



**Updated:**

**7/22/13 @ 1:30pm**

**Added Communications for Item 6 - TA Development Code Accessory Dwelling Units**

**7/22/13 @ 11:00am**

**Added Communications for Item 6 - TA Development Code Accessory Dwelling Units**

**Added Draft June Planning Commission Minutes**

**7/17/13 @ 2:45pm**

**The Draft June Planning Commission Minutes will be added when available**

**\*\*The Wednesday, July 24<sup>th</sup> Planning Commission meeting has been cancelled\*\***

**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION  
CITY HALL, 6 EAST 6<sup>TH</sup> STREET, CITY COMMISSION MEETING ROOM  
AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS  
JULY 22 ~~& 24~~, 2013 6:30 - 10:30 PM**

**GENERAL BUSINESS:**

**PLANNING COMMISSION MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of June 24 and 26, 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 (JULY 22, 2013) MEETING**

**PUBLIC HEARING ITEM on Variances Only:**

**ITEM NO. 1      PRELIMINARY PLAT FOR MEADOW LEA ESTATES; 2600 REDBUD LN, 2620 IOWA ST, 2626 IOWA ST, 2032 W 27<sup>TH</sup> ST (SLD)**

**PP-13-00187:** Consider a one lot Preliminary Plat and variances related to street design standards included in Section 20-810 of the Subdivision Regulations regarding minimum street right-of-way and street termination for Meadow Lea Estates, approximately 3.3 acres, located at 2600 Redbud Lane, 2620 Iowa Street, 2626 Iowa Street, and 2032 W 27<sup>th</sup> Street. Submitted by Landplan Engineering for KMAH LLC, property owner of record.

**ITEM NO. 2      DEERFIELD WOODS SUBDIVISION; 3320 PETERSON RD (SLD)**

**MS-13-00217:** Deerfield Woods Subdivision No. 9, a minor subdivision/replat of Lot 1 Deerfield woods Subdivision No. 7, located at 3320 Peterson Road. This Minor Subdivision includes a variance request to reduce the right of way for Peterson Road and Kasold Drive from 150' to 100' and a variance to allow sidewalk on only one side of the street. Submitted by Landplan Engineering, for Cheer Pole, LTD, property owner of record.

**PUBLIC HEARING ITEMS:**

**ITEM NO. 3      IG TO IL; 5.09 ACRES; 2200 EAST HILLS DR (SMS)**

**Z-13-00191:** Consider a request to rezone approximately 5.09 acres from IG (General Industrial) District to IL (Limited Industrial) District, located at 2200 East Hills Drive. Submitted by GHB Investors, property owner of record.

**ITEM NO. 4      CONDITIONAL USE PERMIT; PRIVATE LANDING STRIP; 2215 N 500 (MKM)**

**CUP-13-00193:** Consider a Conditional Use Permit for a private landing strip, located at 2215 N 500 Rd. Submitted by Robert and Angela Murray, property owners of record.

**ITEM NO. 5A      OS-FP TO RM12-FP; .06 ACRE; 3309 W 31<sup>ST</sup> ST (MKM)**

**Z-13-00199:** Consider a request to rezone approximately .06 acre from OS-FP (Open Space with Floodplain Management Regulations Overlay) District to RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District, located at 3309 W 31<sup>st</sup> St. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

**ITEM NO. 5B      RM12 TO RM12; 16.06 ACRES; 3309 W 31<sup>ST</sup> ST (MKM)**

**Z-13-00249:** Consider a request to rezone approximately 16.06 acres located at 3309 W 31<sup>st</sup> St from RM12 (Multi-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District to revise the condition which limits maximum density to 6 dwelling units per acre to 9 dwelling units per acre. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

**ITEM NO. 5C      RM12-FP TO RM12-FP; 6.39 ACRES; 3309 W 31<sup>ST</sup> ST (MKM)**

**Z-13-00250:** Consider a request to rezone approximately 6.39 acres located at 3309 W 31<sup>st</sup> St from RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District to RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District to revise the condition which limits maximum density to 6 dwelling units per acre to 9 dwelling units per acre. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

**PUBLIC HEARING ITEM on Variance Only:**

**ITEM NO. 5D      PRELIMINARY PLAT FOR YANKEE TANK ESTATES; 3309 W 31<sup>ST</sup> ST (MKM)**

**PP-13-00195:** Consider a Preliminary Plat for Yankee Tank Estates, approximately 35.76 acres located at 3309 W 31<sup>st</sup> St and associated variance from right-of-way width requirement. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

**PUBLIC HEARING ITEMS:**

**ITEM NO. 6      TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; ACCESSORY DWELLING UNIT (MJL)**

**TA-13-00106:** Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Articles 4 and 5, to permit the Accessory Dwelling Unit use as an accessory use in the RS5 (Single-Dwelling Residential) District. *Deferred by Planning Commission on 6/26/13.*

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

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**ADJOURN**

**CALENDAR**

June 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						

July 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			

August 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

**PCCM Meeting:** (Generally 2<sup>nd</sup> Wednesday of each month, 7:30am-9:00am)

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**PLANNING COMMISSION MEETING**  
**June 24 & 26, 2013**  
**Meeting Minutes **DRAFT****

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June 24, 2013 – 6:30 p.m.

Commissioners present: Culver, Denney, Graham, Josserand, Lamer, Liese, Rasmussen, von Achen

Staff present: McCullough, Stogsdill, Day, Larkin, M. Miller, Ewert

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**MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of May 20, 2013.

Motioned by Commissioner Josserand, seconded by Commissioner Graham, to approve the May 20, 2013 Planning Commission minutes.

Motion carried 6-0-2, with Commissioners Denney and Rasmussen abstaining.

**COMMITTEE REPORTS**

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

There were no committees that met.

**COMMUNICATIONS**

Mr. McCullough announced that this would be Commissioner Lamer's last meeting. He also stated that Planning Commission needed to appoint someone to the Oread Design Guideline subcommittee.

**EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- Ex parte:

Commissioner Culver said he met with Mr. Matt Gough regarding item 3 and briefly discussed parts of the item but that it was nothing outside of what was already included in the packet material.

Commissioner Graham said she received a brief telephone call from Mr. Gough regarding item 3.

Commissioner Lamer said he received an email from Mr. Gough but did not return the email.

Commissioner Rasmussen said he had a brief similar conversation with Mr. Gough regarding item 3.

Commissioner Liese said he briefly talked to Mr. Gough on the telephone about item 3 as well.

- Abstentions:

Commissioner Denney said he would abstain from item 1 due to his past involvement with the radio system that would be discussed.



Commissioner Rasmussen asked Commissioner Denney to clarify why he was abstaining.

Commissioner Denney said he retired as the Director of Emergency Communications in 2008 and designed the system in place now. He said he chose the site for part of the current radio system and was involved in the planning for the new radio system, including choosing that site as well. He said he did some consulting with the County after he retired and may do more in the future.

#### **ELECTION OF OFFICERS FOR 2013-2014**

Accept nominations for and elect Chair and Vice-Chair for the coming year.

Motioned by Commissioner von Achen, seconded by Commissioner Rasmussen, to elect Commissioner Culver as Chair.

Motion carried 7-0-1, with Commissioner Culver abstaining.

Motioned by Commissioner von Achen, seconded by Commissioner Culver to elect Commissioner Liese as Vice-Chair.

Motion carried 7-0-1, with Commissioner Liese abstaining.

PC Minutes 6/24/13 **DRAFT**

**Recess LDCMPC**

**Convene Joint Meeting with Lecompton Planning Commission**

**ITEM NO. 1      CONDITIONAL USE PERMIT FOR DOUGLAS COUNTY EMERGENCY  
COMMUNICATION TOWER; 297 N 2100 RD (SLD)**

**CUP-13-00156:** Consider a Conditional Use Permit for a 300' guy tower for Douglas County Emergency Communication, located at 297 N 2100 Rd. Submitted by Selective Site Consultants, on behalf of Douglas county Emergency Communication Department for Freda Laduke, property owner of record. *Joint meeting with Lecompton Planning Commission.*

**Adjourn Joint Meeting  
Reconvene LDCMPC**

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Mr. Rex Curry, Selective Site Consultants, was present for questioning.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Josserand asked if the issue between the first and second tower was weight.

Mr. Curry said it was a structural issue. He said the existing tower could not accommodate the load that would be added.

Commissioner Josserand asked if the prior tower that was exclusively for public use would come down.

Ms. Day said there was still equipment on that tower in use.

Mr. Scott Ruff, Douglas County Emergency Communications Director, said that tower was owned by Great Plains Media and was their main transmitter site for the local radio station. He said to his knowledge, in working with those engineers, they support the second tower with the understanding it was not structurally sound to add the additional equipment. He said in talking to Great Plains Media and their engineers there was no plan to take down or replace the tower until necessary. He stated the existing tower was owned by a public company.

Commissioner Josserand asked if the intent with the second tower was to be used by public entities.

Mr. Ruff said no.

Commissioner Rasmussen inquired about staff report condition 1a and asked who the owner was.

Ms. Day said the condition referred to the ownership of the tower, which was owned by Douglas County and they would lease the land from the property owner.

Commissioner Rasmussen asked if the condition was referring to the structure owner not the land owner.

Ms. Day said yes.

Commissioner Liese asked if Lecompton had an Urban Growth Area.

Mr. McCullough said Lecompton did not have an Urban Growth Area that was identified. He said if he was referring to the 3 mile boundary, that was a separate issue. He said many years ago the county provided some formal input on the smaller cities in the county to provide input if a project was requested within 3 miles of their corporate limits.

Commissioner Rasmussen felt the first condition 1a should clarify that Douglas County would be responsible for removing the tower, not the property owner.

### **ACTION TAKEN**

Motioned by Commissioner Rasmussen, seconded by Commissioner Liese, to approve the Conditional Use Permit for the 300' tower and forwarding it to the County Commission subject to the following conditions:

- 1) The provision of a revised site plan that adds the following notes to the face of the drawing:
  - a) "The owner, Douglas County, at the owner's expense shall remove any tower not in use for a period of three years or more."
  - b) "A sign shall be posted on the tower or the exterior fence around the base of the tower with the name and telephone number of the tower owner/operator."
  - c) "Use of this tower for carriers other than Douglas County Emergency Communication Department shall require County Commission approval, as the tower owner, in addition to site plan review and approval of any co-location request for new equipment other than that expressly used for Douglas County Emergency Management. Equipment changes or improvements by Douglas County may be approved by site plan amendment per the County Zoning Administrator. "
  - d) "A change of ownership of the tower shall require a new Conditional Use Permit and public hearing." This will allow review of the intended use of the tower and public notice of the proposed change.

Motion carried 7-0-1, with Commissioner Denney abstaining.

PC Minutes 6/24/13 **DRAFT**

**ITEM NO. 2A PID TO IG; 46 ACRES; E 25<sup>TH</sup> ST & FRANKLIN PARK CIR (MKM)**

**Z-13-00145:** Consider a request to rezone approximately 46 acres located south of the intersection of E 25<sup>th</sup> Street & Franklin Park Circle from PID (Planned Industrial Development) District to IG (General Industrial) District. Submitted by Bartlett & West, for Douglas County Board of Commissioners, property owner of record.

**ITEM NO. 2B PRELIMINARY PLAT FOR DOUGLAS COUNTY PUBLIC WORKS ADDITION; E 25<sup>TH</sup> ST & FRANKLIN PARK CIR (MKM)**

**PP-13-00144:** Consider a Preliminary Plat for Douglas County Public Works Addition, a 1 lot subdivision of approximately 46 acres, located south of E 25<sup>th</sup> Street & Franklin Park Circle. Submitted by Bartlett & West, for Douglas County Board of Commissioners, property owner of record.

**STAFF PRESENTATION**

Commissioner Lamer said he would abstain from this item because his wife was a former employee of Bartlett & West and had funds in their retirement account that had not been dispersed yet.

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

**APPLICANT PRESENTATION**

Mr. Darron Ammann, Bartlett & West, was present for questioning.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN on Item 2A**

Motioned by Commissioner Liese, seconded by Commissioner Josserand, to approve the rezoning request of approximately 46 acres from PID-Franklin Park (Planned Industrial Development) District to IG (General Industrial) 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.

Commissioner Rasmussen said the building layout could totally change when a site plan was actually submitted.

Mr. McCullough said in this particular case it was a pretty high level idea because they were also trying to do the utility easement work in conjunction with the plat so at this stage it was pretty close. He said it had the potential to change though.

Motion carried 7-0-1, with Commissioner Lamer abstaining.

**ACTION TAKEN on Item 2B**

Motioned by Commissioner Liese, seconded by Commissioner Josserand, to approve the Douglas County Public Works Addition Preliminary Plat subject to the following conditions:

1. Provision of a revised plat with the following changes:
  - a. Note that Franklin Park Circle is proposed to be renamed 'Franklin Park Court'.
  - b. Identify the drainage easements as detention basins and add the following notes to the plat:

- "The detention basins will remain free of any natural or non-natural structures or vegetative barriers (including but not limited to trees, shrubbery, berms, fences, and walls."
  - "The detention basins will be privately-owned and maintained. The developer is responsible for establishing ownership and maintenance of same via individual owner maintenance. No fences or structures other than necessary retaining walls and/or guardrails will be allowed within the drainage easements."
  - c. Revise utilities and easements per City Utilities Department approval.
  - d. Note the minimum finished floor elevation for structures on lots.
2. Provision of a revised Downstream Sanitary Sewer Analysis per Utility Engineer approval.

Motion carried 7-0-1, with Commissioner Lamer abstaining.

PC Minutes 6/24/13 **DRAFT**

**ITEM NO. 3A UR TO RS7; 21.54 ACRES; QUEENS RD & OVERLAND DR (SLD)**

**Z-13-00149:** Consider a request to rezone approximately 21.54 acres from UR (Urban Reserve) District to RS7 (Single-Dwelling Residential), located on the northwest corner of Queens Road & Overland Drive. Submitted by Highland Construction Inc., for Prairie Rose Holdings, LC, property owner of record.

**ITEM NO. 3B UR TO RS5; 3.34 ACRES; QUEENS RD & OVERLAND DR (SLD)**

**Z-13-00165:** Consider a request to rezone approximately 3.34 acres from UR (Urban Reserve) District to RS5 (Single-Dwelling Residential), located on the northwest corner of Queens Road & Overland Drive. Submitted by Highland Construction Inc., for Prairie Rose Holdings, LC, property owner of record.

**ITEM NO. 3C UR TO RM12; 15.89 ACRES; QUEENS RD & OVERLAND DR (SLD)**

**Z-13-00166:** Consider a request to rezone approximately 15.89 acres from UR (Urban Reserve) District to RM12 (Multi-Dwelling Residential), located on the northwest corner of Queens Road & Overland Drive. Submitted by Highland Construction Inc., for Prairie Rose Holdings, LC, property owner of record.

**ITEM NO. 3D PRELIMINARY PLAT FOR KELLYN ADDITION; QUEENS RD & OVERLAND DR (SLD)**

**PP-13-00148:** Consider a Preliminary Plat for Kellyn Addition, an 87 lot residential subdivision containing 40.76 acres. Lots include 15.89 acres for multi-dwelling, RM12 zoning, and 21.54 acres of proposed RS7, and 3.34 acres of proposed RS5 located on the northwest corner of Queens Road and Overland Drive. Submitted by Highland Construction Inc., for Prairie Rose Holdings LC, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented items 3A-3D together.

**APPLICANT PRESENTATION**

Mr. Matt Gough, Barber Emerson, said he met with staff multiple times to bring forth a clean project with no conditions. He said he sent out letters and held a neighborhood meeting but that nobody attended the public meeting. He said he was not aware of any concerns from the neighbors other than the correspondence received and included in the packet.

**PUBLIC HEARING**

Mr. William Gary Michle said he was visiting Lawrence from New Jersey and expressed concern about too many apartments being built in Lawrence. He also expressed concern about there not being any green space along 6<sup>th</sup> Street. He felt there needed to be a plan to make sure apartments were maintained. He suggested putting a park in the middle of an apartment complex.

**COMMISSION DISCUSSION**

Commissioner Liese asked staff to comment on the League of Women Voters letter.

Mr. McCullough said generally speaking the League of Women Voters had held a position for some time they want each building on its own lot. He stated staff and the Code do not hold that view and

that staff does not share the same position as the League of Women Voters. He said this was not a new concern and that it typically comes up when these types of development are seen. He said it was not an unfamiliar letter to staff.

Commissioner Liese asked staff to comment about the validity of their concerns.

Mr. McCullough said there were processes that help ensure maintenance of projects.

Commissioner Liese said Planning Commission constantly thinks about the inventory of apartments. He asked the applicant to respond to that concern from the public speaker.

Mr. Gough said this was an upscale development and not intended to be student housing. He said it represented a substantial part of the developers plans for the next several years and the overall investment could represent a 10-20 million dollar investment. He said the investment wouldn't be made if the belief didn't exist that the apartments could be leased up on a profitable basis. He said there was no empirical data or information that suggests there are too few or too many apartments. He said it was not within the ambit of Planning Commission to consider such a macro issue of if there were enough apartments. He said it was a land use question and the results of that land use analysis say this is a good project.

Commissioner Josserand asked if Mr. Gough was saying that examining the issue of multi-family being overbuilt/underbuilt was not within the purview of Planning Commission.

Mr. Gough said that was his belief.

Commissioner Josserand asked on what basis it would not be a matter that the Planning Commission could consider.

Mr. Gough said if Commissioner Josserand's position was that there was a sufficient inventory of multi-family, based on subjective beliefs, he would not be able to convince him otherwise. He said if the policy of the city was to make that the rule then it was something the elected officials should do.

Commissioner Josserand said there was no rule that would prevent them from considering it.

Mr. Gough felt there was intention behind the purpose of Planning Commission and it was not to make decisions that were intended for the elected body.

Mr. Josserand asked if Mr. Gough was saying by the absence of a rule Planning Commission was prohibited from considering the issue under the Golden Factors.

Mr. Gough said he was going to stop right there.

Commissioner Josserand asked how many units would be in the RM district.

Mr. Gough said the maximum number of units permitted would be 172.

Commissioner Josserand asked if it was the developers intent to fully maximize the number of units. He inquired about timing for the entire development.

Mr. Gough said his client currently had a project under construction a short distance away that was almost complete. He stated the first thing that would occur onsite was the addition of street and

sewer infrastructure inside the 40 acres. He said the project would also drive the construction of Queens Road north that would connect with The Links and greatly enhance the connectivity of that development to other parts of town. He said in all likelihood there would be single-family lots for sale before ground was broken on the multi-family.

Commissioner Josserand asked if it was the intent of the developer to parcel out the RM part of the development to different people.

Mr. Gough said he had not spoken specifically to the developer about that but if it was approved those were options on the table.

Commissioner Josserand expressed concern about the amount of multi-family units. He felt if overbuilding created blight or bad impacts it was something Planning Commission should investigate and develop data.

Commissioner Rasmussen asked staff if it was typical to identify green space on a plat.

Mr. McCullough said it could be.

Commissioner Rasmussen said he did not see any green space identified on the plat. He asked if developers typically dedicate green space.

Ms. Day said green space for public purposes occurs with either a private park or public park. She said the Parks and Recreation Department was not in favor of taking on the maintenance of smaller neighborhood pocket kind of parks so they do not actively pursue them. She said public open space comes forward many times when there is a large drainage component to it. She said this project had a corner parcel that would be part of the drainage but that was the extent of it.

Mr. McCullough said for residential uses if there are environmentally sensitive lands present a certain percentage has to be maintained as open space as well. He said the RM District had a standard of 50 square feet per unit which was also provided as an amenity to the residents of the community. He said upon Site Plan development the RM parcel would provide some open space.

Commissioner Rasmussen asked if the proximity and access to public open space was considered.

Ms. Day said yes, public streets and sidewalks would take the residents to the public open spaces. She said the developer was proposing an amenity within the multi-family piece where the single-family residents would have access to that. She said it was predominately going to be the public sidewalk that connects residents from one subdivision to another.

Mr. McCullough pointed out on a map the recreation sites in the vicinity that the development would be able to take advantage of.

Commissioner Rasmussen asked if the open space areas were within a 1/2 mile of the development.

Mr. McCullough said yes.

Commissioner Josserand asked if the site next to the school was one of the alternative sites for the neighborhood recreation center.

Mr. McCullough said it was.



Commissioner Josserand asked if the land was being held to be used for park purposes.

Mr. McCullough said it was still owned by the City and there were no immediate plans for developing it so it was undetermined what the future build out would be.

Commissioner Denney inquired about upscale homes/apartments and wondered if that was something that at this point could be changed in the development.

Mr. McCullough said it was not and that staff did not regulate the quality, scale, or price points of development. He said staff are looking for compatibility. He said it was the applicants planned project.

Commissioner Denney asked if there were no studies showing what was appropriate density.

Mr. Gough said he was not aware of any studies of vacancy rates in Lawrence. He said there were areas of the target market that have not been met yet. He said the size of the RS7 and RS5 lots could be redone and there was nothing holding them to building upscale. He said the site plan would show the green space. He stated everybody who got notice for this meeting would receive the site plan and anyone could provide input to staff. He said the administrative decision could also be appealed to City Commission.

Commissioner Denney said Mr. Gough mentioned the developer was finishing up a current project nearby. He asked if this development was going to be something similar to what was currently being built.

Mr. Gough said the units with garages and the clubhouse would be very similar and it was a great example of the kind of work the developer builds.

Commissioner Liese inquired about the letter received from one neighbor expressing concern about a blind spot on Queens Road.

Ms. Day said staff provided a response to the individual and the blind spot would be looked at in the public improvement process with the Final Plat. She said the applicant would be required to participate in the cost of the improvement to Queens Road.

Commissioner Liese asked staff about how much Planning Commission should consider the market of apartments.

Mr. McCullough said the apartment market was not monitored. He said the census data showed 50+% of rental units. He said one school of thought was that as new developments come online in appropriately located areas of town it forces the older ones to step it up and provide higher levels of maintenance. He stated another school of thought was that residents could flee from older apartments and leave them to decay. He said probably a little bit of both scenarios were happening. He said staff had not been tasked with the issue of looking at market vacancy and he was not sure how that information would be obtained because it was very proprietary information. He said Planning Commission's charge to date was to appropriately locate and plan for that segment of the housing population. He said Langston Heights project really tested that because in the current economy multi-dwelling business does better than the single-family business. He said if they were willing to give up what they think should be single-family in nature just because the apartment market seemed to be going somewhat strong. He said staff went into this project with the same

prospective. He said staff landed in this compromised position of maintaining the link of single-family in the transition zones but allow some multi-dwelling that could act as a transition itself.

Commissioner Lamer asked why this wasn't a planned development.

Mr. McCullough said it was the applicant's decision. He said they started off with the planned development look and the applicant brought back different kinds of projects and this is the one the applicant submitted.

Commissioner Lamer asked if this had been a planned development plan would the project have included more detail.

Mr. McCullough said yes.

Mr. Gough said there was really no benefit to doing a planned development plan. He said the applicant was not asking for more height, density, or the right to add commercial; all of which were some of the advantages to doing a PD overlay. He said there were no sensitive areas in the tract. He also stated that without knowing whether the zoning would be approved it was not free to come up with detailed information. He felt the League of Women Voters wanted a planned development so that they could see a detailed plan right now in a public meeting. He said the site plan process allowed for public input.

Commissioner Lamer asked if Mr. Gough did a third party consultant market feasibility study.

Mr. Gough said he did not and the developer did not either. He said the developer was familiar with the market and was a longtime Lawrence developer.

Commissioner Rasmussen asked if the green space would be shown on the site plan instead of the plat.

Mr. Gough said the plat was a legal document that subdivides property and the site plan shows where everything is going to go. He said green space was grass, trees, shrubs, not park that was owned or operated by the City.

Commissioner von Achen said on the map with the legend on the left the subject property was in the transition area and color coded to single-family.

Ms. Day said if you look at the Northwest Area Land Use Plan as the only layer the property falls within that yellow space.

Commissioner von Achen asked about stormwater drainage and providing water to The Links.

Mr. Dean Grob, Grob Engineering, said the area on the southeast corner of the proposed Links project included a pond as a feature to one of their golf holes and there isn't much runoff for the pond. The water from this proposed 40 acres has always gone to the northwest corner and detention was proposed with the water redirected to the Links pond. He said regarding Queens Road all the property owners on both sides signed an agreement not to protest a benefit district. He said Public Works was proposing to improve Queens Road in 2014 since all the pieces were now in place.

Commissioner Rasmussen thought it was great for the applicant to work with other property owners on drainage.

**ACTION TAKEN on Item 3A**

Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the rezoning, Z-13-00149, of approximately 21.54 acres from UR (Urban Reserve) District to RS7 (Single-Dwelling Residential) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 8-0.

**ACTION TAKEN on Item 3B**

Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the rezoning, Z-13-00165, of approximately 3.34 acres from UR (Urban Reserve) District to RS5 (Single-Dwelling Residential) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 8-0.

**ACTION TAKEN on Item 3C**

Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the rezoning, Z-13-00166, of approximately 15.89 acres from UR (Urban Reserve) District to RM12 (Multi-Dwelling Residential) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Commissioner Josserand said he would oppose the motion in an attempt to flag the issue for the need to have more information regarding the vacancy rates for multi-family. He said there had been testimony in the past few months about too much multi-family.

Motion carried 7-1, with Commissioner Josserand voting in opposition.

**ACTION TAKEN on Item 3D**

Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the Preliminary Plat, PP-13-00148, of Kellyn Addition, located on the northwest corner of Queens Road and Overland Drive.

Commissioner Josserand asked if the League of Women Voters would receive formal notice of the final plat.

Mr. McCullough said no. He said they likely subscribe to the weekly submittal list serve and would receive notice of it that way.

Commissioner Josserand did not like the fact that the process cut people out.

Commissioner Rasmussen said it was a public document and did not cut anyone out.

Unanimously approved 8-0.

PC Minutes 6/24/13 **DRAFT**

**ITEM NO. 4      TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; LIGHTING STANDARDS (MKM)**

**TA-12-00204:** Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, to establish lighting standards and requirements as an alternative to the photometric plan. *Initiated by City Commission on 8/21/12.*

*Item 4 was deferred prior to the meeting.*

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

Commissioner Rasmussen was appointed to the Oread Design Guidelines Subcommittee.

Commissioner Culver brought to their attention the attendance record that was included in this month's packet. He said the intent was to maintain consistent engagement and felt it was a good measure to show their active participation.

Commissioner Culver reminded Planning Commission of the July 12<sup>th</sup> all day orientation.

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**Recess at 8:25pm until 6:30pm on June 26, 2013**

PC Minutes 6/26/13 **DRAFT**

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Reconvene June 26, 2013 – 6:30 p.m.

Commissioners present: Culver, Denney, Josserand, Lamer, Liese, Rasmussen, von Achen  
Staff present: McCullough, Stogsdill, Larkin, Leininger, A. Miller, Ewert

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**BEGIN PUBLIC HEARING (JUNE 26, 2013):**

**EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- Ex parte:  
Commissioner Rasmussen said he had a limited discussion with Ms. Sue Hack about the Retail Market Study and that she did not think it was particularly valuable.
- No Abstentions.

PC Minutes 6/26/13 **DRAFT**

**ITEM NO. 5      TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; ACCESSORY DWELLING UNIT (MJL)**

**TA-13-00106:** Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Articles 4 and 5, to permit the Accessory Dwelling Unit use as an accessory use in the RS5 (Single-Dwelling Residential) District.

**STAFF PRESENTATION**

Ms. Michelle Leininger presented the item.

**PUBLIC HEARING**

Ms. Holly Krebs said she submitted the request for the Text Amendment out of a desire to build a new garage with an accessory dwelling unit above it to serve as her husband's home office. She said it would also position them to potentially provide care for elderly family members if needed. She said her understanding about the accessory dwelling unit regulations was that when they were passed several years ago the units were allowed in all districts except RS5 out of a concern that a massive influx of accessory dwelling units might create too much density. She said there was not a massive influx of these units and she did not feel that would happen in the RS5 district either. She said the limitation of a small lot in RS5 would naturally restrict too many of these units being built. She believed that allowing accessory dwelling units on lots that would accommodate it would appropriately allow for slightly denser living in certain areas and would provide a mix of housing types, which were both goals of Horizon 2020.

Mr. Kirk McClure, Old West Lawrence Neighborhood Association, said they generally supported the notion of accessory dwelling units. He said the difficulty was with investors buying older properties and Old West Lawrence Neighborhood Association was concerned about maintaining the desirability of the neighborhood which meant maintaining the single-family character. He said the concern was with the abuse of procedure of absentee owners who break up an old house into a multi-unit structure. He requested the definition of an owner be written carefully so that there wasn't a surrogate agent operating as an owner through a corporate entity or partnership. He felt the process could be facilitated as a mechanism to restore older homes. He supported the Text Amendment but felt it should be tightened through the definition of the owner.

Mr. Jim O'Malley agreed with Mr. McClure's comments. He stated the spirit of the accessory dwelling use was intended for the principal residents of actual living breathing home owners. He said there was a loophole for absentee owners to use the corporate form to evade owner occupancy and principal residence requirements. He said the result would be duplex use without owner occupancy. He felt the definition of ownership should be narrowed.

Ms. Karen Kressin said she was disturbed to see this happen in the name of infill. She said maybe this should only be available on double lots in RS5. She felt corporations should not be allowed to own a structure with an accessory dwelling unit. She gave the example of a house on her block a few years ago that was owned by a corporation who tried very hard to make the house a duplex. She said the house did not end up being split up because a buyer appeared and did not want there to be an extra unit in the house. She expressed concern about families who would use the accessory dwelling unit selling their house to someone who would use it as a rental. She said corporations should not be allowed to own accessory dwelling units and felt they should have to transfer the property to personal ownership.

Ms. Katy Nitcher felt there should be notice to adjoining neighbors or neighborhood associations for this type of use as part of the application process. She agreed with all the previous public comments.

### **COMMISSION DISCUSSION**

Commissioner von Achen asked how staff currently handles rental properties that already have an accessory dwelling unit on them.

Ms. Leininger said rental properties in the RS District would have to apply for a rental license.

Mr. McCullough said those types of units do not participate in the program because there is an owner on site so they are not required to be licensed.

Ms. Leininger said that would be considered two dwelling units, not an accessory because the owner would have to live in one of the units.

Commissioner Denney asked if staff could consider the issue of definition of owner.

*Commissioner Liese arrived at the meeting at approximately 6:40pm.*

Mr. McCullough said yes. He said the prevailing issue seemed to be the potential for abuse from ownership. He recognized the potential but said it had not been seen in practice. He said there had only been about 15 accessory dwelling units registered in the past seven years. He said it was seen more in a trust where an heir picks up the property or in probate. He said the potential for abuse may be worth pursuing and that better language could be drafted. He said regarding the issue of notice, they should consider the bundle of property rights people enjoy and weigh what should get notice and what should not. He stated building permits do not require notice to neighbors or neighborhood associations but that use changes or rezonings would.

Commissioner Rasmussen asked staff to comment about being able to chop houses up into multi-units since he thought that could occur now.

Mr. McCullough said in the RS Districts some of the established neighborhoods have had non-conforming uses and different zoning districts throughout the decades. He said under the current zoning codes it was a single-family district so a house could not be changed into a duplex.

Commissioner Rasmussen said he was referring to more of a boarding house.

Mr. McCullough said in this particular district it could not be changed into a boarding house. He said the other distinction was that if there was the ability to change it to a duplex there would be two units with each having an occupancy cap of three with a total of six people on the property.

Commissioner Josserand asked Mr. McClure about his concern for the potential for abuse. He wondered if Mr. McClure had suggestions on how to tighten the language to prevent abuse.

Mr. McClure said when he lived in Berkley, California he ran into the situation of investors forming limited partnerships and one tenant would become a managing general partner for a \$100 deposit, which would be refunded at the end of their lease, and acting as agents for the ownership while being residents. He said if there was a requirement of identity of interest between the occupant and owner of record then that would equal a real live person. He was worried about devious people who would find ways around it. He hoped the Text Amendment would provide regulatory authority for the

administrators to make sure there was a flesh and blood owner on-site and a mechanism where the neighborhood could appeal if that was deviated from.

Commissioner Josserand inquired about the situation of an accessory use where the resident dies and the property was sold to a new owner who rents out both structures. He wondered what mechanism existed now to deal with that situation.

Mr. McCullough said it would likely be received through a complaint. He said staff investigates and has the code authority to compel compliance.

Commissioner Lamer asked if there was a definition of owner elsewhere in the Code outside of this section.

Ms. Leininger said yes, Article 17-01, in the general terms. She read the definition of owner.

Commissioner Lamer inquired about the definition of family as it relates to three unrelated individuals.

Ms. Leininger said all the occupancy information was in Article 6-01(d) under Occupancy Limits, and it talks about unrelated as not related by blood, marriage, or adoption.

Commissioner Lamer asked if staff could look at those two definitions and merge them together as owner family.

Ms. Leininger said recently with the occupancy limit Text Amendment the definition of family was lumped all in with the occupancy limits.

Mr. McCullough said the value of the former definition of family was maintained. He said if the direction was to look at those definitions to address the issue staff could do that.

Commissioner Lamer said one way to address the issue of corporations or limited partnerships was with a threshold, such as the individual living in the home having a certain percentage membership interest.

Commissioner Rasmussen said they could scare themselves with a lot of scenarios but that they were not seeing this in practice so he did not think they should craft a highly technical definition of owner to avoid a problem that may not even occur. He was worried they were going to regulate out a problem that may not even occur. He felt if it was a big money maker that people were going to manipulate they would have already seen it in other districts.

Commissioner Josserand agreed with Commissioner Lamer. He said abuse had not been seen yet because accessory dwelling units were not allowed in the RS5 District. He was concerned about the issue of potential abuse and that it may take a little bit of drafting for the language.

Commissioner Rasmussen asked Commissioner Josserand if he was concerned about accessory dwelling units springing up all of a sudden in RS5 but not in RS7 where they were already allowed.

Commissioner Josserand said Old West Lawrence was unique enough to distinguish it from other areas of the city. He appreciated Commissioner Rasmussen's concern about family corporations and felt that if the language was written well enough it would allow for families to be fine.



Commissioner Lamer asked staff to discuss the parking.

Ms. Leininger read from Article 5 – Use Regulations, 20-534 Accessory Dwelling Units (2)(vii)a *"Lots containing Accessory Dwelling Units shall contain a minimum of two off-Street Parking Spaces."* She said there would need to be two parking spots for the property.

Commissioner Denney said he was in favor of adding the capability to RS5 but was concerned about absentee landlords. He would like to find a way for this to go forward but with some limitations on it.

Commissioner Rasmussen asked staff to show on the overhead map what parts of town it would add to.

Ms. Leininger showed the map on the overhead.

Commissioner von Achen asked staff if language could be drafted to address the concerns about absentee landlords.

Mr. McCullough said staff could attempt to do that.

Mr. Randy Larkin, staff attorney, said staff could attempt to draft a definition of owner that would apply to this particular provision that would try to accommodate the number of different opinions.

Commissioner Culver asked staff if Planning Commission should take action and then draft language or defer it and have it brought back with language.

Mr. McCullough said staff would prefer to have the item deferred if that was the majority consensus direction and have it brought back next month. He said it would also allow more time for the public to review the language.

Commissioner Culver asked if there had been any thoughts on notice that could be given to neighbors and neighborhoods in the event of a use change. He asked if an Accessory Dwelling Unit would trigger that notice.

Commissioner Lamer thought notice was appropriate but he didn't want a situation where someone would have to go through a process of approval that could add more expense. He said building permits did not require notification.

Commissioner Josserand said typically notice was sent for meetings with the ability to provide input and receive a decision but that Accessory Dwelling Units would be more of a right.

Mr. McCullough gave the examples of Home Occupations and Site Plans that were a matter of right but that provide notice to the neighborhood. He said construction on a property was also a right which only required a building permit that would be displayed on site and people would have to seek out the information.

Commissioner Rasmussen said structurally it was like building a garage, which did not require notice. He said the difference was that it would be a garage with people living in it.

Commissioner Josserand said he was not as concerned about the notice. He said he was more concerned about the potential abuse through a legal manipulation entity.

Commissioner von Achen asked the audience if they knew of cases where this had happened.

Ms. Kressin said there was a case where a corporation tried to turn a house into a duplex on her block with no intention of living there. She said the corporation was unsuccessful because RS5 did not allow Accessory Dwelling Units and it delayed the process long enough that a buyer appeared who wasn't interested in a duplex.

Commissioner Rasmussen asked if an Accessory Dwelling Unit was a separate building or part of the main structure.

Mr. McCullough said it could be either or.

### **ACTION TAKEN**

Motioned by Commissioner Lamer, seconded by Commissioner Josserand, to defer and direct staff to draft a definition of "owner" specific to this code section that would preclude corporations from abusing the intent and purpose of permitting Accessory Dwelling Units on owner-occupied properties in the RS districts.

Commissioner von Achen inquired about the notification issue.

Commissioner Lamer said he did not include that in the motion because he did not feel it was necessary.

Commissioner Denney expressed concern about a lengthy process and wondered if it would create a hardship to the applicant.

Mr. McCullough said it would be brought back next month.

Ms. Leininger said from discussions with the applicant it was not something she was looking at doing immediately, just setting up options for the future.

Commissioner Culver asked if the notification issue could be discussed next month.

Mr. McCullough said it could but that it would be a better service to the process if majority direction was provided today so the public knows the direction. He said the City Commission could also send it back for Planning Commission to discuss if they desire.

Motion carried 6-0-1, with Commissioner Liese abstaining.

