3) Agritourism uses which do not meet the definition or parameters of a Tier 1 or Tier 2 use require approval through a Conditional Use Permit, Special Event Permit, or rezoning.
- c. Registration forms shall be jointly reviewed by the Director of Zoning and Codes Office and the Planning Director to determine if the proposed use(s) meet the definition of Agritourism set forth in these Regulations within 7 working days of submittal.
 - 1) Additional descriptive information may be necessary for the determination. This information will be provided by the Agritourism operator and kept as a part of the registration.
 - 2) If the Directors are unable to make a determination, the registration will be referred to the Board of County Commissioners.
 - 3) The applicant for the Agritourism registration may file an appeal from the Director's determination. Appeals from the determination shall be made to the Board of County Commissioners. An appeal must be filed within 30 days of notification of the determination to the applicant. The appeal will be considered at the next available Commission meeting.

12-309-7.03 TIER 1 (LOW INTENSITY) AGRITOURISM USES DEFINED

- a. Tier 1, or low intensity Agritourism uses are not expected to generate noise, or other impacts, to the level that they would have negative impacts on surrounding properties. Examples of Tier 1 Agritourism uses include, but are not limited to:
 - 1) Farm Stands;
 - 2) Farmers Markets with 4 or fewer vendors;
 - 3) U-Pick Operations;
 - 4) Farm Winery Tours and Tastings;
 - 5) Corn Mazes and Pumpkin Patches visits and activities;
 - 6) Farm Related Interpretative Facilities, Exhibits, and Tours;
 - 7) Historical, Cultural, or Agriculturally Related Educational and Learning Experiences, including volunteer workers;

- 8) Farm Stays and Bed and Breakfasts with no more than 3 guestrooms; and
 - 9) Recreation Related Operations (Fishing, Hunting, Bird Watching, Hiking, etc.)
 - 10) Equestrian Facilities;
 - 11) Garden, Nursery Tours and Exhibits;
 - 12) Assembly type uses such as weddings, receptions; etc,
 - 13) Christmas Tree Sales;
 - 14) Farm Tours and Demonstrations;
 - 15) Small scale entertainment such as the integration of music, theatre, or arts to enhance the rural experience.
 - 16) Other uses that may be determined on a case by case basis to meet the intent of the Tier 1 definition.
- b. In addition to meeting the definition above, a proposed use must meet all the following parameters to be considered a Tier 1 Agritourism use:
- 1) The Agritourism use is accessory to and located on a parcel, or one of a number of contiguous parcels under the same ownership, as agricultural land uses or a working farm or ranch;
 - 2) The Agritourism operator resides on the parcel, or one of a number of contiguous parcels, containing the Agritourism use;
 - 3) Parking for the Agritourism use is limited to 25 parking spaces;
 - 4) No motors or motorized vehicles, with the exception of agricultural machinery and vehicles, will be utilized for the Agritourism Use;
 - 5) No amplification of noise is proposed: such as auctioneering speakers or amplified music (with the exception of a stereo or radio); and
 - 6) All Agritourism activities will occur in the daylight hours.

12-319-7.04 TIER 1 AGRITOURISM USES STANDARDS:

The following standards apply to all Tier 1 Agritourism uses:

- a. The operators of the Agritourism use shall be limited to the property owner or operator, his/her immediate family and employees.
- b. Adequate parking shall be provided on-site for the use, including ADA parking. No parking may occur on adjacent roads. (Parking is calculated at a rate of 1 parking space per 2 attendees.)
- c. Landscaping or fencing shall be provided along the perimeter of parking areas that are within view of residences or the road right of way. Landscaping shall

consist of one of the following: a continuous hedge of shrubs or other vegetation at least 3 ft in height, berms that are a minimum of 3 ft in height with a slope of 3:1, or opaque fencing. Fencing to screen a parking area from adjacent residences may be between 4 and 6 ft in height. Fencing or walls between the parking lot and the street right-of-way may be between 3 to 6 ft in height. (In these instances, the location of fencing within the required setback will not require a variance from the Board of Zoning Appeals.)

- d. No exterior lighting shall be provided for the Agritourism use.
- e. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements.

12-319-7.05 TIER 1 AGRITOURISM REGISTRATION PROCESS

- a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:
 - 1) Approved State Agritourism Registration.
 - 2) Completed Douglas County Agritourism Registration form.
 - 3) Site plan
The agritourism site plan does not need to meet all the requirements in Section 12-319A, but must be adequate to illustrate the use and its conformance with the Zoning Regulations as well as the relationship of the use to the surrounding properties or right-of-way. At a minimum, the following items must be included:
 - i. All structures to be utilized for the agritourism use with dimensions, including the distance to the nearest property line.
 - ii. Areas where the agritourism use will occur and any areas where visitors would be allowed.
 - iii. Access and parking areas shown and dimensioned, noting the number of spaces provided.
 - iv. Water and sanitation facilities provided per the County Health Department approval.
 - v. Hours of operation noted.
 - vi. Anticipated attendance noted (parking is required at 1 parking space per 2 attendees).

- b. A minimum 20 day notification period is required. The Douglas County Zoning and Codes Office will provide notice to property owners within 1,000 ft of the proposed Agritourism site.
- c. The registration materials shall be reviewed by the Director of Zoning and Codes with the following approval criteria:
 - 1) The proposed use and layout meets the intent and purpose of the Tier 1 definition;
 - 2) The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;
 - 3) Adequate screening is provided between the parking area and adjacent residences or road right-of-ways.
 - 4) The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic;
 - 5) The nature of the use is compatible with adjacent land uses and enhances or the rural character of the unincorporated portion of the county.
- d. The Zoning and Codes Director may apply conditions to the registration, such as limitation on the hours, location, or the activity itself, if in the Director's opinion the conditions are necessary to mitigate off-site impacts.
- e. Re-registration is required as noted in Section 12-309-7.08.

12-309-7.06 TIER 2 (MEDIUM INTENSITY) AGRITOURISM USES- DEFINED

- a. Tier 2 uses include higher intensity activities or have higher attendance than Tier 1 uses. Examples of Tier 2 Agritourism uses include, but are not limited to:
 - 1) Uses that would be considered a Tier 1 use that do not meet the Tier 1 parameters;
 - 2) Farmers Markets with more than 4 vendors;
 - 3) Bed and Breakfasts or Farm Stays with more than 3 guest rooms;
 - 4) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related.
- b. In addition to meeting the definition above, a proposed use must meet all the following parameters to be considered a Tier 2 Agritourism use:
 - 1) Parking for the Agritourism use is limited to 100 parking spaces.

- 2) No motors or motorized vehicles, with the exception of agricultural machinery and vehicles, will be utilized for the Agritourism Use.
- c. Agritourism uses which do not meet the definition of Tier 1 or Tier 2 Agritourism uses may be considered by the County Commission through the Special Event Permit, Conditional Use Permit, or rezoning process established in these Regulations.

12-309-7.07 TIER 2 AGRITOURISM USE STANDARDS

The following use standards apply to all Tier 2 Agritourism uses:

- a. Operators of the Agritourism activity shall be limited to the property owner or operator, his/her immediate family and employees.
- b. Adequate parking, including ADA parking, must be provided on-site. No parking may occur on adjacent roads. (Parking is calculated at a rate of 1 parking space per 2 attendees.)
- c. Landscaping or fencing shall be provided along perimeter of parking areas that are within view of residences or the road right of way. Landscaping shall consist of one of the following: a continuous hedge of shrubs or other vegetation that is at least 3 ft in height, berms that are a minimum of 3 ft in height with a slope of 3:1, or opaque fencing. Fencing to screen a parking area from adjacent residences may be from 4 to 6 ft in height. Fencing or walls between the parking lot and the street right-of-way may be from 3 to 6 ft in height. (In these instances, fencing may be located within the setback without obtaining a variance from the Board of Zoning Appeals.)
- d. If Agritourism activities are to occur outside of daylight hours, a plan shall be provided which shows the location of lighting for the Agritourism activity and the type of lighting fixtures being used as well as means taken to shield the lighting to insure no trespass or glare to adjacent properties.
- e. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements.
- f. With the exception of agricultural activities, no activities associated with the Agritourism use may occur within 200 ft of a property line.

12-309-7.08 TIER 2 AGRITOURISM USES REGISTRATION PROCESS

- a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:
 - 1) Approved State Agritourism Registration.
 - 2) Completed Douglas County Agritourism Registration form.

- 3) Site plan meeting the requirements outlined in Section 12-319-7.05(a)(3).
 - 4) Information from the applicable fire department regarding access to the proposed Agritourism Activity area.
- b. The County Zoning and Codes Office shall mail notice to all property owners within 1000 ft of the proposed use and the date and time the use will be considered by the Board of County Commissioners. For Agritourism uses that will be located on an unpaved road, the Zoning and Codes Office shall mail notice to all property owners of residentially developed property on an unpaved road which would be considered the most direct route to the nearest hard-surfaced road. A minimum 20 day notification period is required. The Commission will hold a public hearing on the proposed use at the time and place listed in the public notice.
- c. The Director of Zoning and Codes shall review the registration application with the criteria noted in this section and provide a report with recommendation to the Commission.
- 1) The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;
 - 2) Adequate screening is provided between the parking area and adjacent residences or road right-of-ways.
 - 3) The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic including emergency vehicles;
 - 4) The nature of the use is compatible with adjacent land uses and enhances the rural character of the unincorporated portion of the county.
- d. The Board of County Commissioners may take one of the following actions on the registration:
- 1) Approve the registration;
 - 2) Approve the registration with conditions/restrictions such as limitation on the size of buildings and parking areas, establishment of operating hours; establishment of buffering, limitation on activities; road improvements; etc;
 - 3) Return the registration to staff with request for more information; or
 - 4) Deny the registration.

12-309-7.09 Duration/Review

The Douglas County Agritourism Use registration coincides with the State Registration. Re-registration with the County is required when the State registration is renewed, every 5 years.

- a. The Agritourism Use may continue as long as the use complies with the conditions and standards that were applied with the registration.
- b. Only those activities specifically listed in the registration form and approved by the Directors are allowed to occur as Agritourism. Any change in proposed uses such as a new activity, increased parking, expanded area of activity would require:
 - 1) The modification of the registration with the State, if necessary.
 - 2) Resubmittal of the revised registration form and revised site plan to the Zoning and Codes Office for a determination of compliance with the definition of Agritourism provided in this Section by the Director of the Zoning and Codes Office and the Planning Director and re-registration through the processes established above.
- c. Engaging in any activity not listed on the registration or operating out of compliance with the plans and conditions approved with the registration would be considered a violation subject to the enforcement provisions of Section 12-329.

12-319-7.10 STRUCTURES AND CONSTRUCTION CODES

Structures for Agritourism uses are required to comply with Douglas County Construction Codes, adopted by HR-12-11-5, and amendments thereto.

DRAFT

COMPREHENSIVE REVIEW OF PROPOSED REVISED AGRITOURISM REGULATIONS

OUTLINE

- Summary
- Complications to the review process
- Adverse effects of the regulatory revision process
- Point-by-point analysis of proposed changes
- Proposed alternative regulatory scenario

SUMMARY AND DISCLAIMER

These comments have been prepared in a very short period of time with inadequate opportunities to discuss intentions with Planning staff or County officials. There has also not been adequate time for final editing and proofreading. The haste required to even draft a complicated review in one weekend may have resulted in inconsistencies, redundancies, and overall poor editorial work for this review. Please accept in advance my apologies for not being able to complete a properly finished product, and please overlook any typographical errors, grammatical mistakes, stylistic inconsistencies, or small errors of fact.

The proposed regulations, while very problematic, have some good points, especially the idea of monitoring parking spaces rather than attendance. However, the proposed regulations are generally irregular in the degree of detail (i.e., type parking surface is never mentioned, but very specific details for parking screening is included). Many vague and undefined terms are used. In some cases, interpretation of the regulations as written may hinge on regulatory interpretations that are already being debated by the County with the possibility that past County determinations may need to be overturned (definition of “employees” and how it applies to volunteers). In other cases, overly broad terms interpreted literally could be overwhelmingly restrictive (i.e. the ban on “motors” for Tier 1).

The proposed regulations do not seem to fully allow for integration of agritourism activities into a farming operation. This is likely to create significant difficulties for enforcement of these regulations where distinctions are made between “agricultural” and “agritourism” activities.

Taken as a whole, the proposed regulations could end up forcing many very small-scale, agriculturally-focused agritourism operations into a Conditional Use Permit scenario. This is the opposite of the desired outcome of the agritourism regulations, which is to promote agritourism as a “tool for sustaining the family farm.” Requiring Conditional

Use Permits for low-impact, thoroughly integrated agritourism activities will in many cases result in fewer, yet higher-impact, agritourism opportunities in Douglas County because the expense and difficulty of the Conditional Use Permit process will discourage its use for minor agritourism operations. This could reduce the number of affordable opportunities for Douglas County citizens to enjoy Douglas County farms.

A proposed alternative regulatory scenario is presented at the end of this analysis, in hopes of suggesting a positive approach to achieving the desired ends of these regulations.

COMPLICATIONS TO THE REVIEW PROCESS

On the afternoon of Thursday, January 22, 2014, I was sent the draft language for the proposed new Agritourism regulations. Due to a busy farm and work schedule this week, I couldn't actually open it until late that evening. This is the first I knew that this issue would be on the Planning Commission agenda for Monday, January 27 for a public hearing. The deadline for written comments is 10 a.m. Monday morning.

This is totally inadequate lead time for someone who has invested a great deal of time, energy and money in the agritourism regulation and registration process—both regulatory development and farm registration—to do a thorough review and comment on a 7 page document that extensively revamps the mere 2 pages of regulations under which my farm is registered. Furthermore, it seems inadequate time for the Planning Commission to do a thorough review. I ask that the Planning Commission delay the Public Hearing on this matter until such time as the Planning Commission and stakeholders such as myself can have adequate time to carefully review the proposed changes, research their ramifications for existing operations, and prepare comments.

The review process is further complicated because the material that was sent out was inaccurate. One version was marked "Changes Shown," but the strike-out portions had altered numbering systems and omitted or added words that made it difficult to compare the documents. This exacerbates the difficulty in reviewing the proposed changes on such short notice by necessitating a word-for-word comparison to determine actual effects on existing agritourism operators.

ADVERSE EFFECT OF REGULATORY REVISION PROCESS

As one of the first registered Agritourism operators in Douglas County, I cannot begin to adequately express my dismay at the prospect of spending the next year or more once again focusing on regulatory development and registration processes, when I have barely had time to begin activities under my existing registrations. Because my state registration was completed several years prior to my County registration, my County registration will need renewed, and thus will be subject to, the new regulations within a couple years.

Meanwhile, I will have to spend my time following the regulatory development process instead of operating my farm or planning and carrying out actual agritourism activities

under my current registration. Unlike those in the local government who are making these changes, I don't receive a salary for this specialized and arduous work. Thus, this process of entirely revamping the agritourism regulations barely a year after they were originally promulgated has a significant negative economic impact on my farm business. This is the opposite of what the regulations are intended to do.

Furthermore, as a business operator, it is hard to make future plans with confidence when it appears impossible to predict a stable regulatory foundation on which to build. Quality agritourism activities take years to plan, build, and grow. If the regulations are subject to this degree of change after initial permits have been granted, thoughtful operators are not likely to invest their future in an enterprise where years of hard work might be for nothing if the regulations are rewritten again.

The proposed regulations are complicated. One result is that many farmers simply will not register their activities and hope to not get caught. Another result may be that mainly non-farmers or "get-rich-quick" operators will try to go through the registration process, potentially resulting in overall lower quality agritourism activities that don't adequately reflect the rich history and diversity of Douglas County land and farms.

OVERALL CONTEXT OF PROPOSED REGULATIONS

As one studies the overall zoning codes, it becomes apparent that there are many inconsistencies and gaps in the existing regulatory context. Because of such gaps and limitations in the code surrounding the Agritourism regulations, a situation is created where agritourism is actually regulated much more strictly than uses with much greater adverse effect on neighbors and motorists.

Furthermore, the enforcement context of both existing general zoning and land use regulations, enforcement of regulations is piecemeal and structured in a way that allows it to be used in a harassing or discriminatory manner.

There are several distinct aspects to any land use: activities to be carried out; buildings and other infrastructure to support the activities; and services (including roads, transportation, emergency services, sanitation, water, electricity, etc.) needed to support the activities. These must each be addressed in a manner that is consistent and appropriate across all land uses to assure the long-term orderly development of Douglas County as a desirable place to live and work.

POINT-BY-POINT ANALYSIS OF PROPOSED CHANGES

This section gives point-by-point comments on the proposed regulations, generally in the order of the written proposed regulations. As much as possible, I've tried to include specific examples of possible unintended consequences, especially from the perspective of how these proposed regulations could materially affect my farm's agritourism registration. Citations are from the "Draft Language (Changes Shown)" version that was emailed on 1-22/2014. I have tried to title each separate issue for ease of reference.

TYPOGRAPHICAL ERRORS AFFECTING REVIEW PROCESS

Starting on page 6, all sections are incorrectly designated, making computerized searches ineffective for navigating through the document. “12-309-7.____” should be “12-319-7.____”. The existing code at 2-309-7 contains a reference to “Supplementary height and area regulations.”

For purposes of this review, all references to the Agritourism codes will be referenced as “12-319-7.____.”

REQUIRED CONDITIONAL USE PERMIT

12-319-7.02(b)(3) requires a Conditional Use Permit for agritourism uses that don’t fit the Tier 1 or Tier 2 parameters, yet there are many reasons a very low-impact agritourism use might not fit either Tier 1 or Tier 2 parameters. For instance, the incidental or ancillary use of non-farm motorized vehicles (i.e. a personal vehicle or a motorized electric mobility device kept by the agritourism operation to provide ADA accessibility)) to provide accessibility to persons with disabilities would conflict with 12-319.7.06(b)(2). The overly broad ban on all motors in this same subsection would also throw many agritourism operations into the Conditional Use Permit process. Likewise, property line setbacks, hours of operation, etc. can all disqualify an operation from Tier 1 and Tier 2.

Requiring agritourism operators to go through the expensive, time-consuming and potentially contentious Conditional Use Permit process is counter-productive to the Agritourism regulations’ stated goal of fostering and promoting agritourism as a means of economic development and sustaining the family farm.

My understanding was that the Agritourism registration process for Douglas County was intended to provide relief to farmers from going through the confusing, expensive and time-consuming Conditional Use Permit process for agritourism activities. In fact, I removed “Events” and “Farmer’s Market” from my attempted Conditional Use Permit precisely because these activities would no longer require a Conditional Use Permit under the then-new Agritourism regulations. Now I find I should have continued to pursue them through a CUP...in which case I might be several years ahead of where I am now in the implementation process. A new CUP (with new fees) will have to be done. However, I’m not allowed to submit a CUP for a year because my previous one (which started out including Events and a Farmer’s Market) was denied. The previous CUP process took over 4 years and was determined to not require a CUP after all.

LIST OF TIER 1 USES

12-319-7.03(a) includes a list of examples that is nearly synonymous with the full list of agritourism uses. However, some of the listed uses seem very likely to generate traffic greater than 25 cars:

(5) Corn mazes and Pumpkin Patches visits and activities

...

(12) Assembly type uses such as weddings, receptions; etc.

...

(14) Farm tours and demonstrations.