PC Minutes 6/26/13 **DRAFT**

**ITEM NO. 6 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; RETAIL MARKET STUDY (AAM)**

**TA-12-00205:** Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Article 11, to modify the requirements for a Retail Market Study. *Initiated by City Commission on 8/21/12.*

**STAFF PRESENTATION**

Ms. Amy Miller presented the item.

**PUBLIC HEARING**

Mr. Kirk McClure said this was a good amendment and that staff was moving in the direction to provide the kind of market analysis needed. He said he was not sure two years was the right frequency. He felt ideally there should be an annual or semi-annual reporting mechanism, not limited to retail. He supported the overall idea of the text amendment and felt Planning Commission should demand more from staff and then learn from the information brought forward.

**COMMISSION DISCUSSION**

Commissioner Rasmussen asked Mr. McClure what type of qualifications an expert needed for market analysis.

Mr. McClure felt an expert should have a Master's degree in Urban Planning.

Commissioner von Achen asked Mr. McClure asked about his comment that Planning Commission should demand more from staff. She asked if he was referring to the square footage of retail space and sales tax or additional information.

Mr. McClure said the text amendment this evening was narrowly within the confines of retail and he supported that. He said in an ideal market retail was the easiest one to follow because you could monitor inflation adjusted revenue per square foot. He said they were hurting the capacity to redevelop the downtown because the revenue per square foot had fallen so far. He said had they properly monitored the market and rationed the spending, the spending could have been directed to the benefit of the community. He said similar analysis could be done for multi-family, office use, and subdivisions so that when an applicant brings a proposal forward Planning Commission could be informed on whether or not the community was capable of absorbing that without undue harm to other parts of the community.

Commissioner Josserand asked Mr. McClure about his thoughts on the percent number.

Mr. McClure said in the market place 5% was considered a healthy number. He said 2% was considered a tight market and 8% was considered a soft market.

Mr. McCullough referred them to the language in Article 13(g)(10):

*for proposals that will create more than 100,000 square feet of retail space within the city: the impact of the proposed project on the retail market. Staff will provide an analysis based on the addition of the square footage to the retail market, vacancy rate trends, square footage per capita trends, and current demand trends, including but not limited to population, income, pull factors, and retail sales using the latest available city-wide retail market report.*

Commissioner Denney asked if the text amendment would prevent the applicant from providing their own report.

Mr. McCullough said no, the applicant could present a report to refute the staff analysis.

Commissioner Denney felt this was a step in the right direction.

Commissioner Liese asked Mr. McClure if the market study would still be valid if a business would draw customers from outside Lawrence.

Mr. McClure said retail was locally driven. He said the important issue was basic industry versus non-basic industry and would it bring in dollars from outside of town. He said retail rarely draws. He felt the numbers could be monitored through monthly sales tax reports.

Commissioner Liese asked if the customer draw could be measured.

Ms. Miller said no, not on a specific business basis. She stated a lot of merchants do track zip codes but that staff did not have access to that type of data.

Commissioner Josserand said if the City wanted to they could establish rules to require reporting for that type of information.

Commissioner Rasmussen asked if the language allowed flexibility to look at other factors such as draw and geography.

Mr. McCullough said yes, there was flexibility to bring in components that may be unique to the situation.

Commissioner Rasmussen said the retail market report would be completed every two years but also triggered if there was a proposal for projects over 100,000 square feet associated with a rezoning.

Mr. McCullough said that was when it was part of the staff report. He said the city-wide retail market report would be done every two years and also done with retail space over 100,000 square feet with a specific analysis, using the biennial report as the basis.

Commissioner Rasmussen asked if the analysis would remain where a new building would be counted in the vacancy rate.

Mr. McCullough said it was not that direct. He said staff would provide an analysis on the impact of the project on the retail market but that it wouldn't directly be treated as vacant once built.

Commissioner Rasmussen preferred staff to have flexibility.

Commissioner von Achen asked if separate sectors could be tracked.

Ms. Miller said there were limitations with the data that staff can publicize, in terms of sales. She said the sales tax data from the State had strict requirements. She said they could talk about it in an aggregate sense but could not talk about it in a way that would identify specific businesses and how much sales they make.

Commissioner von Achen asked if they would have definitive criteria for decisions.

Mr. McCullough said it was one of ten factors that Planning Commission would weigh in decisions about rezoning property.

Commissioner Lamer thanked staff for their work and said they were very fortunate to have Ms. Miller on staff because she was a valuable asset. He encouraged Planning Commissioners to attend the next American Planning Association Conference if they were interested in market analysis and trends since there were lots of sessions on the topic.

**ACTION TAKEN**

Motioned by Commissioner Liese, seconded by Commissioner von Achen, to approve the text amendment, TA-12-00205, to the Land Development Code and forward to the City Commission based on the analysis in the staff report.

Commissioner Liese thanked Ms. Miller for her work.

Commissioner Culver felt this was a step in the right direction.

Unanimously approved 7-0.

Commissioner von Achen asked why staff had not been tasked with a multi-family study.

Mr. McCullough said City Commission had chosen thus far to not task staff with providing trends, vacancy rates, and different studies on the apartment industry.

Commissioner Rasmussen said industry and office was also not tracked.

Commissioner Denney asked if similar numbers were available for industry.

Mr. McCullough said data and trends could be found on a number of factors, such as the number of stock or historical trends.

PC Minutes 6/26/13 **DRAFT**

**ITEM NO. 7      TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; PARKING & ACCESS STANDARDS (SMS)**

**TA-6-14-09/TA-13-00235:** Receive proposed Text Amendments to the City of Lawrence Land Development Code, Article 9 and related sections of Chapter 20, for comprehensive revisions to parking and access standard. *(Staff will introduce proposed revisions and Commission will receive public comment. Action will not be taken at this meeting.)*

**STAFF PRESENTATION**

Ms. Sheila Stogsdill presented the item. After an overview of the changes, staff asked for discussion and direction regarding regulation related to the storage of RV's, boats, and trailers on residential properties.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Liese said he would like to see the RV issue be responded to by the entire community and felt they should solicit input through a broad advertisement. He said Mission, Kansas completely prohibited RV's. He felt that storing RV's in a driveway for short periods of time seemed fair but that he was not in favor of them being stored in a neighborhood long term. He said if they were outlawed he liked the idea of giving a buffer, of a year for example, so that it would allow time for people to adjust. He asked how many calls that Code Enforcement receives and what the response was.

Mr. Brian Jimenez, Code Enforcement Manager, said Development Services receives those types of complaints more often than most people think. He said most people are not happy to hear there are no regulations regarding RV's. He said important factors were the size, how close it was to the property line and right of way, and being on an approved surface. He said when staff looked at the issue several years ago they looked at height and width limitations. He stated duration was a key concept. He said in his opinion RV's were a moving structure that sits there for months. He felt there needed to be some regulations in place.

Commissioner Liese asked if there were any statistics.

Mr. Jimenez said staff does not specifically track how many complaints are received regarding RV's but that it was approximately 12-15 calls a year.

Commissioner Liese felt it would be time consuming to have provisions of measuring it with precision.

Mr. Jimenez said a lot of the complaints were about the bigger RV's, which could be problematic. He said if RV's are parked on unapproved surfaces it can lead to mud pits.

Commissioner Denney asked if there was any rule against RV's that fit in a garage being parked in a garage.

Mr. McCullough said no.

Ms. Stogsdill said if it was a detached structure it could be built as close as 5' to the property line if there was no utility easements.

Commissioner Denney asked if there was a restriction on the size of a garage.

Ms. Stogsdill said there were size limitations on detached structures but that those were not specifically related to how high and wide the door was.

Commissioner Denney asked if there were any issues with people living in RV's in the driveway.

Mr. Jimenez said occasionally those types of complaints are received. He said RV's were not a Code compliant dwelling unit.

Commissioner von Achen inquired about the Code prior to 2006.

Ms. Stogsdill said it had to be on an improved surface in the driveway and the Code was silent about any surface requirements for the rear yard. She said it had to be 4' from a structure on the same lot and at least 10' from a structure on a neighboring lot. She said it also could not be used as a living unit. She said with past Code violations there was debate about whether there was good guidance on surfacing for the rear yards.

Commissioner von Achen inquired about size restrictions and setbacks prior to 2006.

Ms. Stogsdill said there were setbacks for the side lot line and corner lots.

Commissioner von Achen asked what kind of complaints were received prior to 2006.

Mr. Jimenez said the same type of complaints were received.

Commissioner Rasmussen inquired about the language *'No parked vehicles shall overhang into the right-of-way or block a portion of the sidewalk.'*

Ms. Stogsdill said that was a provision that could be enforced today through a ticket from the police if a vehicle was parked over a sidewalk.

Commissioner Rasmussen asked if Mr. Steve Watts received tickets for the way he parked his vehicle across the curb.

Ms. Stogsdill said she did not know.

Commissioner Rasmussen expressed concern about long term storage only being 48 hours.

Ms. Stogsdill said the intent was for using those required spaces for something other than passenger vehicles.

Commissioner Rasmussen felt the provision had lots of places for conflict.

Ms. Stogsdill said the intent was that the spaces were not being used and available for parking.

Commissioner Rasmussen said regarding temporary storage he felt some sort of temporary storage should be allowed.

Mr. Jimenez said there was some language in the Property Management Code regarding that.

Commissioner Rasmussen inquired about the term recreation vehicle and wondered if that included any type of trailer.

Ms. Stogsdill said that was probably one of the issues that needed to be addressed.

Commissioner Culver said maybe the length of the trailer may help.

Commissioner Rasmussen inquired about the safety of staff walking around on property to measure the length of a trailer.

Mr. Jimenez said it could be potentially problematic and that staff may want to consult the staff attorney regarding legal issues. He said currently the only thing staff measures are fences. He said staff has the right, upon investigation, to go from the right-of-way to the front door to make contact.

Commissioner Culver said once trailers get to a certain length they are double axles so that could be a way to address it.

Commissioner Liese said one of the requirements in Kansas was if it was over 2,000 pounds you had to be licensed.

Commissioner Rasmussen suggested considering a recreation season during which it would not be a problem to temporarily store a boat in a driveway, as long as it did not go out over the sidewalk or right-of-way. He inquired how business vehicles and business trailers were defined.

Ms. Stogsdill said it was not defined yet.

Commissioner Rasmussen said something to consider when forming that definition was the size of the company logo. He gave the example of Fritzel Construction which had a small company logo on their vehicle, versus a vehicle that was completely wrapped in a driving billboard.

Ms. Stogsdill said that section specifically started from Home Occupations and lawn care contractors allowed as Home Occupations.

Mr. Jimenez said the Home Occupation regulations state one company vehicle associated with the Home Occupation was allowed on the property.

Mr. McCullough said Home Occupations included a business use at the property.

Commissioner Rasmussen said he was a proponent for being able to use pervious paving materials. He inquired about limiting it to pervious concrete or asphalt and if there were other types.

Mr. McCullough said staff didn't want to argue gravel and woodchips all the time. He said another option could be grid unit pavers with grass above.

Ms. Stogsdill said she looked on the pervious pavement website and thought she captured the two major categories.

Commissioner Rasmussen inquired about how necessary 4" of concrete was to park a bike on it.



Mr. McCullough said that was a pretty standard depth for patios, sidewalk, etc., that would not be taking on vehicle traffic.

Ms. Stogsdill said it was a maintenance issue.

Commissioner Josserand recommended that they allow for public input on trailers and stacked parking. He felt abuse of stacked parking created an incentive for more dense structures than should be allowed. He said stacked parking was different in a family situation than unrelated individuals living together.

Mr. McCullough said the figures in the stacked parking section were a formal interpretation that was being brought into the Code. He said they were new to the Development Code but that it had been a formal published interpretation for a few years.

Commissioner Josserand said stacked parking was an issue in the Oread neighborhood.

Commissioner Rasmussen said his office building had stacked parking as well.

Mr. McCullough said for the most part it was not strangers parking stacked. He said it also had to do with aesthetics and coverage and stormwater issues with how much impervious material they wanted to see.

Commissioner Denney was worried about interfering with the minutia of life, such as what size company logo might be acceptable for a vehicle parked in a driveway. He felt the issue of health and safety was valid and should be addressed. He felt there should be restrictions upon what could be done within certain distances of the property line so as not to interfere with the neighbors with easements and rights-of-way. He stated if someone chooses to build a garage in the backyard to house a 30' motorhome and it was not interfering with anything he didn't feel like they should tell people they can't do that. He felt they should focus on physical things rather than lifestyles.

Commissioner Lamer said he agreed with Commissioner Denney. He felt they should receive more public input on the issue. He said the marketplace provides neighborhoods that do not allow RV's through Homeowners Associations.

Commissioner Liese expressed concern that if they started basing it on the health, safety, and welfare that they would have to start proving it through such things as measuring. He said he would be in favor of solid standards that did not require minutia. He suggested creating an online survey that the entire community could take regarding what they think and feel about RV's, trailer sizes, stacked parking, etc.

Commissioner Rasmussen asked if the text amendment could be split up into separate issues instead of lumping it all together in one big package.

Mr. McCullough said staff would prefer to take it as one amendment to the City Commission but that it could be broken up into parts to focus on individually.

Commissioner Culver liked the idea of breaking up the discussion into parts.

Mr. McCullough said there were effective tools to get public input, such as a press release and online survey.

Ms. Stogsdill said some of the vehicles were as big as a building addition so the thought was that anywhere a building could be built on the lot it could be stored. Also, anywhere an accessory building could be built one could store it. She asked if there were any other options Planning Commission wanted drafted and brought back.

Commissioner Liese suggested drafting a ten item survey to capture the most controversial questions that Planning Commission would want answers to.

Commissioner Josserand felt stacked parking was only an issue in the Oread neighborhood.

Commissioner Rasmussen said he was not sure how helpful the survey would be. He felt getting people to respond to surveys was difficult. He said he preferred option 1 over option 2.

Commissioner Culver said he would be more supportive of option 2. He said having RV's on improved surfaces was pretty clear.

Commissioner Rasmussen said side yard and rear yard would be his preference. He also liked the suggestion of having screening around it.

Commissioner Denney said there were some existing standards regarding what type of tag a vehicle had that might be easily applied especially when looking to enforce. He said generally a single axle trailer would not be over 20' long. He said if there was no tag it would be less than 2,000 pounds and fairly short. He said other factors to consider were the number of axles and whether or not it had a motor.

Mr. McCullough suggested Planning Commissioners do some homework and pay attention to RV's more as they drive around town.

**NO ACTION TAKEN**

PC Minutes 6/26/13 **DRAFT**

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

**MISC NO. 1            MPO POLICY BOARD MEMBER**

Nominate and approve one City Appointed Planning Commissioner to the MPO Policy Board.

Commissioner Culver was appointed to the MPO Policy Board.

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**ADJOURN 9:50pm**

**2013**  
**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION**  
**MID-MONTH & REGULAR MEETING DATES**

Mid-Month Meetings, Wednesdays 7:30 – 9:00 AM	Mid-Month Topics		Planning Commission Meetings 6:30 PM, Mon & Wed	
Jan 9	Topics for 2013		Jan 28	Jan 30
Feb 13	PD Occupancy		Feb 25	Feb 27
Mar 13	Downtown Redevelopment - HRC Joint Meeting		Mar 25	Mar 27
Apr 10	Downtown Redevelopment - HRC Joint Meeting		Apr 22	Apr 24
May 8	APA Conference follow-up	Process Questions/Updates	May 20	May 22
Jun 12	Water/Wastewater Master Plan update		Jun 24	Jun 26
Jul 12**	PC Orientation – all day Friday		Jul 22	Jul 24
Aug 14	2010 Census Data		Aug 26	Aug 28
Sep 11	Horizon 2020 Review Process		Sep 23	Sep 25
Oct 9	New County Zoning Codes		Oct 21	Oct 23
Nov 6	tentative		Nov 18	Nov 20
Dec 4	tentative		Dec 16	Dec 18
	<b>Suggested topics for future meetings:</b> <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>Open Space Acquisition/Funding Mechanisms – what do other states do?</i> <i>Library Expansion Update</i> <i>Joint meeting with other Cities’ Planning Commissions</i> <i>Joint meeting with other Cities and Townships – UGA potential revisions</i>		<i>Tour City/County Facilities</i> <i>2010 Census Data</i> <i>Oread Overlay Districts</i> <i>Water/Wastewater Master Plan Update</i> <i>Downtown Survey Memo – redevelopment options*</i> <i>Comprehensive Plan – Goals &amp; Policies*</i> <i>*new suggestions</i>	
Meeting Locations	The Planning Commission meetings are held in the City Commission meeting room on the 1 <sup>st</sup> floor of City Hall, 6 <sup>th</sup> & Massachusetts Streets, unless otherwise noticed.			
Planning & Development Services   Lawrence-Douglas County Planning Division   785-832-3150   <a href="http://www.lawrenceks.org/pds">www.lawrenceks.org/pds</a>				

Revised 05/10/13

### 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		
Britton	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Burger	Yes	Yes	Yes	No	Yes	Yes						
Culver	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes				
Denney							Yes	Yes				
Graham					Yes	Yes	Yes	No				
Josserand	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes				
Kelly												
Lamer	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes				
Liese	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes				
Rasmussen							Yes	Yes				
von Achen	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes				

### 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		
Britton						No	Yes					
Burger												
Culver						No	Yes					
Denney						Yes	Yes					
Graham						Yes	Yes					
Josserand						Yes	Yes					
Kelly							Yes					
Lamer						No						
Liese						Yes	Yes					
Rasmussen						Yes	Yes					
von Achen						Yes	Yes					



**PLANNING COMMISSION REPORT  
REGULAR AGENDA -NON-PUBLIC HEARING ITEM  
PUBLIC HEARING ON THE VARIANCE ONLY**

PC Staff Report  
7/22/13

**ITEM NO 1: PRELIMINARY PLAT FOR MEADOW LEA ESTATES; 2600 REDBUD LD, 2620 IOWA ST, 2626 IOWA ST, 2032 W. 27TH ST (SLD)**

**PP-13-00187:** Consider a one lot Preliminary Plat and variances related to street design standards included in Section 20-810 of the Subdivision Regulations regarding minimum street right-of-way and street termination for Meadow Lea Estates (renamed KMAH and Lawrence 27 Iowa Addition), approximately 3.3 acres, located at 2600 Redbud Lane, 2620 Iowa Street, 2626 Iowa Street, and 2032 W. 27<sup>th</sup> Street. Submitted by Landplan Engineering for KMAH LLC, property owner of record.

**STAFF RECOMMENDATION VARIANCE:** Staff recommends approval of the variance with regard to the minimum right-of-way width for Iowa Street from 150' to 100' with the understanding that the need for a turn lane will be evaluated with the submittal of a site plan and more detailed traffic study may result in a future dedication of right-of-way and or easement, or some combination of both, as applicable.

Staff also recommends approval of the variance to allow the termination of Redbud Lane as a dead end street with a turnaround via an access easement subject to the following condition:

1. Applicant shall revise the preliminary plat to add a note that states *"A public access easement shall be dedicated across the property between Redbud Lane and Iowa Street prior to final approval of a site plan for this property."*

**STAFF RECOMMENDATION:** Staff recommends approval of the Preliminary Plat of KMAH and Lawrence 27<sup>th</sup> Addition and forwarding it to the City Commission for consideration of acceptance of easements and rights-of-way subject to the following condition:

1. The plat shall be revised to include the following note: *"On July 22, 2013, the Planning Commission approved a variance from right-of-way requirements in Section 20-810(e)(5) and 20-810 (e)(2) of the Subdivision Regulations to allow the replatting of this property with 100 ft of right-of-way currently provided for Iowa Street, with the acknowledgement that a future requirement to provide a turn lane along Iowa Street may require additional dedication of right-of-way and easement as necessary."*

**ATTACHMENTS**

1. Preliminary Plat
2. Cul-de-sac Exhibit
3. Subdivided Lots along Redbud Lane
4. Variance Request from Applicant.

**Applicant's Reason for Request:** *to accommodate proposed commercial development.*

**Key Points**

- The Preliminary Plat proposes to consolidate four existing lots into one lot.
- The Plat includes a request to vacate 10' of right-of-way for Redbud Lane.

- The north portion of Redbud Lane was previously vacated between W. 26<sup>th</sup> Street and the north property line.
- A variance is required for Redbud Lane street termination.
- A variance is requested to maintain the Iowa Street right-of-way.
- There is no specific proposed site plan for this property at this time. The concept plan included in the traffic study is for preliminary review as it pertains to access and street improvements only.
- Some additional interior easements may be needed based on the proposed site redevelopment and building placement and will be determined with a future site plan for this property.

#### **Subdivision Citations to Consider**

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County.
- Section 20-810 (d) requires 150' of right-of-way for principal arterial streets.
- Section 20-810 (e)(2) Connections requires street to be extended into adjacent property or terminate with a temporary turn-around.
- Section 20-813 variance procedures.

#### **Associated Cases**

- Z-9-24-11: RSO to CS; rezoning to consolidate the property to a single zoning district.
- PP-9-9-11: Preliminary Plat for Meadow Lea Estates No. 2 (aka KMAH and Lawrence 27 Iowa Addition) a two lot commercial subdivision, PC approved 11/14/11. CC approved 12/6/11. The PP-9-9-11 application has been replaced by this new application (PP-13-00187).

#### **Other Action Required**

- City Commission acceptance of easements and vacation of rights-of-way as shown on the Preliminary Plat.
- Submission and approval of applicable public improvement plans.
- Final Plat administrative review, approval, and recording at Register of Deeds Office.

#### **Plans and Studies Required**

- Traffic Study –Study provided, additional review may be required with a specific development proposal.
- Downstream Sanitary Sewer Analysis – Study submitted and accepted. Additional interior easements may be needed based on a specific development proposal.
- Drainage Study – Additional documentation will be required with the submission of a specific development proposal.
- Retail Market Study – Not required for development less than 50,000 SF.

#### **PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None to date

<b>SITE SUMMARY</b>	
Current Zoning and Land Use:	CS (Commercial Strip) District; vacant restaurant and office building and two undeveloped parcels.
Surrounding Zoning and Land Use:	CS (Commercial Strip) to the north, west and south; existing medical office use and apartment building to the north, restaurant use to the south, mixed commercial uses to the west.



	RM32 (Multi-Dwelling Residential) District to the northeast; existing apartment building.  RM12 (Multi-Dwelling Residential) and RM24 Multi-Dwelling Residential) District to the east; existing residential uses on the east side of Redbud Lane.
Total area:	2.437 acres per legal description
Proposed Lot 1	2.437 acres per drawing

## STAFF REVIEW

The property is located on the northeast corner of Iowa Street and W. 27<sup>th</sup> Street. The property includes four separate platted lots intended to be replatted into one lot with shared access to Iowa Street for the subject property and the adjacent lot to the north. The developer proposes to remove access to W. 27<sup>th</sup> Street as part of the redevelopment. The Preliminary Plat drawing shows the existing conditions and improvements in the figure on the left and the proposed lot configuration on the right.

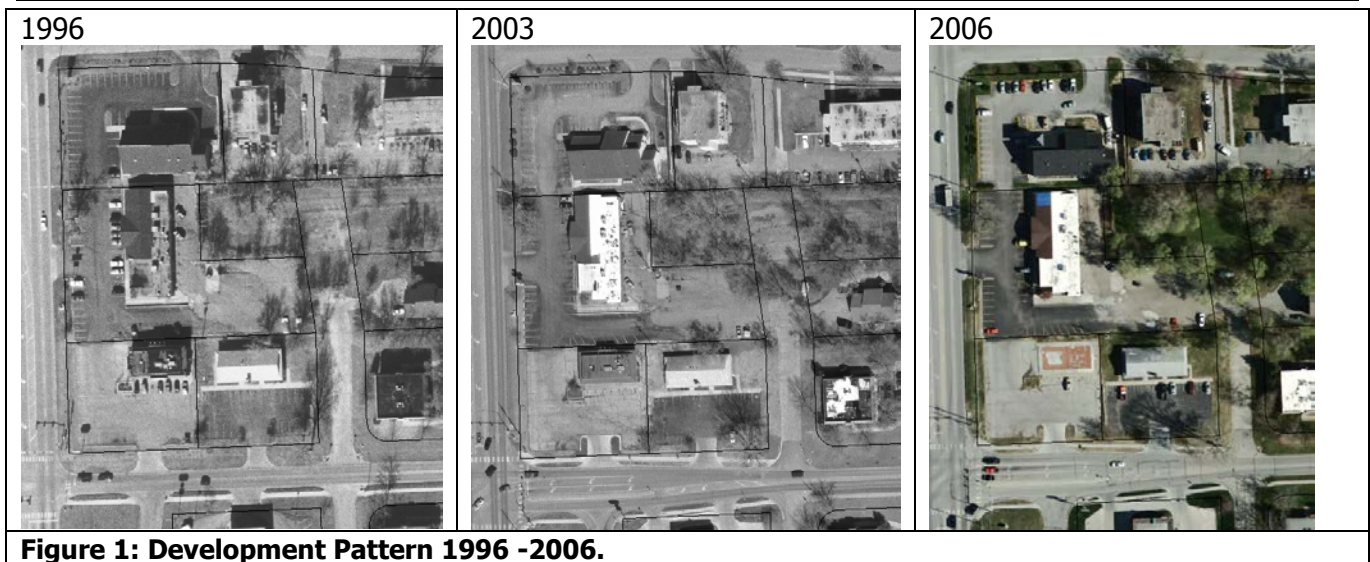
This application replaces a recently approved Preliminary Plat for the same property. The project approved by the Planning Commission on November 14, 2011 included two lots and the same variance for right-of-way. The variance for the turn-around is the result of the City Commission's action to approve a vacation request for the north segment of Redbud Lane to the north. This new application includes only one lot. Interior easements and cross access are revised respectively to accommodate this proposed single lot. Staff recognizes that depending on the ultimate redevelopment of the site additional interior easements may be needed and will be acquired by execution of a separate instrument or a future revision to the preliminary plat as needed.

The purpose of this preliminary plat is primarily to consolidate the property into a single lot, vacates obsolete interior easements, and establish the preliminary development expectations for access to the site.

- Iowa Street is an existing arterial street. The existing access point to Iowa Street will remain.
- 27<sup>th</sup> Street is an existing collector street. Existing driveways to 27<sup>th</sup> Street will be removed with this redevelopment.
- Redbud Lane is an existing local street. This street dead ends at the north property line. The segment extending to 26<sup>th</sup> Street, to the north, was vacated by the City Commission on March 12, 2013.
- 10' of Redbud Lane is proposed to be vacated with this Preliminary Plat.
- The proposed request includes a shared access easement across portions of the property.
- The proposed request includes variances related to street design standards.
- Utility extensions are proposed with this application.

## Zoning and Land Use

The property includes a mix of developed and vacant parcels. A request to rezone the entire area to a single commercial zone was approved in 2011 resulting in a uniform base zoning district (Z-9-24-11). Development of the site will include demolition of remaining structures and improvements. A concept plan was included in the traffic study but is not submitted as a redevelopment plan for the site at this time. Any number of site development options could be considered for this property. Development will be subject to applicable site plan and commercial design guidelines with future applications. Staff's work with the applicant has been to situate easements and infrastructure in the best place with the most flexibility to accommodate many different development options. The following table shows the previous development pattern for this property.



### Utilities and Infrastructure

The property currently has access to public sewer along the south property line. Public water is available to the site from Iowa Street, W. 27<sup>th</sup> Street, or Redbud Lane. However, placement of the water line along the west side of Redbud Lane is crucial to accommodating redevelopment and providing both domestic water supply and appropriate fire protection (fire hydrant locations).

No interior easements are proposed, at this time, with this single-lot subdivision. Redevelopment of the property with a single building would not need interior easements other than those associated with cross access and water service. However, multiple buildings are frequently required (by lending institutions) to be located on individual lots. Staff has reviewed many minor subdivision/replats to accommodate the creation of individual lots as properties build out. This is especially true for lots that are developed over time.

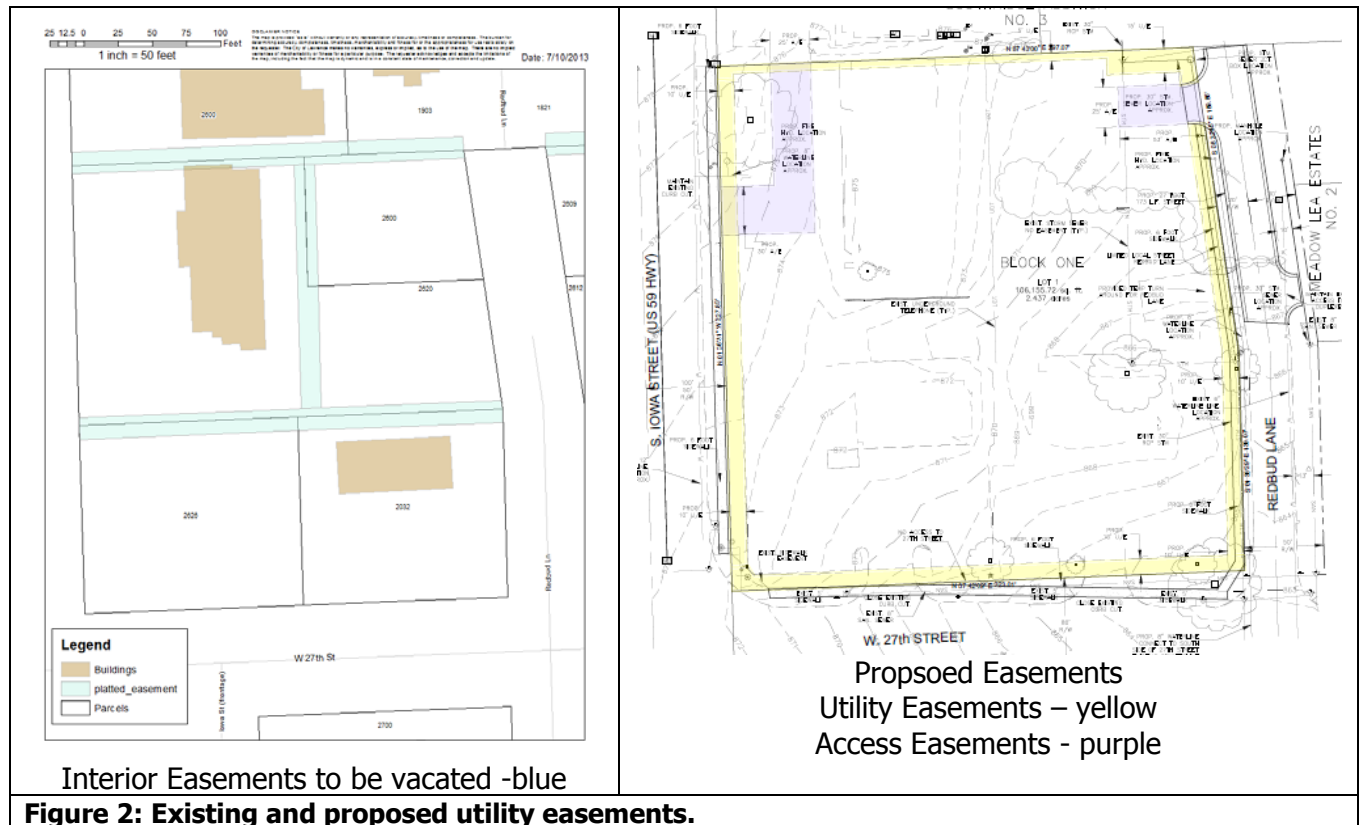
The importance of this discussion relates to a comments made during the review of the preliminary plat regarding future redevelopment of the site. This property could reasonably support more than one building on this property. At this time, there is no proposed site plan for this property. The most recent concept plan used in the Traffic Study shows a single 12,000 Sf building with multiple tenant space. The site originally included three buildings.

The Subdivision Regulations require residential lots that are greater than one acre, and where there is a possibility for further subdivision or re-subdivision be given consideration to how streets and lots are arranged so that streets may be opened in the future. This provision addresses street connectivity, but is also applicable to the provision of public utilities that are located in public right-of-way. No such requirement is provided for non-residential development. The developer should be aware that development of this property with multiple buildings might require the dedication of easements across the property in the future.

Staff met with the applicant's representatives to develop a workable alternative that accommodates the design as proposed, for a single lot, and an option to extend utilities into the lot in the future. This includes relocating the water line to the west side of Redbud Lane.

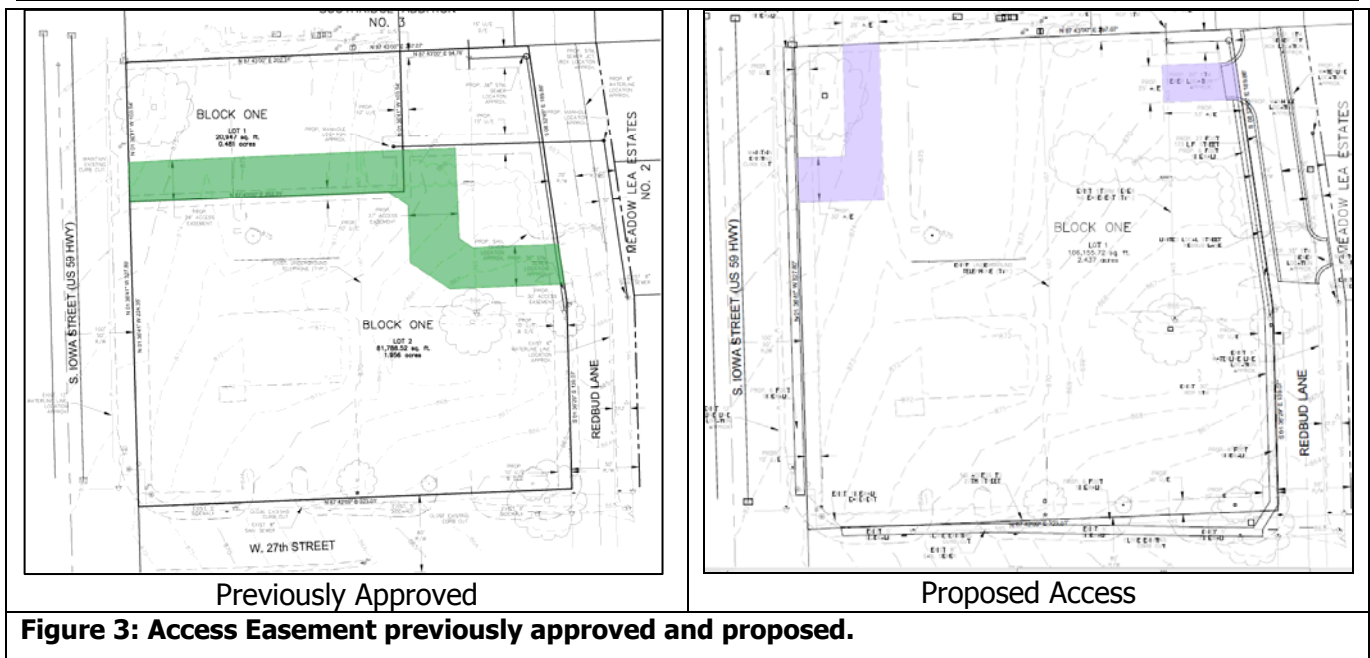
**Easements:** Utility easements are provided around the periphery of the lots. This proposed plat includes the vacation of the interior north-south easement and the dedication of new easements to serve the property as shown on the Preliminary Plat exhibit. The following graphic shows the existing

platted easements and the proposed easements, including the interior easements vacated, by this proposed redevelopment.



**Rights-of-Way:** This property abuts public right-of-way on three sides. No additional right-of-way is proposed along Iowa or 27<sup>th</sup> Streets. The applicant is requesting to vacate a portion of Redbud Lane with this Preliminary Plat. This request also includes two variances related to street design criteria listed in Section 20-810 of the Subdivision Regulations.

1. **Redbud Lane**, along the east property line, is a local street. The north end of Redbud at 26<sup>th</sup> Street was vacated earlier this year and will not connect as a thru street. This Preliminary Plat proposes to vacate 10' of Redbud Lane; reducing the total width from 60' to 50'. The previous Preliminary Plat showed a cross access between Iowa Street and Redbud Lane. This Preliminary Plat provides only a partial cross access that provides a connection to Iowa Street for the adjacent property to the north and a small area from Redbud to allow for vehicle turn-around in lieu of a cul-de-sac. Staff discussed with the applicant's representatives the possibility of connecting the two proposed access easements across the property. It was agreed that more information was needed about the final development to avoid the dedication of unnecessary easements or easements in the wrong location. The following graphic shows the previous and proposed access easements across this property.



2. **W. 27<sup>th</sup> Street**, along the south property line, is a designated collector street. This street currently provides access to the abutting properties; 2626 Iowa Street (vacant) and 2032 W. 27<sup>th</sup> street (existing office building). Each parcel has its own driveway. There is no existing cross access between the two properties. This Preliminary Plat shows the closure of these two driveways.



**Figure 2: Existing W. 27th Street Driveways**

3. **S. Iowa Street**, along the west property line, is a major arterial street. This street includes a direct access to 2620 Iowa Street. The proposed access drive is located over this driveway and extends to the north property line providing cross access with the abutting property. This existing driveway is intended to remain as part of the development.

KDOT has commented that based on the end user of this property the access drive may need to be moved to the north (closer to W. 26<sup>th</sup> Street) to accommodate a deceleration lane. At this time, no information is available regarding the redevelopment of the site. Additionally, comments were made by both KDOT and City staff in the review that additional right-of-way and/or easement might be needed to accommodate the Iowa Street access and turn lanes depending on the final



user. If a turn lane is determined to be needed to accommodate the final use then the right-of-way along Iowa Street and the placement of the sidewalk may need to be adjusted. It may be possible to determine additional dimensions for right-of-way and related easements between the preliminary and final plat if a known user is identified during that time. If no user is identified prior to the submission of a Final Plat then additional easements may be identified during the site plan process.