The regulation could be shortened and simplified by omitting this list, since it is not comprehensive anyhow (“but are not limited to” in 7.03(a); “7.03(a)(16) Other uses that may be determined on a case by case basis to meet the intent of the Tier 1 definition”). The focus should simply be on the low-impact nature of the proposed activities.

It is puzzling that while these potentially very high volume uses are included as Tier 1 uses, Farmer’s Markets are limited to only 4 vendors. Enumerating Farmer’s Market vendors can be problematic. Various markets and similar venues count them differently. Some go by the individual, regardless of relationship to other vendors or whether they are sharing a space or have a joint business. Some count individual business entities, even if they share a booth space. Some simply allocate square footage of space without concern for how many people or businesses use the space. If a limit on the size of Farmer’s Market is really appropriate, then it must be clearly defined.

However, it seems inappropriate to limit the number of vendors at a Farmer’s Market, when a pumpkin patch with a single “vendor” could have much higher traffic and sales, and be open all day, seven days a week, compared to a Farmer’s Market with many vendors that is open only a short time part of the week.

Perhaps it would make more sense, and be easier to enforce, to limit the number of days and/or number of hours per day that an activity can occur, rather than placing limits on, and trying to define, highly variable business relationships.

“NOT EXPECTED TO GENERATE...NEGATIVE IMPACTS...”

Estimating the impact of activities that haven’t yet occurred is a risky business. It is too easy for people who have not properly educated themselves on the details of a planned activity to fantasize imaginary worst case scenarios and make decisions based on what could happen, rather than what is actually planned or likely to happen. Neighbors alleging negative impacts without taking

Who gets to define “negative impacts”? The slightest thing could be perceived as a “negative impact” by a sensitive or oppositional neighbor...in one documented case, a landowner’s failure to rake fall leaves from a natural wooded area.

Distinguishing between agricultural activities (which are protected by state law from being considered “nuisances”) and agritourism activities can be very difficult and subjective, especially in areas of the county where mixed (residential, industrial, business, and agricultural) zoning and uses already exist.

“ACCESSORY TO ...A PARCEL”

12-319.7.03(b)(1) The idea that agritourism should be an accessory use to a farm is a sound principle, given the agritourism regulations’ stated goal of supporting farms. However, there are already outstanding regulatory interpretation and enforcement issues where Douglas County is not clear what it means for an activity to be a use “accessory to a farm” (in interpreting the Agricultural Zoning regulations at 12-306-2.17, “Ag Worker Mobile Home Exemption”). As of this writing, to my knowledge, Douglas County Zoning and Codes staff and Douglas County legal counsel continue to insist that “accessory use to a farm” is synonymous with “accessory use to a residence”, thereby preventing use of this mandatory permitted right in some cases. In the case of Agritourism, this sort of misinterpretation might prevent beneficial agritourism activities on parcels without residences.

I can only imagine that “accessory use to a parcel” will be just as problematic, and this wording could be used to prevent agritourism activities on farms comprising multiple parcels.

“CONTIGUOUS PARCELS”

Furthermore, it is not fair to penalize farm operators who have not been so fortunate as to find contiguous parcels, or who have bona fide agricultural reasons for creating a working farm that consists of scattered plots. One organic grower that I know relies on plots spaces several miles apart to rotate crops with enough separation to prevent spread of pests from one area to another. The requirement of contiguous parcels would force him to get Tier 2 approval from the County Commission in order to do U-Pick activities on scattered plots, or to do farm tours visiting more than one plot.

If the goal is to use Tier 1 (low impact) agritourism as a means of supporting farms operated by Douglas County residents, then this could simply be stated.

Noncontiguous parcels may still be very close together, and could easily be part of one agritourism operation, especially for very low impact activities such as those listed at 12-319-7.01(b)(9) or (10). The County may also need to address the reality that many farmers may operate farm businesses on land located in more than one county. I know of several cases where farm families actually changed their residence from one county to another according to the seasons of the year, summering with their livestock on Flint Hills pastures in the summer while moving themselves and their livestock to their Douglas County farmsteads during the winter.

“UNDER THE SAME OWNERSHIP”

Many farms are operated all or in part on rented ground, and some farmers may reside in rented residences. Land ownership can be further complicated by land held by trusts, etc. This restriction could exclude many bona fide farmers from accessing the liability protection of state Agritourism registration for very low impact activities. A requirement

of land ownership for low-impact agritourism creates an undue hardship for already disadvantaged farmers (young, women, minority, persons with disabilities, etc., who may have less access to land ownership).

12-319-6.03 addresses various forms of ownership in relation to Rural Home Businesses by stating “*If a business owner does not currently own the real estate on which the Rural Home Business Occupation is conducted, an affidavit of equitable interest or a copy of a lease evidencing a leasehold interest can be submitted as a substitute for fee simple ownership of the real estate.*” A similar approach could be used for the Agritourism regulations.

“AGRICULTURAL LAND USES”

This phrase needs to be defined, or else it could be construed as any use permitted under 12-306 “A” AGRICULTURAL DISTRICT REGULATIONS. This would include churches, colleges, country clubs, golf courses, etc.

“AGRITOURISM OPERATOR”

This phrase used at 12-319-7.03(b)(2), 12-319-7.05(a), 12-319-7.07(a), etc., needs to be clarified. As written, it may prevent multi-generational farm operations where adjacent homes are not available from allowing a subsequent generation of the family to start an agritourism operation on the family farm as part of a farm’s succession plan. However, in protecting the right of families by blood or marriage to use agritourism as a part of a generational succession plan, it is important to avoid discrimination against farmers whose successors are not related by blood or marriage.

“MOTORS OR MOTORIZED VEHICLES”

12-319.7.03(b)(2) references “motors or motorized vehicles” in a very broad sense. This would technically include all electrical, gas or diesel motors, including the cooling fan in a computer, a diesel generator to supply power for non-agricultural purposes (such as a food vendor providing concessions), refrigeration and HVAC motors, etc.

In many cases, it will be hard to determine whether a motor is used for an agricultural purpose or not, especially when motors are used for a variety of purposes.

What is the purpose of this restriction? Risk management? It is any business operator’s obligation to provide adequate and appropriate insurance for all activities, whether involving motors or not. Noise control? Then this section needs to focus clearly on limiting noise, rather than motors. Non-agricultural-use vehicles that have electric motors may be virtually silent, and should be allowed.

“DAYLIGHT HOURS”

12-319-7.03(b)(6) mandates that very low impact agritourism activities that must be conducted at night for agricultural or natural reasons (owl calling, lambing participation, sunrise religious service) must go through at least the Tier 2 process of review by the County Commission. Many would likely fall into the Conditional Use Permit category.

“LIMITED TO PROPERTY OWNER” [12-319-7.04(a) and 12-319-7.07(a)]

“Property...operator” is undefined, and is unfamiliar usage. Does this refer to a farm operator who leases instead of owns land?

Could an agritourism operator be a volunteer associated with an agricultural operation? Is this included in the concept of “employees”...i.e., how is “employees” defined for the purpose of this regulation? Since the county is still in the process of considering whether someone “employed on” a farm is the same as someone “employed by” or “an employee of” a farm, similar confusion could result from this requirement.

There are valuable agricultural lands that are not suited to residential use for many reasons—terrain (too steep, flood prone, ravines or creeks, too rocky, no water, no space for wastewater disposal, etc.), lot size, lack of frontage, etc. These sites may still be suitable for certain agritourism uses, yet the impossibility of having a home sited on them would seem to require that they go through the Conditional Use Permit process for any agritourism activity. This seems excessive for relatively solitary activities such as hunting, fishing, hiking, etc., that are required to register as Agritourism uses because they are not permitted by right agricultural activities, yet are unlikely to be significant income-producing enterprises for a farm.

“Immediate family” should be defined. Does this include cousins or aunts/uncles? Grandparents/grandchildren? Stepchildren? Ex spouses? What about same sex couples? What about farms that are organized as partnerships, cooperatives, LLCs, or corporations? How can this restriction be stated in a way that does not penalize people who don’t have conventional “immediate family” but who may have friends or business partners in lieu of family?

“NO PARKING MAY OCCUR ON ADJACENT ROADS” [12-319-7.04(b) and 12-319-7.07(b)]

No one can control where people park their cars, and I’m not sure that it’s even legally defensible to tell people that they can’t park in an area that isn’t designated “No Parking”. This should not be expected of Agritourism operators. The regulations should simply state that cars parked on public rights of way for purpose of attending an agritourism activity may be ticketed or towed as deemed necessary by the Douglas County Sheriff, and require the agritourism operator to inform participants that off-site parking is not allowed (via sign onsite or verbiage in advertising media). It isn’t fair to penalize the

agritourism operator for their guests' bad parking choices. In extreme cases, someone could deliberately park on the road in order to get the agritourism operator in trouble.

For agritourism operations where onsite parking is only occasionally scarce, temporary "no parking" signs could be used (hopefully with a streamlined system compared to the onerous City of Lawrence system requiring 4 different visits to two different, non-adjacent city offices.) For agritourism operations that frequently have a high parking demand, the operators could request that the county post permanent "No parking" signs along the road.

In a county where football and basketball games regularly lead to extreme parking shortages and very congested traffic, resulting in thousands of illegal parking situations that are routinely ignored but significantly inconvenience people living in those neighborhoods, it seems disingenuous to forbid parking on county roads that would be legal parking if the car were not being used as transportation to an agritourism event. All over town, students, store customers, and employees park on city streets because of inadequate parking lots provided for businesses and institutions.

On-site parking should be strongly encouraged because it is more convenient and safer for attendees, and agritourism operators should attempt to realistically correlate the size of events with the onsite parking available, as well as make plans for overflow parking that will not block traffic. I see no reason why this shouldn't include parking on one side of a road where it is legal to do so and traffic safety is not unduly compromised.

"PARKING IS CALCULATED...1...SPACE PER 2 ATTENDEES"

This requirement appears relative to Tier 1 registrations at 12-319-7.04(b) and 12-319-7.05(a)(3)(vi) and the corresponding Tier 2 sections.