**Figure 3: Existing Iowa Street Driveway**

***Subdivision Design Standards:*** Section 20-810 of the Subdivision Regulations provides the design standards for streets. Streets must properly terminate or extend into adjacent subdivisions. Each street type requires a minimum width shown in the following table.

Street Type	Applies to	Required ROW	Existing ROW	Proposed ROW
Principal Arterial Street	Iowa Street	150'	100'	100'
Collector Street	W. 27 <sup>th</sup> Street	80'	80'	80'
Limited Local	Redbud Lane	50'	60'	50'

The vacation of 10' of right-of-way for Redbud Lane does not result in a substandard minimum street width. No changes are proposed to Iowa Street or W. 27<sup>th</sup> Street rights-of-way. A technical variance is required for Iowa Street since the total right-of-way width does not comply with the design standard noted in the table above.

The previous Preliminary Plat included improvements that would have allowed Redbud Lane to be constructed as a thru street between W. 26<sup>th</sup> Street and W. 27<sup>th</sup> Street. The vacation of Redbud Lane results in a dead-end street that must be properly terminated and in one that provides adequate maneuvering for emergency equipment per the City's Fire Code. A request for a variance from the design standards requiring a cul-de-sac are included with this Preliminary Plat.

### Conformance

The purpose of the subdivision regulations and associated design standards is to assure that the division of land will serve the public interest and general welfare. The proposed lot configuration exceeds the minimum lot area and lot width requirements of the CS district. With the exception of the street right-of-way width for Iowa Street and the termination of Redbud Lane in a cul-de-sac, the proposed Preliminary Plat complies with the subdivision regulations.

### VARIANCE REQUEST

The property owner is requesting variances from Section 20-810 of the Subdivision Regulations with regard to:

- Variance 1. Reduce required right-of-way along Iowa Street from 150' to 100'**  
**Variance 2. Allow an alternative method of a temporary turnaround for the termination of Redbud Lane in a cul-de-sac.**

### Citations to Consider:

**Section 20-813(g)** states that the Planning Commission may grant a variance from the design standards of these regulations only if the following three criteria are met: that the strict application of these regulations will create an unnecessary hardship upon the Subdivider, that the proposed variance is in harmony with the intended purpose of these regulations and that the public health, safety and welfare will be protected.

Following is a review of the variance requests in relation to these criteria. Refer to the attached letter for the applicant's reasoning for the variance requests.

### Section 20-810 (e) (5) Cross-Sections

#### (i) City of Lawrence

*All platted [Subdivisions](#) lying within the City of Lawrence shall comply with the following cross-section standards:*

Street Type	Right-of-Way
	Min. Width (feet)
Principal Arterial	150
Minor Arterial (3 lane)	100
Collector	80
Residential Collector	60
Local	60
Limited Local	50
Cul-de-sac	60
Marginal Access (Frontage Road)	60

- Pavement width constructed according to City standards.
- Additional r-o-w may be necessary at [Intersections](#).
- Paved bulb with 50' radius is required/60' minimum r-o-w radii required.

### Section 20-810 (e) (2) Connections

(i) *Streets longer than one Lot that terminate at the property boundaries of undeveloped land shall provide an improved temporary Turn-around.*

**Criteria 1: Strict application of these regulations will create an unnecessary hardship upon the Subdivider.**

Right-of-way width:

The property has frontage along several streets, direct access to the new lot is proposed from a new driveway from Redbud Lane and from the existing driveway to Iowa Street. The dedication of additional right-of-way would be inconsistent with the existing development pattern along this segment of the Iowa Street corridor. Strict application of these regulations would require the dedication of a substantial amount of additional right-of-way. This would impact the ability to redevelop the site with a larger setback requirement than the adjacent properties.

Connection:

The applicant has proposed an access easement to the parking lot at the north end of Redbud Lane. Additional access is provided from Iowa Street providing adequate vehicular circulation in and around the site. The applicant states; *"Emergency vehicles shall be able to drive through the development for access to two major roads. The termination of Redbud Lane was also done by City of Lawrence action with the vacation of Redbud Lane north of our client's property. This action was out of our client's control."* It is highly likely that the two access easements will be fully connected with the submission of a future site plan. Deferring the dedication of the connecting link of the access easement allows the site plan to be developed without having to vacate or relocate an unnecessary easement in the future.

A future access easement between Redbud Lane and Iowa Street would allow vehicular turnaround at the end of Redbud Lane as needed via the access drive to the site.

**Criteria 2: The proposed variance is in harmony with the intended purpose of these regulations.**

Per Section 20-801(a) of the Subdivision Regulations, these regulations are intended to ensure that the division of land will serve the public interest and general welfare as well as to provide for the conservation of existing neighborhoods.

Right-of-way width:

This property is being consolidated, not divided, into a single lot for the purposes of redevelopment of underutilized property. Shared access to Iowa Street and the closure of two driveways to the abutting collector street, W. 27th Street, will improve the overall vehicular operations of the public street network. These changes will improve the intersection function. There are no planned improvements for this segment of Iowa Street. With the exception of a possible turn lane along Iowa Street for future development, the overall width of the right-of-way is adequate. Additional information regarding the redevelopment and proposed use of the site is needed to further evaluate the need for a turn lane.

It is noteworthy that the majority of arterial streets have been developed with 100' of right-of-way similar to this segment of Iowa Street. ROW at intersections is typically wider to accommodate turn lanes. This application proposes to maintain the existing development pattern along the corridor with no improvements to the north leg of the intersection. Staff can support the variance request with the stipulation that additional right-of-way needed to accommodate a future turn lane to serve this property will be evaluated with the submission of a future application for a specific development of the site. Staff's recommendation for the variance is provisional.

**Connection:**

As noted by the applicant, the vacation of the north leg of Redbud Lane at 26<sup>th</sup> Street was not within the control of the applicant. Establishing the street connection between 26<sup>th</sup> Street and 27<sup>th</sup> Street would have eliminated the need for a cul-de-sac for this property. If approved, the subject property will be replatted to a single lot. The east side of Redbud Lane includes three existing platted lots. The northern most lot segment of Redbud Lane was vacated at the request of the property owner to the north on March 12, 2013.

The dedication of a cul-de-sac centered at the end of the remaining segment of Redbud Lane would require land acquisition from adjacent property owners or a cul-de-sac that is offset and not uniform. The applicant has proposed the use of an access easement to allow turnaround and backing movements at the end of the street via private property in lieu of the dedication and construction of additional right-of-way.

Attached to this report is an exhibit that shows the existing platted lot configuration along Redbud Lane for reference.

**Criteria 3: The public health, safety and welfare will be protected.**

**Right-of-way width:**

The additional dedication would push development closer to Redbud and the residential uses to the east. There are no known plans for widening Iowa Street in this location. Approval of the variance would not negatively impact the public health, safety or welfare. However, this property is located at the corner of 27<sup>th</sup> Street and Iowa. Intersections are typically wider than other parts of a street corridor. The exception to this variance should note that depending on the proposed redevelopment and end user, a turn lane may be required to be constructed to serve this property. In which case the dedication of right-of-way and or easements may be needed to accommodate the improvement.

**Connection:**

Provision of street connections and appropriate means of turnaround are critical to healthy development of a community and for emergency service access to property. While not ideal, the use of an access easement through the property will accommodate the necessary movements for larger vehicles associated with emergency equipment if needed when properly designed.

**VARIANCE RECOMMENDATION**

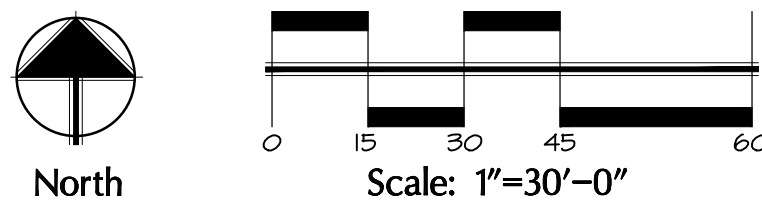
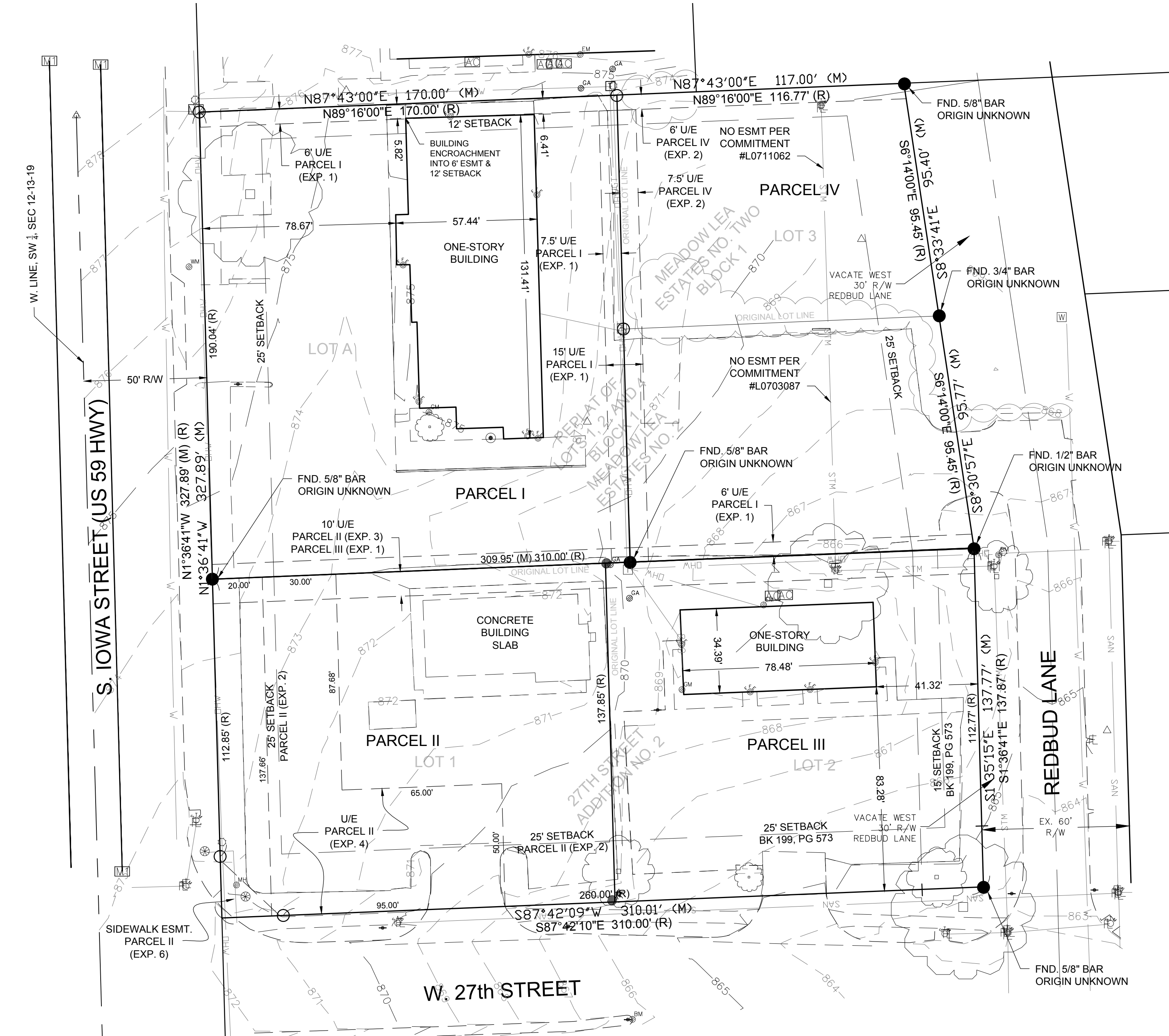
Staff recommends approval of the variance request to permit the right-of-way for Iowa Street to remain in its current configuration with the provision that the need for a turn lane will be evaluated with the submittal of a site plan and more detailed traffic study may result in a future dedication of right-of-way and or easement or some combination of both, as applicable.

Staff also recommends approval of the variance to allow the termination of Redbud Lane as a dead end street with a turnaround via an access easement that meets the minimum requirements of the Fire Code.

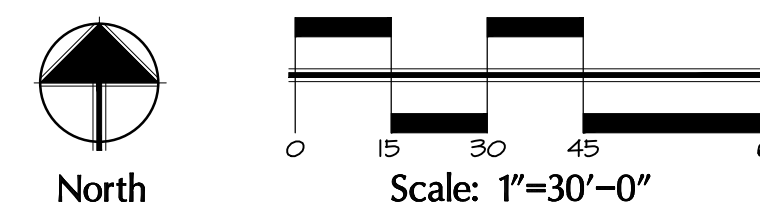
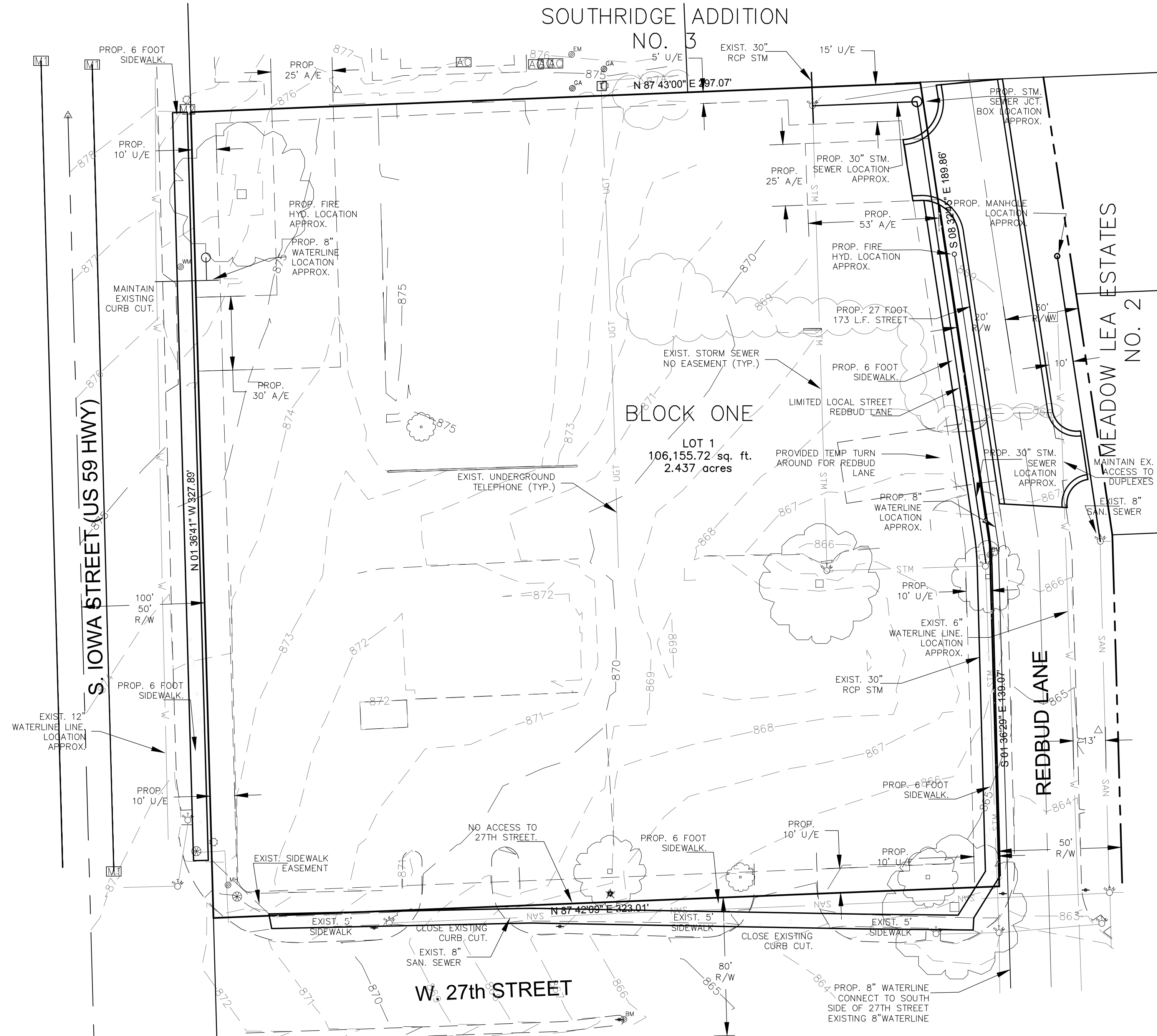
**Conclusion**

The proposed plat complies with the design standards of the Subdivision Regulations as discussed in the body of the report. The intent of this plat is to establish the new lot lines and easements needed for redevelopment. This Preliminary Plat conforms to the standards and requirements of the subdivision regulations and the land use plans for the area as noted in the body of the staff report and subject to the variances described above. Staff recommends approval of the Preliminary Plat.





EXISTING CONDITIONS



COMBINED EX. LOTS IN ONE LOT

## General Notes

- DEVELOPER: KMAH LLC and LAWRENCE 27 IOWA, LLC  
5201 JOHNSON DRIVE, SUITE 450  
MISSION, KS 66205
- OWNER: KMAH LLC and LAWRENCE 27 IOWA, LLC  
5201 JOHNSON DRIVE, SUITE 450  
MISSION, KS 66205
  - LAND PLANNER/  
ENGINEER/LAND  
SURVEYOR: LANDPLAN ENGINEERING, P.A.  
1310 WAKARUSA DRIVE  
LAWRENCE, KS 66049
  - PROPERTY ADDRESS: 27th & Iowa Street  
LAWRENCE, KS 66049
  - TYPICAL SOIL TYPES:  
MARTIN SILTY CLAY LOAM, 3 TO 7 PERCENT SLOPES  
MARTIN SOILS, 3 TO 7 PERCENT SLOPES, ERODED  
OSKA SILTY CLAY LOAM, 3 TO 6 PERCENT SLOPES  
WOODSON SILT LOAM, 1 TO 3 PERCENT SLOPES
  - TOPOGRAPHIC INFORMATION OBTAINED FROM FIELD SURVEY PERFORMED BY LANDPLAN ENGINEERING, JULY 2007.
  - EXISTING LAND USE: OLD RESTAURANT USE AND OFFICE BOTH VACANT BUILDING
  - PROPOSED LAND USE: RESTAURANT USE AND RETAIL CENTER
  - EXISTING ZONING: CS
  - APPROVAL OF VARIANCE FROM SECTION 20-810(e)(5); REQUIRING DEDICATION OF XX' ADDITIONAL ROAD ROW; INSTEAD PERMIT 10' PEDESTRIAN AND UTILITY EASEMENT A VARIANCE FROM THE ROW DEDICATION FOR A PRINCIPAL ARTERIAL STREET.
  - DEVELOPER IS RESPONSIBLE FOR THE COST OF ANY RELOCATION OF EXISTING UTILITIES, TO SERVE THE PROPOSED SUBDIVISION.
  - ALL NEW TELEPHONE, CABLE TELEVISION AND ELECTRICAL LINES MUST BE LOCATED UNDERGROUND.

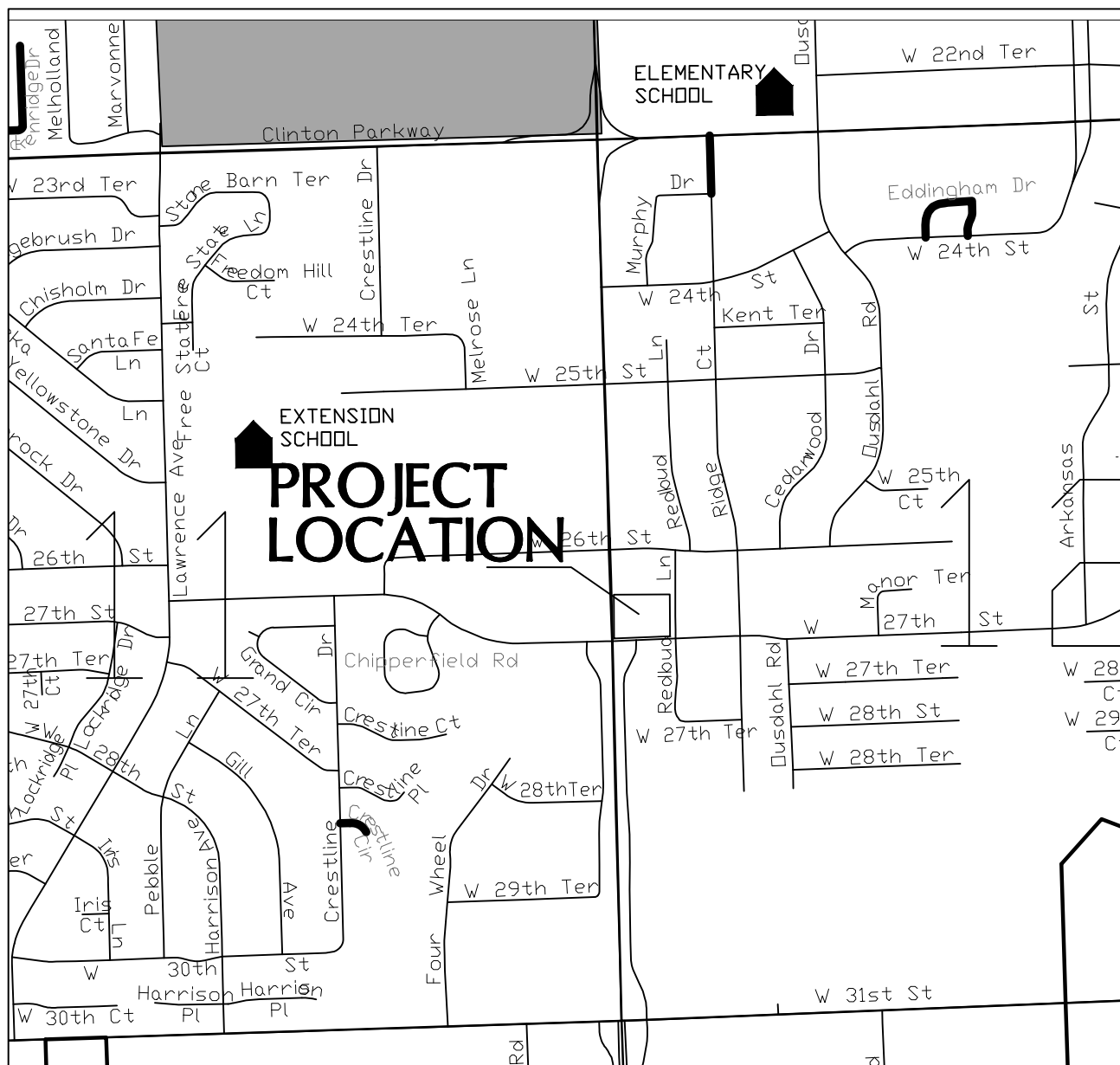
## Provisions of Financing of Roads, Sewer, Water and other Public Services

- THE SUBDIVISION WILL NOT HAVE NEW PUBLIC OR PRIVATE STREETS.
- THE SUBDIVISION WILL PROVIDE A CONNECTION TO THE EXISTING WATER LINE ON REDBUD LANE & 27TH STREET. THIS WATER LINE CONNECTION WILL BE PROVIDED BY PRIVATE FINANCING.
- THE SUBDIVISION WILL PROVIDE A CONNECTION TO THE EXISTING SANITARY SEWER LINE RUNNING NORTH/SOUTH ALONG THE EASTERN PLAT BOUNDARY. THIS SANITARY SEWER CONNECTION WILL BE PROVIDED BY PRIVATE FINANCING. SEWER SERVICE WILL COME FROM 27TH STREET SEWER LINE.
- PROPOSED WATER AND SANITARY SEWER LINE ON SITE IMPROVEMENTS ARE TO BE PROVIDED BY PRIVATE FINANCING AND WILL NOT DEPEND IN ANY WAY ON A VOTE, PETITION OR OTHER COLLECTIVE ACTION OF PROPERTY OWNERS IN THE SUBDIVISION.

## Site Summary

GROSS AREA: 106,155.72 SF / 2.437 AC  
RIGHTS-OF-WAY AREA: 3,441,240 SF / 0.079 AC  
NET AREA: 106,155.72 SF / 2.437 AC  
AVG. LOT SIZE: 106,155.72 SF / 2.437 AC  
TOTAL LOTS: 1

## Location Map



## Legal Description

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF SECTION 12 IN TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:  
BEGINNING AT A POINT WHICH IS SOUTH 01° 36' 41" EAST, 0.60 FEET ALONG THE WEST LINE AND NORTH 87° 43' 00" EAST, 50.00 FEET, FROM THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE NORTH 87° 43' 00" EAST, 317.19 FEET; THENCE SOUTH 8° 32' 45" EAST, 140.66 FEET; THENCE SOUTH 66° 45' 01" WEST, 17.58 FEET; THENCE SOUTH 8° 30' 57" EAST, 43.55 FEET; THENCE SOUTH 1° 35' 15" EAST, 138.40 FEET; THENCE SOUTH 67° 42' 00" WEST, 323.01 FEET; THENCE NORTH 1° 36' 41" WEST, 327.89 FEET ALONG WEST LINE OF SAID SECTION 12 TO THE POINT OF BEGINNING. CONTAINS 2.437 ACRES, MORE OR LESS.

## Benchmarks

BM1 CHISLED " " N.E. CORNER OF JUNCTION BOX IN WEST R/W REDBUD LANE +/- 175' N OF CENTERLINE 27TH STREET  
ELEV. 866.72  
BM2 CHISLED " " ON TOP OF B.O.C. @ EAST TOE OF ISLAND IN THE CENTER OF 27TH STREET +/- 175' OF REDBUD LANE  
ELEV. 866.71

*A Preliminary Plat for*  
**LOT A, MEADOW LEA ESTATES NO. 2  
LOTS 1 & 2, 27TH STREET ADDITION NO. 2  
LOT 3, BLOCK ONE, MEADOW LEA ESTATES NO. TWO  
CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS**

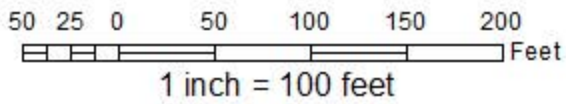
**KMAH AND LAWRENCE  
27 IOWA ADDITON**

*Lawrence, Kansas*

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REV	DATE	DESCRIPTION
1	6/26/13	PLANNING COMMENTS
2	7/10/13	REV EX. STM PIPE SIZE
3	7/12/13	FW WATERLINE UPDATED

DATE:	6/26/13
PROJECT NO.:	2007,228
DESIGNED BY:	CLM
DRAWN BY:	CLM
CHECKED BY:	CLM
ISSUE	SHEET NO.
	<b>1</b>
	OF 1 SHEETS

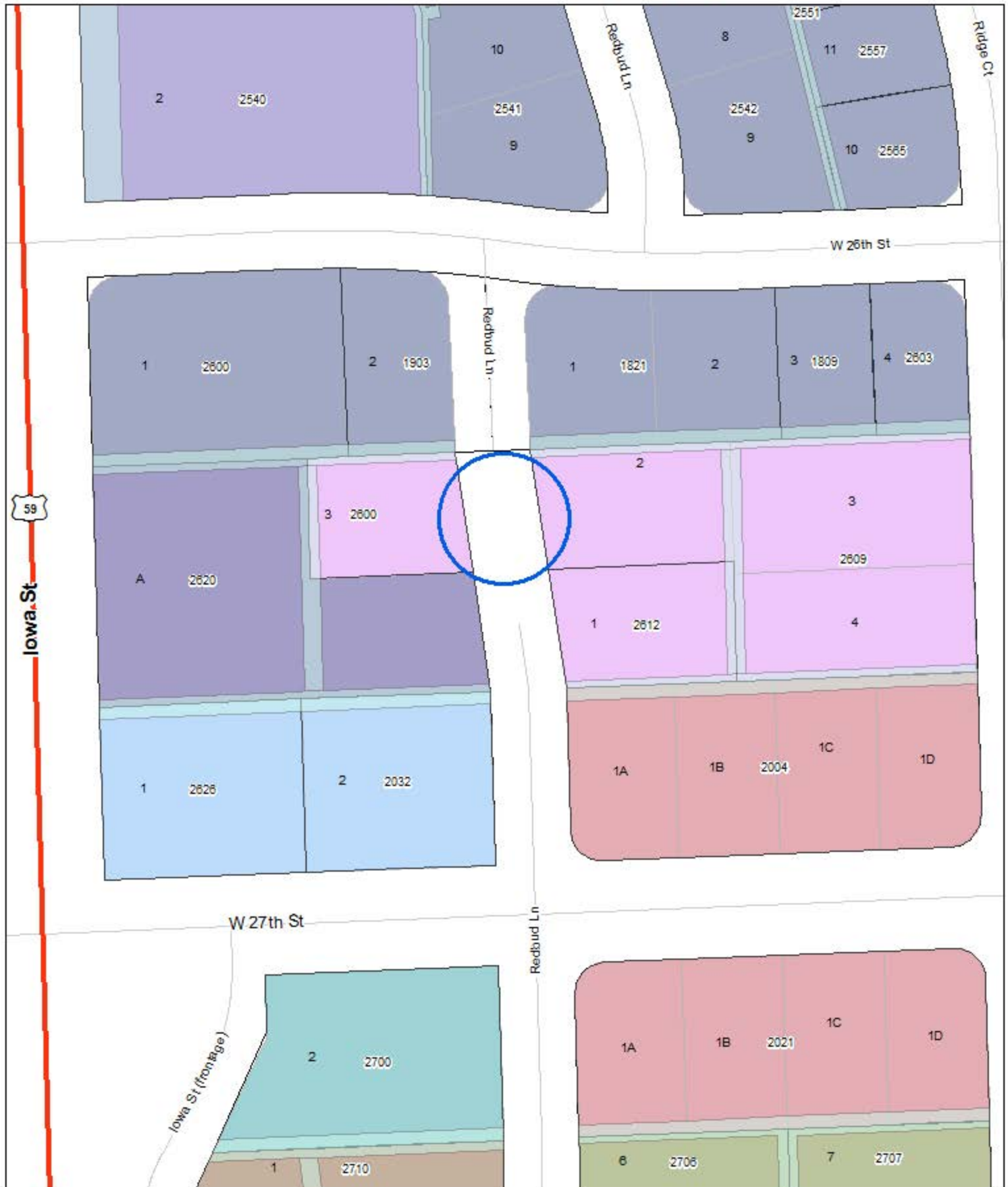


DISCLAIMER NOTICE

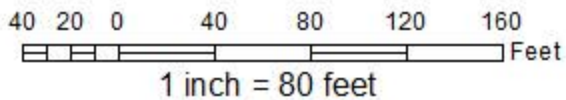
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Date: 7/12/2013

## Redbud Lane with a cul-de-sac







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Date: 7/11/2013





Civil Engineering  
Landscape Architecture  
Community Planning  
Surveying

---

**Landplan Engineering, P.A.**

1310 Wakarusa Drive  
Lawrence, Kansas 66049

tele 785.843.7530  
fax 785.843.2410  
email [info@landplan-pa.com](mailto:info@landplan-pa.com)

June 26, 2013

Sandra Day, AICP  
City of Lawrence  
Planning Department  
6 East 6<sup>th</sup> Street  
Lawrence, Kansas 66044

Re: PP-13-00187; Preliminary Plat – Variance Request

Sandra,

The following are variance requests for 20-810 (5) Principal Arterial Street requiring 150' ROW and 20-810 (2) (vi) street longer than one lot that terminates with a temporary turn around.

Our client has requested a variance from 20-810 (5) Principal Arterial Street requiring 150' ROW. The existing ROW is 100' with 5 lanes of traffic and a 6' sidewalk on both sides of the street. We are proposing to maintain the existing 50' R/W on the east side of Iowa Street.

Our client has requested a variance from 20-810 (2) (vi) street longer than one lot that terminates with a cul-de-sac. Our client has provided an access easement to a proposed parking lot. This parking lot is connected to Iowa Street and north to 26<sup>th</sup> Street. Emergency vehicles shall be able to drive through the development for access to two major roads. The termination of Redbud Lane was also done by City of Lawrence action with the vacation of Redbud Lane north of our client's property. This action was out of our client's control.

If you have any questions, please email or call me.

Sincerely,

C.L. Maurer, RLA, ASLA  
Landplan Engineering, P.A.

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO:** Planning Commission

**FROM:** Sandra Day, Planning Staff

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

**Date:** For July 22, 2013 Planning Commission meeting

**RE:** ITEM NO. 2 DEERFIELD WOODS SUBDIVISION; 3320 PETERSON RD  
(SLD)

**MS-13-00217:** Deerfield Woods Subdivision No. 9, a minor subdivision/replat of Lot 1 Deerfield woods Subdivision No. 7, located at 3320 Peterson Road. This Minor Subdivision includes a variance request to reduce the right of way for Peterson Road and Kasold Drive from 150' to 100' and a variance to allow sidewalk on only one side of the street for Sherwood Drive and Sterling Drive. Submitted by Landplan Engineering, for Cheer Pole, LTD, property owner of record.

**Attachment A:** Minor Subdivision 13-00217, Deerfield Woods Subdivision #9.

**Attachment B:** Applicant's Justification

**Attachment C:** Existing Right-of-Way Map

**Attachment D:** Existing Sidewalk Map

**Attachment E:** Approved Site Plan

The Minor Subdivision for Deerfield Woods Subdivision No. 9 (MS-13-00217) will create two new lots by dividing the existing platted lot. Minor Subdivisions are processed administratively but Planning Commission approval is required for variances from the Subdivision Design Standards. A copy of the Minor Subdivision is included with this memo for context; however, no action is required on the Minor Subdivision.

The subject property is located at 3320 Peterson Road. This property is developed with an existing childcare facility, office use, and associated off-street parking. Kasold and Peterson Road are classified as principal arterial streets on the Major Thoroughfares Map. Per Section 20-810(e) (5) of the Subdivision Regulations, principal arterial streets require 150' of right-of-way.

This property is bounded by public streets on all sides. These streets have been constructed with the surrounding development. Sherwood Drive and Sterling Drive are both local streets with sidewalks constructed on one side of the street adjacent to the residential development. At the time of construction, sidewalks were required on only one side of the street. There is no sidewalk on the south side of Sherwood Drive or the west side of Sterling Drive.

## VARIANCE REQUEST

The property owner is requesting variances from Section 20-810 and 20-811 of the Subdivision Regulations with regard to:

**Variance 1. Reduce required right-of-way along Peterson Road and Kasold Drive from 150' to 100'.**

**Variance 2. Allow sidewalk on only one side of the street for Sherwood Drive and Sterling Drive.**

### Citations to Consider:

**Section 20-813(g)** states that the Planning Commission may grant a variance from the design standards of these regulations only if the following three criteria are met: that the strict application of these regulations will create an unnecessary hardship upon the Subdivider, that the proposed variance is in harmony with the intended purpose of these regulations and that the public health, safety and welfare will be protected.

#### Section 20-810 (e)

##### (5) Cross-Sections

(i) City of Lawrence

Street Type	Right-of-Way
	Min. Width (feet)
Principal Arterial	150
Minor Arterial (3 lane)	100
Collector	80
Residential Collector	60
Local	60
Limited Local	50
Cul-de-sac	60
Marginal Access (Frontage Road)	60

All platted [Subdivisions](#) lying within the City of Lawrence shall comply with the following cross-section standards:

- Pavement width constructed according to City standards.
- Additional r-o-w may be necessary at [Intersections](#).
- Paved bulb with 50' radius is required/60' minimum r-o-w radii required.

#### Section 20-811 (c) Sidewalks and Pedestrian Ways

##### (1) City of Lawrence and [Urban Growth Areas](#)

[Sidewalks](#) and Pedestrian Ways shall be provided in the City of Lawrence in accordance with the standards of this sub-section:

- (i) Public [Sidewalks](#) shall be installed on both sides of all [Streets](#), as follows:

Street Type	Minimum Sidewalk Width (feet)
Local	5; Minimum width of 4 feet allowed in the <a href="#">Original Townsite Area</a>
Collector	5
Arterial	6; A designated 10' Bicycle/Recreation Path on one side of the Street and a 6' Sidewalk on the other side

Following is a review of the variance request in relation to these criteria. Refer to the attached letter for the applicant's reasoning for the variance requests.

**Criteria 1. Strict application of these regulations will create an unnecessary hardship upon the Subdivider.**

Right-of-way width:

Both Peterson Road and Kasold Drive have been constructed with turn lanes at the intersection and sidewalks on both sides of the street. The overall width of Peterson Road is 100'. Kasold Drive is

generally 110' wide. The intersection of Kasold Drive and Peterson Road is wider to accommodate for the necessary intersection improvements. There are no planned improvements to either of these streets in the future. No additional right-of-way is needed. The City Engineer indicated that the right-of-way currently dedicated for Kasold Drive and Peterson Road are adequate. There are no plans for construction of a center median that would necessitate the additional right-of-way. The existing intersection was built out to its maximum geometry. Any future right-of-way needed at the intersection would need to be acquired from the south property owners to maintain the street alignment.

#### Sidewalks:

The subject property was originally platted in 2000. The adjacent development to the north, Deerfield Woods Subdivision No. 1, creating Sherwood Drive, was platted in 1989. The development to the east, Deerfield Woods Subdivisions No. 4 and 5 creating Sterling Drive were platted in 1994 and 1995. Both Sherwood Drive and Sterling Drive were constructed consistent with the approved subdivision regulations requiring sidewalks on only one side of the street for local streets. Sidewalks along Kasold Drive and Peterson Road were constructed on both sides of those streets. The proposed variance applies to the south side of Sherwood Drive and the west side of Sterling Drive. The subject property is developed with two existing buildings and a shared parking lot. Sidewalks along Sherwood Drive and Sterling Drive were not required at that time (SP-5-32-00). Since the original development, the commission approved a Use Permitted upon Review (Special Use Permit) for a childcare facility, known as Princeton Daycare, in 2004, and an expansion of the use in 2005. A modification to the site plan was made in 2009 to accommodate parking lot changes for the childcare facility and exterior play yard.

- There are no planned improvements to Lot 2 that would require a major site plan and construction of a sidewalk along Sterling Drive and the east end of Sherwood Drive.
- There is an approved site plan (SP-5-32-00) for the development of the proposed Lot 1 that did not include a sidewalk along the south side of Sherwood Drive.
- There is no probability that sidewalk along the south side of Sherwood Drive east of Sterling Drive would be constructed. This street terminates at an existing utility access easement and an unconstructed cul-de-sac.
- Since the streets are constructed, any sidewalk additions would be added with new site development. This would impact only Lot 1 since Lot 2 is developed.

**Staff Finding:** Requiring the dedication of additional right-of-way for Kasold Drive and Peterson Road at this time would constitute an unnecessary hardship on the property owner, as the right-of-way is not necessary.

While requiring compliance with the construction of sidewalks would benefit the surrounding area by providing new pedestrian connections to the public sidewalk network half the property is developed and is not proposed to be redeveloped. Given the minor nature of the request and the existing street and landscaping development, it may be a hardship to require retrofitting these streets with a sidewalk.

#### **Criteria 2. The proposed variance is in harmony with the intended purpose of these regulations.**

Right-of-way width:

Right-of-way dedication is required when properties are platted to ensure the required right-of-way is available for improvements to adjacent roadways. As previously stated, The City Engineer indicated that the right-of-way currently dedicated for Kasold Drive and Peterson Road are adequate.

**Sidewalks:**

There are no new public improvements required for this division of property. The streets have been previously constructed with applicable sidewalks prior to the current design standards requiring sidewalks on both sides of the street. With the exception of proposed Lot 1, the surrounding area is developed with established uses and subdivisions. Sidewalks are provided along both sides of the arterial streets in the immediate area.

**Staff Finding:** The variance will allow the proposed lot division to occur without requiring the dedication of additional right-of-way or the construction of public sidewalks along the south side of Sherwood Drive and the west side of Sterling Drive. Adequate right-of-way is available for Kasold Drive and Peterson Road. The requests are in harmony with the intent of the regulations given the minor nature of this land division.

**Criteria 3: The public health, safety, and welfare will be protected.**

**Right-of-way width:**

As there are no improvement plans to any of the surrounding streets to this area, no additional right-of-way is needed.

**Sidewalks:**

Sherwood Drive and Sterling Drive include existing sidewalks on the residential sides of the streets. This area does not connect to any other through streets thus the pedestrian activity is contained in the immediate area and protected from inter-neighborhood traffic. Non-residential development and multi-dwelling residential developments in the immediate area include interior pathways and sidewalks that connect to Kasold Drive and Peterson Road providing interior walkability within individual developments. Likewise, interior sidewalks are proposed for the remaining development of the subject property when the remaining development is constructed. It is unlikely that any development of Proposed Lot 2 will be significant enough to require construction of a sidewalk along Sterling Drive in the future.

**Staff Finding:** The variances will not affect the public health, safety, or welfare.

**Staff Recommendation:**

Approve the variances requested from Section 20-810(e)(5) from the requirement to dedicate additional right-of-way for Kasold Drive and Peterson Road and from Section 20-811 (c)(1)(i) requiring sidewalks on the south side of Sherwood Drive and the west side of Sterling Drive subject to the following condition:

*The plat shall be revised to include the following note: "On July 22, 2013, the Planning Commission approved a variance from right-of-way requirements in Section 20-810(e) (5) and 20-811 (c) (1) (i) of the Subdivision Regulations to allow the replatting of this property with 100 ft of right-of-way currently provided for Kasold Drive and Peterson Road and to allow replatting without construction of sidewalks on Sherwood Drive and Sterling Drive.*



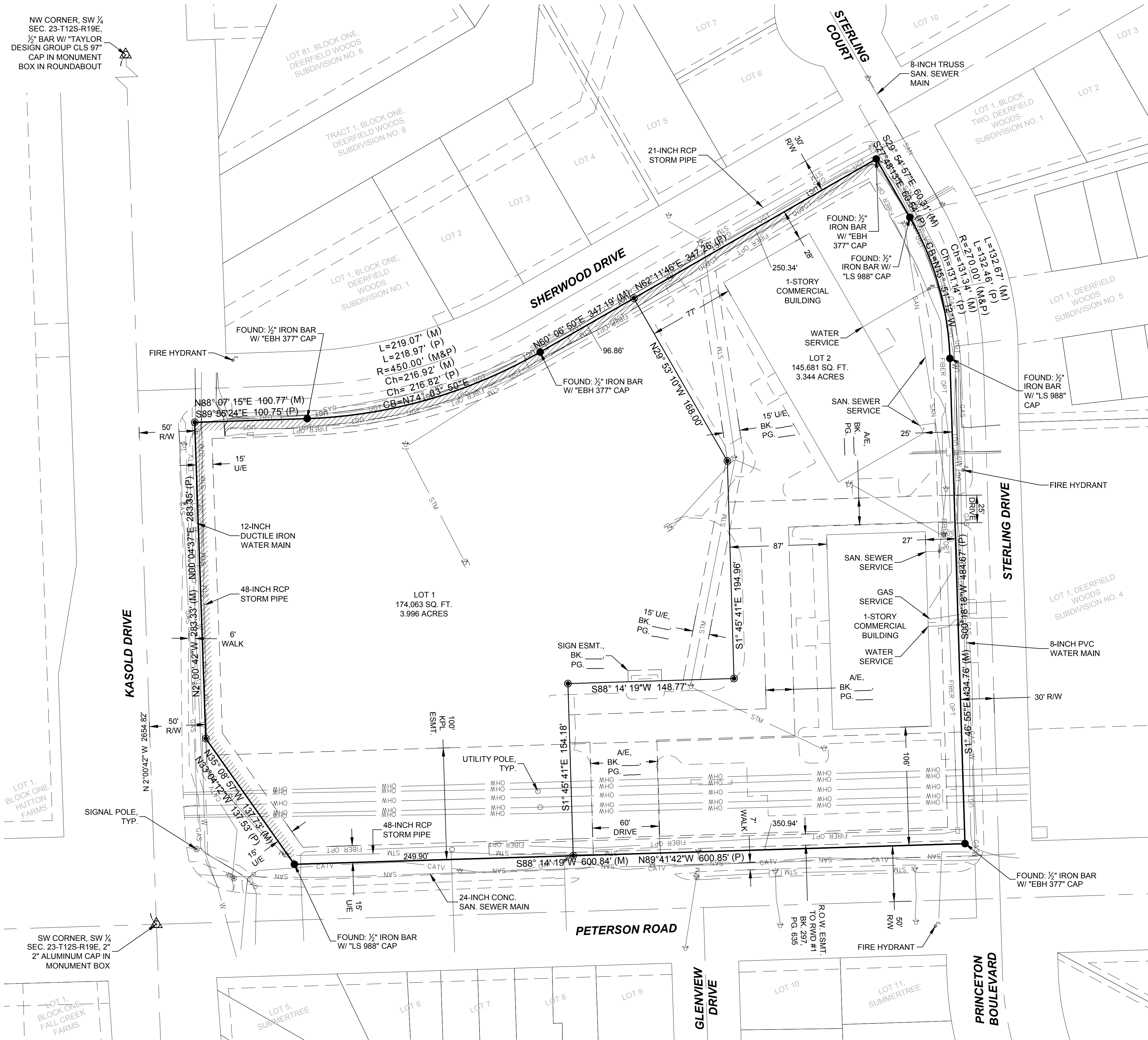


NW CORNER, SW 1/4  
SEC. 23-T12S-R19E,  
1/2" BAR W/ "TAYLOR  
DESIGN GROUP CLS 97"  
CAP IN MONUMENT  
BOX IN ROUNDABOUT

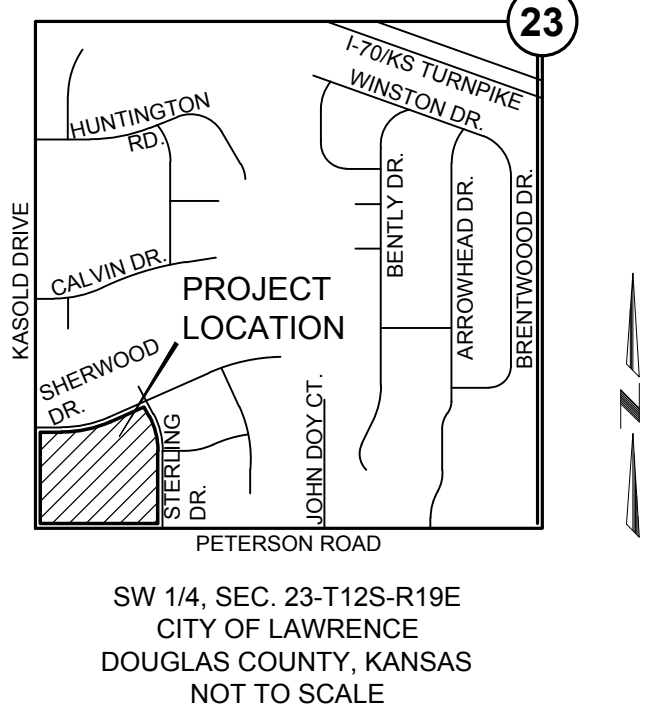
SW CORNER, SW 1/4  
SEC. 23-T12S-R19E, 2"  
2" ALUMINUM CAP IN  
MONUMENT BOX

LOT 1,  
BLOCK ONE  
HUTTON  
FARMS

LOT 1,  
BLOCK ONE  
FALL CREEK  
FARMS



LOCATION MAP:



MONUMENTATION:

- SECTION CORNER, SIZE AND ORIGIN AS NOTED
- SET: 1/2" x 24" IRON BAR W/ "PLS 1558" CAP
- FOUND: IRON BAR, SIZE AND ORIGIN AS NOTED

LEGEND:

- ACCESS PROHIBITED
- (M) MEASURED DIMENSION
- (P) PLATTED DIMENSION
- R/W RIGHT-OF-WAY
- U/E UTILITY EASEMENT
- A/E PUBLIC ACCESS EASEMENT
- SAN SANITARY SEWER LINE
- W WATER LINE
- STM STORM SEWER LINE
- GAS GAS LINE
- UGE UNDERGROUND ELECTRIC LINE
- UGT UNDERGROUND TELEPHONE LINE
- FIBER OPT FIBER OPTIC LINE

CERTIFICATION:

I HEREBY CERTIFY THAT THE PLATTED AREA AND THE LOCATION MAP SHOWN HEREON ARE THE RESULTS OF A FIELD SURVEY PERFORMED UNDER MY DIRECT SUPERVISION IN THE MONTH OF MAY, 2013. THIS SURVEY CONFORMS TO THE KANSAS MINIMUM STANDARDS FOR BOUNDARY SURVEYS.



BRIAN O'KEEFE, P.L.S. #1558  
1310 WAKARUSA DRIVE, SUITE 100  
LAWRENCE, KS 66049  
(785) 843-7530

NOTES:

- THE BASIS OF BEARINGS FOR THIS PLAT IS KANSAS STATE PLANE ZONE 1501.
- FURTHER DIVISION OR CONSOLIDATION OF ANY LOTS CONTAINED IN THIS MINOR SUBDIVISION IS PROHIBITED AND SHALL BE PROCESSED AS A MAJOR SUBDIVISION, UNLESS THE ACTIONS MEET THE EXPLANATION NOTED IN SECTION 20-808(c)(5)(i).
- STREET TREES SHALL BE PROVIDED IN ACCORDANCE WITH THE MASTER STREET TREE PLAN FILED WITH THE REGISTER OF DEEDS IN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_. IF STREET TREES DIE, THE PROPERTY OWNER IS RESPONSIBLE FOR REPLANTING TREES WITHIN ONE YEAR. NO TREES ON THE RIGHT-OF-WAY CAN BE REMOVED WITHOUT THE PERMISSION OF THE CITY OF LAWRENCE PARKS DEPARTMENT. TREES WITHIN THE RIGHT-OF-WAY REQUIRE TREE ROOT PROTECTION WITHIN A 10' RADIUS OF THE TREE TRUNK.
- THE LOTS WILL BE PINNED PRIOR TO THE RECORDATION OF THE MINOR SUBDIVISION/REPLAT AT THE REGISTER OF DEEDS OFFICE (PER SECTION 20-811(k)).
- NO PORTION OF THE LOTS IS LOCATED WITHIN A DESIGNATED "SPECIAL FLOOD HAZARD AREA" PER FEMA MAP NUMBER 20045C0178D, LAST REVISED AUGUST 5, 2010.
- ACCESS TO PETERSON ROAD AND STERLING DRIVE SHALL BE LIMITED TO ONE CURB CUT EACH.

LEGAL DESCRIPTION:

LOT 1, DEERFIELD WOODS SUBDIVISION NO. 7, IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.

DEDICATION:

BE IT KNOWN TO ALL MEN THAT I (WE), THE UNDERSIGNED OWNER(S) OF THE ABOVE DESCRIBED TRACT OF LAND, HAVE HAD CAUSE FOR THE SAME TO BE SURVEYED AND PLATTED AS A MINOR SUBDIVISION UNDER THE NAME OF "DEERFIELD WOODS SUBDIVISION NO. 9" AND HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOT(S) AND STREETS AS SHOWN AND FULLY DEFINED ON THIS PLAT.

VAN CHANG, PARTNER  
CHEER POLE, LTD.

ACKNOWLEDGEMENT:

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

BE IT REMEMBERED THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, CAME VAN CHANG, A PARTNER IN CHEER POLE, LTD., WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON WHO EXECUTED THE FOREGOING INSTRUMENT OF WRITING AND DULY ACKNOWLEDGE THE EXECUTION OF THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY SEAL ON THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC  
MY COMMISSION EXPIRES \_\_\_\_\_

ENDORSEMENTS:

APPROVED AS A MINOR SUBDIVISION UNDER THE SUBDIVISION REGULATIONS OF THE CITY OF LAWRENCE AND THE UNINCORPORATED AREA OF DOUGLAS COUNTY

SCOTT McCULLOUGH  
DIRECTOR, PLANNING & DEVELOPMENT SERVICES

APPROVAL OF VACATION OF UTILITY, DRAINAGE AND PUBLIC ACCESS EASEMENTS:

MICHAEL DEVER  
MAYOR

JONATHAN M. DOUGLASS  
CITY CLERK

REVIEWED IN COMPLIANCE WITH K.S.A. 58-2005:

MICHAEL D. KELLY, P.L.S. #869  
DOUGLAS COUNTY SURVEYOR

FILING RECORD:

STATE OF KANSAS  
COUNTY OF DOUGLAS

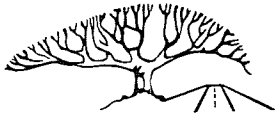
THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE OFFICE OF THE DOUGLAS COUNTY REGISTER OF DEEDS ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013, AND IS DULY RECORDED AT \_\_\_\_\_ AM/PM, IN PLAT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_

KAY PESNELL  
REGISTER OF DEEDS

DEERFIELD WOODS  
SUBDIVISION NO. 9

A MINOR SUBDIVISION/REPLAT OF  
LOT 1, DEERFIELD WOODS SUBDIVISION NO. 7,  
IN THE CITY OF LAWRENCE, DOUGLAS COUNTY,  
KANSAS

SW 1/4, SEC. 23-T12S-R19E



Civil Engineering  
Landscape Architecture  
Community Planning  
Surveying

## Landplan Engineering, P.A.

1310 Wakarusa Drive  
Lawrence, Kansas 66049

tele 785.843.7530  
fax 785.843.2410  
email info@landplan-pa.com

June 4, 2013

Sandra L. Day  
City/County Planner II  
Planning Division  
6 E. Sixth Street  
Lawrence, Kansas 66044

### Re: 3320 Peterson Road Request for Variance

Dear Sandy,

On behalf of Cheer Pole, Ltd., I am requesting a variance from Sec. 20-810(e)(5)(i) of the Subdivision Regulations which specifies a 150-foot right-of-way for all principal arterial streets, and from Sec. 20-811(c)(1)(i) which specifies that public sidewalks be installed on both sides of all streets. The below comments address the criteria for variances as outlined in Sec. 20-813(g)(2):

- i. *Strict application of these regulations will create an unnecessary hardship upon the Subdivider.*
  - a. The existing rights-of-way for both Peterson Road and Kasold Drive at this location are 100-feet wide. Generally, the rights-of-way for both Peterson Road and Kasold Drive in this vicinity are 100 feet wide. Strict application of this section of the Subdivision Regulations would place the existing parking lot adjacent to Peterson Road outside the minimum parking setback. Such strict application would also render future building and parking improvements as shown on approved site plans non-compliant for similar setback reasons, thus making it difficult for the property owner to further develop the site.
  - b. The subdivision provides a 7-foot wide sidewalk on the north side of Peterson Road and a 6-foot wide sidewalk on the east side of Kasold Drive. No sidewalks are located on the south side of Sherwood Drive or west side of Sterling Drive. The subdivision was originally platted in 2000 under previous subdivision regulation which required sidewalk on only one side of the road. It is the property owner's intention to subdivide the property at this time for property tax purposes, not redevelopment. The cost to provide a quarter-mile of 6-foot wide sidewalk at this time could easily total \$20,000-25,000 and is a financial hardship to the property owner.
- ii. *The proposed variance is in harmony with the intended purpose of these regulations.*
  - a. The subject property is located adjacent to portions of Peterson Road and Kasold Drive that saw significant improvements less than ten years ago. The current rights-of-way adequately accommodate all improvements. It is unlikely that either street would be significantly widened in the future.
  - b. The intended purpose of this regulation is to provide reasonable pedestrian access and safety. The subject property, which is zoned commercial, already provides sidewalks adjacent to its frontage on arterials streets, thus providing for pedestrian access from either Peterson Road or Kasold Drive. The frontages for which this variance is requested are those adjacent to local residential streets. Sherwood and Sterling Drives already provide sidewalks on the sides of the street developed with single-family homes. Thus reasonable and safe pedestrian access for the residents of these streets is already provided.

iii. *The public health, safety and welfare will be protected.*

- a. **Maintaining the Peterson Road and Kasold Drive rights-of-way as they exist will not jeopardize the public health, safety or welfare, nor would increasing their width serve to improve them. Both Peterson Road and Kasold Drive function adequately and there are no plans for future improvements which would require additional rights-of-way.**
- b. **The portions of Sherwood and Sterling Drives that front the subject property are fully developed with a sidewalk on one side. The public health, safety and welfare of residents and pedestrians on those streets will not be jeopardized by approval of this variance. This subdivision, combined with those neighboring it, provides for a safe and accessible pedestrian environment.**

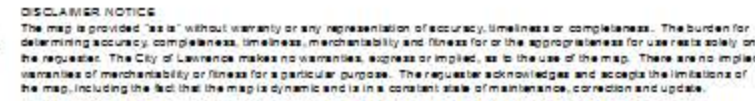
Please let me know if you have any questions or comments regarding the above information. Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Sturm", with a stylized flourish at the end.

Brian Sturm, RLA, ASLA, LEED AP

cc: V. Chang  
file



### Existing Right-of-Way





100 50 0 100 200 300 400  
Feet

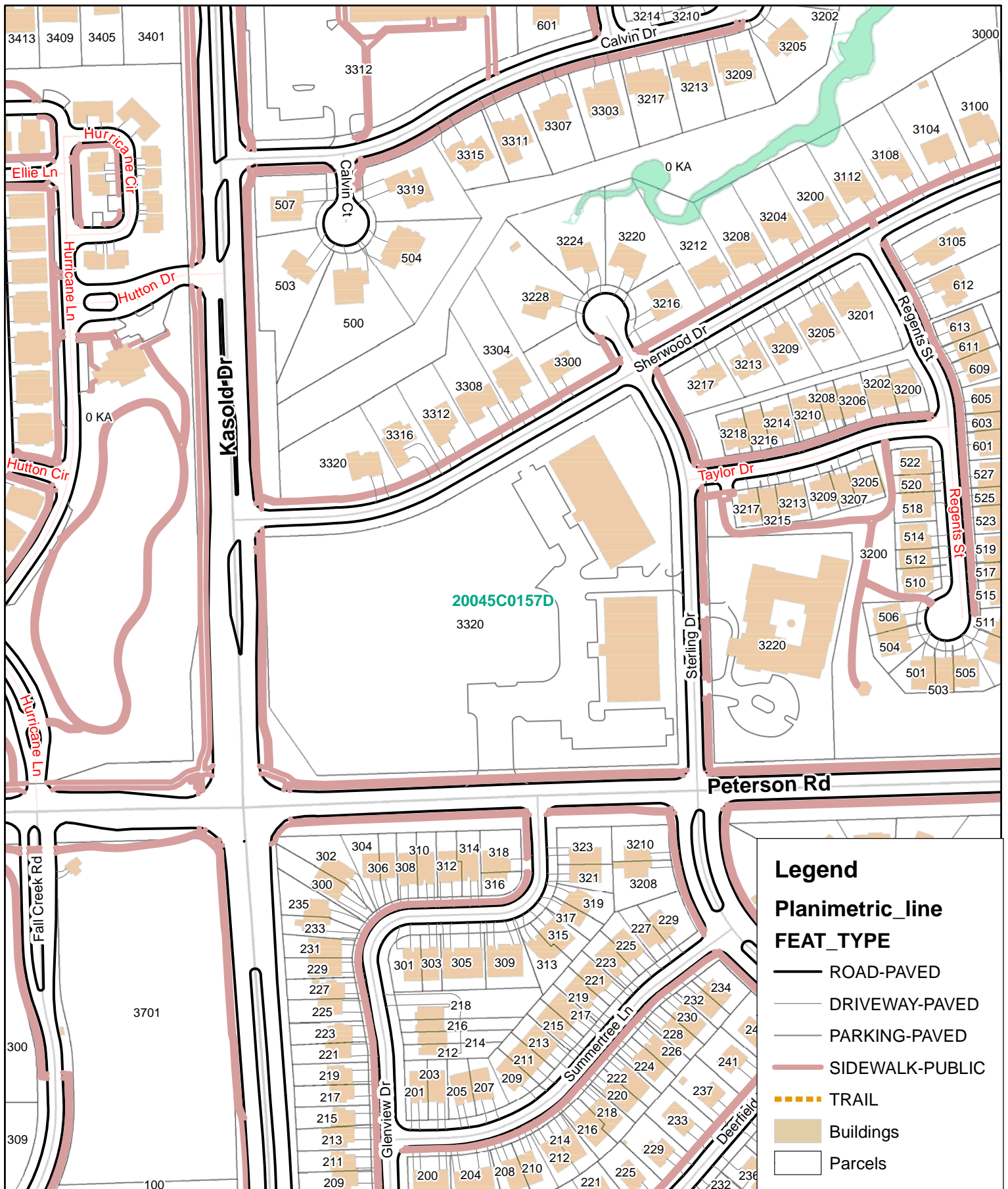
1 inch = 210 feet

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Date: 7/12/2013

## Existing Sidewalk





LEGAL DESCRIPTION:

LOT 1, DEERFIELD WOODS #7 SUBDIVISION  
TO THE CITY OF LAWRENCE, DOUGLAS COUNTY,  
KANSAS

GENERAL NOTE

1. OCCUPANCY PERMITS FOR PROPOSED BUILDINGS  
WILL NOT BE ISSUED UNTIL THE REQUIRED PUBLIC  
DRAINAGE IMPROVEMENTS ARE COMPLETE, AND  
FINAL INSPECTED AND ACCEPTED BY THE PUBLIC  
WORKS DEPARTMENT.

SP - 05 - 32 - 00a

DEERFIELDWOODS No 7

LOT 1	PHASE 1	PHASE 2
EXISTING BUILDINGS 0	PROPOSED BUILDINGS 30176 SF	PROPOSED BUILDINGS 36640 SF
EXISTING PAVEMENT 0	PROPOSED PAVEMENT 39103 SF	PROPOSED PAVEMENT 36340 SF
EXISTING IMPERVIOUS 203,159 SF	PROPOSED IMPERVIOUS 129,270 SF	PROPOSED IMPERVIOUS 73,880 SF
EXISTING PERVIOUS 3,197,20 SF	PROPOSED PERVIOUS 60,332 SF	PROPOSED PERVIOUS 36,220 SF
PROPERTY AREA 3,197,20 SF		

NOTE: ALL PARKING STALLS  
TO BE 9'-0" X 18'-0" (EXCEPT R.I. STALLS)

PARKING STALLS REQ.

1. ASSUMING 25% OF TOT. BLDG.  
SQ. FT. WILL BE DEDUCTED  
AS NON ACCOUNTABLE  
FOR PARKING REQUIREMENT

2. ASSUMING 90% OF ACCOUNTABLE  
BLDG. SQ. FT. WILL BE UNDER  
PARKING GROUP 13 (1 CAR  
PER EA. 300 BLDG. SQ. FT.) AND  
10% WILL BE UNDER PARKING  
GROUP 11 (1 CAR PER EA. 100  
BLDG. SQ. FT.).

3. THUS:  
 $90\% \text{ OF } 66,297' (75\% \text{ OF } 88,396') =$   
 $59,668' \div 300' = 199 \text{ CARS}$

$10\% \text{ OF } 66,297' (75\% \text{ OF } 88,396') =$   
 $6,297' \div 100' = 67 \text{ CARS}$

4. TOTAL NO. OF CARS REQ. = 266

5. TOTAL NO. OF CARS SHOWN = 270

PHASE I

$90\% \text{ OF } 22,632' (75\% \text{ OF } 30,176') =$   
 $20,638' \div 300' = 68 \text{ CARS}$

$10\% \text{ OF } 22,632' (75\% \text{ OF } 30,176') =$   
 $2,264' \div 100' = 23 \text{ REQ.}$

TOT. NO. CARS REQ. 91  
TOT. NO. CARS SHOWN 114

PHASE II

$90\% \text{ OF } 43,665' (75\% \text{ OF } 58,220') =$   
 $39,299' \div 300' = 131 \text{ CARS}$

$10\% \text{ OF } 43,665' (75\% \text{ OF } 58,220') =$   
 $4,367' \div 100' = 44$

TOT. NO. CARS REQ. 175  
TOT. NO. CARS SHOWN = 156

# ART EXECUTIVE PARK NEW OFFICE PARK

LAWRENCE, KANSAS

OWNER - CHEER POLE LTD

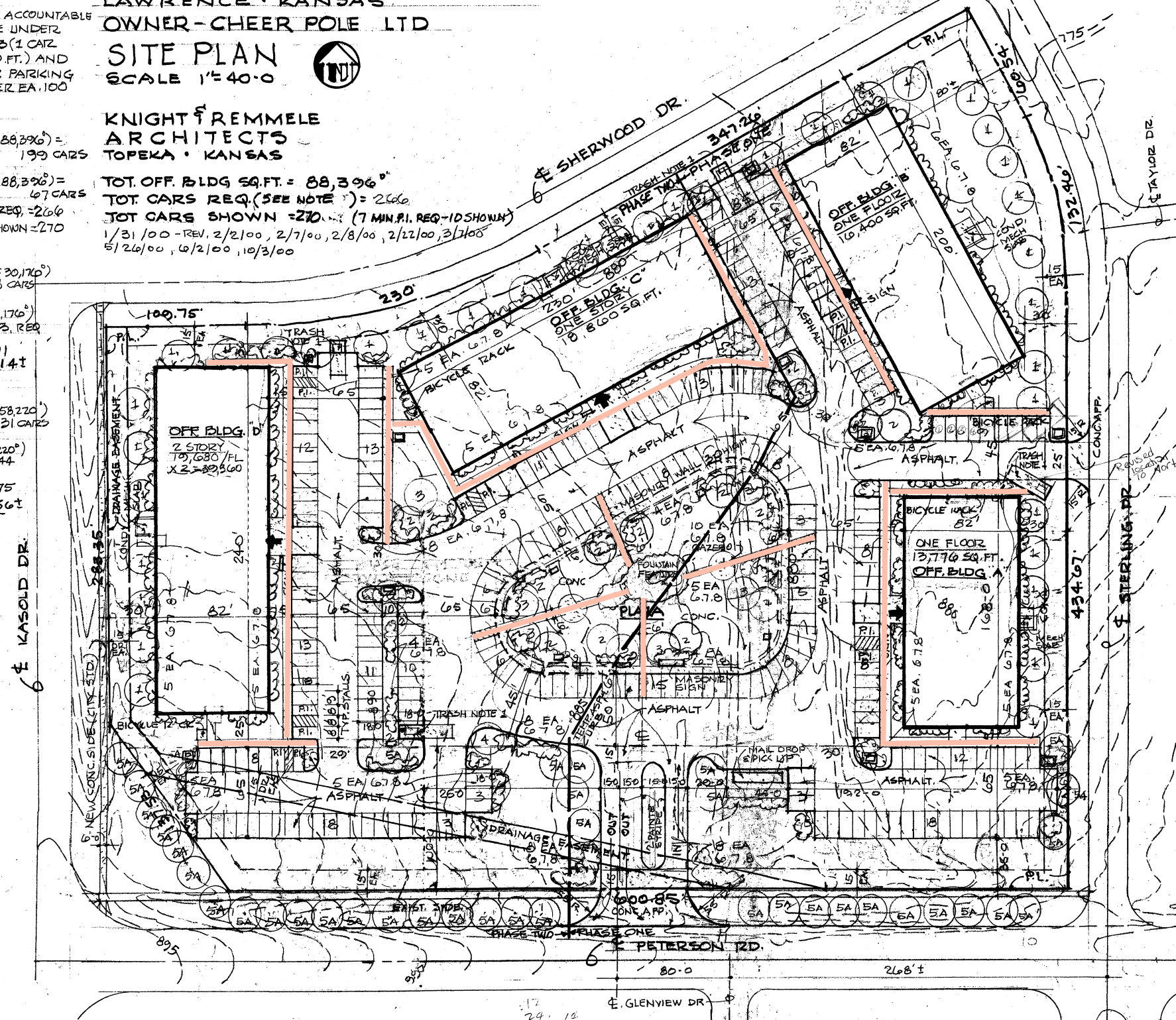
SITE PLAN

SCALE 1"=40'-0"



KNIGHT FIREMELE  
ARCHITECTS  
TOPEKA, KANSAS

TOT. OFF. BLDG. SQ. FT. = 88,396'  
TOT. CARS REQ. (SEE NOTE 1) = 266  
TOT. CARS SHOWN = 270 (7 MIN. P.I. REQ. - 10 SHOWN)  
1/31/00 - REV. 2/2/00, 2/7/00, 2/8/00, 2/22/00, 3/7/00  
5/26/00, 6/2/00, 10/3/00



## GENERAL NOTES

1. ALL TRASH ENCLOSURES TO BE 15'X15'-0" W/ 6" CONC. FLOOR SLAB W/ 6'X6'X10' MESH (FLAT) ON 2" SAND BED, 4' 6" BRICK WALL @ PERIMETER OF AREA ON THREE SIDES, ALSO A 15'X18'X6" CONC. SLAB W/ 6'X6'X10' MESH ON A 2" SAND BED TO BE LOCATED IN FRONT OF OPEN END OF ENCLOSURE.
2. ALL DRIVES & PARKING AREAS TO BE 5" ASPHALT W/ CONC. CURBS & GUTTER.
3. ALL BUILDINGS, COMPLY W/ ADA REQUIREMENTS.
4. INSTALL 3'-0" HIGH MASONRY WALL AROUND MECH. CONC. SLAB.
5. INSTALL SPRINKLER SYSTEM IN ALL GRASS AREA.
6. INDICATES 24' BRONZE LT. POLE W/ 250 W METAL HALIDE POST TOP.
7. ALL TREES & PLANTS TO BE IN POTS IN THE PLAZA.
8. OCCUPANCY PERMITS FOR PROPOSED BUILDINGS WILL NOT BE ISSUED UNTIL REQUIRED PUBLIC DRAINAGE IMPROVEMENTS ARE COMPLETE, FINAL INSPECTED AND ACCEPTED BY PUBLIC WORKS DEPARTMENT.

SITE NOTE: REFER TO SHEET NO. 2  
FOR EXISTING, & FINISH  
GRADE ELEVATIONS  
AND UTILITY LINES/  
EASEMENTS.

## GENERAL NOTES FOR LANDSCAPE

1. INSTALL 6" OF BLACK DIRT (COMPACTED), FERTILIZER, K-31 FESQUE SOD ON ALL DISTURBED GROUND AREAS UNLESS OTHERWISE NOTED.
2. AT ALL AREAS WHERE GROUPS OF SHRUBS ARE PLANTED (6, 7, 8) INSTALL 3" WASHED RIVER GRAVEL W/ 8" HEAVY DUTY BLACK VINYL EDGE STRIP W/ ANCHORS @ 4'-0" CTS. 2'-0" OUT FROM ALL SIDES OF SHRUB GROUP. PLANT ALL SHRUBS @ 18" APART.

## PLANT SCHEDULE

- |                              |                   |
|------------------------------|-------------------|
| 1. ROSE HILL ASH             | 7' MIN. HT. B/B   |
| 2. FLOWERING CRAB            | 2' CAL. B/B       |
| 3. RED BUD                   | 2' CAL. B/B       |
| 4. LONDON PLANE TREE         | 2' CAL. B/B       |
| 5. RED MAPLE                 | 2' CAL. B/B       |
| 6. EMERALD N. GOLD EUDONYMUS | 14'-18" CONTAINER |
| 7. RED LEAF BRADBERRY        | 14'-18" "         |
| 8. DWARF KORBAN LILAC        | 14'-18" "         |

Sheet 1 of 2  
Approved & Released  
Date: 12-10-00  
Planner Initial: [Signature] # of Sheets: 2  
Director: [Signature]  
Revised enclosure 11/6/01

REVISED  
12-1-00



KNIGHT & FIREMELE  
ARCHITECTS - AIA

ART EXECUTIVE PARK  
NEW OFFICE PARK  
LAWRENCE, KANSAS  
OWNER: CHEER POLE LTD.

July 16, 2013

**MS-13-00217:** Deerfield Woods Subdivision No. 9, a minor subdivision/replat of Lot 1 Deerfield Woods Subdivision No. 7, located at 3320 Peterson Road. This Minor Subdivision includes a variance request to reduce the right of way for Peterson Road and Kasold Drive from 150' to 100' and a variance to allow sidewalk on only one side of the street for Sherwood Drive and Sterling Drive. Submitted by Landplan Engineering, for Cheer Pole, LTD, property owner of record.

**ADMINISTRATIVE DETERMINATION:** The Planning Director approves the Minor Subdivision for Deerfield Woods Subdivision No. 9, subject to the approval of a variance to reduce the right-of-way for Peterson Road and Kasold Drive from 150' to 100' and a variance to allow sidewalk on only one side of the street for Sherwood Drive and Sterling Drive.

**KEY POINTS**

- A variance from the required right-of-way width for Peterson Road and Kasold Drive is proposed with this Minor Subdivision.
- A variance to allow sidewalks on only one side of the street for Sherwood Drive and Sterling Drive is requested with this Minor subdivision.
- Proposed Lot 1 is developed with an existing buildings and surface parking.
- Proposed Lot 2 is being created as a future developable lot with shared access.

**SUBDIVISION CITATIONS TO CONSIDER**

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County.
- Section 20-810 (e) (5) (i) requires 150' of right-of-way for arterial streets.
- Section 20-811(c) (1) requires sidewalks on both sides of a public street.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- SP-5-32-00; approved by the City Commission 7/25/00.
- URP-03-01-04; original plan approved by the City Commission on 5/18/04.
- UPR-02-01-05; expansion approved by the City Commission on 4/5/2005.
- SP-3-39-09; expansion of Princeton Daycare 9/24/09
- Placement on the Planning Commission agenda for variance from the minimum right-of-way requirements in Section 20-810(5) (i) and sidewalk requirements in Section 20-811 (c) (1).
- Submittal of signed mylar copy, executed Master Street Tree Plan and recording fees for recording of Minor Subdivision at the Register of Deeds.
- The applicant shall provide certification that all taxes that are due and payable have been paid prior to the recording of the plat.

GENERAL INFORMATION	
Current Zoning and Land Use:	CO (Commercial Office); Existing buildings and parking lot located on east side of property.