Many agritourism activities are designed to appeal to families, resulting in an average of more than 2 people per vehicle...in some cases, as many as 7 or even more per family van for activities at my farm. A single school bus making a single field trip could carry enough students to mandate 15 parking places, yet there not be any parking place adequate to park the one vehicle! Agritourism operators can't control what vehicles people use.

Although many agritourism sites will be primarily accessed by motor vehicles, there are several existing agritourism sites that are regularly accessed by people on bicycle, public transportation, or even on foot. This will significantly affect parking space requirements for some sites.

Each site and type of activity will be unique, and will have unique parking considerations. While it is reasonable that adequate parking be provided by the agritourism operation, setting one standard for correlating attendance with parking is not appropriate. Application for registration should include adequate information to determine a reasonable estimate for parking needs.

Allocating more parking space than necessary could create an eyesore, especially given the overly-specific yet inadequate screening requirements.

SCREENING OF PARKING AREAS [12-319-7.04(c) and 12-319-7.07(c)]

Screening of parking for agritourism activities can be problematic in many ways.

In many cases, it is simply not possible to screen a site from the road right of way because of driveway entrances, need for sun to grow crops or provide proper light for livestock, etc. Screening can obstruct vision and present traffic safety hazards. Law enforcement recommends trimming bushes and shrubs to prevent hiding places. The required types of screening may obstruct a neighbor's view of a treasured landscape year around for the purposes of concealing cars parked there just a few times a year. The required types of screening may all be out of character with the existing landscape, or not well suited to a particular site.

The degree of screening and landscaping proposed for Agritourism uses far exceeds that required for industrial uses on industrial zoned land. Agritourism operations located in areas near non-residential zoning and uses should not be subject to more stringent landscaping and screening requirements than more intensive uses.

Screening as specified may also be impossible to maintain in areas that are used for parking part of the year and for livestock or crops the rest of the year. Permanent screening for seasonal agritourism activities could require an operator to forego agricultural use of part of the farm, making the agritourism less of an "accessory use."

As an aside, the County should revisit screening requirements and their enforcement for Business and Industrial zoning districts. Many of these are written to require screening only from the street, not from residences or from side or rear lot lines. Such business therefore can have a significant depreciating effect on otherwise high quality agricultural environments.

"LANDSCAPING SHALL CONSIST..."

The specificity of this subsection is daunting and out of character with the rest of the agritourism regulations, especially in the context of other similar regulations such as the Rural Home Business regulations.

Rural Home Business regulations (Type II), at 12-319-6.02, require the following: *All parking spaces shall be located a minimum of 50 feet from property lines and public rights-of-way, and shall be screened by landscaping, a fence, or buildings so it is not visible from the public rights-of-way or from adjacent residences.* There is no need for agritourism regulations to spell out required screening in more detail than that...especially when the screening specified for agritourism would not even meet the performance criteria for a rural home occupation.

Since the Rural Home Business regulations already are not enforced, to the detriment of residential and agricultural neighbors, it seems unfair to put these restrictions on agritourism operators, who may have far less intensive uses.

Depending on the location of a farm, and on weather conditions and water availability, establishment of natural vegetative screening may be difficult, expensive or impossible. At best, it may take years for vegetation to reach the required screening specifications. Berms may cause or exacerbate drainage issues. Fencing and walls may not be harmonious with the rural landscape or with the agritourism activity, may be extremely expensive for a large site in proportion to the level of agritourism use, and may be vulnerable to wind damage in exposed locations.

Berms, walls, fences, and vegetative screening can all either improve or exacerbate snow drift conditions, potentially creating serious hazards to the public health and safety especially in remote rural areas.

A height of three feet seems insufficient to significantly screen a parking area in terms of “hiding” it within a rural landscape, especially in hilly terrain. Requiring such inadequate screening may have little effect other than increasing costs to the agritourism operator and creating an eyesore and hazards.

12-319-7.04(d) “NO EXTERIOR LIGHTING”

This ban is much too broad. As stated, it would preclude the use of small solar walk lights to demarcate paths or illuminate tripping hazards. Also, for enforcement purposes it could be very difficult to distinguish between lights installed for agritourism uses and lights installed for residential or agricultural uses.

The worst case scenario is that an operator trying to avoid the onerous registration process of appearing before the County Commission for a Tier 2 registration might choose to not install lights in a situation where safety and common sense would dictate the use of lights.

12-319-7.07(d) requires that light for agritourism activities be shielded. However, exterior lighting for residential use and Rural Home Business use is not restricted from encroaching on other residences, agricultural operations, or agritourism sites. Likewise, any business and industrial zoning uses don’t require shielding from properties to the side or rear, but only from the street. In all cases, whatever regulations exist are not enforced. It is unfair to expect a higher standard from agritourism operations.

If 12-319-7.03(b)(6) is retained, specifying that all Tier 1 agritourism activities occur during daylight hours, there is no need to address lighting at all for Tier 1 agritourism registration, because any lights would not be associated with the agritourism.

“200 FOOT SETBACK”

12-319-7.07(f) prohibits agritourism-related activities that are not agricultural from occurring within 200 feet of a property line for Tier 2 registrations. Since many very low impact agritourism uses will fall into Tier 2 due to relatively minor shortcomings such as activities after dark, it is unfair to apply a 200 foot setback to all agritourism related uses. Consideration must be given to the site characteristics, surrounding land uses, and nature of agritourism activities. A 200' setback is unnecessary for a small intimate poetry reading around a campfire in a secluded valley far from any residences...especially if the adjoining property is a gravel quarry used only by day.

This requirement also in many cases would prevent an agritourism operator from scaling up a Tier 1 agritourism operation to Tier 2. For example, a Tier 1 Farmer's Market (4 vendors, not after dark) that expanded to a Tier 2 Farmer's Market (5 vendors, open until 6 p.m. in December) might need to be significantly relocated to meet the 200' setback. Small agricultural parcels, especially those that don't have residences, might not even have any space that would meet the 200' setback from all sides.

It is also important to keep in mind that "agricultural uses" can be construed to include all uses permitted in the "A" Agricultural District. In this, many high-impact uses would be allowed while low-impact agritourism uses would not be.

Since this restriction would bump many smaller sites into the Conditional Use Permit category, it would disproportionately affect disadvantaged farmers who may be more likely to have small properties.

Some non-agricultural activities may be carried out in pre-existing buildings such as homes or barns that may be located less than 200' from a property line. Ponds, woods, etc. may also naturally exist closer than 200' to a property line. It would be unfair to preclude the use (and often, therefore, preservation) of historic buildings, or to prevent birdwatchers from hiking within 200' of the property line.

Also, this is worded so that the 200' setback would be from each property line of individual parcels within a contiguous multi-parcel site.

12-319-7.04(e) SANITARY FACILITIES

Adequate information should be provided for the potential agritourism operator to be able to find the applicable requirements.

"AGRITOURISM REGISTRATION PROCESS"

Both Tier 1 and Tier 2 applicants should be required to submit IRS Schedule F or other proof of farm business activity.

Tier 1 applicants should be required to show that the agritourism activity will be operated in such a manner that it is truly accessory to the agricultural uses carried out by the operator.

“1000 FOOT NOTICE RADIUS”

12-319-7.05(b) and 7.08(b) require notices to be sent to all property owners within a 1000 foot radius of the proposed agritourism site.

Conditional Use Permits and similar processes require a 1000 foot radius outside the city limits, but only a 200 foot radius within City Limits. There are already more than one agritourism sites (whether registered or not) that are adjacent to City Limits. Tier 1 and 2 registrations should not be sent to more people than a rezoning or Conditional Use Permit notice; this is an unnecessary expense for the County.

“INTENT AND PURPOSE OF TIER 1 DEFINITION” [12-319-7.05(c)(1)]

If these are to be used as a standard for review, they need to be clearly spelled out.

“COMPATIBLE WITH ADJACENT LAND USES” [12-319-7.05(c)(5)]

In some cases, the screening required under 12-319-7.04(c) and 12-319-7.07(c) may make the agritourism less compatible with adjacent land uses, and may not enhance the rural character of the landscape.

“LIGHTING TRESPASS OR GLARE” [12-319-7.07(d)]

Shielding requirement is more stringent than for any other use. No shielding is required for residences or street/highway lights. This creates a situation where agritourism activities requiring a dark nighttime environment can be impinged upon by others, but agritourism activities may not be able to effectively light their own premises. There is apparently no way to enforce any existing light regulations because inspectors don't work at night and the sheriff says it's a civil matter that they can't do anything about.

PROPOSED ALTERNATIVE REGULATORY SCENARIO

Agritourism regulations should provide a framework that:

- Allows Douglas County farmers to add agritourism enterprises to their farms in a sustainable and incremental manner that is relatively free from additional regulatory restrictions or burdens;
- Provides assurance to neighbors that agritourism activities will not unreasonably interfere with their peaceful enjoyment of their property;
- Protects agritourism operators from unreasonable harassment from neighbors;
- Provides measurable, clearly defined standards so that agritourism operators can properly plan their agritourism enterprises.

- Allows enough County oversight to ensure orderly implementation of agritourism uses, and also
- Spells out clear enforcement criteria and responsibilities, as well as problem-solving strategies for minor disputes and consequences for willful or repeat violations, so that any problems can be solved on a timely basis while respecting property rights of all parties.

The regulations should be as general as possible to apply to a wide range of agritourism activities and encourage innovation. In many cases, the best agritourism operations are well-integrated with actual agricultural enterprises, thus truly connecting farm visitors with a hands-on Kansas agriculture experience. Care should be taken to preserve and encourage this intimate connection, while encouraging farm operators to allow the public onto their farms through support such as the State's Agritourism Liability Waiver.