Surrounding Zoning and Land Use:	<p>RS7 (Single-dwelling residential) to the north, north side of Sherwood Drive, existing low-density residential subdivision.</p> <p>RM12 (Multi-dwelling residential) to the east, east side of Sterling Drive, existing duplex and triplex development and retirement facility.</p> <p>PD – [Deerfield PRD] to the south, south side of Peterson Road, existing residential subdivision including duplex homes to the south and detached dwellings to the southwest.</p> <p>RSO – (Single Dwelling Residential Office) to the southwest; undeveloped land.</p> <p>PD – [Hutton Farms PRD] to the west, west side of Kasold Drive, existing mixed-use residential development.</p>												
<p><b>SITE SUMMARY</b></p> <table> <tr> <td>Area</td><td>7.3 Acres</td></tr> <tr> <td>Number of Existing Lots:</td><td>1</td></tr> <tr> <td>Number of Proposed Lots:</td><td>2</td></tr> <tr> <td>Proposed Lot Size</td><td></td></tr> <tr> <td>    Lot 1</td><td>3.996 Acres</td></tr> <tr> <td>    Lot 2</td><td>3.344 Acres</td></tr> </table>		Area	7.3 Acres	Number of Existing Lots:	1	Number of Proposed Lots:	2	Proposed Lot Size		Lot 1	3.996 Acres	Lot 2	3.344 Acres
Area	7.3 Acres												
Number of Existing Lots:	1												
Number of Proposed Lots:	2												
Proposed Lot Size													
Lot 1	3.996 Acres												
Lot 2	3.344 Acres												

## STAFF REVIEW

### RIGHT-OF-WAY

Kasold Drive and Peterson Road are classified as principal arterial streets on the Major Thoroughfares Map. Sherwood Drive and Sterling Drive are classified as local streets. Per Section 20-810(e) (5) of the Subdivision Regulations a principal arterial street requires 150' of right-of-way. Both Kasold Drive and Peterson Road were constructed with approximate 100' of right-of-way. The intersection contains more than the minimum requirement for the north leg of the intersection. There are no planned improvements to any of the existing public streets surrounding this property. No additional right-of-way is needed. [Variance approval by the Planning Commission is required prior to final approval of this Minor Subdivision regarding the width of the right-of-way and the related sidewalk improvements for Sherwood Drive and Sterling Drive.]

### UTILITIES/EASEMENTS

No new utilities are being proposed. Water and sanitary sewer lines abut this property. The proposed Minor Subdivision includes new interior easements for the storm sewer and access through the property. The document also includes an area dedicated for a future sign with the development. The access easement will follow and preserve the existing vehicular circulation of the site and will follow the existing driveway access points constructed. No new access to this site is proposed. These easements must be recorded and recording information shown on the face of

the plat prior to final approval of the Minor Subdivision. This item will be forwarded to the City Commission for their acceptance of easements. This consideration is tentatively scheduled for August 6, 2013.

#### ACCESS

This lot was originally platted with access restrictions limiting curb cuts to only one from Peterson Road and one from Sterling Drive. There is no change to the access restrictions for this property. This Minor Subdivision includes an interior access easement that follows the existing driveway of the development.

#### MASTER STREET TREE PLAN

A Master Street Tree Plan and graphic were submitted and approved. The plan notes the required trees for each lot.

**Conclusion:** The Minor Subdivision, with approval of the variances requested and as conditioned, conforms to the approval criteria in Section 20-808(d) of the Subdivision Regulations.

**PLANNING COMMISSION REPORT**  
**Regular Agenda - Public Hearing Item**

PC Staff Report  
7/22/13

**ITEM NO. 3: IG TO IL; 5.09 ACRES; 2200 EAST HILLS DRIVE (SMS)**

**Z-13-00191:** Consider a request to rezone approximately 5.09 acres from IG (General Industrial) District to IL (Limited Industrial) District, located at 2200 East Hills Drive. Submitted by GHB Investors, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the request to rezone approximately 5.09 acres, from IG (General Industrial) to IL (Limited Industrial), 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 conditions:

1. The development shall be limited to no more than 50,000 sq. ft. of commercial (retail) development.
2. The permitted uses of the subject property are restricted to those listed below (highlighted in yellow identified by applicant & highlighted in teal suggested by staff) at the end of this report.

**Reason for Request:**

*We have owned this lot for approximately 25 years and despite continued attempts to develop or sell the lot as presently zoned, we have not been successful. We attribute the lack of success to the following factors:*

1. *Size of the lot – Smaller lots have not sold well in East Hills Business Park presumably because they do not meet the needs of the users that have to date located or considered locating in EHBP.*
2. *Terrain – The lot slopes approximately 35 feet from east to west which limits its use for large manufacturing or office buildings.*
3. *Location of the lot adjacent to K-10 – The East Hills Restrictive Covenants impose greater building setback requirements, greater setbacks for parking, loading and vehicle maneuvering areas and prohibit any outside storage on lots adjacent to K-10. These requirements make the lot less desirable for manufacturing uses.*

**KEY POINTS**

- The property would maintain an industrial zoning if changed from IG to IL.
- The IL zoning would permit certain commercial uses on a lot within the East Hills Business Park.
- The proposal is consistent with *Horizon 2020*.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- None
-

**PLANS AND STUDIES REQUIRED**

- *Traffic Study* – Not required for rezoning
- *Downstream Sanitary Sewer Analysis* – not required for rezoning
- *Drainage Study* – Not required for rezoning
- *Retail Market Study* – Not submitted. Rezoning can be conditioned to include no more than 50,000 sf of retail uses.

**ATTACHMENTS**

- Attachment A - Applicant proposed use restrictions

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None

**Project Summary:**

Proposed request is for rezoning from IG to IL in order to expand the potential uses on this property, including certain commercial uses. The site has remained vacant for 25 years, contains only five acres and has challenging topographical features. The property owner has self-restricted the uses to be allowed in the IL District. At the end of this report, staff discusses additional commercial uses that the Planning Commission may wish to consider in this conditional rezoning request.

**1. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response: *East Hills Business Park was among the early large industrial developments in Lawrence. It has attracted a variety of users ranging from heavy manufacturing to office to educational, all of which are permitted in IG zoning. Each of the existing buildings in East Hills is located on a large generally flat lot leaving mostly smaller, less level lots still available. One of the key strategies in Chapter 7 of Horizon 2020 states "Encourage site availability, site improvements, and community amenities which best respond to the market demands for industrial and business development while maintaining the community objectives for the type and quality of such development."*

*Applying this strategy to our request for rezoning responds to the lack of market demand for this lot while zoned IG by broadening the permitted uses. The rezoning of our lot to IL increases the potential uses from those permitted in IG zoning and will, we believe, better respond to the market demands. We feel that IL zoning, with some limitation of permitted uses, is a logical zoning for this lot.*

Staff Discussion: The Future Land Use Map of *Horizon 2020* (Map 3-2), identifies this property as Office Research, Industrial/Warehouse/Distribution. By changing the zoning from IG to IL, the property remains zoned for industrial uses.

Chapter 7 – Industrial & Employment-Related Land Use describes the existing industrial areas in the community which include East Hills Business Park. The plan states *"EHBP serves as the eastern gateway to the community and the City should continue to examine future development plans for this area to ensure they reflect the image and quality the community seeks in gateway development."* Commercial or industrial uses proposed for this property will be subject to adopted design standards. Rezoning the property to the IL District with the restricted uses offered by the property owner expands the opportunity for development of uses that may serve the employment base in the business park.

**Staff Finding –**

Changing the zoning of this property from IG to IL remains in conformance with *Horizon 2020* by maintaining an industrial zoning and providing expanded opportunities to develop this gateway property.

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

Current Zoning and Land Use: IG (General Industrial) District; Vacant

Surrounding Zoning and Land Use: North & West: IG District; undeveloped lots in East Hills and former Farmland property Business Parks.

East: A (County) District; Old Franklin Cemetery  
South: PID [LRM Industries]; concrete and asphalt plants.

**Staff Finding –**

The surrounding property is generally industrial or agricultural in nature. The developing East Hills Business Park is to the north and east. Existing concrete and asphalt plants are located across K-10 highway to the south. New road construction is currently underway in the future Farmland property business park to the west. Rezoning the property from the IG District to IL District retains the property in the overall industrial property inventory and expands the potential uses that could be developed to serve the employment base in the business parks.

**3. CHARACTER OF THE NEIGHBORHOOD**

Applicant's Response: *The neighborhood is industrial with East Hills Business Park being zoned IG, Farmland Business Park being zoned IG and IM and the land immediately south across K-10 (East 23<sup>d</sup> Street) zoned PID. EHBP has industrial, office and educational uses along with several vacant lots, Farmland Business Park is vacant and the land south of K-10 has an asphalt and concrete plant and farther west a moving and storage business.*

**Staff Finding –** The property is in an industrial corridor at the eastern gateway to the city on K-10. Changing the zoning to a less intense industrial district maintains the existing industrial character along the highway and, at the same time, expands the potential for development of this property that has been vacant since East Hills was developed in the 1980s.

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

Applicant's Response: *None.*

Staff Discussion: This property abuts the property included in the Southeast Area Plan, but is not included in a specific sector plan. The Southeast Area Plan identifies the property along the south side of K-10 highway for industrial uses. This site is located east of the property included in the Farmland Redevelopment Plan which also identifies the highway as an industrial corridor. The proposed zoning to the IL District retains the potential for industrial development, while also expanding the opportunity to provide commercial service uses to businesses and employees in the area.

**Staff Finding** – The proposed zoning change is consistent with the future land uses identified in the nearby Southeast Area Plan and Farmland Redevelopment Plan.

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

Applicant's Response: *The fact that the lot has remained vacant for over 25 years indicates that the lot is not suitable for many of the uses permitted in the existing IG zoning. It is our belief that the terrain has been a major factor in the lot not being attractive to industrial users.*

Staff Discussion: Industrial uses often require large, relatively flat sites to provide single story footprint buildings. The majority of the developed lots in EHBP are 10 acres or larger. This site has approximately 40 feet of fall from East Hills Drive to the west side of the property and contains only 5 acres. The combination of slope and lot size impacts the type of buildings that are feasible to construct on this site.

Many of the industrial uses permitted in the IG District are suited to larger lots with less topographical features. Rezoning to the IL District would expand the potential uses and types of development that might better take advantage of the natural terrain.

**Staff Finding** – The subject property is currently suitable for small scale industrial development as the majority of the surrounding property is zoned and developed with industrial uses. However, other properties in the vicinity provide larger sites with less topographic challenges. Expanding the permitted uses to include smaller footprint structures may increase the opportunities to develop this lot.

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

Applicant's Response: *The lot has remained vacant for over 25 years.*

Staff Discussion: The property has never been developed.

**Staff Finding** – The property has never been developed and has had an industrial zoning designation since the property was annexed in 1986. This indicates that the market finds the lot challenging under its current zoning designation.

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

Applicant's Response: *It is not anticipated that any of the nearby properties will be detrimentally affected by the rezoning. We have contacted representatives from the City of Lawrence and Douglas County and met with the Board of Directors of The Economic Corporation of Lawrence and Douglas County (formerly Douglas County Development Inc.), and none of them have objected to the proposed rezoning subject to a review of the final list of permitted uses.*

Staff Discussion: The proposed zoning is a low-intensity industrial district. The *Land Development Code* requires buffer yards, building and parking lot setbacks and other opportunities to design a site in order to not detrimentally affect nearby properties. Development proposals will be subject to either the Commercial or Industrial Design Standards as well.

**Staff Finding –** The change in zoning is proposed to a less intense industrial zoning district. Some of the more intensive uses permitted in the IG District will be eliminated and potentially smaller-scale uses will be allowed if the property is rezoned to the IL District. With the protections provided in the *Land Development Code* and the existing EHBP covenants, nearby properties should not be negatively impacted by approval of this request.

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

Applicant's Response: *The gain to the public health, safety and welfare if this rezoning were approved would be that the entrance lot to East Hills would be more likely to be developed which would provide a structure easily visible to the public as opposed to the existing buildings which have very limited visibility from K-10. This visibility would potentially make the remaining lots more likely to be developed. The existing East Hills Protective Covenants ensure that any development on the lot will be appropriately designed. Denial of the application will likely result in the lot remaining vacant for the foreseeable future.*

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

Staff Discussion: If this application is denied, the property owners would not have the opportunity to market the property for development under the broader range of uses permitted in the IL District. With the additional large lots now available in the former Farmland business park, this lot may continue to remain undeveloped. Development of this entry location to East Hills is desired to enhance the gateway development along the K-10 corridor.

**Staff Finding –** If this property is not rezoned, it may continue to remain undeveloped which does not result in a substantial gain to the public. The property owners would then not be able to market the site for smaller scale uses that could be compatible with the existing industrial uses in the area.

**9. PROFESSIONAL STAFF RECOMMENDATION**

The subject property is zoned for high-intensity industrial uses though it has never been developed. The proposal is to rezone to the IL District which is a low-intensity industrial district. The applicant has proposed the elimination of a number of uses that are currently permitted in the IG District and would be allowed in the IL District. Attachment A provides the Nonresidential Use Table and highlights the uses allowed in each district and the 21 uses the property owner proposes to eliminate.

If this request is approved, the following uses would be additional uses not currently available in the IG District.

<b>ADDITIONAL USES ALLOWED IF PROPERTY IS ZONED IL</b>	
Category	Uses
COMMUNITY FACILITIES	Lodge, Fraternal & Civic Assembly
MEDICAL FACILITIES	Health Care Office or Clinic
RECREATION FACILITIES	Participant Sports & Recreation, Indoor Participant Sports & Recreation, Outdoor
RELIGIOUS ASSEMBLY	Campus or Community Institution Neighborhood Institution
EATING AND DRINKING ESTABLISHMENTS	Accessory Bar Fast Order Food Fast Order Food, Drive-In Restaurant, Quality
OFFICES	Financial, Insurance & Real Estate
RETAIL SALES & SERVICES	Business Equipment Food & Beverage Mixed Media Store Personal Convenience Personal Improvement Repair Service, Consumer Retail Sales, General
TRANSIENT ACCOMMODATIONS	Hotel, Motel, Extended Stay

Several of these uses, especially a stand-alone fast order food, drive-in; a food & beverage store; or general retail sales uses could generate a substantial increase in traffic to the site. The intersection of East Hills Drive and K-10 has been identified as a challenging intersection and improvements are currently underway to construct an east-west street connecting EHBP to the signalized intersection at O'Connell Road. Once this street is completed, employees and visitors to East Hills will have a safe way to access K-10 and should relieve some of the safety concerns at this particular intersection. The Planning Commission may wish to consider placing conditions on the rezoning to further limit the uses allowed on this site.

Fast Order Food or Restaurant uses could provide nearby services to the many employees in the area. In staff's opinion, these uses would be most appropriate if incorporated into a multi-use/tenant development. The Commission should weigh the gateway corridor values with the value of expanded development options on this property. A stand-alone drive-thru restaurant located at the entrance to the established business park may not meet the values expected for this gateway location.

Section 20-1107(a) of the Development Code requires a retail market impact analysis for zoning requests that could result in 50,000 square feet or more of retail uses. The additional uses permitted in the IL District could potentially support this type of development on the 5 acre site.



In cases where a particular use or user is not known at time of rezoning, staff has processed the request and advised the applicant that the rezoning would be conditioned with a cap on the potential retail square footage in place of submission of such a market study. Therefore, the rezoning recommendation will include this condition in addition to the restriction of uses identified by the applicant.

In addition, staff recommends that *Fast Order Food, Drive-In* be eliminated from the list of permitted uses and that the Commission specifically discusses the merits of including or restricting *Food & Beverage (grocery store)* and *General Retail Sales* uses in this district. There is a benefit to permitting some commercial uses at this location that could specifically serve the needs of nearby employees. However, the uses identified may also be oriented more to the drive-by traffic along the highway which could create more traffic and related safety concerns at this particular intersection.

Staff recommends approval of the request to rezone approximately 5.09 acres, from IG (General Industrial) to IL (Limited Industrial), 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 conditions:

1. The development shall be limited to no more than 50,000 sq. ft. of commercial (retail) development.
2. The permitted uses of the subject property are restricted to those listed below (highlighted in yellow identified by applicant & highlighted in teal suggested by staff):

<p> <i>A = Accessory</i>  <i>P = Permitted</i>  <i>S = Special Use</i>  <i>* = Standard Applies</i>  <i>- = Use not allowed</i> </p>			IL
Household Living	Accessory Dwelling	-	-
	Attached Dwelling	-	-
	Cluster Dwelling	-	-
	Detached Dwelling	-	-
	Duplex	-	-
	Manufactured Home	-	-
	Manufactured Home, Residential-Design	-	-
	Mobile Home	P	-
	Mobile Home Park	-	-
	Multi-Dwg Structure	-	-
	Non-Gnrd Flr Dwelling	-	-
	Work/Live Unit	P*	-
	Zero Lot Line Dwelling	-	-
	Home Occupation, Type A or B	-	-
Group Living	Assisted Living	-	-
	Congregate Living	-	-
	Dormitory	-	-
	Fraternity or Sorority House	-	-
	Group Home, General (11 or more)	-	-
	Group Home, Limited (10 or less)	-	-

Community Facilities	Cemetery	P*
	College/University	P
	Cultural Center/ Library	-
	Day Care Center	P*
	Day Care Home, Class A	-
	Day Care Home, Class B	-
	Detention Facilities	S
	Lodge, Fraternal & Civic Assembly	P*
	Postal & Parcel Service	P
	Public Safety	P
	School	-
	Funeral and Interment	P*
	Temporary Shelter	S*/A*
	Social Service Agency	P
	Community Meal Program	S/A*
	Utilities, Minor	P*/S*
	Utilities and Service, Major	S
Medical Facilities	Community Mental Health Facility	--
	Extended Care Facility, General	-
	Extended Care Facility, Limited	-
	Health Care Office, Health Care Clinic	P
	Hospital	-
	Outpatient Care Facility	-
Recreational Facilities	Active Recreation	P
	Entertainment & Spectator Sports, General	-
	Entertainment & Spectator Sports, Limited	-
	Participant Sports & Recreation, Indoor	P
	Participant Sports & Recreation, Outdoor	P
	Passive Recreation	P
	Nature Preserve/ Undeveloped	P
	Private Recreation	-
Religious Assembly	Campus or Community Institution	P*
	Neighborhood Institution	P*
Animal Services	Kennel	P
	Livestock Sale	P
	Sales and Grooming	P
	Veterinary	P
Eating & Drinking Establishments	Accessory Bar	A*
	Accessory Restaurant	-
	Bar Or Lounge	-
	Brewpub	-
	Fast Order Food	P*
	Fast Order Food, Drive In	P
	Nightclub	-
	Private Dining Establishments	-
	Restaurant, Quality	P*

Office	Administrative and Professional	P*
	Financial, Insurance & Real Estate	P*
	Other	P*
Parking Facilities	Accessory	A*
	Commercial	P
Retail Sales & Service	Building Maintenance	P
	Business Equipment	P
	Business Support	P
	Construction Sales and Service	P
	Food and Beverage	P*
	Mixed Media Store	P*
	Personal Convenience	P*
	Personal Improvement	P*
	Repair Service, Consumer	P*
	Retail Sales, General	P*
	Retail Establishment, Large	-
	Retail Establishment, Medium	-
	Retail Establishment, Specialty	-
Sexually Oriented Businesses	Sexually Oriented Media Store	-
	Physical Sexually Oriented Business	-
	Sex Shop	-
	Sexually Oriented Theater	-
Transient Accommodation	Bed and Breakfast	-
	Campground	-
	Hotel, Motel, Extended Stay	P
Vehicle Sales & Service	Cleaning (Car Wash)	P
	Fleet Storage	P
	Gas and Fuel Sales	P
	Truck Stop	-
	Heavy Equipment Repair	P
	Heavy Equipment Sales/Rental	P
	Inoperable Vehicles Storage	P
	Light Equipment Repair	P
	Light Equipment Sales/Rental	P
	RV and Boats Storage	P

Industrial Facilities	Explosive Storage	-
	Industrial, General	P
	Industrial, Intensive	-
	Laundry Service	P
	Manufacturing & Production, Ltd.	P
	Manufacturing & Production, Tech.	P
	Research Service	P
	Scrap and Salvage Operation	Q
Wholesale, Storage & Distribution	Exterior Storage	A*
	Heavy	S
	Light	P
	Mini-Warehouse	P
Adaptive Reuse	Designated Historic Property	S*
	Greek Housing Unit	-

Agriculture	Agricultural Sales	P
	Agriculture, Animal	-
	Agriculture, Crop	P
Communications Facilities	Amateur & Receive-Only Antennas	A*
	Broadcasting Tower	P
	Communications Service Establishment	P
	Telecommunications Antenna	A*
	Telecommunications Tower	S*
	Satellite Dish	A*
Mining	Mining	-
Recycling Facilities	Large Collection	P
	Small Collection	P
	Processing Center	S

# ATTACHMENT A - Applicant

2-13-00191

Article 4 - Use Table

## Proposed Use Restrictions

### 20-403 NONRESIDENTIAL DISTRICT USE TABLE

Key:		Base Zoning Districts															Use-Specific Standards (Sec. 20-)
		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IM	IG	OS	GPI	H	
A = Accessory																	
P = Permitted																	
S = Special Use																	
* = Standard Applies																	
- = Use not allowed																	
RESIDENTIAL USE GROUP																	
Household Living	Accessory Dwelling	P*	-	P*	-	-	-	-	-	-	-	-	-	-	-	-	534
	Attached Dwelling	P*	-	P*	-	-	-	-	-	-	-	-	-	-	P*	-	503
	Cluster Dwelling	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	702
	Detached Dwelling	P*	-	P	-	-	-	-	-	-	-	-	-	-	P*	A*	508
	Duplex	P*	-	P*	-	-	-	-	-	-	-	-	-	-	-	-	503
	Manufactured Home	-	-	-	-	-	-	-	-	-	-	-	-	-	P	A	
	Manufactured Home, Residential-Design	P*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	513
	Mobile Home	-	-	-	-	-	-	-	-	-	X	-	P	-	P	A	
	Mobile Home Park	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Multi-Dwelling Structure	-	P*	P*	-	P*/S*	P*	-	P*	-	-	-	-	-	S	A	517
	Non-Ground Floor Dwelling	P*	P*	P*	-	P*	P*	-	P*	-	-	-	-	-	-	-	517/542
	Work/Live Unit	P*	P*	P*	-	P*/S*	P*	-	P*	-	X	-	-	-	-	-	517/541
	Zero Lot Line Dwelling	P*	-	P	-	-	-	-	-	-	-	-	-	-	-	-	531
	Home Occupation, Type A or B	-	-	P*	-	-	-	-	-	-	-	-	-	-	-	-	
Group Living	Assisted Living	-	-	P	-	-	-	-	-	-	-	-	-	-	S	S	
	Congregate Living	-	-	P*	-	-	-	-	-	-	-	-	-	-	-	-	546
	Dormitory	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	
	Fraternity or Sorority House	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Group Home, General (11 or more)	S	S	S	S	S	S	S	S	-	-	-	-	-	-	A	
	Group Home, Limited (10 or less)	P	-	P	-	-	-	-	-	-	-	-	-	-	-	-	
PUBLIC AND CIVIC USE GROUP																	
Community Facilities	Cemetery	P*	P*	-	P*	-	P*	P*	P*	P*	X	-	-	P*	P*	-	505
	College/University	S	P	P	P	P	P	P	P	P	P	-	P	-	P	A	
	Cultural Center/Library	S	P	P	S	P	P	-	-	P	-	-	-	S	P	A	
	Day Care Center	S*	P*	S*	S*	S*	P*	P*	P*	P*	P*	A*	P*	-	-	-	507
	Day Care Home, Class A	P	P	P*	-	P	P	-	P	-	-	-	-	-	-	-	
	Day Care Home, Class B	S*/A*	P*	S*	-	P	P	-	P	-	-	-	-	-	-	-	507

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts															Use-Specific Standards (Sec. 20-)
		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IM	IG	OS	GPI	H	
	Detention Facilities	-	-	-	-	-	-	-	-	-	<del>S</del>	S	S	-	S	-	
	Lodge, Fraternal & Civic Assembly	S*	S*	S*	S*	P*	P*	P*	P*	-	P*	-	-	-	P*	-	512
	Postal & Parcel Service	-	P	P	P	P	P	P	P	P	P	P	P	-	P	-	505
	Public Safety	S	P	P	P	P	P	P	P	P	P	P	P	-	P	-	
	School	P	P	P	P	P	P	P	P	-	-	-	-	-	P	-	
	Funeral and Interment	-	P*	-	P*	P*	P*	P*	P*	P*	<del>S</del>	-	-	A*	-	-	
	Temporary Shelter	S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*/A*	S*	<del>S</del>	-	S*	-	S*	S*/A*	544/522
	Social Service Agency	P	P	P	P	P	P	P	P	P	P	-	P	-	P	A	522
	Community Meal Program	S/A*	S/A*	S/A*	S/A*	S/A*	S/A*	S/A*	S/A*	S	<del>S</del>	-	S	-	S	S/A*	
	Utilities, Minor	P*/S*	P*/S*	P*/S	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	-	530
Medical Facilities	Utilities and Service, Major	S	S	S	S	S	S	S	S	S	<del>S</del>	P	P	S	P	-	
	Community Mental Health Facility	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	519
	Extended Care Facility, General	-	S	-	S	-	-	-	-	S	-	-	-	-	-	A	
	Extended Care Facility, Limited	P	P	P	P	-	-	-	-	-	-	-	-	-	S	A	
	Health Care Office, Health Care Clinic	P	S	P	P	P	P	P	P	P	P	-	-	-	P	A	
	Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Recreational Facilities	Outpatient Care Facility	P*	P*	P*	P*	P*	P*	P*	P*	-	-	-	-	-	P*	A*	
	Active Recreation	S	P	P	S	S	P	P	P	P	P	-	S	S	A*/S*	A	532
	Entertainment & Spectator Sports, General	-	-	-	-	P	P	P	P	-	-	-	-	-	S	-	532
	Entertainment & Spectator Sports, Limited	-	P	P	-	P	P	P	P	-	-	-	-	S	P	-	
	Participant Sports & Recreation, Indoor	-	P	P	-	P	P	P	P	P	P	-	-	-	P	A	
	Participant Sports & Recreation, Outdoor	-	-	S	-	-	P	P	P	P	P	-	-	-	A*/S*	-	
	Passive Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	

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		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IM	IG	OS	GPI	H	
	Nature Preserve/Undeveloped	P	P	P	P	P	P	P	P	P	X	P	P	P	P	A	
	Private Recreation	P	P	P	-	P	P	-	P	-	-	-	-	P	P	A	
Religious Assembly	Campus or Community Institution	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	-	A*	522
	Neighborhood Institution	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	-	-	522
COMMERCIAL USE GROUP																	
Animal Services	Kennel	-	-	-	-	-	P	P	P	-	X	-	P	-	-	-	
	Livestock Sale	-	-	-	-	-	S	S	S	-	X	-	P	-	-	-	
	Sales and Grooming	P	P	P	P	P	P	P	P	-	P	-	P	-	-	-	
	Veterinary	-	P	P	P	P	P	P	P	P	P	-	P	-	-	-	
Eating & Drinking Establishments	Accessory Bar	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	-	-	-	-	509
	Accessory Restaurant	-	-	-	-	-	-	-	-	A	-	-	-	-	-	-	
	Bar Or Lounge	-	-	S*	-	P*	P*	P*	P*	-	-	-	-	-	-	-	509
	Brewpub	-	P*	S*	-	P*	P*	P*	P*	-	-	-	-	-	-	-	509
	Fast Order Food	P*	P*	P	P*	P*	P*	P*	P*	-	P*	-	-	-	-	A*	511/509
	Fast Order Food, Drive-In	-	S	-	-	-	P	P	P	-	P	-	-	-	-	-	
	Nightclub	-	-	-	-	P*	-	P*	P*	-	-	-	-	-	-	-	509
	Private Dining Establishments	P*	P*	-	P*	P*	P*	P*	P*	P*	-	-	-	-	-	-	539
	Restaurant, Quality	P*	P*	P	P*	P*	P*	P*	P*	P*	P*	-	-	-	-	-	524
Office	Administrative and Professional	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	A	P*	-	P*	A*	518
	Financial, Insurance & Real Estate	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	-	-	-	A*	510
	Other	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	A	P*	-	-	-	537
Parking Facilities	Accessory	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	535
	Commercial	-	S	S	S	S	P	P	P	P	P	P	P	-	P	A	

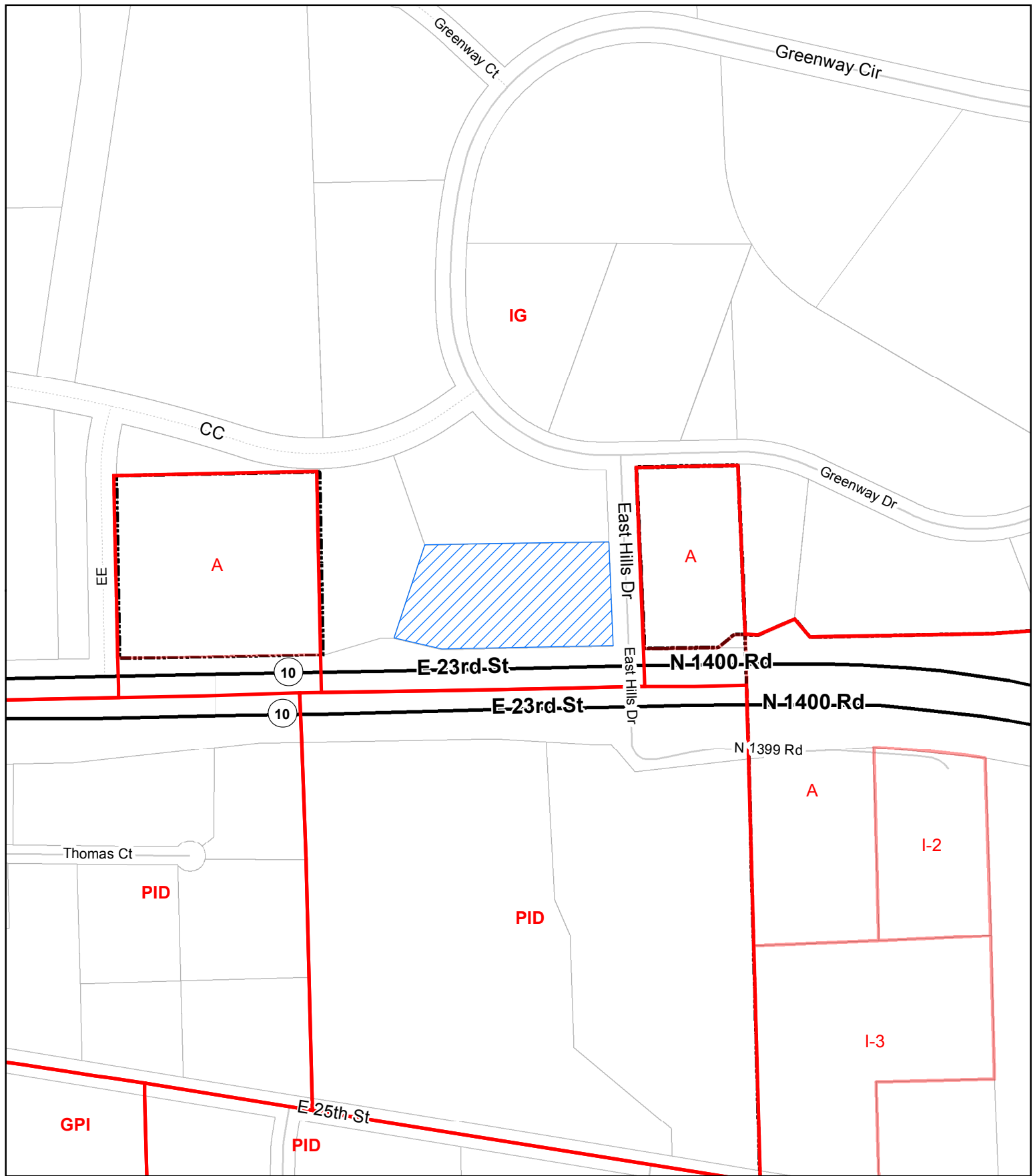


Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts															Use-Specific Standards (Sec. 20-)
		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IM	IG	OS	GPI	H	
Retail Sales & Service	Building Maintenance	-	P	S	-	P	P	P	P	-	P	P	P	-	A	A	511 516/528 520 521 523 525 526 526 526
	Business Equipment	-	P	P	-	P	P	P	P	P	P	P	-	-	-	-	
	Business Support	-	P	P	P	P	P	P	P	P	P	P	P	-	-	A	
	Construction Sales and Service	-	-	-	-	-	P	P	P	-	X	-	P	-	-	A	
	Food and Beverage	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	-	A*	
	Mixed Media Store	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	-	-	
	Personal Convenience	P*	P*	P*	-	P*	P*	P*	P*	-	P*	-	-	-	-	A*	
	Personal Improvement	P*	P*	P*	-	P*	P*	P*	P*	-	P*	-	-	-	A*	A*	
	Repair Service, Consumer	P*	P*	P*	-	P*	P*	P*	P*	-	P*	-	-	-	-	-	
	Retail Sales, General	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	-	A*	
	Retail Establishment, Large	-	-	-	-	-	P*	P*	S*	-	-	-	-	-	-	-	
	Retail Establishment, Medium	-	P*	P*	-	P*	P*	P*	P*	-	-	-	-	-	-	-	
	Retail Establishment, Specialty	-	P*	P*	-	P*	P*	P*	P*	-	-	-	-	-	-	-	
Sexually Oriented Businesses	Sexually Oriented Media Store	-	-	P*	-	-	-	-	-	-	-	-	-	-	-	-	528
	Physical Sexually Oriented Business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	528
	Sex Shop	-	-	-	-	-	P*	P*	P*	-	-	-	-	-	-	-	528
	Sexually Oriented Theater	-	-	-	-	-	P*	P*	P*	-	-	-	-	-	-	-	528
Transient Accommodation	Bed and Breakfast	P*	-	P*	-	-	-	-	-	-	-	-	-	-	-	-	504
	Campground	-	-	-	-	-	P	P	P	-	-	-	-	S	-	-	
	Hotel, Motel, Extended Stay	-	-	P	-	P	P	P	P	-	P	-	-	-	-	A	



Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts															Use-Specific Standards (Sec. 20-)
		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IM	IG	OS	GPI	H	
Vehicle Sales & Service	Cleaning (Car Wash)	-	S	-	-	-	P	P	P	-	P	A	P	-	-	-	545
	Fleet Storage	-	-	-	-	-	P	P	P	-	P	P	P	-	-	A	
	Gas and Fuel Sales	-	S	S	-	-	P	P	P	-	P	P	P	-	-	-	
	Truck Stop	-	-	-	-	-	-	S	-	-	-	-	S	-	-	-	
	Heavy Equipment Repair	-	-	-	-	-	P	P	P	-	X	P	P	-	-	-	
	Heavy Equipment Sales/Rental	-	-	-	-	-	P	P	P	-	P	-	P	-	-	-	
	Inoperable Vehicles Storage	-	-	-	-	-	P	P	P	-	X	P	P	-	-	-	
	Light Equipment Repair	-	S	-	-	S	P	P	P	-	P	-	P	-	-	-	
	Light Equipment Sales/Rental	-	P*	-	-	S	P	P	P	-	P	-	P	-	-	-	
	RV and Boats Storage	-	-	-	-	-	P	P	P	-	X	-	P	-	-	-	
INDUSTRIAL USE GROUP																	
Industrial Facilities	Explosive Storage	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	527
	Industrial, General	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	
	Industrial, Intensive	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	
	Laundry Service	-	-	-	-	-	P	P	P	-	P	P	P	-	-	-	
	Manufacturing & Production, Ltd.	-	-	P	-	S	S	S	S	P	P	P	P	-	-	-	
	Manufacturing & Production, Tech.	-	-	-	-	S	P	P	P	P	P	P	P	-	-	-	
	Research Service	-	-	-	S	S	P	P	P	P	P	P	P	-	-	-	
	Scrap and Salvage Operation	-	-	-	-	-	-	-	-	-	X	-	S*	-	-	-	
Wholesale, Storage & Distribution	Exterior Storage	-	-	-	-	-	A*	A*	A*	A*	X	A*	A*	-	A*	A*	538
	Heavy	-	-	-	-	-	S	S	S	-	X	-	P	-	-	-	
	Light	-	-	-	-	-	P	P	P	P	P	P	P	-	S	-	
	Mini-Warehouse	-	-	-	-	-	P	P	P	-	P	-	P	-	-	-	

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts															Use-Specific Standards (Sec. 20-)
		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IM	IG	OS	GPI	H	
OTHER USES GROUP																	
Adaptive Reuse	Designated Historic Property	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	501
	Greek Housing Unit	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Agriculture	Agricultural Sales	-	-	-	-	-	P	P	P	-	X	-	P	-	-	-	
	Agriculture, Animal	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Agriculture, Crop	P	P	P	P	-	P	P	P	P	X	P	P	-	P	-	
Communications Facilities	Amateur & Receive- Only Antennas	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	536
	Broadcasting Tower	-	-	-	-	S	-	-	-	P	P	P	P	-	-	A	
	Communications Service Establishment	P	P	P	P	P	P	P	P	P	P	-	P	-	P	A	
	Telecommunications Antenna	A*	A*	A*	A*	S*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	529
	Telecommunications Tower	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	P*	S*	S*	A*	A*	529
	Satellite Dish	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	536
Mining	Mining	-	-	-	-	-	-	-	-	-	-	-	S*	-	-	-	515
Recycling Facilities	Large Collection	-	-	-	-	-	P	P	P	-	P	P	P	-	-	-	540
	Small Collection	P	P	P*	P	P	P	P	P	P	P	-	P	-	A	A	540
	Processing Center	-	-	-	-	-	-	-	-	-	X	S	S	-	-	-	



**Z-13-00191: Rezone 5.09 acres from IG (General Industrial) District to IL (Limited Industrial) District, at 2200 East Hills Drive**



**PLANNING COMMISSION REPORT**  
**Regular Agenda**

PC Staff Report  
7/22/13

**ITEM NO. 4: CONDITIONAL USE PERMIT; PRIVATE LANDING STRIP; 2215 N 5 00  
(MKM)**

**CUP-13-00193:** Consider a Conditional Use Permit for a private landing strip, located at 2215 N 500 Rd. Submitted by Robert and Angela Murray, property owners of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the Conditional Use Permit for the private airstrip 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 Site Plan with the following changes:
  - a. Addition of the following note: "The CUP will expire 10 years from the approval date unless an extension is requested from the County Commission before that date. If the CUP expires, the use of the airstrip will require rezoning or approval of a new CUP."
- 2) Federal Aviation Administration (FAA) determination of 'no objection' or a 'conditional determination' of the airstrip shall be provided to the Planning Office prior to the release of the CUP to the Zoning and Codes Office. Any conditions placed on the airstrip by the FAA must be met prior to release of the CUP to the Zoning and Codes Office.
- 3) Any conditions applied by the FAA in their determination will be conditions of the CUP.

**Reason for Request:** *"Allow continued use of existing grass runway for personal use by landowner."*

**KEY POINTS**

- A Conditional Use Permit, CUP-10-13-02, was approved by the Board of County Commissioners on January 13, 2003 subject to conditions of approval. The airstrip was in use until the CUP expired in 2013.

**ATTACHMENTS**

- A** – CUP Plan
- B** – 2002 FAA Letter of Determination

**DESCRIPTION OF USE**

The applicant is requesting a Conditional Use Permit to allow the continued use of a 60 ft x 1656 ft turf runway at 2215 N 500 Road.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Approval of Conditional Use by the Board of County Commissioners.
- FAA Determination of 'no objection' or conditional determination on airstrip. If the FAA determination is conditional, all conditions must be met before the CUP plan is released to the Zoning and Codes Office.
- 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.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- No public comment has been received.

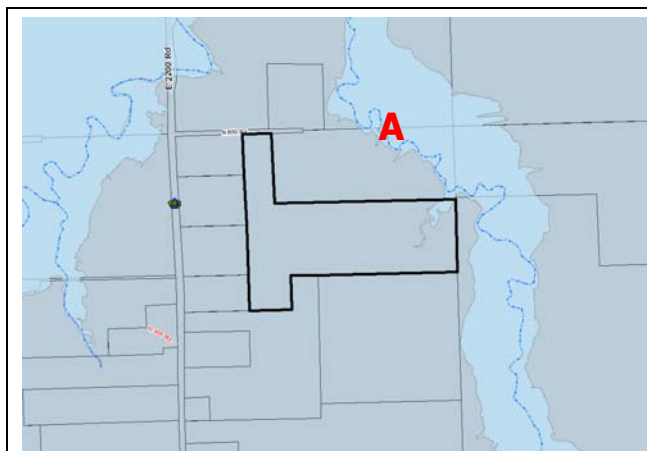
**GENERAL INFORMATION**

Current Zoning and Land Use:

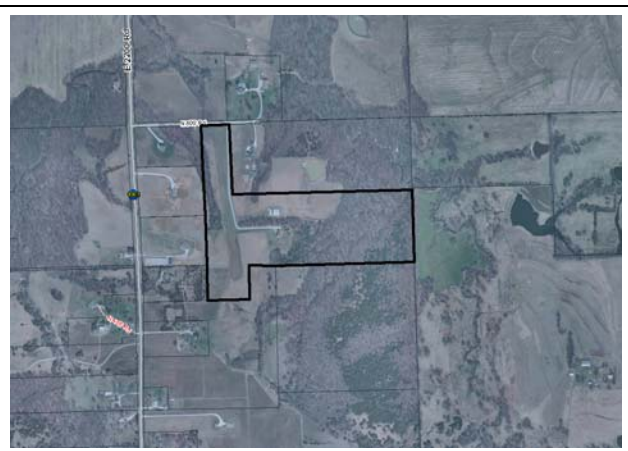
A (Agricultural) District and F-F (Floodway Fringe Overlay) District; Rural residence, agriculture and woodland.

Surrounding Zoning and Land Use:

A (Agricultural) District in all directions and F-F (Floodway Fringe Overlay) District along Captain Creek and its tributaries to the east and west; Rural residences, agriculture, and woodlands.  
(Figure 1)



**Figure 1a.** Area zoning. (Subject property outlined.) Light blue area is floodplain. Darker blue area (entire map) is A (Agricultural) District.



**Figure 1b.** Area land use. (Subject property outlined.)

**I. ZONING AND USES OF PROPERTY NEARBY**

The surrounding area is zoned A (Agricultural) District and rural residences and agriculture are the principal land uses. Rural residences line E 2200 Road and N 500 Road in this area. Large areas of woodland are also present, particularly in the location of Captain Creek and its tributaries. The F-F (Floodway Fringe Overlay) District also follows the path of Captain Creek and its tributaries.

**Staff Finding** – Nearby properties are zoned A (Agricultural) and F-F (Floodway Fringe Overlay) Districts. Agriculture and rural residences are the principal land uses in the area.

**II. CHARACTER OF THE AREA**

The subject property is located on N 500 Road in the southeastern portion of the county, approximately 2 miles from the east county boundary. This is a rural area with agriculture and rural residences being the primary land uses. Natural features in the area include Captain Creek and its tributaries and associated floodplain, as well as woodlands. The subject property takes access from N 500 Road, a local road which ends approximately 250 ft to the east of the drive. E 2200 Road/County Route 1061, to the west of the subject property, is a principal arterial.

**Staff Finding** -- The area is rural in character containing primarily residential and agricultural land uses. A private runway with limited use may be compatible with the character of the area.

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

Applicant's response:

*"Allow continued use of existing grass runway for personal use by landowner."*

The property is zoned A (Agricultural) with a small portion also zoned F-F (Floodway Fringe Overlay) District. The A District permits many different agriculture-related uses in addition to animal hospitals, commercial dog kennels, residences, churches, and schools. *Airports and Landing Fields* are allowed in the A District with approval of a Conditional Use Permit. The subject property is suited to the uses to which it has been restricted with the A Zoning. The proposed request will not revise the underlying zoning district. The grass airstrip has been in use since 2002.

**Staff Finding** –The property is well suited for uses which are permitted within the A District.

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

**Staff Finding** – The property is currently developed with a residence, outbuildings and an airstrip.

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

Applicant's Response:

*"There should be no detrimental affect on nearby property. All nearby landowners are aware of the grass runway. Several of them purchased lands and built homes knowing the runway existing."*

Section 12-319-1.01 of the County Zoning Regulations notes 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 is listed in Section 12-319-4 Conditional Uses Enumerated, of the *Douglas County Zoning Regulations*.

The airstrip was approved in 2002 and was in operation until the CUP expired in February of 2013. No complaints regarding this airstrip were registered with the Douglas County Zoning and Codes Office during that time. The runway lies generally north and south to the east of E 2200 Road/County Route 1068. Several residences are located in the area with the nearest being approximately 250 ft from the runway. The nearest structures to the end of the airstrip are about 400 ft to the northeast, and about 620 ft to the southwest.

The location of the airstrip is reviewed based on comments from Ed Young, KDOT's Director of Aviation and Federal Aviation Administration (FAA) circulars and regulations. Zones or surfaces are created around the airstrip in which obstacles are not permitted. The surfaces

are referenced in the previous FAA conditional determination letter, Attachment B, and are explained in more detail later in this staff report.

Possible detrimental effects of an airstrip would be noise and safety issues. Noise can be limited with restrictions on the frequency of use. The 2002 CUP approval limited the use to the private use of the property owner only and restricted to the airplane registered to the applicant. This limitation should also apply to the current CUP to minimize the impact on nearby properties.

The FAA will review the proposed airstrip in relation to other approved airstrips in the area and will provide a letter of determination. A letter of determination was provided with the previous CUP request in 2002 (attached). The letter included conditions regarding the surfaces surrounding the airstrip which must be met in order to insure safety. Compliance with the FAA determination and conditions should minimize safety risks.

**Staff Finding –** It is possible that the removal of restrictions could detrimentally affect nearby property through the placement of an airstrip in close proximity to residences which may result in safety or noise issues. As the airstrip has been in use for 10 years, public complaints would be the measure of the impacts related to noise or other features. No public complaints have been received by Zoning and Codes regarding the airstrip during its time of operation. The same restrictions related to use that applied to the previous CUP should also apply to this CUP. An FAA determination of 'no objection' or compliance with all conditions required on a 'conditional' FAA determination should be required to insure the airstrip is located appropriately relative to nearby structures.

**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:

*"There would be no gain to the public health, safety and welfare and no destruction of value of the petitioner's property and no hardship imposed on the individual landowner."*

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 the airstrip by the landowner. Denial of the CUP request would not benefit the public health, safety, and welfare as the airstrip has been in use the past 10 years, unless the FAA determines the use of the airstrip would pose a safety hazard.

One requirement the FAA places on their approval is that the surface areas (approach and transitional) remain free of obstacles. The following conditions were required on the FAA's 2003 conditional determination letter:

- 1) The runway is to be constructed to an alignment of 163°/343° magnetic.
- 2) Maintain a clear approach to each runway for a minimum 20:1 slope. The approach slope begins 200 ft beyond the end of a paved runway or at runway end if a turf runway, and slopes upward at an angle of 20' (horizontal) to 1' (vertical).

- If taking off to the south, be aware of the high tension power line located south of the airport.
- 3) Maintain a clear transitional surface for a 7:1 slope. The transitional surface extends outward and upward beginning at the edge of the runway at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces.

The airstrip will be reviewed in relation to these conditions later in this report. As the airstrip owner does not control the land under the approach and transitional surfaces, the continued use of the airstrip is dependent upon development in the area; therefore a time period on the use and additional review following new construction in the area is appropriate.

The FAA considers other approved airstrips in the area with their review to insure there is no airspace conflict. The 2002 FAA conditional determination letter required that the applicant complete the FAA Form 5010-5, *Facilities Information Request*, within 15 days after completion of the airport construction. The letter noted, *"In order to avoid placing any unfair restrictions on users of the navigable airspace, this determination is valid until February 4, 2005. Should the airport not be established by this date, an extension of our determination should be requested at least 15 days prior to the expiration noted above."* Our FAA contact, Angela Muder—Airports Airspace Specialist, indicated that the form was not provided and an extension was not requested within this time frame; therefore, the FAA will review this CUP request with other approved airstrips in the area.

If a conditional FAA determination is provided, compliance with all FAA conditions will be required prior to release of the CUP to insure the safety of the facility.

In staff's opinion there would be no benefit to the public from the denial of the airstrip, provided all FAA conditions are met, as there have been no complaints filed with the Zoning and Codes Office related to the use of the airstrip or associated noise.

**Staff Finding** – If the FAA finds the airstrip acceptable there would be no public benefit from the denial of the request provided all conditions of approval required by the FAA are met prior to the release of the CUP to the Zoning and Codes Office.

## **VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response:

*"The conditional use permit for the runway does not impact and is not impacted by the Comprehensive Plan, Horizon 2020."*

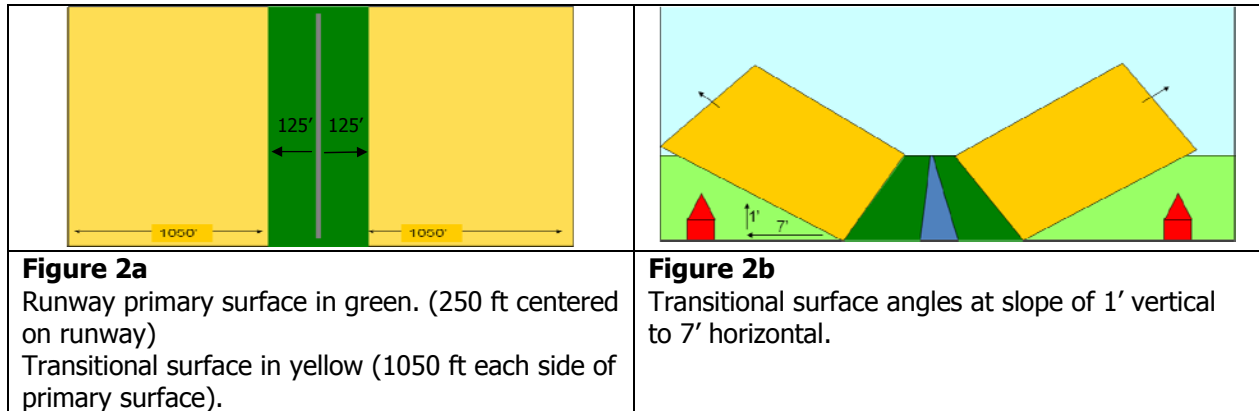
An evaluation of the conformance of a Conditional Use Permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. The comprehensive plan does not directly address Conditional Use Permits; however Chapter 12 Economic Development Policy 1.2, Goal 1 of Transportation Goals and Policies recommends that the Lawrence Municipal Airport be protected from encroachment. The airstrip does not encroach on the Lawrence Municipal Airport airspace.

**Staff Finding** – *Horizon 2020* does not directly address the issuance of CUPs but Chapter 12, Economic Development recommends that the Lawrence Municipal Airport approaches and air space should be protected from encroachment. This proposed airstrip does not conflict with the air space of the Lawrence Municipal Airport.

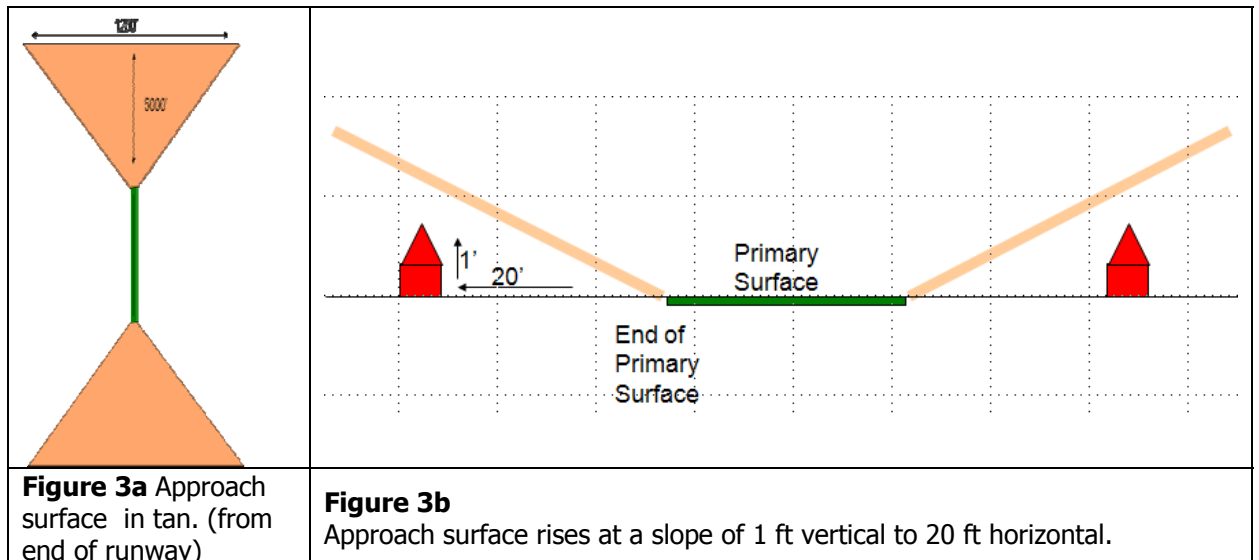


## STAFF REVIEW

The FAA has established zones or surfaces which extend outward and upward from the runway within which there can be no obstructions. The surface area is 250 ft in width centered on the actual runway. The transitional surface extends 1050 ft to each side of the surface area. (Figure 2a) Figure 2b illustrates how the transitional surface extends outward and upward at a rate of 1 ft vertical for 7 ft horizontal.



The approach zone extends from each end of the runway for a distance of 5000 ft and widens from the 250 ft of the runway to a final width of 1250 ft. (Figure 3a) The approach zone rises at a rate of 1 ft vertical for 20 ft horizontal. (Figure 3b)



The FAA conditional determination provided in 2002 required that no obstructions occur in these zones. It is possible to calculate the height of the transitional surface or approach surface at the location of nearby structures to determine if they extend into these surfaces. If the FAA approves the CUP with the conditions that no obstacles occur in the transition or approach surface, staff will evaluate the CUP with the height and location of the existing buildings to determine compliance with the condition.

As the airstrip owner does not control the property under the transition or approach surface, it will be necessary for staff to monitor development occurring in the vicinity of the airstrip to determine if new structures extend into the surface areas. If this occurs, the FAA will be

contacted to see if a realignment of the runway or other change could resolve the conflict and keep the airstrip in compliance with the CUP.

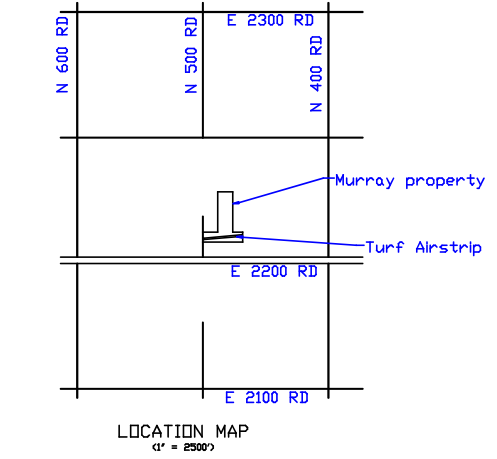
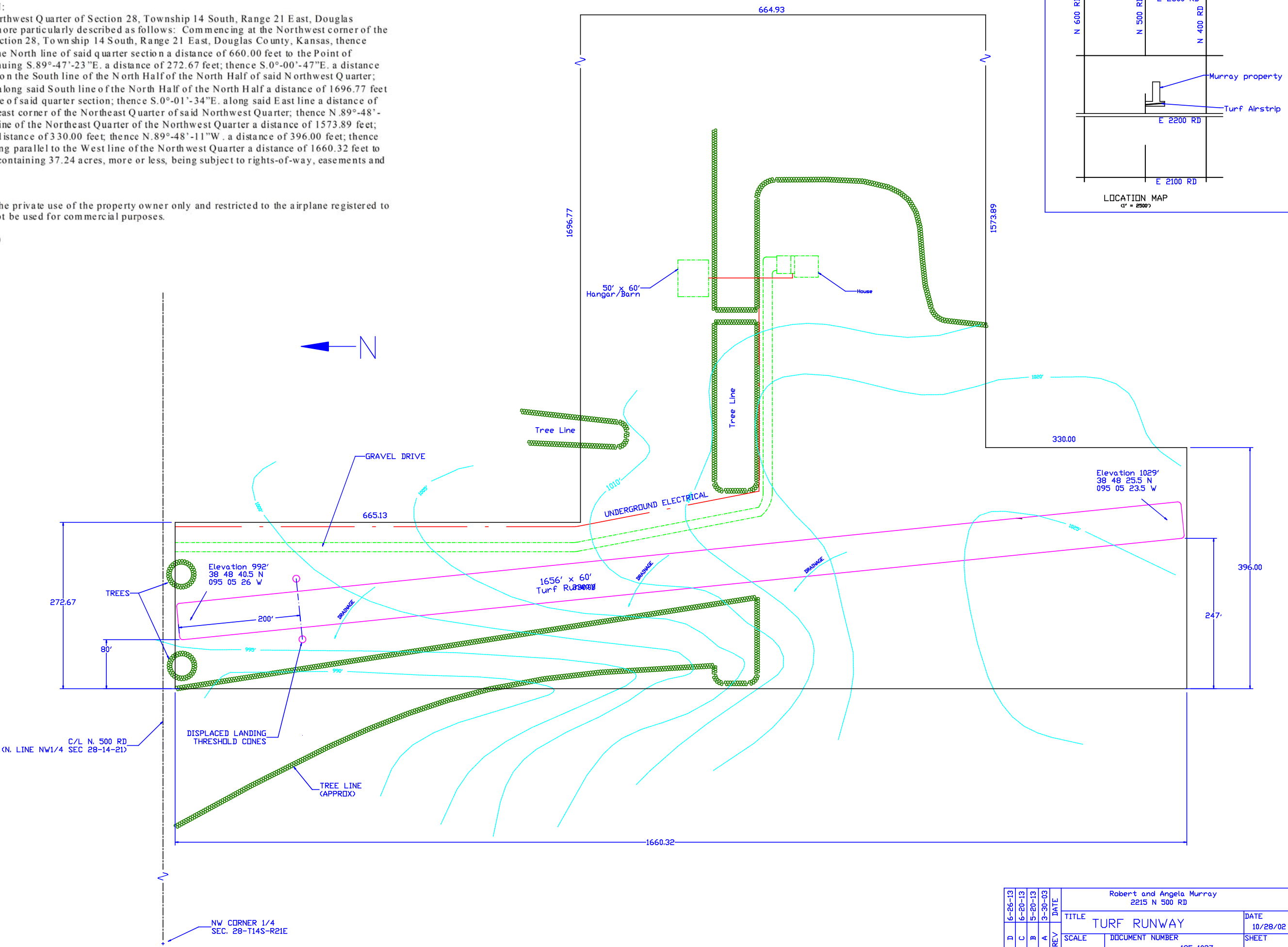
**Conclusion**

Approval of a Conditional Use can be tailored to address specific issues such as intensity or frequency of use. The airstrip is limited to private use to minimize the impact of the airstrip on nearby residences. A 10-year expiration date will allow the impact of the airstrip on the surrounding area to be re-evaluated.

LEGAL DESCRIPTION:  
A tract of land in the Northwest Quarter of Section 28, Township 14 South, Range 21 East, Douglas County, Kansas, being more particularly described as follows: Commencing at the Northwest corner of the Northwest Quarter of Section 28, Township 14 South, Range 21 East, Douglas County, Kansas, thence S.89°-47'-23"E. along the North line of said quarter section a distance of 660.00 feet to the Point of Beginning; thence continuing S.89°-47'-23"E. a distance of 272.67 feet; thence S.0°-00'-47"E. a distance of 665.13 feet to a point on the South line of the North Half of the North Half of said Northwest Quarter; thence S.89°-47'-47"E. along said South line of the North Half of the North Half a distance of 1696.77 feet to a point on the East line of said quarter section; thence S.0°-01'-34"E. along said East line a distance of 664.93 feet to the Southeast corner of the Northeast Quarter of said Northwest Quarter; thence N.89°-48'-11"W. along the South line of the Northeast Quarter of the Northwest Quarter a distance of 1573.89 feet; thence S.0°-00'00"W a distance of 330.00 feet; thence N.89°-48'-11"W. a distance of 396.00 feet; thence N.0°-0'-00"E. and running parallel to the West line of the North west Quarter a distance of 1660.32 feet to the Point of Beginning, containing 37.24 acres, more or less, being subject to rights-of-way, easements and restrictions of record.

NOTES:  
The landing field is for the private use of the property owner only and restricted to the airplane registered to the applicant and may not be used for commercial purposes.

Zoning: A (Agricultural)



6-26-13				Robert and Angela Murray			
6-20-13				2215 N 500 RD			
5-20-13				TITLE		DATE	
3-30-03				TURF RUNWAY		10/28/02	
D	C	B	A	REV	SCALE	DOCUMENT NUMBER	
					1" = 50'	185-1027	
					SHEET	1/1	



U.S. Department  
Of Transportation

**Federal Aviation  
Administration**

Central Region  
Iowa, Kansas  
Missouri, Nebraska

901 Locust  
Kansas City, Missouri 64106-2325

August 7, 2003

Robert Murray  
2215 N 500 Road  
Eudora, KS 66025

RE: Murray  
Notice of Airspace Determination/Establishment  
Airspace Case No. 2003-ACE-162-NRA

We have completed an airspace analysis of the proposed private owned, private-use airport. As studied, the location of the 1660' x 60' turf runway is approximately 7 nautical miles from Eudora, Kansas at latitude N 38° 48' 31" and longitude W 095° 05' 24" (NAD 83).

Our aeronautical study has determined that the establishment of your proposed airport will not adversely affect the safe and efficient use of airspace by aircraft provided the following conditions are adhered to:

- 1. The runway is constructed to an alignment of 163°/343° magnetic.**
- 2. Maintain a clear approach to each runway for a minimum 20:1 slope. The approach slope begins 200' beyond the end of a paved runway or at runway end if a turf runway, and slopes upward at an angle of 20' (horizontal) to 1' (vertical). If taking off to the south, be aware of the high tension power line located south of the airport.**
- 3. Maintain a clear transitional surface for a 7:1 slope. The transitional surface extends outward and upward beginning at the edge of the runway at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces.**

This determination does not mean FAA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of airspace by aircraft and with respect to the safety of persons and property on the ground.

In making the determination, the FAA has considered matters such as the effect the proposal would have on existing or planned traffic patterns of neighboring airports, the effects it would have on the existing airspace structure and projected programs of the FAA, the effects it would have on the safety of persons and property on the ground, and the effects that existing or proposed manmade objects (on file with the FAA) and known natural objects within the affected area would have on the airport proposal.

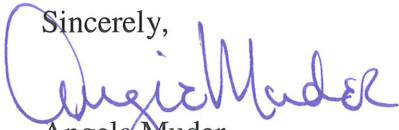
The FAA cannot prevent the construction of structures near an airport. The airport environs can only be protected through such means as local zoning ordinances or acquisitions of property rights. This determination in no way preempts or waives any ordinances, laws, or regulations of any government body or agency.

Please complete the enclosed FAA Form 5010-5, Facilities Information request, within 15 days after completion of airport construction. (Instructions for completion of the form are included with this correspondence.) Completion of this form will also ensure your facility is assigned a site number and a location identifier. Please indicate on FAA Form 5010-5 if charting is requested. We review all requests for charting of private-use airports for landmark value. We currently do not chart private-use airports that do not have landmark value.

In order to avoid placing any unfair restrictions on users of the navigable airspace, this determination is valid until February 4, 2005. Should the airport not be established by this date, an extension of our determination should be requested at least 15 days prior to the expiration noted above.

If you have any questions concerning this letter or in filling out Form 5010-5, please contact me at (816) 329-2620.

Sincerely,



Angela Muder  
Airports Airspace Specialist

Enclosures

cc:

KDOT

ACE-520

AAS-330 (w/enclosures)



**CUP-13-00193: Consider a Conditional Use Permit  
for a private landing strip, located at 2215 N 500 Rd**



**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
7/22/13

**ITEM NO. 5A: OS-FP TO RM12-FP; .06 ACRE; 3309 W 31<sup>ST</sup> ST (MKM)**

**Z-13-00199:** Consider a request to rezone approximately .06 acre from OS-FP (Open Space with Floodplain Management Regulations Overlay) District to RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District, located at 3309 W 31<sup>st</sup> St. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request for approximately .06 acres OS-FP District to RM12-FP 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 subject to the following condition:

Maximum density is restricted to no more than 9 dwelling units per acre.

**APPLICANT'S REASON FOR REQUEST**

*"This request is to rezone a small portion of OS zoning on this property to RM12 based on the proposed development now planned on this site. We are also requesting that the density restriction of 6 units per acre be increased to 9 units per acre. The density restriction increase request is related to the net area we are proposing to develop on the property. If the church tract (Lot 1, block 2), the open space 'OS' zoning, and the right-of-way areas are excluded from the density calculations, we are proposing 126 units on 14.791 acres which is a density of 8.52 units per acre. If the entire area of the development, less right-of-way, are included, the area would increase to 28.339 acres and the proposed density would be 4.45 units per acre – well below the current restriction and in compliance with the adopted "Southern Development Plan"."*

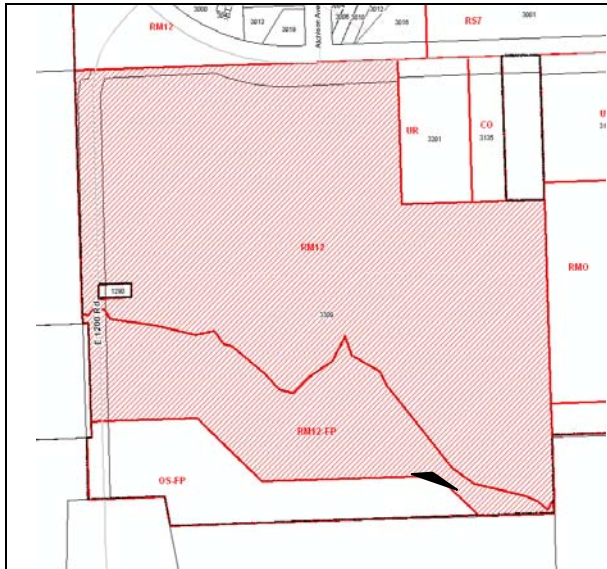
**KEY POINTS**

- The current RM12-FP Zoning District is conditioned to limit the maximum density to 6 dwelling units per acre. The rezoning request for the RM12-FP District is for a permitted maximum density of 9 dwelling units per acre.
- The Open Space District currently contains approximately 4.36 acres. With the rezoning this would be reduced to approximately 4.30 acres. (Figure 1)
- The property is encumbered with floodplain. The FP Overlay District is required for newly annexed properties and includes additional area that is not included in the floodplain shown on FEMA's Flood Insurance Rate Maps. (Figure 2) This is meant to be added protection due to increase in floodplain as a result of additional watershed development.

**ATTACHMENTS**

**A:** Concept plan





**Figure 1.** Area included in rezoning request (approximate) shown in black.

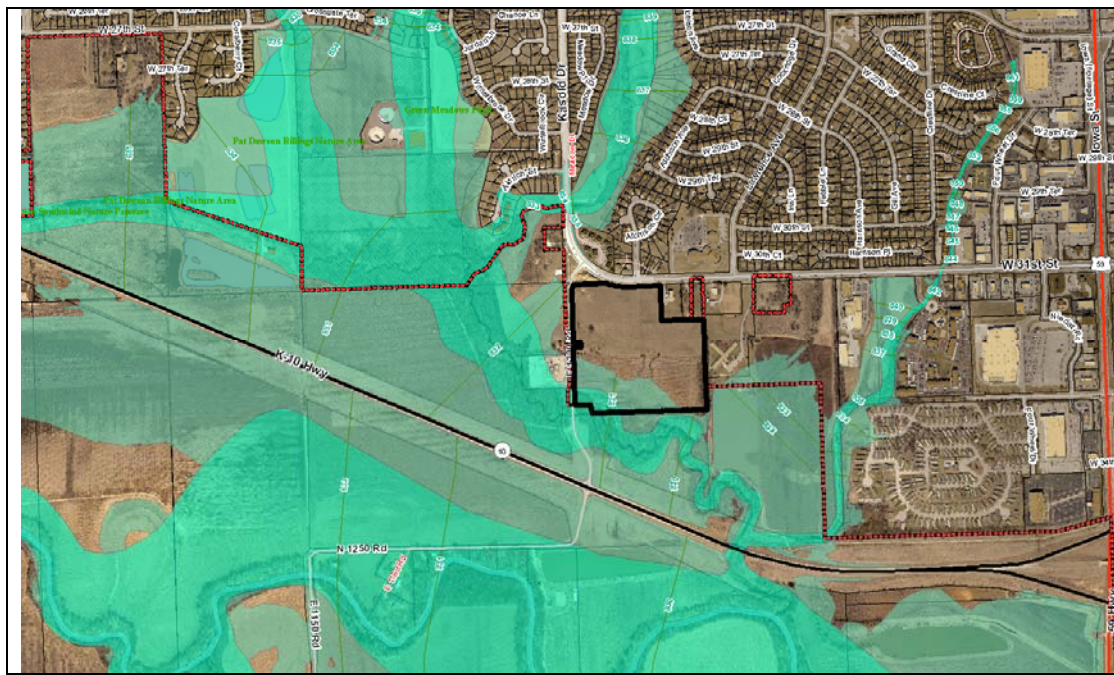


**Figure 2.** Regulatory floodway and floodway fringe, shown in dark and light green, and the FP Overlay District north boundary in red.

## GOLDEN FACTORS TO CONSIDER

### CHARACTER OF THE AREA

The subject property is on the urban/rural interface on the southwest side of Lawrence. The subject of the rezoning request is within the city limits but is adjacent to property in the unincorporated portion of the County on the south and west sides. The area is heavily encumbered by floodplain and floodway; agriculture and residential uses are the principal land uses. (Figure 3).



**Figure 3.** City limits shown in red dashed line. Subject property outlined. Floodplain in area shown in bright green (Floodway) and lighter green (Floodway Fringe).



CONFORMANCE WITH *HORIZON 2020*

- The proposed request is consistent with land use recommendations found in *Horizon 2020* and the *Revised Southern Development Plan*.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

Associated Cases:

- PP-13-00195: Yankee Tank Estates Preliminary Plat; a 56-lot subdivision of approximately 36 acres. This plat is also on the Planning Commission's July agenda for consideration.
- Z-13-00249: Rezoning request from RM12 to RM12 to revise the condition restricting maximum density from 6 du per acre to 9.
- Z-13-00250: Rezoning request from RM12-FP to RM12-FP to revise the condition restricting maximum density from 6 du per acre to 9.

Other Action Required:

- City Commission approval of rezoning request and adoption/publication of ordinances.
- Planning Commission approval of preliminary plat.
- Submittal of a final plat for administrative review and placement on the City Commission agenda for acceptance of dedications.
- Recording of final plat.
- Administrative approval of site plan for church and multi-dwelling development other than duplexes on one lot.
- Application and release of building permit prior to development.
- Floodplain Development Permit required prior to any development activity on property which contains floodplain.

**PUBLIC COMMENT**

- No public comment was received prior to the printing of this staff report.

**Project Summary**

The subject property was annexed in 2009 in preparation for the relocation of the Wesleyan Church from its current location at 3705 Clinton Parkway. This request proposes to rezone approximately .06 acres from the OS-FP (Open Space with Floodplain Management Regulations Overlay) District to the RM12-FP (Multi-Dwelling Residential Development with Floodplain Management Regulations Overlay) District.

The development is proposed to occur in two phases, with one phase being a church in the northwest corner of the property and the other being duplex residential development. 55 lots are planned for duplex development and 1 lot will contain a group of duplexes as a unit.

The subject property was rezoned to the OS District in compliance with the recommendations in the *Revised Southern Development Plan* when the property was annexed in 2009. The .06 acre, approximately 2500 sq ft, included in this rezoning request will provide the required lot area for 2 lots in the preliminary plat.

Rezoning requests (Z-13-00249 and Z-13-00250) have been submitted to revise the condition limiting density to permit development at a maximum density of 9 dwelling units

per acre throughout the site. This rezoning application also requests a maximum density of 9 dwelling units per acre.

## REVIEW & DECISION-MAKING CRITERIA

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

*"The request for increasing the density restriction from 6 units per acre to 9 units per acre is not in compliance with the Southern Development Plan if the church lot and open space are removed from the density calculations."*

The *Revised Southern Development Plan*, incorporated into the Comprehensive Plan by reference in Chapter 14, recommends open space land uses in the areas encumbered with floodplain in this area. The intent is to protect the FEMA designated floodplain by allowing very minimal development for the public use. While floodplain was included within the OS-FP District a portion of the floodplain was also included in the RM12-FP District. The area being removed from the OS district is approximately 2500 sq ft. The change to the OS District is slight therefore it remains compliant with the intent of the *Revised Southern Development Plan* to protect the FEMA designated floodplain.

The *Revised Southern Development Plan*, (incorporated into Chapter 14) provides the following recommendations for this area:

- Low-Density Residential, density of 6 or fewer dwelling units per acre.
- Applicable zoning districts: RS7, RS5, RM12, RM12D and PD Overlay.
- Primary uses: single-family dwellings, duplex, attached dwellings, group home, public and civic uses. (Page 18)

'Low Density' is defined in the Residential Chapter of the Comprehensive Plan, Chapter 5, as reflecting a density of six or fewer dwelling units per acre. This section also states, "In general new development should be of a scale and character, including building type, the same as and compatible with existing or planned homes in the immediate area." (Page 5-4, *Horizon 2020*)

There are very few residences near the property south of W 31<sup>st</sup> Street. There is a church, an extended care facility, and 2 rural residences south of W 31<sup>st</sup> Street. North of 31<sup>st</sup> Street is predominately developed with duplex and townhouses. The proposed duplexes are compatible with existing homes in the immediate area.

The proposed density is greater than 8 du/acre; however, when the open space area that is designated for the residential use is taken into account, the density is reduced to slightly over 6 dwelling units per acre. The OS-FP zoned area is being set aside as Tract A with the preliminary plat and will be made available to the residents in the development; therefore, this area could be interpreted as contributing to the density. Density is calculated as the number of dwelling units divided by the net developable area: du/acre.

Calculating only the net developable residential area, the total density is:

- **126 units / 14.791 acres = 8.52 dwelling units per acre.**

When the open space in Tract A is included in the density calculation, the total density is:

- **126 units / 19.551 acres = 6.44 dwelling units.**

While the actual density remains at 8.52 du/acre, the practical density (residential uses plus dedicated open space) is 6.44 du/acre. This density would qualify as low density. The density requested with the revised condition is compliant with the recommendations in the *Revised Southern Development Plan* when the dedicated associated open space is considered.

**Staff Finding** – The proposed rezoning request conforms with *Horizon 2020* policies related to Residential Land Uses and to the future land use recommendations in the *Revised Southern Development Plan*.

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

Current Zoning and Land Use: OS-FP (Open Space with Floodplain Management Regulations Overlay) District; undeveloped.

Surrounding Zoning and Land Use: To the east:  
RMO (Multi-Dwelling Residential-Office) District with a portion located within the Floodplain Overlay District; extended care facility-general.

UR (Urban Reserve) District; church and a single-dwelling residence.

CO (Commercial Office); single-dwelling residence.