Agritourism regulations should provide a means of allowing Douglas County farmers to have additional economic enterprises utilizing existing farm resources, while having a reasonably minimal, but not necessarily non-existent, effect on neighbors to the agritourism site.

It must be remembered that in many cases, non-agricultural residential uses were "new" uses in rural Douglas County and impose their own set of nuisances on agricultural neighbors, including many of the same types of nuisances which agritourism regulations attempt to minimize. This means that the regulations must be stated in terms of easily measured criteria, with clear enforcement criteria and consequences for violations. Neither the existing nor proposed regulations adequately achieve this.

12-319-7.01 should include a full range of definitions, including but not limited to:

--Agritourism activities: [definition and list from existing code].

--Agritourism operator(s): the individual(s) with financial and legal responsibility for the agritourism activity. Describe acceptable relationships to farm operation, to landowner, and to land/residential tenants.

--Agritourism site: The physical location of the agritourism activities, i.e., where people will be. This may include one or more parcels owned or leased by the agritourism operator. Parcels need not be contiguous if the agritourism use of non-contiguous parcels would not result in significantly increased adverse effects to neighbors. No minimum size, either implied or express.

--Agritourism hours—include all hours that guests/customers/visitors are present at the farm, but do not include preparation or clean-up times by agritourism operators or their employees, contractors, vendors or volunteers. Hours for overnight guests are considered separately from guests not sleeping at the agritourism site.

--Overnight guests—Paying guests sleeping at the agritourism site. Should not include guests present only for night-time waking activities such as sunrise services, astronomical observations, wildlife experiences, birthing experiences, etc.

--Volunteers—

PRIVATE ACTIVITIES PERMITTED BY RIGHT

Nothing in the agritourism regulations should be construed as restricting the rights of landowners, tenants, family members and personal friends of landowners and tenants to exercise the full range of uses of their agricultural property permitted under the “A” Agricultural District, including the right to hike, hunt, fish, picnic, camp and otherwise enjoy the recreational, educational, natural, spiritual, cultural and agricultural resources of their land, when these opportunities are shared with no charge to people personally known to the landowner or tenant and no site modifications or permanent infrastructure are provided by the landowner/tenant to support the activities. Agritourism registration is not required for the incidental enjoyment of the rural landscape.

Conversely, registration/regulatory oversight is entirely appropriate for private events of certain types and scales. It is very difficult to distinguish between large private events and small agritourism activities. In the past year, a neighbor’s “private event” included an intensive fireworks display on a 4-acre lot with hundreds of attendees and large numbers of vehicles parked unsafely on the street. No sanitary facilities seemed to be provided. Smoke and noise, as well as traffic, caused significant distress to the neighboring agricultural operation. Activities were very close to neighboring residences. Parking was set up in a manner that would not have allowed emergency vehicle access. However, full Tier 2 type agritourism, including a ban on street parking, proper parking and lane layout, etc. was required for the agricultural operation to host its traditional Sheep Shearing Open Farm Day.

Agritourism registration or special event permits should be required for some private events otherwise permitted by right due to potential for adverse effects on neighbors and motorists. Landowners should consult with the Dept. of Zoning and Codes if they are planning a large group event (greater than 30 people expected attendance?) or an event that is likely to generate nuisance to the neighbors or passing motorists.

Landowners/tenants must ensure that:

- The private landowner/tenant event is held entirely on land owned or rented by the host/organizer of the event;
- The private landowner/tenant event does not create nuisance conditions outside of their own property due to dust, noise, or lights impinging on neighbors or on the public road;
- Parking for a private landowner/tenant event does not create or exacerbate unsafe driving conditions due to roadside parking;

- Provisions adequate for the expected attendance are made for sanitation, safe drinking water, fire safety, and emergency vehicle access;
- No more than one event requiring parking of more than 10 cars is held per week.

Private landowner events are not covered by the state agritourism liability waiver.

[This is no more of a restriction on personal freedom than is a building permit for constructing a home or other permitted-by-right improvements.]

AGRICULTURAL EVENTS

State agritourism registration is often used by innovative farmers to allow the public to participate in agricultural activities without incurring liability for personal injuries sustained by guests on the farm. State agritourism has thus significantly helped farmers to access volunteer help for intensive agricultural operations while making agricultural experiences accessible to the public. The County agritourism regulations should enhance this, not discourage farmers from allowing the public to their farm by way of onerous parking screening requirements, Conditional Use Permits, restrictive time frames (i.e.e, daylight hours), etc.

Volunteers who assist with essential farm operations should not be considered agritourism participants, but certain ancillary activities such as a harvest party that is open to families and friends of volunteers as well as the volunteers could be considered an agritourism event. Thus, context of a person's presence on the farm may determine whether their hours count towards a Tier designation in the following scheme. Agritourism registration regulations should never interfere with farmers accepting volunteers to help with their farm business operations.

To better segregate Agritourism into tiers based on potential impact and need for regulatory oversight, I suggest the following divisions:

--TIER 1 AGRITOURISM—defined as agritourism activities limited to:

5 or fewer days per week, less than 4 hours per day, AND/OR
3 or fewer days per week, less than 12 hours per day,

AND with parking provided for 25 or fewer vehicles,

AND no overnight guests,

AND operated as an accessory activity to an existing farm business, as documented by ___ years of IRS Schedule F or other reasonable documentation of a farm business associated with BOTH the agritourism operator and the agritourism site.

This allows weekend and long-weekend all-day events, as well as morning or evening events, reassuring neighbors that inconveniences or minor nuisances will not be

constant. This scale of operation is easily done as an accessory use to a farm within the framework of a farm family or small business operation.

--TIER 2 AGRITOURISM

7 or fewer days per week, less than 4 hours per day, OR
5 or fewer days per week, less than 12 hours per day, OR
3 or fewer days per week, more than 12 hours per day.

AND/OR parking provided for 100 or fewer vehicles at any one time,

AND/OR overnight accommodations consisting of [5] or fewer guest rooms/guest room equivalents.

AND operated as an accessory activity to an existing farm business, as documented by ___ years of IRS Schedule F or other reasonable documentation of a farm business associated with EITHER the agritourism operator or the agritourism site.

This scale allows for a larger, more stand-alone agritourism operation, while still giving neighbors and operators some “days off” from the agritourism operation. More planning and oversight is appropriate for situations with more guests, overnight guests, etc. This level also allows for a looser connection between the farm operation and the agritourism operation, acknowledging that this scale of agritourism might start to become a full-time job for the operator rather than a sideline to farming.

--AGRITOURISM REQUIRING CONDITIONAL USE PERMIT

More than 5 days per week with 4-12 hours per day, OR
More than 3 days per week with more than 12 hours per day.

AND/OR provisions for more than 100 vehicles at any one time,
AND/OR overnight accommodations consist of more than 5 guest rooms/guest room equivalents,

AND/OR agritourism activity is not associated with an existing farm business

AND/OR farm business is not primarily located in Douglas County

AND/OR agritourism operator is not associated with an existing farm business.

[These definitions of the levels prioritize Agritourism as an opportunity for existing farmers to utilize their existing resources in innovative ways, while still allowing new operations not associated with farms to operate agritourism activities through Conditional Use Permits.]

12.319.7.02 REGISTRATION AND APPROVAL PROCESS

Generally as currently promulgated, modified to reflect the “Tier 1” and “Tier 2” designations.

12-319-7.0_ STANDARDS

All agritourism activities must meet the following standards:

- Be registered with the State Agritourism program.
- Be carried out on land zoned “A” Agricultural.
- Complete the appropriate application process for Douglas County agritourism registration.
- Develop and comply with a site- and activity-specific drinking water plan in cooperation with the Douglas County Health Dept.
- Develop and comply with a site- and activity-specific sanitation (wastewater disposal) plan developed in cooperation with the Douglas County Health Dept.
- Develop and comply with a site plan and/or narrative description detailing how any anticipated adverse effects on surrounding properties or residents will be mitigated. Site plan and/or narrative must show, at a minimum:
 - Proposed agritourism use(s). There is no limit to the number of uses that are allowed for a permit, but the most stringent applicable registration level will apply to all uses (Tier 1, Tier 2, or Conditional Use Permit).
 - All structures to be utilized for the agritourism use, including dimensions and distance to the nearest property line, and their status as Ag Exempt buildings if applicable;
 - Areas where the agritourism use will occur and areas where agritourism participants will be allowed.
 - Access and parking areas shown and dimensioned, noting the total number of spaces.
 - Means by which participants will be prevented from parking on public roads;
 - Means by which lights, dust, noise and other potential nuisances to neighbors will be abated to meet neighbor concerns;
 - Proposed hours of operation;
 - Expected attendance.
 -
- Develop and comply with an emergency response plan [in cooperation with ____?].
- Comply with any applicable local, State or Federal regulations, including but not limited to regulations pertaining to Sales and other taxes; Weights and Measures; labor; building codes; food service; overnight accommodations; nuisance ordinances; fire codes; liquor licenses; etc.
- Re-register with both the State and County every time the State requires re-registration.
- Amend State and County agritourism registrations whenever significant changes are made to the agritourism activities; operators; site, water and sanitation plans; etc.

- Notify the County whenever a minor change (days or hours not resulting in a change between Tier 1 and Tier 2;) in agritourism activities might result in additional effects on surrounding property owners, such as increased hours of operation.

Agritourism uses requiring a Conditional Use Permit shall meet all of the above standards as well any other requirements of the Conditional Use Permit.

All documents (registrations, plans, etc.) pertaining to the Agritourism registration shall be a matter of public record and available to the public online or by request at the Douglas County Zoning and Codes office.

On-site burning to dispose of refuse, rubbish or trash from agritourism activities shall not be permitted unless special facilities are constructed consistent with EPA standards. Only normal recreational fires using conventional natural fuels; burning of natural materials as part of an agricultural process; and disposal by burning of normal agricultural waste; are allowed. Waste from agritourism activities must be transported to a licensed landfill for proper disposal.