RS10 (Single-Dwelling Residential) District with a portion located within the Floodplain Overlay District; undeveloped.

A (County-Agricultural) District with portions of the property encumbered with floodplain; agricultural uses.

To the north: RM12 and RM12FP Zoning, also a part of the Yankee Tank Estates Preliminary Plat. Beyond that: RM12 (Multi-Dwelling Residential) District; duplex and townhome development.

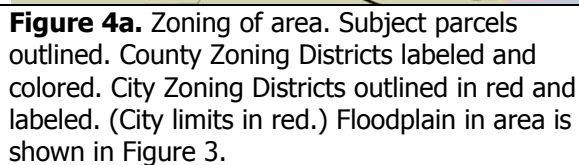
To the west:

A (County-Agricultural), and V-C (County-Valley Channel), Districts with portions of the property encumbered with floodplain; electrical sub-station, a minor utility, and agricultural uses

To the south:

A (County-Agricultural) District and V-C (County- Valley Channel) District; property is encumbered with floodplain; woodland, agricultural uses and a multi-use path.

(Figure 4)



**Figure 4b.** Land use in the area. Subject parcels outlined. (City limits in red.)

### 3. CHARACTER OF THE NEIGHBORHOOD

*"The property is bounded on the west and south by County Zoning "A" with floodplain and Highway K-10. The area north of the proposed development is zoned RM-12 with a mix of apartments and duplexes."*

The area has good access to the transportation network. K-10 Highway passes east/west through the area south of the subject property. W 31<sup>st</sup> Street, a principal arterial, crosses east and west through the area north of the subject property then ends at Kasold/E 1200 Road. The road is named Kasold within the city limits and is named E 1200 Road in the unincorporated portion of the county. Kasold and E 1200 Road are both classified as minor arterials and provide connectivity to the transportation network to the north and south. E 1200 Road connects with K-10 Highway approximately 800 ft south of the subject property.

**Staff Finding –** The area has limited development due partly to the presence of regulatory floodway and floodway fringe. Property to the north of W 31<sup>st</sup> Street has been developed with residential uses; while development to the south of W 31<sup>st</sup> Street has been more limited.

The area has good access to the transportation network with E 1200 Road providing a link between K-10 and W 31<sup>st</sup> Street.

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

The subject property is located within the planning area in the *Revised Southern Development Plan*. The land use recommendations in this plan identify this area for open space uses. The area was rezoned to OS-FP in compliance with the plan but a small portion is being requested to be rezoned to the RM12-FP District to accommodate the proposed development. The plan also recommends low-density residential development in this area. As mentioned earlier in the report, taking the OS (Open Space) zoned area into account with the residential density calculations the density achieved is slightly over 6 dwelling units per acre. Given the small area to be rezoned, and the fact that the density achieved will be slightly over 6 dwelling units per acre, the rezoning is generally compliant with the recommendations in the *Revised Southern Development Plan*.

**Staff Finding:** The rezoning request to the RM12-FP District with maximum density limited to 9 dwelling units an acre is compliant with the recommendations in the adopted area plan.

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

Applicant's Response:

*"The existing zoning is suitable for the uses proposed, save for the restriction on density and how it is interpreted by City staff during plan review."*

The property is currently zoned OS (Open Space). This district permits a very limited range of uses including passive recreation, cemeteries, and utilities. The district is intended to preserve and enhance major open space areas by protecting the natural amenities they possess, which in this case is floodplain.

As the property is encumbered with floodplain, it is suitable for the uses to which it is restricted. The subject property, being in close proximity to proposed residential development would also be suitable to residential development as the floodplain management regulations would be administered through a Floodplain Development Permit. A Floodplain Development Permit is required for any development activity within the regulatory floodplain.

**Staff Finding** – The property is suitable for the uses to which it is restricted with the current OS-FP zoning. The property is also well suited to the uses to which it will be restricted with the RM12-FP Zoning.

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

Applicant's response:

*"The property has been vacant since its rezoning in 2009"*

**Staff Finding** – The property was rezoned to OS in 2009 and has not been developed.

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

Applicant's response:

*"This request will have no detrimental effect on adjacent properties as the zoning is not changing – but is simply being adjusted to allow the proposed development."*

There are 2 base zoning districts on the subject property, RM12 and OS. The rezoning will remove .06 acres from the OS District and place it within the RM12. The FP (Floodplain Management Regulations Overlay) District will still be in place due to the regulatory floodplain on the site. The proposed change is not anticipated to have any effect on nearby properties as it is of such a small scale and is on the interior of the site.

**Staff Finding –**

The rezoning of the base district from OS to RM12 should have no detrimental effect on nearby properties.

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

Applicant's Response:

*"If the rezoning is denied, the residential development may not occur, which will hinder the ability of the Church to be able to afford to plan and construct its new facility."*

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.

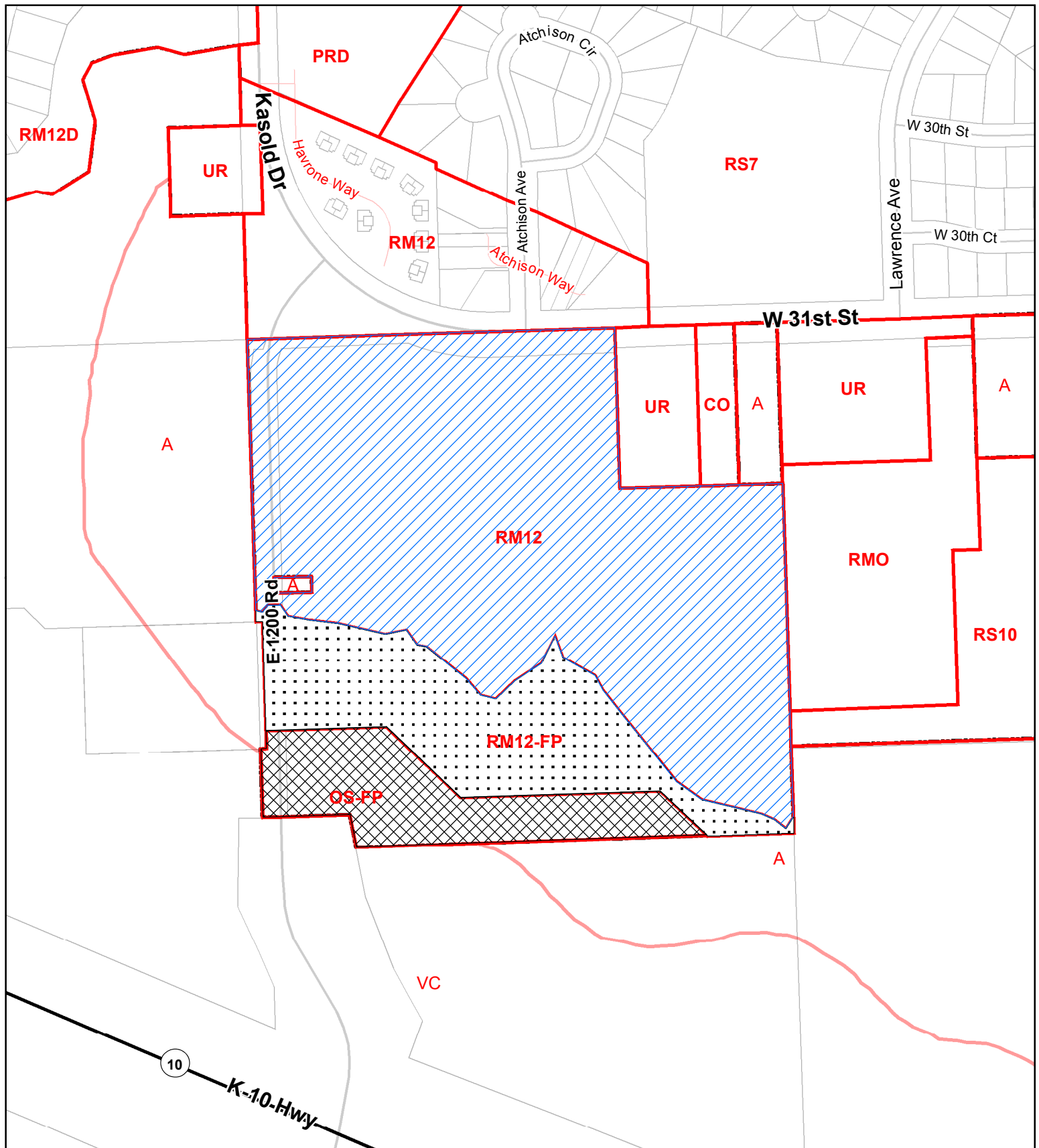
Denial of this application would require the .06 acres to remain zoned OS. There would be no benefit to the public health, safety, and welfare due to this denial. Keeping the OS zoning would require the applicant to seek a variance from the Planning Commission with the Yankee Tank Estates Preliminary Plat to allow the creation of 2 lots with less than the required lot area. Denial of the request would result in a development which may have a few sub-standard sized lots, if a variance is granted; or may require the developer to reduce the number of lots within the development.

**Staff Finding** – There would be no measurable gain to the public in the denial of this application. Denial of the rezoning would require the property to be used for open space uses and would require the applicant to either seek a variance for smaller lot area or to reduce the density of the development. The applicant has represented that the costs of improving the property requires the density proposed in order to be a viable project.

**PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning 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 *Revised Southern Development Plan*. Staff recommends approval of the rezoning request for approximately .06 acres from OS-FP (Open Space with Floodplain Management Regulations Overlay) District to RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District with a condition limiting the maximum density to 9 dwelling units per acre 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-13-00199: Rezone .06 acre from OS-FP District to RM-12-FP District**

**Z-13-00249: Rezone 16.06 acres from RM12 District to RM12 District to revise condition**

**Z-13-00250: Rezone 6.39 acres from RM12-FP District to RM12-FP District to revise condition**

**Located at 3309 W 31st St.**

-  Z-13-00199
-  Z-13-00249
-  Z-13-00250





**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
7/22/13

**ITEM NO. 5B: RM12 TO RM12; .06 ACRES; 3309 W 31<sup>ST</sup> STREET (MKM)**

**Z-13-00249:** Consider a request to rezone approximately 16.06 acres located at 3309 W 31<sup>st</sup> St from RM12 (Multi-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District to revise the condition which limits maximum density to 6 dwelling units per acre to 9 dwelling units per acre. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

**ITEM NO. 5C: RM12-FP TO RM12-FP; 6.39 ACRES; 3309 W 31<sup>ST</sup> ST (MKM)**

**Z-13-00250:** Consider a request to rezone approximately 6.39 acres located at 3309 W 31<sup>st</sup> St from RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District to RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District to revise the condition which limits maximum density to 6 dwelling units per acre to 9 dwelling units per acre. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

**STAFF RECOMMENDATION:**

**Item 5B, Z-13-002 49:** Staff recommends approval of the rezoning request for approximately 13.06 acres from the RM12 District to the RM12 District with revised condition 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 subject to the following revised condition:

Maximum density is restricted to no more than 9 dwelling units per acre.

**Item 5C, Z-13-0025 0:** Staff recommends the approval of the rezoning request for approximately 6.39 acres from the RM12-FP District to the RM12-FP District with revised condition 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 subject to the following revised condition:

Maximum density is restricted to no more than 9 dwelling units per acre.

**APPLICANT'S REASON FOR REQUEST**

*"We are requesting that the density restriction of 6 units per acre be increased to 9 units per acre. The density restriction increase request is related to the net area we are proposing to develop on the property. If the church tract (Lot 1, block 2), the open space 'OS' zoning, and the right-of-way areas are excluded from the density calculations, we are proposing 126 units on 14.791 acres which is a density of 8.52 units per acre. If the entire area of the development, less right-of-way, are included, the area would increase to 28.339 acres and the proposed density would be 4.45 units per acre – well below the current restriction and in compliance with the adopted "Southern Development Plan."*

- The current RM and RM12-FP Zoning Districts are conditioned to limit the maximum density to 6 dwelling units per acre. The rezoning request is to maintain the zoning districts but revise the condition to permit a maximum density of 9 dwelling units per acre. As the districts occur on the same property and the only change proposed is a revision to a condition common to both districts, both rezoning requests will be discussed in this report.
- The property is encumbered with floodplain. Rezoning to the FP Overlay District is required for newly annexed properties and includes additional area outside the floodplain shown on the FEMA Flood Insurance Rate Maps. (Figure 2) This is meant to be added protection due to increase in floodplain as a result of additional watershed development.
- Per Section 20-204(a)(2), multi-dwelling districts are differentiated on the basis of maximum allowed net density, which is defined in Section 20-1701 as "*The numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land upon which the dwelling units are proposed to be located, excluding rights-of-way of publicly dedicated streets.*"

## A: Rezoning Exhibit



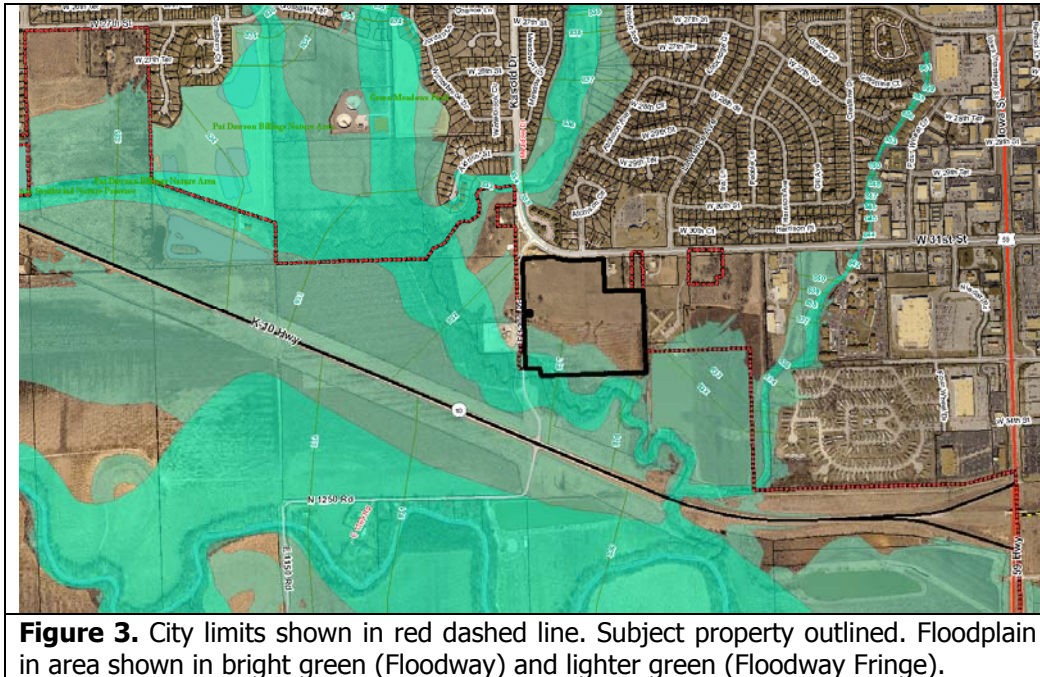
**Figure 2.** Regulatory floodway and floodway fringe, shown in dark and light green, and the FP Overlay District north boundary in red.

## CHARACTER OF THE AREA

The subject property is on the urban/rural interface on the southwest side of Lawrence. The subject of the rezoning request is within the city limits but is adjacent to property in the unincorporated portion of the County on the south and west sides. The area is heavily encumbered by floodplain and agriculture and residential uses are the principal land uses. (Figure 3).

## CONFORMANCE WITH *HORIZON 2020*

- The proposed request is consistent with land use recommendations found in *Horizon 2020* and the *Revised Southern Development Plan*.



**Figure 3.** City limits shown in red dashed line. Subject property outlined. Floodplain in area shown in bright green (Floodway) and lighter green (Floodway Fringe).

## ASSOCIATED CASES/OTHER ACTION REQUIRED

### Associated Cases:

- PP-13-00195: Yankee Tank Estates Preliminary Plat; a 56-lot subdivision of approximately 36 acres. This plat is also on the Planning Commission's July agenda for consideration.
- Z-13-00199: Rezoning request for approximately .06 acres from OS-FP to RM12-FP with a maximum density to 9 dwelling units per acre.

### Other Action Required:

- City Commission approval of rezoning requests and adoption/publication of ordinances.
- Planning Commission approval of preliminary plat.
- Submittal of a final plat for administrative review and placement on the City Commission agenda for acceptance of dedications.
- Recording of final plat.
- Administrative approval of site plan for church and multi-dwelling development with more than 1 duplex per lot.
- Application and release of building permit prior to development.
- Floodplain Development Permit required prior to any development activity on property which contains floodplain.

## PUBLIC COMMENT

- No public comment was received prior to the printing of this staff report.

## Project Summary

The subject property was annexed in 2009 in preparation for the relocation of the Wesleyan Church from its current location at 3705 Clinton Parkway. With annexation, the property was rezoned to the RM12 and RM12-FP Districts with a condition limiting the maximum density to 6 dwelling units an acre (Z-8-14-09, Z-8-15-09 and Z-8-16-09).

The development is proposed to occur in two phases, with one phase being a church in the northwest corner of the property and the other being duplex residential development of approximately 56 lots. The church plans to sell the residential portion of the property to raise funds needed for construction of the church.

The current rezoning requests are part of a set of rezonings intended to accommodate the proposed development. Another rezoning request, Z-13-00199, has been submitted to rezone approximately .06 acres from the OS-FP District to the RM12-FP District. Rezoning of the RM12 and RM12-FP Districts is being requested to increase the maximum density permitted from 6 dwelling units per acre to 9.

These 2 zoning requests are very similar; while they include 2 zoning districts the actual request being made is a revision to the condition limiting density which was applied to both the RM12 and the RM12-FP zonings. Given the similarity of the request both rezoning requests will be discussed in this staff report to avoid duplication.

## **REVIEW & DECISION-MAKING CRITERIA**

### **1. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response:

*"The request for increasing the density restriction from 6 units per acre to 9 units per acre is not in compliance with the Revised Southern Development Plan if the church lot and open space are removed from the density calculations."*

The *Revised Southern Development Plan*, incorporated into the Comprehensive Plan by reference in Chapter 14, provides the following recommendations for this area:

- Low-Density Residential, density of 6 or fewer dwelling units per acre.
- Applicable zoning districts: RS7, RS5, RM12, RM12D and PD Overlay.
- Primary uses: single-family dwellings, duplex, attached dwellings, group home, public and civic uses. (Page 18)

'Low Density' is defined in the Residential Chapter of the Comprehensive Plan, Chapter 5, as reflecting a density of six or fewer dwelling units per acre. This section also states, *"In general new development should be of a scale and character, including building type, the same as and compatible with existing or planned homes in the immediate area."* (Page 5-4, *Horizon 2020*)

There is little development south of W 31<sup>st</sup> Street in the area. There is a church, an extended care facility, and 2 rural residences south of W 31<sup>st</sup> Street. North of 31<sup>st</sup> Street is predominately developed with duplex and townhouses with detached dwellings further to the north. The proposed duplexes are compatible with existing homes in the immediate area.

The proposed density is greater than 8 du/acre when density is calculated as required by the Development Code; however, when the open space area that is designated for the residential use is taken into account, the density is slightly over 6 dwelling units per acre. As

the open space area is being set aside as Tract A with the preliminary plat and a note on the plat designates the open space for the use of the residents in the duplex development the open space could be interpreted as contributing to the density.

Calculating density using only the net developable residential area, the total density is:

- **126 units / 14.791 acres = 8.52 dwelling units per acre.**

When the open space in Tract A is included in the density calculation, the total density is:

- **126 units / 19.551 acres = 6.44 dwelling units.**

If the open space area had been rezoned RM12-FP rather than OS-FP it would be included in the density calculations. As the OS-FP zoned property is to be made available for use of the residents in the RM12 and RM12-FP Districts, it is appropriate to include it within the density requirements when determining compliance with the Comprehensive Plan.

While the actual density remains at 8.52 du/acre, the practical density (residential uses plus dedicated open space) is 6.44 du/acre. This density would qualify as low density. The proposed density associated with the revised condition with the dedicated associated open space is compliant with the recommendations in the *Revised Southern Development Plan*. The applicant suggested that the church property could also be included in the density calculations; however, this would not be acceptable as the church use is a separate use and is not directly tied or linked to the residences being developed on the property.

**Staff Finding** – The proposed density associated with the revised condition with the dedicated associated open space conforms with *Horizon 2020* policies related to Residential Land Uses and to the future land use recommendations in the *Revised Southern Development Plan*.

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

Current Zoning and Land Use: RM12 (Multi-Dwelling Residential) District and RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District; undeveloped.

Surrounding Zoning and Land Use: To the east:  
RMO (Multi-Dwelling Residential-Office) District with a portion located within the Floodplain Overlay District; extended care facility-general.

UR (Urban Reserve) District; church and single-dwelling residence.

CO (Commercial Office); single-dwelling residence.

RS10 (Single-Dwelling Residential) District with a portion located within the Floodplain Overlay District; undeveloped;.

A (County-Agricultural) District with portions of the property encumbered with floodplain; agricultural uses.



To the north:

RM12 and RM12FP Zoning, also a part of the Yankee Tank Estates Preliminary Plat. Beyond that: RM12 (Multi-Dwelling Residential) District; duplex and townhome development.

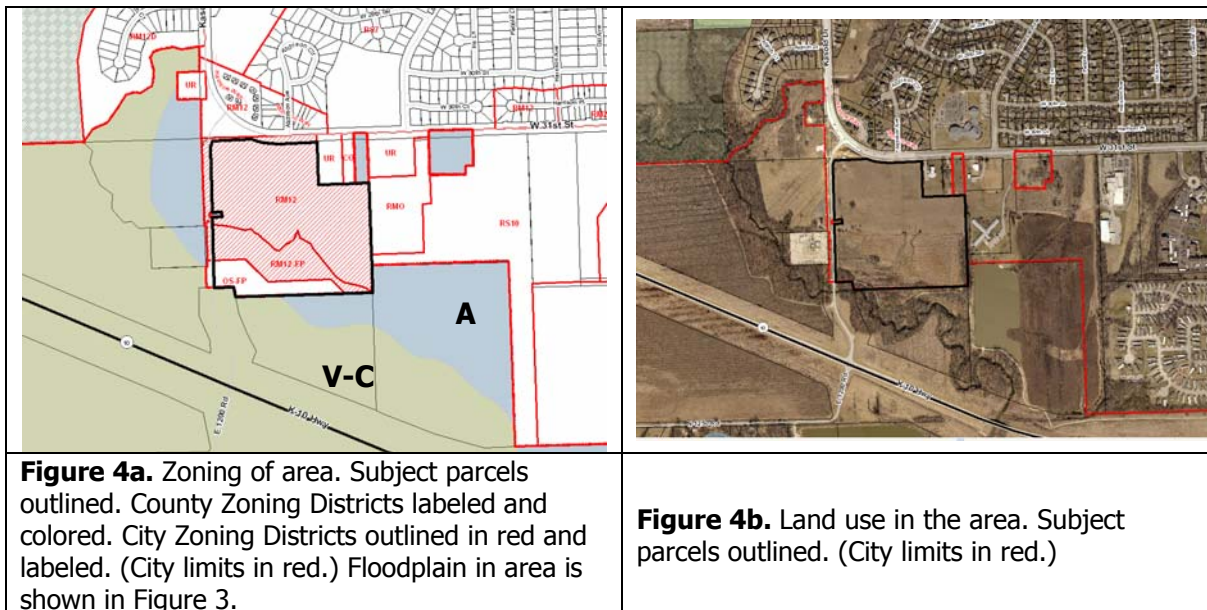
To the west:

A (County-Agricultural), and V-C (County-Valley Channel), Districts with portions of the property encumbered with floodplain; electrical sub-station, a minor utility, and agricultural uses

To the south:

A (County-Agricultural) District and V-C (County- Valley Channel) District; property is encumbered with floodplain; woodland, agricultural uses and a multi-use path.

(Figure 4)



**Staff Finding** – The majority of nearby property is zoned for agricultural uses with the A and the V-C Districts and for residential uses with the RM12 zoning. Agriculture and residential uses (townhomes, duplexes) are the principal uses in the nearby area with a religious institution and an extended care facility also present.

### 3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

*"The property is bounded on the west and south by County Zoning "A" with floodplain and Highway K-10. The area north of the proposed development is zoned RM12 with a mix of apartments and duplexes."*

The area is on the edge of the city limits and therefore contains a mix of urban and rural land uses. Agriculture and residential land uses are the principal land uses, with much of the

area south of W 31<sup>st</sup> Street remaining undeveloped. An extended care facility, 2 detached dwellings, and a church are located south of W 31<sup>st</sup> in this area.

The area has good access to the transportation network. K-10 Highway passes east/west through the area south of the subject property. W 31<sup>st</sup> Street, a principal arterial, crosses east and west through the area north of the subject property then ends at Kasold/E 1200 Road. The road is named Kasold within the city limits and is named E 1200 Road in the unincorporated portion of the county. Kasold and E 1200 Road are both classified as minor arterials and provide connectivity to the transportation network to the north and south. E 1200 Road connects with K-10 Highway approximately 800 ft south of the subject property.

The Wakarusa River and the Wakarusa Floodplain are defining natural features of this area. A shared use path which circles the south side of the city passes through the area and is located on a portion of the Wesleyan Church property.

**Staff Finding** – The area has limited development due partly to the presence of regulatory floodway and floodway fringe. Property to the north of W 31<sup>st</sup> Street has been developed with residential uses; while development to the south of W 31<sup>st</sup> Street has been more limited. The area has good access to the transportation network with E 1200 Road providing a link between K-10 and W 31<sup>st</sup> Street.

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

The subject property is located within the planning area in the *Revised Southern Development Plan*. The land use recommendations in this plan identify this area for low density residential uses. The area was rezoned to RM12 and RM12-FP to accommodate duplex development; however, a condition was placed on the zoning limiting the maximum density to no more than 6 dwelling units per acre to insure compliance with the plan. The preliminary plat notes that the area zoned for Open Space is for the use of the residential portion of the development and that a Homeowner's Association will be formed for the maintenance of the open space tract. The open space area has been placed in a tract on the preliminary plat. This is required by Section 20-1101(d) of the Development Code for the protection of environmentally sensitive lands in a residential zoning district. While the OS District is not a residential district, the land will be utilized by a residential district. The protection measures established exceed Code requirements.

**Staff Finding:** The rezoning request to the RM12 and RM12-FP District with a revised condition limiting maximum density to 9 dwelling units an acre is compliant with the recommendations in the adopted area plan.

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

Applicant's Response:

*"The existing zoning is suitable for the uses proposed, save for the restriction on density and how it is interpreted by City staff during plan review."*

**Staff Finding** – No change in use is being proposed. The rezoning request is seeking only to revise the condition related to density. The property remains suitable for the uses to which it is restricted.

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

Applicant's response:

*"The property has been vacant since its rezoning in 2009"*

**Staff Finding** – The property was rezoned to RM and RM-FP in 2009 and has not been developed.

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

Applicant's response:

*"This request will have no detrimental effect on adjacent properties as the zoning is not changing – but is simply being adjusted to allow the proposed development."*

The subject property is bounded by agricultural land and a utility substation on the west and south, by residential uses to the north-across the W 31<sup>st</sup> Street right-of-way, and by an extended care facility to the east. There is a church and a detached dwelling adjacent to W 31<sup>st</sup> Street. The detached dwelling is located within a CO (Commercial Office) District so it is likely that it will develop with office uses. The nearby properties take direct access to W 31<sup>st</sup> Street so the increase on density should have no impact on them.

**Staff Finding** –

The rezoning to revise the condition limiting density from a maximum of 6 to 9 dwelling units per acre should have no detrimental effect on nearby properties.

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

Applicant's Response:

*"If the rezoning is denied, the residential development may not occur, which will hinder the ability of the Church to be able to afford to plan and construct its new facility."*

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.

Denial of this request would allow the development of 88 dwelling units at a maximum density of 6 dwelling units per acre (6 du/acre X 14.79 acres). The proposal is to develop 126 dwelling units on this property which would be a density of 8.5 dwelling units per acre. (126 dwelling units /14.79 acres). This density is less than the 12 dwelling units per acre which is permitted by the RM12 Zoning, but exceeds the maximum density which is permitted with this RM12 Zoning as conditioned. Per Code, density is calculated using only the land that is provided for the residential development. In this case, the area that had been rezoned to OS upon annexation is designated for use by the residential portion of the development. Rather than each duplex having a slightly larger lot, a large area of common open space is being provided for the use of all the residents in the area. The use of the common open space is designated by a note on the plat. The open space area is being



platted as a tract with the Yankee Tank Estates Preliminary Plat. The Subdivision Regulations define a tract as a parcel reserved for open space, storm drainage, easement purposes, or an otherwise specific and restricted use. The placement of the Open Space zoned area within the tract places further restrictions upon the uses permitted within this district.

The City Utility Engineer indicated that sanitary sewer capacity is available for the increased density. The development will use an internal street network to access the arterial street network, so the traffic resulting from the increased density would not impact neighboring properties. The Traffic Impact Study determined that the developed would have nominal impact on the capacity of the roadway network, and recommended a westbound left-turn lane on W 31<sup>st</sup> Street at the Atchison Way intersection to accommodate the increased traffic. The City Engineer indicated that adequate right-of-way is available for this improvement.

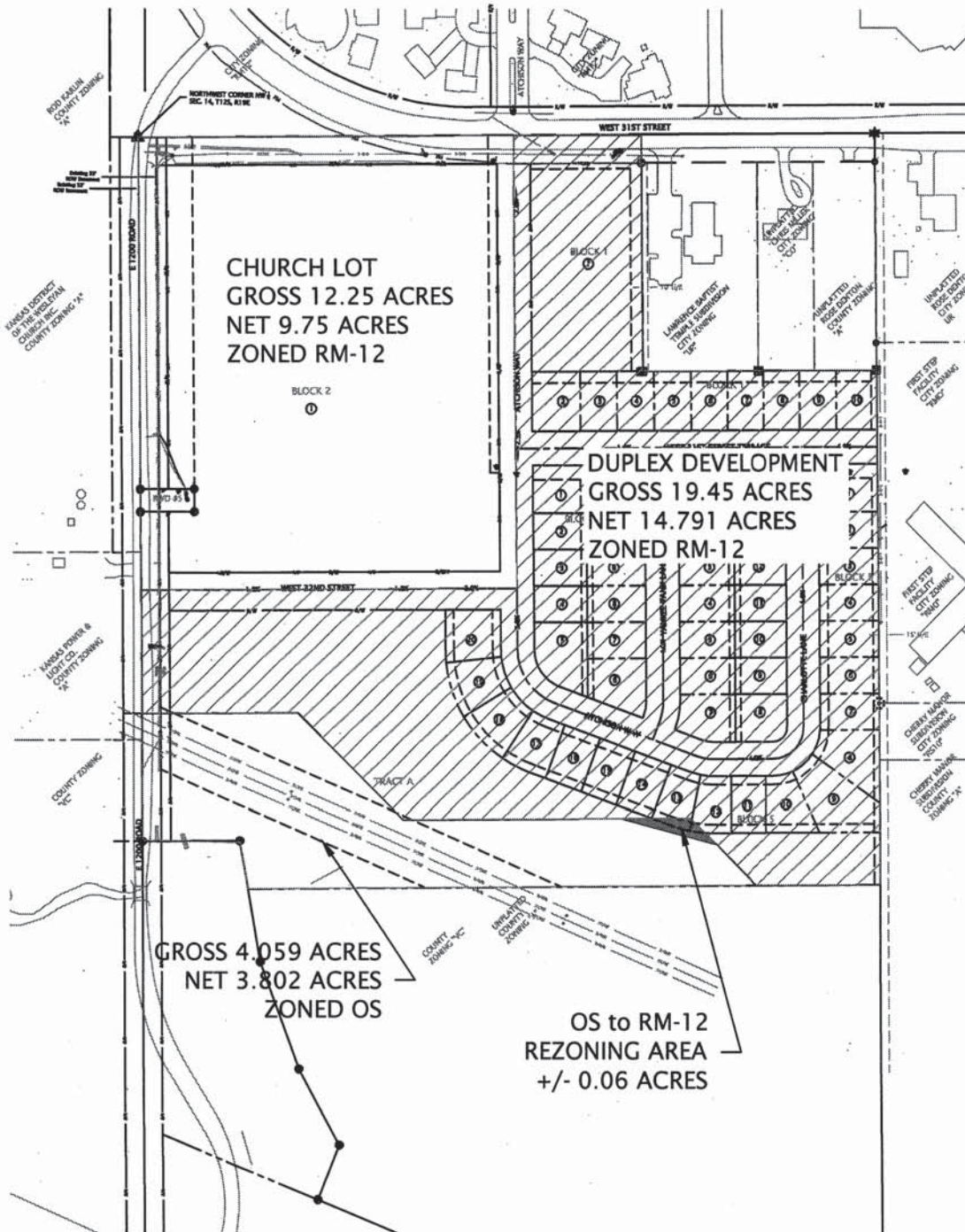
The applicant indicated that the increased density is necessary to make this a viable project and that the project may not occur without the increased density

**Staff Finding** –The increased density would be compatible with surrounding land uses. The existing infrastructure is adequate for the proposed development, with the improvement recommended to W 31<sup>st</sup> Street and the traffic from the development would utilize internal streets to access the arterial street network. There would be no measurable gain to the public in the denial of this application.

#### **PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning requests for compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning requests are compliant with recommendations in *Horizon 2020* and the *Revised Southern Development Plan*.

- **Z-13-00249:** Staff recommends approval of the rezoning request for approximately 6.39 acres from RM12-FP to RM12-FP District with revised condition increasing maximum permitted density to 9 dwelling units per acre 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-13-00250:** Staff recommends approval of the rezoning request for approximately 13.06 acres from RM12 to RM12 District with revised condition increasing maximum permitted density to 9 dwelling units per acre 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.



SCALE: 1" = 300'

## ZONING EXHIBIT

**GES**  
**GROB**  
**ENGINEERING**  
**SERVICES, LLC**  
 3210 Mesa Way, Suite A \* Lawrence, Kansas 66049  
 Phone 785 856-1900 \* Fax 785 856-1901

**YANKEE TANK ESTATES**  
**ZONING EXHIBIT**  
 LAWRENCE, KANSAS

DESIGNED BY

JDG

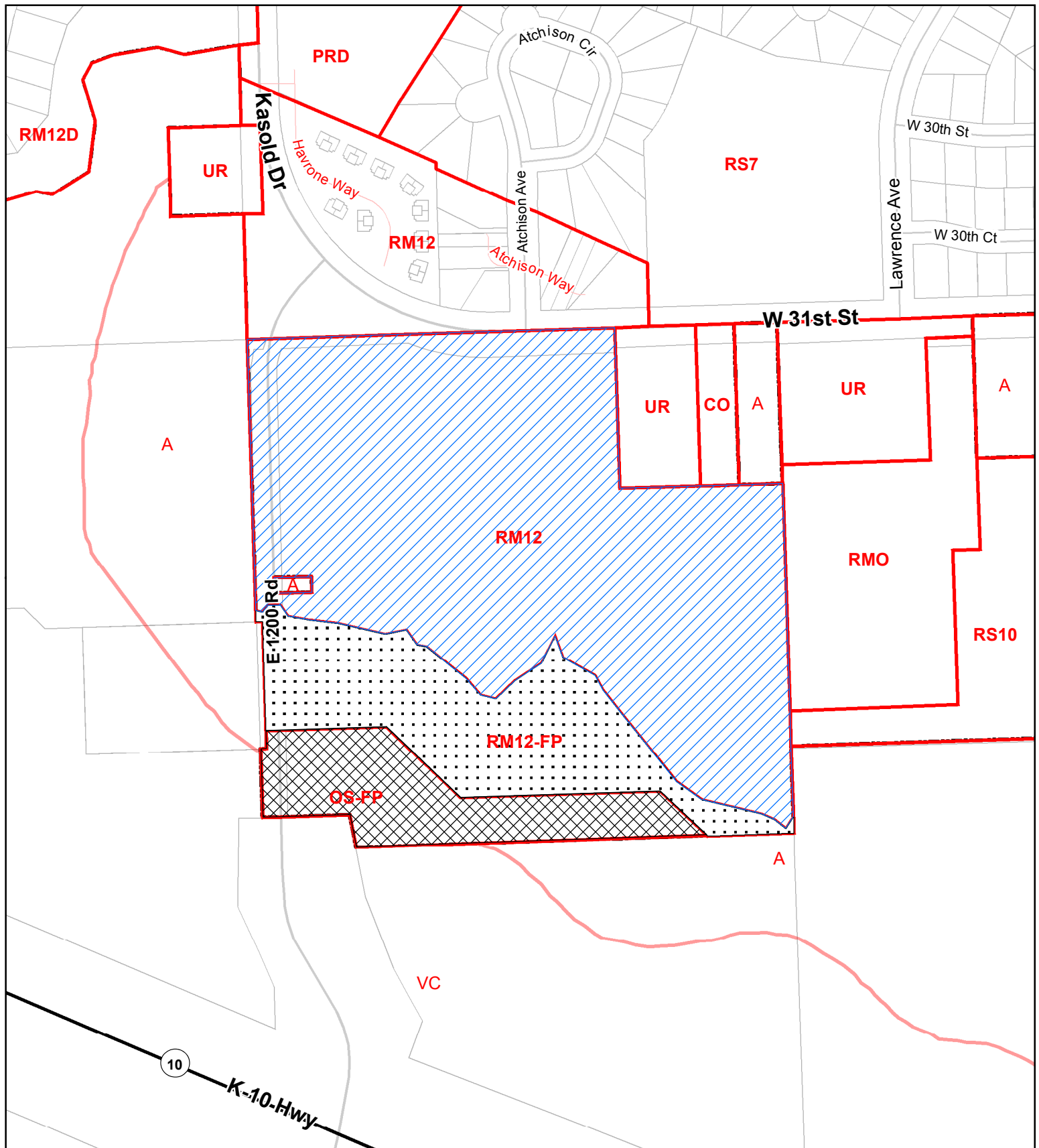
CHECKED BY

JDG

ISSUE DATE

MAY 21, 2013

REVISION DATE






**Z-13-00199: Rezone .06 acre from OS-FP District to RM-12-FP District**

**Z-13-00249: Rezone 16.06 acres from RM12 District to RM12 District to revise condition**

**Z-13-00250: Rezone 6.39 acres from RM12-FP District to RM12-FP District to revise condition**

**Located at 3309 W 31st St.**

-  Z-13-00199
-  Z-13-00249
-  Z-13-00250



**PLANNING COMMISSION REPORT  
REGULAR AGENDA — NON PUBLIC HEARING ITEM  
PUBLIC HEARING ON VARIANCE ONLY**

PC Staff Report  
7/22/13

**ITEM NO 5D: PRELIMINARY PLAT FOR YANKEE TANK ESTATES; 3309 W 31<sup>ST</sup> ST (MKM)**

**PP-13-00195:** Consider a Preliminary Plat for Yankee Tank Estates, approximately 35.76 acres located at 3309 W 31<sup>st</sup> St and associated variance from right-of-way width requirement. Submitted by Grob Engineering Services, for Kansas District of the Wesleyan Church, property owner of record.