ENFORCEMENT

Enforcement shall be based on compliance with the plans required by the Agritourism standards.

Unless the complainant can demonstrate a compelling reason not to do so, complainants shall discuss (in person or via phone or email) and attempt to work out resolutions to problems directly with the agritourism operator before bringing complaints to the County Zoning and Codes office.

If a satisfactory resolution can't be reached by the complainant and the agritourism operator, the complainant may file a written complaint, along with documentation of previous attempts to resolve the matter, with the Douglas County Zoning and Codes office. Complaints should clearly specify the standard being violated and the adverse effect on the complainant.

Zoning and Codes office shall determine whether a standard has been violated and specify remedial action as needed, including reasonable deadlines and standards for compliance. Zoning and Codes office will inform both the complainant and the agritourism operator of the determination and any required remedial action. If possible, Zoning and Codes office will meet together with complainant and agritourism operator to work out an acceptable solution to the situation.

If an agritourism operator fails to comply with the request for remedial action within the specified time, or repeatedly violates applicable standards, the County may revoke the Agritourism registration permit. Once the Agritourism registration has been revoked, then

any violations of “A” Agricultural District codes may be addressed according to the means provided for by that code.

Memorandum

City of Lawrence

Planning & Development Services

TO: Planning Commission

FROM: Mary Miller, Planner

CC: Scott McCullough, Planning and Development Services Director

Date: For January 27, 2014 meeting

RE: MISC NO. 1; VARIANCE FOR CERTIFICATE OF SURVEY; 51 N 2190 RD(MKM)

CSR-13-00517: Consider a variance associated with a Certificate of Survey for approximately 44 acres located at 51 N 2190 Rd. The variance is requested from Section 20-806(d)(2)(i) of the Subdivision Regulations [Section 11-106(d)(2)(i) of the County Code] to allow the creation of Residential Development Parcels which do not comply with the RDP dimensional requirements of the Zoning Regulations. Submitted by Stebbins Surveying LLC, for Louis and Betty Eakes, property owners of record.

Attachment A: Certificate of Survey, CSR-13-00517

Certificates of Survey are processed administratively but Planning Commission approval is required for variances from the Subdivision Design Standards. The Certificate of Survey referenced above was recently submitted and is currently under review. A copy of the Certificate of Survey is being provided with this memo for context; however, no action is required on the Certificate of Survey.

The Subdivision Regulations state that an applicant may request a variance from the Design Standards in the Regulations in accordance with the variance procedures outlined in Section 11-113(g) [20-813(g)/City Code]. This section lists the criteria that must be met in order for a variance to be approved. The requested variance is evaluated for compliance with the approval criteria below:

VARIANCE REQUESTED: Creation of a Rural Certificate of Survey with Residential Development Parcels with minimum widths below that required in the Zoning Regulations.

A Rural Certificate of Survey is a residential land division that is permitted in the unincorporated portions of the county that are outside the Urban Growth Areas. A minimum of 20 acres is required for a Certificate of Survey and a maximum of 2 developable parcels (Residential Development Parcels or RDPs) are possible, unless the property is bounded on 2 sides by local roads; in which case 3 RDPs are possible.

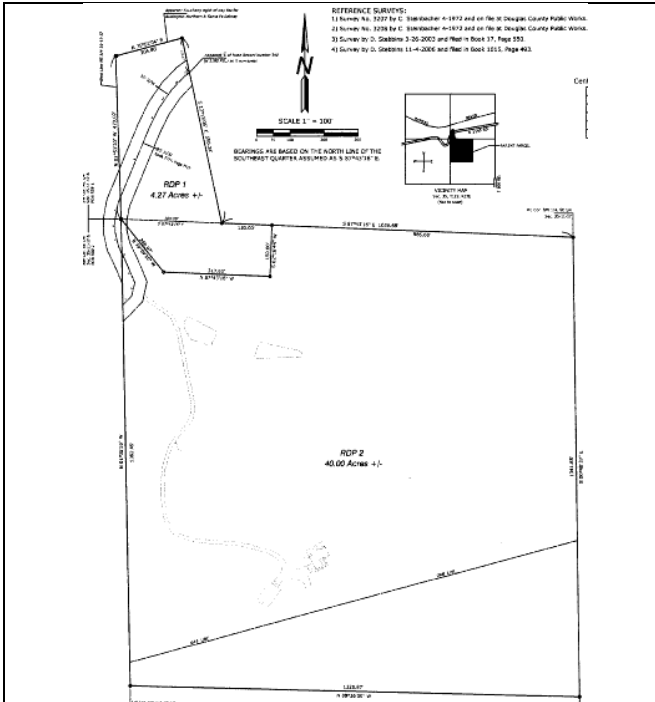


Figure 1a. Layout on submitted Certificate of Survey

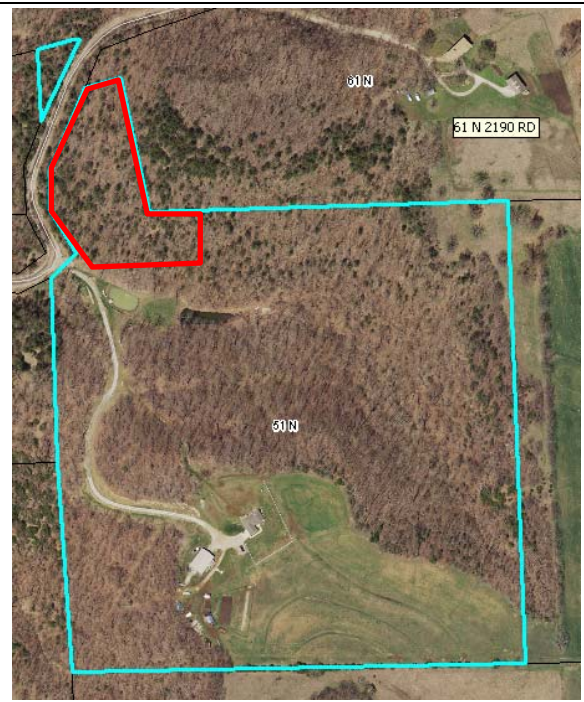


Figure 1b. Aerial showing subject property; proposed RDP1 outlined in red (approximate).

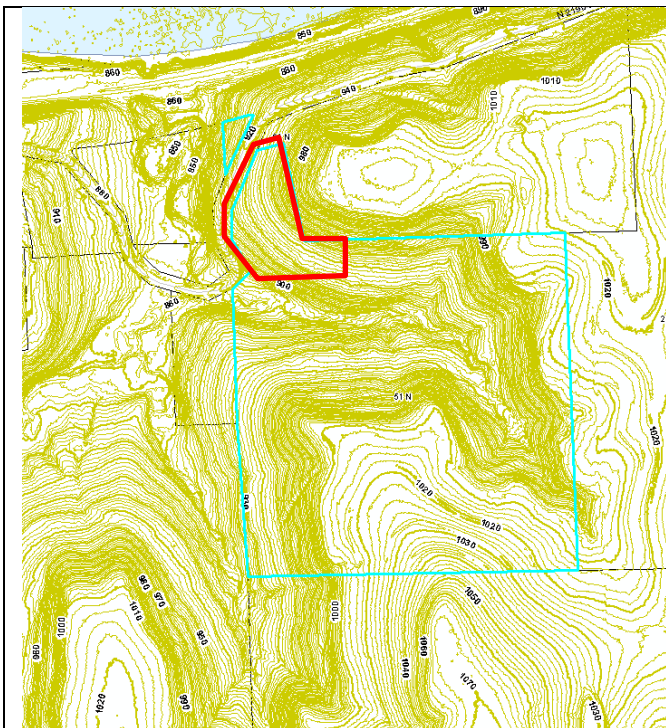


Figure 2a. Contour map of property; proposed RDP1 outlined in red (approximate).

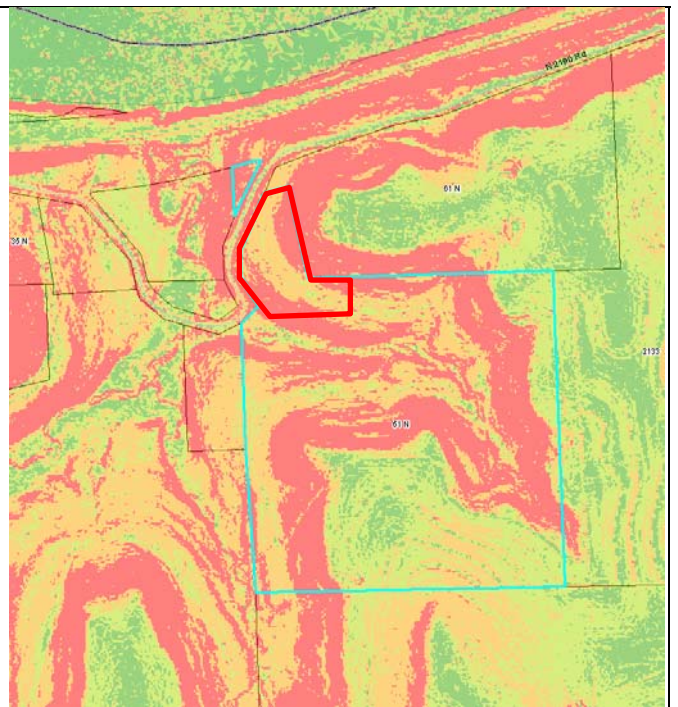
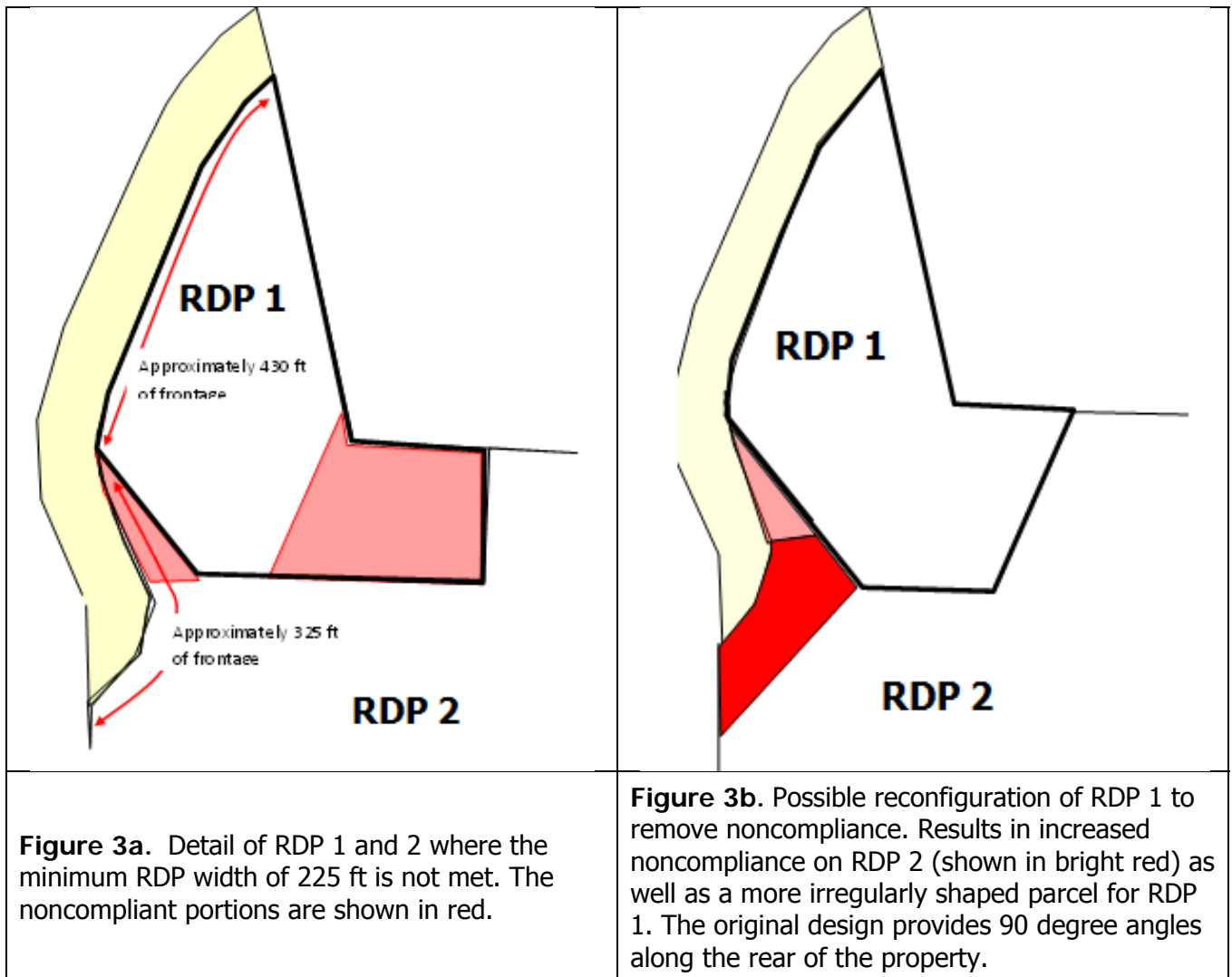


Figure 2b. Slope map from City GIS maps; proposed RDP1 outlined in red (approximate).

The Certificate of Survey will divide approximately 44 acres in one Certificate of Survey to create 2 Residential Development Parcels (RDP) for residential development as shown in Figure 1a. Approximately 3 acres are being divided from the property which has been developed with a residence to create another parcel that can be developed residentially. Although the property contains over 40 acres, only one certificate of survey with 2 RDPs is possible due to the amount of road frontage that is available. (Figure 1) N 2190 Road is classified as a 'local road' in the Douglas County Access Management Map. Any RDP created in a rural Certificate of Survey on a local road requires a minimum of 250 ft of road frontage. The RDPs both exceed this frontage requirement.

The Zoning Regulations require that each RDP which fronts on and takes access to a local road have a minimum width equal to 90% of the minimum required road frontage, or 225 ft. A variance is being requested from this requirement.

Criteria 1. Strict application of these regulations will create an unnecessary hardship upon the Subdivider.



As shown in the detail in Figure 3a, the configuration of the road and the original shape of the parcel prevent the minimum width from being provided in all portions of the Residential Development Parcels (RDPs).

The example in Figure 3b shows a possible reconfiguration of RDP 1 that would provide the required minimum RDP width of 225 ft (approximately) for RDP 1. This reconfiguration would result in an increased portion of RDP 2 that does not comply with the required minimum RDP width of 225 ft (shown in bright red). This reconfiguration also creates a more irregularly shaped boundary for RDP 1, where the originally proposed layout provides right angles at the east boundary of the RDP. The property owner wishes to maintain his access to the 2 ponds that are located on RDP 2 (Figure 1) but he indicated that the lengthening of RDP 1 as shown in the example would interfere with this access. In staff's opinion, as the change to RDP 1 does not remove the noncompliance from the minimum RDP width requirement but shifts the noncompliance to RDP 2 and results in a more irregularly shaped boundary for RDP 1 and possibly impedes access to the existing farm ponds; this reconfiguration is not preferred.

Strict application of these regulations would not allow the division of the 44 acre parcel through the Certificate of Survey process even though the parcel exceeds the required road frontage of 250 ft for each RDP and the required area requirement of 20 acres for a Certificate of Survey based on the pre-existing configuration of N 2190 Road and the subject parcel.

Staff Finding:

Strict application of these regulations would require the minimum RDP width of 225 ft to be observed. The existing shape of the parcel and the layout of N 2190 Road in this road (required due to the topography of the area) would prevent the division of the 44 acre parcel through the Certificate of Survey process even though the RDPs would exceed the road frontage requirement and the Certificate of Survey would exceed the minimum area requirement as the minimum width requirement could not be met. In staff's opinion this would be an unnecessary hardship upon the subdivider.

Criteria 2. The proposed variance is in harmony with the intended purpose of these regulations.

The purpose and intent of the Subdivision Regulations are noted in Section 20-801 as *"...to ensure that the division of land, which, in many instances, is an initial step in urbanization, will serve the public interest and general welfare. Since the allocation and arrangement of parcels of land for both private uses and public uses helps to influence the health, safety, economy, livability, and amenities of an area, these regulations are intended to:*

- (i) Provide for the harmonious and orderly development of land within the City and the Unincorporated Area of Douglas County by making provisions for adequate open space, continuity of the transportation network, recreation areas, drainage, utilities and related easements, light and air, and other public needs;*
- (ii) Contribute to conditions conducive to health, safety, aesthetics, convenience, prosperity, and efficiency; and*
- (iii) Provide for the conservation and protection of human and natural resources.*

The requested variance will allow the creation of 2 parcels from a 44 acre parent parcel per the requirements of the Zoning Regulations with the exception that portions of the Residential Development Parcels will have less than the required 225 ft width. This will not affect the open

space, continuity of the transportation network, recreation areas, drainage, utilities/easements, light and air or other public needs. The variance will allow the creation of a RDP that has a rectangular boundary with 90 degree angles where possible. This results in a more convenient and efficient parcel design and fencing is more likely to follow property lines accurately. Maintaining the proposed RDP configuration allows the access to the farm ponds to remain as is. Given the topography of the site, creating new access drives could be difficult. The Certificate of Survey has provisions for the conservation and protection of the natural resources on the site, stands of mature trees, and this variance will not affect that protection. Areas that contain stands of mature trees (up to 40% of the site) are required to be shown outside of the building envelope and identified on the Certificate of Survey as 'Environmentally Sensitive Lands'.

Staff Finding:

Allowing the creation of 2 RDPs with this Certificate of Survey that have less than the required minimum RDP width of 225 ft as shown on the submitted Certificate of Survey will result in a more regularly shaped boundary for RDP 1 and allow the existing access to the farm ponds to remain. The variance is being requested only in the area near the irregular roadway and the existing farm ponds. The variance requested is in harmony with the stated intent and purpose of the Subdivision Regulations.

Criteria 3: The public health, safety, and welfare will be protected.

One new access point will be added to the roadway. The roadway frontage is approximately 750 ft for the Certificate of Survey. The Douglas County Access Management Standards recommend an entrance spacing of 250 ft on local roads. The length of the road would be adequate for 3 Residential Development Parcels and 3 access points. The irregular shape of the roadway prevents the creation of 2 Certificates of Survey; therefore, the number of access points being provided in this area will be 2 rather than the 3 that would be permitted on this length of roadway with the Access Management Standards.

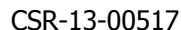
Staff Finding:

Granting of the variance will result in 2 access points which are compliant with the Douglas County Access Management Standards. Granting the variance will not negatively affect the public health, safety, and welfare.

STAFF RECOMMENDATION:

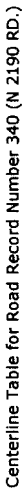
Approve the variance requested from Section 11-106(d)(2)(i) [Section 20-806(d)(2)(i)/City Code] to allow the Certificate of Survey CSR-13-00517 to create 2 RDPs that have less than the required 90% minimum RDP width of 225 ft, subject to the following condition:

1. The Certificate of Survey shall be revised to note that the Planning Commission approved the requested variance with the date.



EAST HALF (E 1/2) OF SECTION 35, TOWNSHIP 11 SOUTH, RANGE 21
EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS

1) Survey No. 3207 by C. Steinbacher 4-1972 and on file at Douglas County Public Works.
2) Survey No. 3208 by C. Steinbacher 4-1972 and on file at Douglas County Public Works.
3) Survey by D. Stebbins 3-26-2003 and filed in Book 17, Page 550.
4) Survey by D. Stebbins 11-4-2006 and filed in Book 1015, Page 493.



1	N 44°41'00" E	37.82'			7	N 11°07'23" E	50.49'
2	N 12°48'57" E	39.18'			8	N 22°58'31" E	237.28'
3	N 23°05'57" W	60.51'			9	N 26°14'10" E	63.11'
4	N 24°44'28" W	56.00'			10	N 34°43'52" E	66.40'
5	N 12°56'53" W	42.16'			11	N 44°17'36" E	57.34'
6	N 01°24'13" W	37.15'			12	N 54°49'59" E	17.75'

(1) This Certificate of Survey was not prepared for the purpose of the platting of land. No further divisions of the parcels created by this survey shall occur until the property is subdivided in accordance with all applicable Subdivision Regulations of Douglas County or the city into which it is annexed.

(2) This division is being made in pursuant to Section 20-806, of the Subdivision Regulations for Lawrence and Unincorporated Douglas County.

(3) There is no FEMA designated floodplain on the Residential Development Parcels according to FIRM Flood Insurance Rate Map Number 2004C0036D, with an effective date of August 5, 2010.

(4) Water supply will be provided by Rural Water District #3 (if rural water is available) or by an on-site well for Residential Development Parcels. The parcel must contain a minimum of 3 acres that is not located within the FEMA designated floodplain if rural water is available or 5 acres that is not located within the FEMA designated floodplain if well-water is to be used. The Residential Development Parcels created by this Certificate of Survey shall not be eligible for building permits until one of the following occur:

(a) Rural Water District issues a water meter and documentation that a water meter has been purchased by the owner is presented to the Lawrence-Douglas County Health Department and the Douglas County Zoning Office, or

(b) The Lawrence-Douglas County Health Department issues a permit for a well and a copy of this permit is provided to the Douglas County Zoning Office. (Please note that well water is not available in all parts of the county. If well water is not available, please contact the Douglas County Health Department for the requirements for cisterns within the county.) occur:

(5) WASTEWATER DISPOSAL NOTE:

Wastewater disposal will be provided by an Onsite Sewage Management System approved by the Director of the Lawrence/Douglas County Health Department or a connection to a wastewater disposal system approved by the Kansas Department of Health and Environment. A preliminary site evaluation for each septic system is required prior to a building permit being issued. The septic permit must be approved and purchased prior to the issuance of a building permit.

(6) This property is Zoned A-Agricultural.

(7) Development on each Residential Development Parcel shall comply with the Douglas County Zoning Codes.

(8) Development on each Residential Development Parcel shall comply with the Douglas County Public Road Access Management Standards.

I CERTIFY THIS TO BE A TRUE AND CORRECT COPY OF A SURVEY MADE BY ME ON DECEMBER 12, 2013, AND I FURTHER CERTIFY THIS SURVEY COMPLIES WITH KANSAS MINIMUM STANDARDS FOR BOUNDARY SURVEYS.

Danny L. Stebbins LS No. 1356

IN WITNESS WHEREOF:
LOUIS J. EAKES AND BETTY J. EAKES, HAVE CAUSED THESE PRESENTS
TO BE SIGNED THIS _____ DAY OF _____, 2014.

LOUIS J. EAKES

NOTARY PUBLIC:

STATE OF KANSAS COUNTY OF DOUGLAS, BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 2014, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE CAME LOUIS J. EAKES AND BETTY J. EAKES TO ME KNOWN PERSONALLY TO BE THE SAME PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGE THE SAME AS THEIR FREE ACT AND DEED.

MY APPOINTMENT EXPIRES _____ DATE _____

NOTARY PUBLIC _____

REVIEWED IN COMPLIANCE WITH K.S.A. 58-2005

Michael D. Kelly LS No. 869, Douglas County Surveyor

The Northwest 1/4 of the Southeast 1/4 of Section 35, Township 11 South, Range 17 East of the 6th P.M., Douglas County, Kansas,
AND

A tract of land in the Northeast Quarter (NE 1/4) of Section 35, Township 11 South, Range 17 East of the Sixth Principal Meridian, all in Douglas County, Kansas and more particularly described as follows:

Beginning at the Southwest Corner of the Northeast Quarter (NE 1/4) of said Section 35; thence North 01°53'20" West along the West line of the Northeast Quarter (NE 1/4) of said Section 35 a distance of 479.02 feet to the Northwest Corner of the Northeast Quarter (NE 1/4) of said Section 35; thence North 75°01'04" East along the apparent Southerly right-of-way line for the Burlington Northern & Santa Fe Railway; thence North 75°01'04" East along the apparent Southerly right-of-way line for the Burlington Northern & Santa Fe Railway a distance of 204.80 feet; thence South 12°01'30" East along the South line of the Northeast Quarter (NE 1/4) of said Section 35; thence South 87°43'16" West along the South line of the Northeast Quarter (NE 1/4) of said Section 35 a distance of 300.00 feet to the Point of Beginning, all in Douglas County, Kansas. Subject to rights-of-way, easements and restrictions of record.

A parcel of land in the East Half (E 1/2) of Section 35, Township 11 South, Range 17 East of the 6th P.M., Douglas County, Kansas and more particularly described as follows:

Beginning at the Southwest Corner of the Northeast Quarter (NE 1/4) of said Section 35; thence North 01 degrees 53 minutes 20 seconds West along the West line of the Northeast Quarter (NE 1/4) of said Section 35 a distance of 479.02 feet to the apparent Southerly right-of-way line for the Burlington Northern & Santa Fe Railway; thence North 75 degrees 01 minutes 04 seconds East along the apparent Southerly right-of-way line for the Burlington Northern & Santa Fe Railway a distance of 204.80 feet; thence South 12 degrees 13 minutes 05 seconds East a distance of 356.24 feet to the North line of the Southeast Quarter (SE 1/4) of said Section 35; thence South 35 degrees 48 minutes 16 seconds East along the North line of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 868.68 feet to the Northeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence South 00 degrees 48 minutes 37 seconds East along the East line of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1341.65 feet to the Southwest corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence North 88 degrees 36 minutes 00 seconds West along the South line of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1328.87 feet to the Southwest corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence North 01 degrees 05 minutes 55 seconds West along the West line of the Northwest Quarter (SE 1/4) of said Section 35 a distance of 1362.45 feet to the Point of Beginning; containing 44.27 acres, more or less, all in Douglas County, Kansas. Subject to rights-of-way, easements and restrictions of record.

A parcel of land in the East Half (E 1/2) of Section 35, Township 11 South, Range 17 East of the 6th P.M., Douglas County, Kansas and more particularly described as follows:

Beginning at the Southwest corner of the Northeast Quarter (NE 1/4) of said Section 35; thence North 01 degree 45 minutes East 353 meters West along the West line of the Northeast Quarter (NE 1/4) of said Section 35 a distance of 75 meters; thence South 89 degrees 09 minutes West along the West line of the Northeast Quarter (NE 1/4) of said Section 35 a distance of 479.02 feet to the apparent Southern right-of-way line for the Burlington Northern & Santa Fe Railway; thence North 75 degrees 01 minutes 04 seconds East along the apparent Southern right-of-way line for the Burlington Northern & Santa Fe Railway a distance of 204.80 feet; thence South 13 degrees 13 minutes 05 seconds East a distance of 165.00 feet to the intersection of the West line of the Southeast Quarter (SE 1/4) of said Section 35; thence North 87 degrees 43 minutes 16 seconds East along the north line of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 150.00 feet; thence South 02 degrees 16 minutes 16 seconds West a distance of 150.00 feet; thence South 02 degrees 16 minutes 16 seconds East along the north line of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 150.00 feet; thence South 02 degrees 16 minutes 16 seconds West a distance of 150.00 feet; thence South 02 degrees 16 minutes 16 seconds East along the north line of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 150.00 feet; thence South 02 degrees 16 minutes 16 seconds West a distance of 150.00 feet; thence North 39 degrees 09 minutes West a distance of 200.07 feet to the Point of Beginning, containing 4.27 acres, more or less, all in Douglas County, Kansas. Subject to rights-of-way, easements and restrictions of record.

A parcel of land in the Southeast Quarter (SE 1/4) of Section 35, Township 11 South, Range 17 East of the 6th P.M., Douglas County, Kansas and more particularly described as follows:

Beginning at the Northwest corner of the Southeast Quarter (SE 1/4) of said Section 35; thence South 39 degrees 09 minutes 20 seconds West along the West a distance of 200.07 feet; thence South 87 degrees 43 minutes 16 seconds East a distance of 317.60 feet; thence North 02 degrees 16 minutes 44 seconds East a distance of 150.00 feet to the North line of the Southeast Quarter (SE 1/4) of said Section 35; thence South 87 degrees 43 minutes 16 seconds East along the North line of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 886.68 feet to the Northeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence South 00 degrees 48 minutes 37 seconds East along the East line of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1341.65 feet to the Southeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence North 01 degrees 05 minutes 55 seconds West along the West line of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1362.45 feet to the Point of Beginning, containing 40.00 acres, more or less, all in Douglas County, Kansas. Subject to rights-of-way, easements and restrictions of record.

APPROVED AS A CERTIFICATE OF SURVEY UNDER THE SUBDIVISION REGULATIONS
OF THE CITY OF LAWRENCE & THE UNINCORPORATED AREA OF DOUGLAS COUNTY,
THIS _____ DAY OF _____ 2014.

PLANNING DIRECTOR

FILED FOR RECORD IN THE OFFICE OF THE DOUGLAS COUNTY REGISTER OF DEEDS

THIS _____ DAY OF _____ 2014,
BOOK _____, PAGE _____, AT _____.

**KAY PESNELL
REGISTER OF DEEDS**

STEBBINS SURVEYING, LLC
4778 Decatur Road
Meriden, Kansas 66512
785-246-3513

Preparation Date: December, 2013