**STAFF RECOMMENDATIONS:**

Staff recommends approval of the variance requested from Section 20-810(e)(5) to allow the right-of-way for W 31<sup>st</sup> Street to remain at its current width in this location.

Staff recommends approval of the Yankee Tank Estates Addition Preliminary Plat subject to the following conditions:

1. Provision of a revised plat with the following notes added:
  - a) *"The property owner shall install a 5 ft wide sidewalk along the improved portion of E 1200 Road with the site-planning/development of the church property."*
  - b) *"MEBOs are to be determined with the drainage study and shall be noted on the plat."*
2. Approval of the preliminary plat is contingent upon approval of the rezoning requests Z-13-00199 (OS-FP to RM12-FP) and Z-13-00249 (RM12 to RM12 with revised condition) and Z-13-00250 (RM12-FP to RM12-FP with revised condition).
3. A dedicated westbound left-turn lane with 50 ft of storage on W 31<sup>st</sup> Street at the Atchison Avenue intersection shall be provided as part of the public improvements.

**Applicant's Reason for Request:**

Subdivision is required prior to development of property.

**KEY POINTS**

- The property is partly encumbered with the Wakarusa River regulatory floodway and floodway fringe. Floodplain development permits will be required for any development activity on a lot which contains floodplain.
- An annexation agreement was executed with the annexation in 2009. This agreement outlined the road improvements which would be required with the development of this property. Improvements to E 1200 Road were limited to construction of a two-lane non-curbed street section from the terminus of improvements to the north to a point 50 ft south of the any new street or driveway intersection with E 1200 Road. Sidewalk improvements on E 1200 Road are therefore deferred to the time the church property is developed.

**SUBDIVISION CITATIONS TO CONSIDER**

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County.

## **ATTACHMENTS**

Attachment A: Preliminary Plat  
Attachment B: Annexation Agreement

## **ASSOCIATED CASES/OTHER ACTION REQUIRED**

Associated Cases:

- Z-13-00199: Rezoning request for approximately .06 acres of subject property from the OS-FP (Open Space with Floodplain Management Regulations Overlay) District to the RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District. This rezoning request is also on the July Planning Commission's agenda for consideration.
- Z-13-00249: Rezoning request for approximately 16.06 acres from RM12 (Multi-Dwelling Residential) to the RM12 (Multi-Dwelling Residential) District to revise the condition limiting density from 6 dwelling units per acre to 9 dwelling units per acre. This rezoning request is also on the July Planning Commission's agenda for consideration.
- Z-13-00250: Rezoning request for approximately 6.39 acres from RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) to the RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District to revise the condition limiting density from 6 dwelling units per acre to 9 dwelling units per acre. This rezoning request is also on the July Planning Commission's agenda for consideration.

Other Action Required for Subdivision:

- 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 prior to the recording of the final plat. A dedicated westbound left-turn lane with 50 ft of storage on W 31<sup>st</sup> Street at the Atchison Avenue intersection will be required as part of the public improvements.
- Recording of final plat with the Register of Deeds Office.

Other Action Required Prior to Development:

- Submittal and approval of site plan for the church on Lot 1, Block Two and the multi-dwelling development on Lot 1, Block One.
- Floodplain Development Permit obtained prior to any development activity on property encumbered with the floodplain.
- Submittal and approval of building plans prior to release of building permits for development.

## **PLANS AND STUDIES REQUIRED**

- *Downstream Sanitary Sewer Analysis* – Downstream Sanitary Sewer Analysis provided by Grob Engineering Services dated July 1, 2013 has been reviewed and is accepted for this project.
- *Drainage Study* – Drainage study has been provided and reviewed. Study must be revised per City Stormwater Engineer's approval.

## **PUBLIC COMMENT**

No public comment was received prior to the printing of this report.

### Site Summary

Gross Area (acres):	35.760
Right-of-Way (acres):	7.451
Net Area (acres)	28.309
Number of Existing Lots:	0
Number of Proposed Lots:	56 lots and 1 tract

### GENERAL INFORMATION

Current Zoning and Land Use: RM12 (Multi-Dwelling Residential) District and RM12-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District; undeveloped.

Surrounding Zoning and Land Use: To the east:  
RMO (Multi-Dwelling Residential-Office) District with a portion located within the Floodplain Overlay District; extended care facility-general.

UR (Urban Reserve) District; church and single-dwelling residence.

CO (Commercial Office); single-dwelling residence.

RS10 (Single-Dwelling Residential) District with a portion located within the Floodplain Overlay District; undeveloped;.

A (County-Agricultural) District with portions of the property encumbered with floodplain; agricultural uses.

To the north:

RM12 and RM12FP Zoning, also a part of the Yankee Tank Estates Preliminary Plat. Beyond that: RM12 (Multi-Dwelling Residential) District; duplex and townhome development.

To the west:

A (County-Agricultural), and V-C (County-Valley Channel), Districts with portions of the property encumbered with floodplain; electrical sub-station, a minor utility, and agricultural uses

To the south:

A (County-Agricultural) District and V-C (County- Valley Channel) District; property is encumbered with floodplain; woodland, agricultural uses and a multi-use path.

(Figure 1)

### STAFF REVIEW

The subject property was annexed and rezoned in 2009 in preparation for development of a church at the corner of W 31<sup>st</sup> Street and E 1200 Road and residential development on the east portion of the property. This plat creates the lots and rights-of-way necessary for this development. A church will be constructed on Lot 1, Block Two, 9.75 acres, and duplexes will be constructed on the remaining 55 lots. One of these lots, Lot 1, Block One, will require site planning as several duplexes will be developed on this lot as a coordinated unit.





## Zoning and Land Use

## Streets and Access

The property is bounded on the north by W 31<sup>st</sup> Street and on the west by E 1200 Road. A pre-annexation agreement was executed between the property owner and the City of Lawrence outlining the street/road improvements that would be required with each phase of the development. Development is expected to occur in two phases, one phase is the church and the other is the residential uses. With the development of the church, the property owner is responsible for financing the improvements to E 1200 Road to improve it to a two-lane non-curbed street from the intersection of Kasold Drive and W 31<sup>st</sup> Street to 50 feet south of the planned curb cut entrance for the church development. With the development of the residential property, the property owner is responsible for expenses related to improving E 1200 Road to a two-lane non-curbed street from the terminus of improvements to a point 50 ft south of any new street or driveway intersection with E 1200 Road. The annexation agreement states that in no event shall the owner be required to execute an agreement not to protest the formation of a benefit district for future improvements to E 1200 Road; however, the owner shall agree to submit an agreement not to protest the



formation of a benefit district for future intersection improvements and signalization of W 31<sup>st</sup> St and Kasold Drive.

Lot 1 Block Two, the church property, will take access from E 1200 Road, Atchison Avenue, and W 32<sup>nd</sup> Street. The residential lots will all take access from interior local streets: W 31<sup>st</sup> Terrace, Charlotte Lane, Yankee Tank Lane, and Atchison Avenue. Access to the major street network will be provided by W 32<sup>nd</sup> Street which will connect to E 1200 Road to the west and Atchison Avenue which will connect to W 31<sup>st</sup> Street on the north.

The Traffic Impact Study provided by the applicant indicated that the proposed development would have nominal impact on the existing street/road network but recommended the installation of a dedicated westbound left-turn lane with a minimum storage length of 50 ft be provided on W 31<sup>st</sup> Street at the proposed Atchison Avenue intersection to accommodate the traffic volumes anticipated in the afternoon peak hour. This improvement will be included in the public improvement plans provided with the final plat.

Sidewalks are required along both sides of streets in the City of Lawrence. A 10 ft shared-use path is located along the south side of W 31<sup>st</sup> adjacent to the subject property. The plat shows a 5 ft sidewalk along both sides of all internal streets; however, there is no sidewalk along E 1200 Road. The applicant indicated that they would install a sidewalk along E 1200 Road with the development of the church. As the pre-annexation agreement limited the improvements to E 1200 Road to a two-lane non-curbed section of road, the sidewalk is not being required with the plat. A note should be added to the plat indicating that a 5 ft wide sidewalk along E 1200 Road will be installed by the property owner with the site-planning/development of the church property. The sidewalk will be extended to the point where street improvements have occurred.

### **Utilities and Infrastructure**

Utilities are present in the area and will be extended by the developer to serve the development. Waterlines will be located within the right-of-way and sanitary sewer lines will be located along the rear property lines except for Block Five where they will be located along the front property line. This is necessitated by the fill requirements for the area and the slope requirements for the sanitary sewer. The plat notes that installation of interior streets shall be privately financed. Public improvements for Atchison Avenue from W 31<sup>st</sup> Street to W 32<sup>nd</sup> Street and West 32<sup>nd</sup> Street shall be financed via a Benefit District.

### **Easements and Rights-of-way**

A utility easement for the sanitary sewer lines runs along the rear residential property lines in Blocks One, Three and Four. The sanitary sewer line is in front of the residences in Block Five. The applicant indicated that it was necessary to locate the sanitary sewer line in front in Block Five due to fill requirements in this area and necessary slopes for the sanitary sewer. Electric, cable and phone lines will be located in the rear easement on Block Five.

A City shared-use path is located in the general area. (Figure 2) It crosses the southwest corner the subject property and is located within an access easement.



**Figure 2.** Shared-use path in area. Path on subject property shown in red.

60 ft of right-of-way is being dedicated for all interior local streets. W 31<sup>st</sup> Street is classified as a principal arterial in the Major Thoroughfares Map. A principal arterial requires 150 ft of right-of-way. W 31<sup>st</sup> Street in this area has a variable right-of-way width which is less than 150 ft of right-of-way in some locations. A variance requested from this required right-of-way width will be discussed later in this report.

E 1200 Road is classified as a minor arterial road. 100 ft of right-of-way is required for minor arterials in the unincorporated portion of the county. The plat shows 50 ft of right-of-way being dedicated for the east half of E 1200 Road with this plat. The right-of-way for E 1200 Road is adequate.

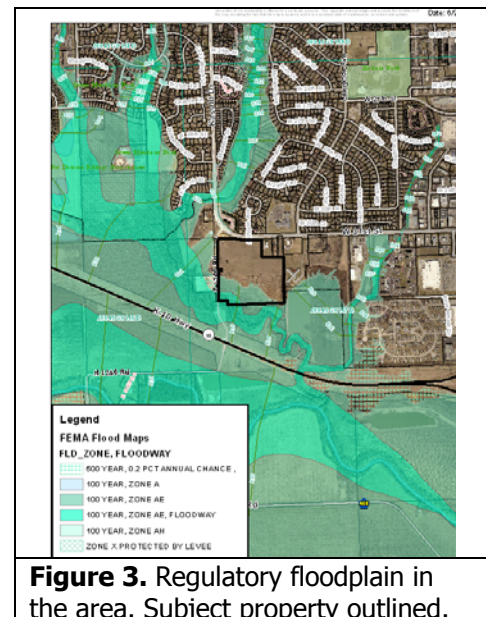
The applicant mentioned that they may be willing to work with Parks and Recreation Department to install a trailhead parking area for the shared use path in the Open Space tract. As the property is platted as a tract an easement for this use would not be necessary; however, the use would require site planning.

### Stormwater/Drainage

A drainage study was provided to the City Stormwater Engineer. He indicated that minor revisions were required prior to final approval. The plat notes that MEBOs are to be determined (TBD) on the lots adjacent to the drainage easements. The MEBOs will be determined with the revised drainage study and noted on the plat. The applicant intends to remove a portion of the duplex development area from the floodplain by elevating it with fill. The Stormwater Engineer indicated that a Hydrology and Hydraulics for a Letter of Map Revision (LOMR) needs to be completed before the filing of the final plat. The property would remain subject to the Floodplain Management Regulations until such time as it is rezoned to remove the FP Overlay.

### Protection of Environmentally Sensitive Lands

Section 20-810(k) of the Subdivision Regulations lists the environmentally sensitive lands which require protection when platting residentially zoned property. The subject property is encumbered with the Regulatory Floodway and Regulatory Floodway Fringe (Figure 3) which are included in the list of sensitive lands. Per Code, environmentally sensitive lands are to be protected during platting through placement in a tract or easement and protection measures noted on the plat. The maximum amount that can be required to be protected is limited to 20% of the subject property; however, incentives are provided for protection above this required amount. Tract A on the plat includes the environmentally sensitive lands which are to be protected. Approximately 86% of the floodplain on the property is located within Tract A and Tract A makes up approximately 22% of the total site. The amount of sensitive area being protected is adequate. (This amount takes into account the .06 acres that are being requested to be rezoned from the OS to the RM12 District). Protection measures noted on the plat include the requirement that there shall be no fill or grading in this area without a Floodplain Development Permit and that no structures shall be built in the protected area.



**Figure 3.** Regulatory floodplain in the area. Subject property outlined.

## **VARIANCE**

The property owner is requesting a variance from Section 20-810(e)(5) which requires 150 ft of right-of-way for principal arterials. Section 20-813(g) states that the Planning Commission may grant a variance from the design standards of these regulations, with the exception of the standards of the wastewater disposal system standards, if the following three criteria are met: that the strict application of these regulations will create an unnecessary hardship upon the Subdivider, that the proposed variance is in harmony with the intended purpose of these regulations and that the public health, safety and welfare will be protected. Below is a review of the variance request in relation to these criteria.

**Criteria 1:** Strict application of these regulations will create an unnecessary hardship upon the Subdivider.

The W 31<sup>st</sup> Street right-of-way adjacent to the subject property varies from approximately 525 ft on the west to approximately 110 ft on the east. The intersection of W 31<sup>st</sup> Street and Kasold Drive/E 1200 Road has been recently improved and the City Engineer indicated that the existing right-of-way width in this area is adequate for W 31<sup>st</sup> Street. The hardship the dedication of additional right-of-way would create for the subdivider would be a reduction in developable land area. The strict application of these regulations would create an unnecessary hardship upon the Subdivider as the City Engineer has determined the current right-of-way width is adequate.

**Criteria 2:** The proposed variance is in harmony with the intended purpose of these regulations.

Per Section 20-801(a) of the Subdivision Regulations, these regulations are intended to ensure that the division of land will serve the public interest and general welfare as well as to provide for the conservation of existing neighborhoods. The City Engineer stated that he has no concern with the additional right-of-way not being provided with this plat as adequate right-of-way is available to make the necessary left-turn lane at the Atchison Avenue/W 31<sup>st</sup> Street intersection. W 31<sup>st</sup> Street will continue to function in the same manner without the dedication of the additional right-of-way. The variance is in harmony with the intended purpose of the Subdivision Regulations.

**Criteria 3:** The public health, safety and welfare will be protected.

The variance would allow the existing varying width of street right-of-way to remain throughout the length of the block. This would have no negative impact on the public health, safety, and welfare as adequate right-of-way width is provided for necessary improvements to the street.

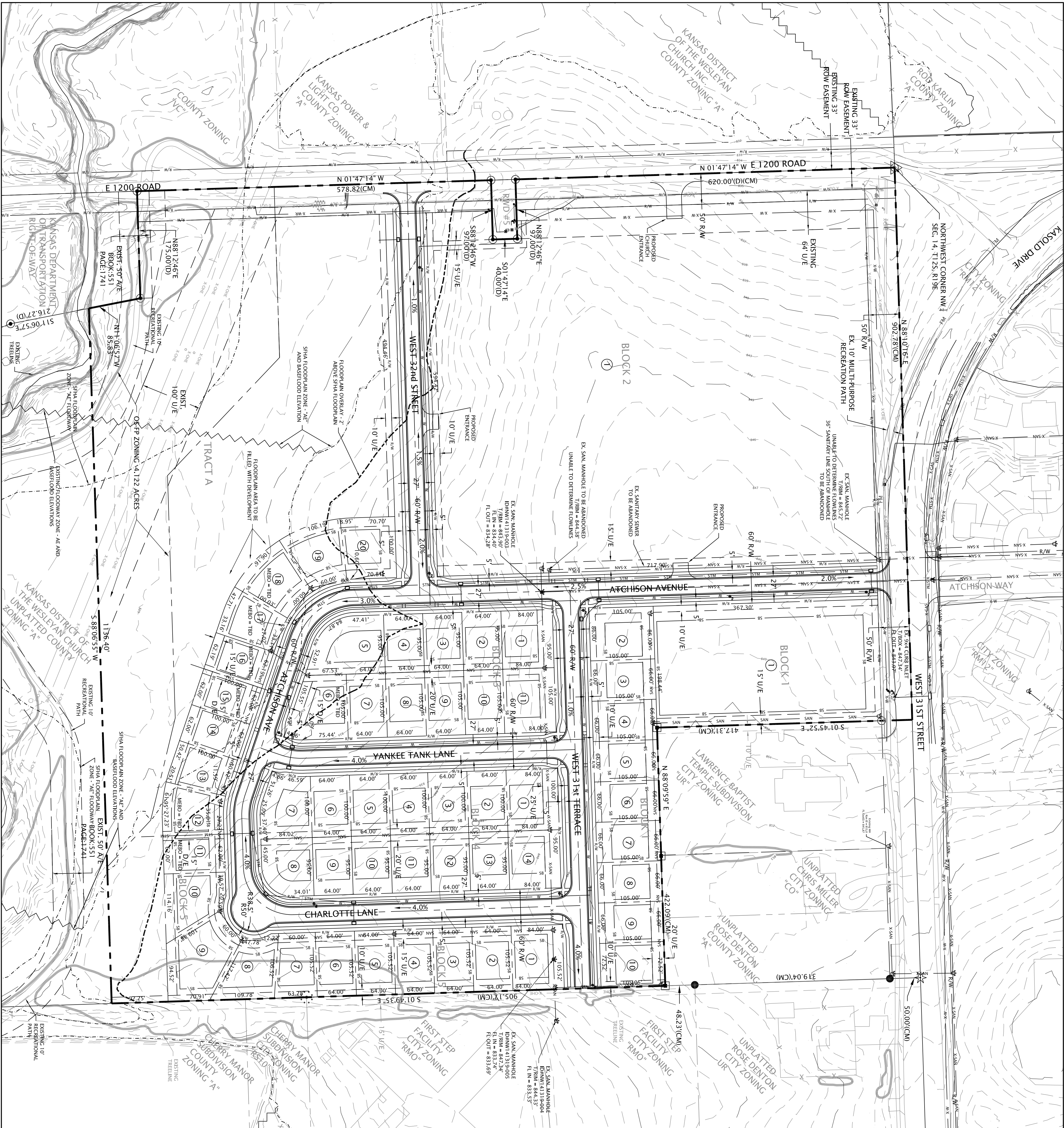
## **Summary**

The criteria for the granting a variance have been met and staff recommends approval of the variance.

## **Conformance**

The preliminary plat, as conditioned and with the variance requested, is in conformance with the standards and requirements of the Subdivision Regulations and the Development Code.





## LEGAL DESCRIPTION

THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

BEING, AT THE NORTHWEST CORNER OF SAID QUARTER SECTION, 10' NORTHEAST  
ALONG THE NORTH LINE OF SAID SECTION, 902.78 FEET; THENCE SOUTH 01° 45' 52" EAST 117.61 FEET;  
THENCE SOUTH 01° 49' 35" EAST, 906.17 FEET; THENCE  
SOUTH 88° 06' 55" WEST, 1136.40 FEET; THENCE SOUTH 01° 06' 57" WEST, 85.83 FEET; THENCE  
SOUTH 88° 12' 45" WEST, 175.00 FEET; THENCE NORTH 01° 14' 14" WEST, 578.82 FEET; THENCE SOUTH 88° 12'  
45" WEST, 97.00 FEET; THENCE NORTH 01° 14' 14" WEST, 40.00 FEET; THENCE SOUTH 88° 12' 45" WEST,  
97.00 FEET; THENCE NORTH 01° 14' 14" WEST, 620.00 FEET TO THE POINT OF BEGINNING. THE ABOVE  
CONTAINS 33,760 ACRES, MORE OR LESS.

## GENERAL NOTES

1. OWNER: Kansas District of the Wesleyan Church, Inc. - 3705 Clinton Parkway, Lawrence, Kansas 66044
2. LADY: LANNER, Ciro Engineering Services LLC, 3210 Mea Way, Suite A, Lawrence, Kansas 66049
3. SURVEYOR: Alpiorns Surveying LLC, PO BOX 4444, Lawrence, Kansas 66049
4. Topography obtained by County Maps and boundary survey performed by Alpiorns Surveying 2013.
5. Existing land use: Residential
6. Proposed land use: Residential
7. Existing zoning: RM2, RM2.5P, OS-PP
8. Proposed land use: Multi-Dwelling Structures.
9. Typical soil types: Pawnee-Woodson-Morill association.
10. This project is located within the 100 year floodplain per FEMA map #20045C0167D.
11. Effective date: January 5th, 2010.
12. Developer is responsible for the cost of relocation of existing utilities, if necessary to serve the project.
13. Approximately 86% of the regulatory floodplain fringe has been utilized in Tract A for protection of the environmentally sensitive land. There shall be no grading or filling in the floodplain without an approved Floodplain Development permit. There will be no structures or buildings allowed in the floodplain in Tract A. Mowing, vegetation removal, and other limited maintenance activities shall be allowed in Tract A.
14. Building envelopes are shown on each lot per the RM2 zoning district in the City of Lawrence
15. Development Code amended April 28, 2012.
16. The purpose of this development is to provide for the development. A homeowners association will be formed to provide for maintenance of the Tract.
17. Minimum elevations for basement opening or MEBO elevations to be established with development of public improvement plans prior to approval of final plat.
18. The developer is responsible for establishing ownership and maintenance of Tract A.

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

**1. The subdivision will have public streets.**

- [illegible]

## SITE SUMMARY

GROSS AREA:	35.760 acre
RIGHTS-OF-WAY AREA:	7.451 acre
NET AREA:	28.309 acre

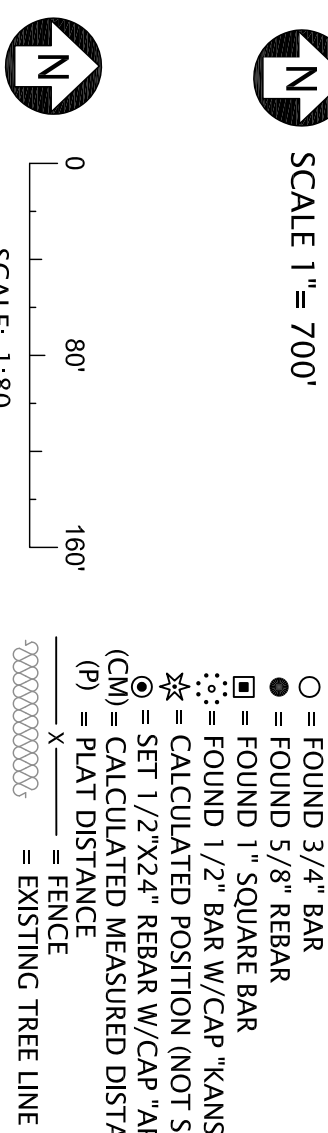
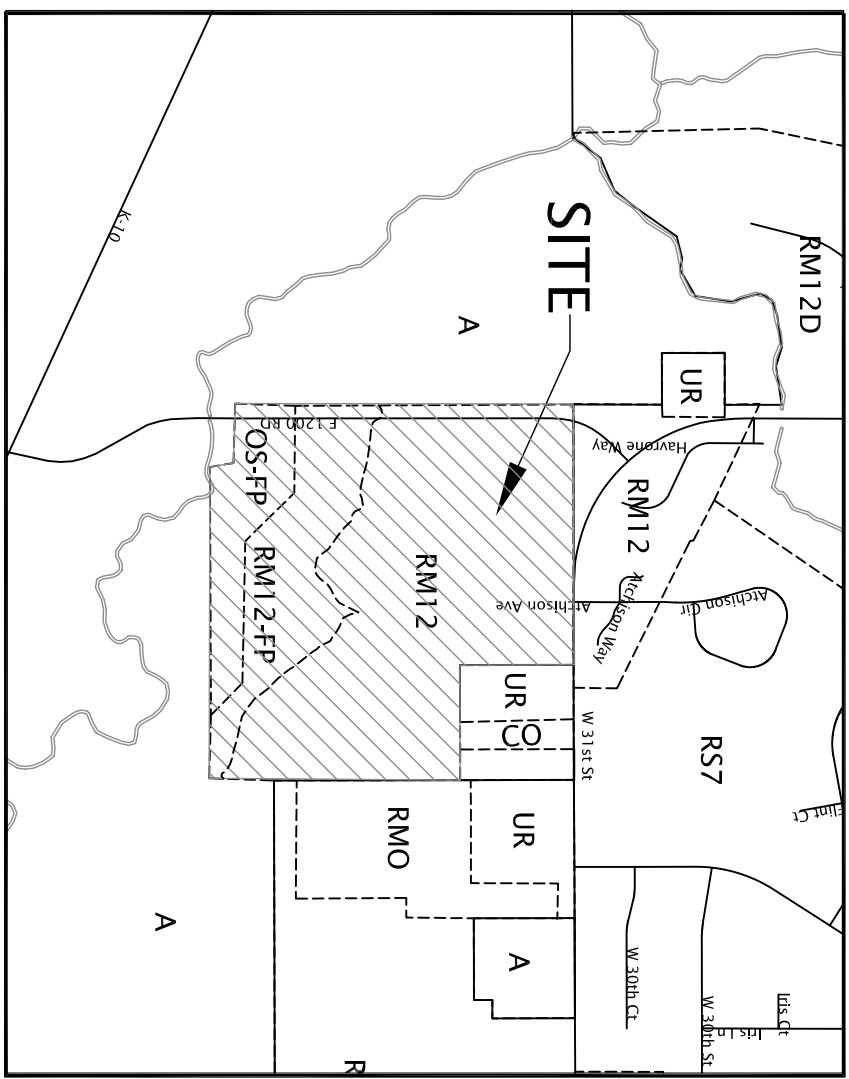
### PROJECT SUMMARY:

ZONING DISTRICT AREAS:	
RM12:	25.248 acre
RM12-FP:	6.385 acre

4  
0  
4  
2  
2  
6  
6  
0  
0  
0  
1  
1  
1  
0  
4  
0

TOTAL NUMBER OF LOTS:	56 lots
AVERAGE LOT SIZE:	22,216 s.f. (0.51 acres)
MINIMUM LOT SIZE:	6,098 s.f. (0.14 acres)
MAXIMUM LOT SIZE:	424,710 s.f. (9.750 acres)

## LOCATION MAP



## BENCHMARKS

1. 5/8" BAR IN MONUMENT BOX AT NORTHWEST CORNER SEC. 14, T13S, R1E.  
ELEV = 833.74
2. SOUTHWEST HEADBOLT IN FIRE HYDRANT, SOUTH SIDE WEST 31ST STREET, +/- 175 FEET EAST OF CENTRELINE OF ATCHISON AVENUE.  
ELEV = 848.42

# YANKEE TANK ESTATES

A PRELIMINARY PLAT FOR  
A SUBDIVISION IN THE CITY OF LAWRENCE,

RELEASE:	
1.0	5.20.13
1.1	6.14.13
1.2	6.26.13
1.3	7.10.13

## ANNEXATION AGREEMENT

~~January~~ <sup>February</sup> THIS ANNEXATION AGREEMENT (this "Agreement") is entered into this 8<sup>th</sup> day of ~~January~~, 2010 (the "Effective Date") by and between the Kansas District of the Wesleyan Church, Inc., a Kansas corporation (a/k/a the Lawrence Wesleyan Church), and its successors and assigns (collectively "Owner") and the City of Lawrence, Kansas, a municipal corporation ("City").

### RECITALS

A. Owner is the owner of real estate (the "Property") generally located at the southeast corner of West 31<sup>st</sup> Street and East 1200 Road (Kasold Drive), in Douglas County, Kansas, and legally described on Exhibit A, attached to and, by reference, incorporated in this Agreement.

B. Owner desires that the Property be annexed into the City of Lawrence, Kansas. On or about August 24, 2009, Owner submitted an annexation application to City.

C. If City annexes the Property, Owner desires to develop the Property in two (2) phases, as follows: (i) Phase I of the development to be zoned and developed for the Lawrence Wesleyan Church located in the Northwest portion of the Property; and (ii) Phase II of the development to be zoned and developed for residential purposes. Both Phases are to be developed in compliance with the City's Comprehensive Plan, the City Code, including the Development Code and the Subdivision Regulations, and City regulations and policies.

D. The Property is bounded by the current City limits (e.g., West 31<sup>st</sup> Street) to the north, and surrounded by floodway or floodplain to the east, west, and south. The location of the Property and its surroundings present unique development issues and limitations, and the parties desire to address such issues, all in accordance with this Agreement.

### AGREEMENT

1. **Recitals.** The Recitals are part of this Agreement.
2. **Sewer and Water Access.** The expense of extending sanitary sewer, storm sewer, and water utilities necessary for the development of the Property shall be financed by Owner in accordance with City development policies. If Owner petitions the City to form a benefit improvement district pursuant to K.S.A. 12-6a01 *et seq.* or similar statute, the City may approve any reasonable allocation of such expenses as are permitted by such statute.
3. **Plat Requirements.** Notwithstanding anything to the contrary in the *Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County* (including but not limited to Section 20-801), as amended from time to time, Owner shall not be required to plat contiguous parcels to the Property if such parcels remain outside of City limits and as such parcels



remain undeveloped. Nothing in this Paragraph shall be construed to limit or waive the Owner's obligation to plat the Property itself, however, in accordance with such regulations and codes.

4. **Road Improvements.** The parties acknowledge and agree that *Transportation 2030* and the *Revised Southern Development Plan*, as adopted by the City as of the Effective Date, designate West 31<sup>st</sup> Street as a Principal Arterial roadway, and East 1200 Road (Kasold Drive) as a Minor Arterial roadway. The parties further acknowledge and agree that improvements to such roadways will be necessary for Owner's proposed development and for reasons other than the development of the Property, and the parties agree as follows:

- (a) Owner shall not be required to finance any improvements to West 31<sup>st</sup> Street for Phase 1 of Owner's proposed development so long as the site plan and associated Traffic Impact Study do not require improvements to West 31<sup>st</sup> Street. For Phase 2 of Owner's proposed development, Owner's responsibility to finance improvements at the new intersection of Atchison Way and West 31<sup>st</sup> Street, as determined by the City Code and any associated Traffic Impact Study to analyze the impact of any new street proposed to intersect with West 31<sup>st</sup> Street, shall not be limited so long as improvements are limited to those necessary for the benefit of the development of the Property and not to the benefit of the north side of the intersection; and
- (b) In consideration of floodplain and floodway located south of the Property, Owner shall have the following obligations to improve East 1200 Road (Kasold Drive):
  - (i) Owner's responsibility to finance the improvements to East 1200 Road (Kasold Drive) during Phase 1 of Owner's proposed development shall be limited to expenses related to improving East 1200 Road (Kasold Drive) to a two-lane non-curbed street from the intersection of Kasold Drive and West 31<sup>st</sup> Street, extending to 50 feet South of the planned curb cut entrance for the church development, as shown on the approved site plan for such parcel. Owner's responsibility to finance the improvements in Phase 1 to East 1200 Road (Kasold Drive) shall be limited to these improvements.
  - (ii) Owner's responsibility to finance the improvements to East 1200 Road (Kasold Drive) during Phase 2 of Owner's proposed development shall include expenses related to improving East 1200 Road (Kasold Drive) to a two-lane non-curbed street section from the terminus of improvements necessary in Phase 1 to a point 50 feet south of any new street or driveway intersection with East 1200 Road (Kasold Drive) necessary for the development of Phase 2. Owner's responsibility to finance the improvements in Phase 2 to East 1200 Road (Kasold Drive) shall be limited to these improvements.

(iii) In no event shall Owner be required to execute an agreement not to protest the formation of a benefit district for future improvements to East 1200 Road (Kasold Drive); and

- (c) Owner shall agree to submit an agreement not to protest the formation of a benefit district for future intersection improvements and signalization of West 31<sup>st</sup> Street and Kasold Drive provided, however, that the Property shall not be assessed for any portion of the costs for such intersection improvements and signalization.

5. **Right-of-Way.** As part of annexation for Property, Owner shall include in its petition any and all adjacent full width perimeter rights-of-way not already incorporated into the City. Owner shall dedicate to City such additional public rights-of-way as City's subdivision regulations require for future road expansions or extensions for West 31<sup>st</sup> Street and East 1200 Road (Kasold Drive) at time of platting or for any road expansions or improvements made to West 31<sup>st</sup> Street or East 1200 Road (Kasold Drive) deemed necessary by the City prior to platting. Notwithstanding the foregoing, Owner shall have no obligation to dedicate rights-of-way located outside the Property's boundaries, and all such dedications to the City shall be made subject to existing utility easements, if any. Owner agrees to restrict access along West 31<sup>st</sup> Street except at such location, as approved by City, which would permit one street to access West 31<sup>st</sup> Street from the Property to serve Phase 2 of the development. Except as otherwise provided in this Agreement, Owner shall dedicate the necessary rights-of-way internal to the development to comply with City Code and Access Management Standards for both Phases of development.

6. **Agreements Not to Protest.** Under no condition or circumstance shall the City require, whether as part of the land use approval process or otherwise, that Owner execute an agreement not to protest the formation of a benefit district, to the extent such agreement is inconsistent with the conditions and limitations contained in this Agreement.

7. **Amendment.** This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties, and by the execution of an amendment by the parties.

8. **Conditions Precedent.** The validity and effect of this Agreement is expressly conditioned upon the City's adoption and publication of an ordinance causing the Property to be annexed into the City of Lawrence, and upon the City's adoption and publication of an ordinance rezoning the Property in a manner generally consistent with that proposed in Recital "C".

9. **No Oral Agreement.** Except as otherwise expressly provided herein, this Agreement and all documents incorporated herein by reference supersedes all prior agreements, negotiations, discussions, both oral and written, relative to the subject matter of this Agreement.

10. **Severability.** If any part of this Agreement is held unenforceable by a court of competent jurisdiction, the balance of the Agreement shall remain enforceable according to the terms thereof.

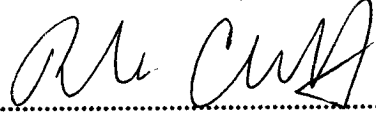


11. **Governing Law.** This Agreement shall be governed by Kansas law.
12. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Owner's heirs, successors, assigns, and transferees, except that an owner's rights and obligations hereunder shall cease and be of no further force and effect to the extent of any conveyance of such owner's fee title interest to all or a portion of the Property.

*[Balance of Page Intentionally Left Blank]*

This Agreement has been duly authorized and executed by the parties as of the Effective Date.

**CITY OF LAWRENCE, KANSAS**

By:   
Robert Chestnut, Mayor

(SEAL)

ATTEST:

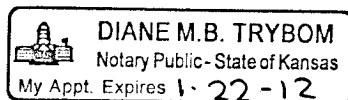


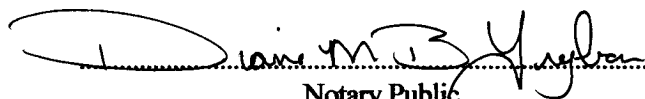
**ACKNOWLEDGMENT**

STATE OF KANSAS        )  
                                  ) SS.  
COUNTY OF DOUGLAS    )

On 2-8, 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Robert Chestnut and Jonathan Douglas proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument as Mayor and City Clerk, respectively, of the CITY OF LAWRENCE, KANSAS, the municipal corporation therein named, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



  
Notary Public

My commission expires:

JAN 22, 2012

**THE KANSAS DISTRICT OF THE  
WESLEYAN CHURCH, INC.,  
a Kansas corporation**

By: Wendell M. Graham  
Its: Trustee Board Secretary

**ACKNOWLEDGMENT**

STATE OF KANSAS       )  
                                  ) SS.  
COUNTY OF DOUGLAS )

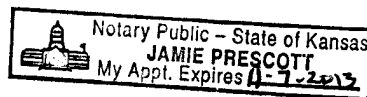
On January 20th, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared Wendell Graham, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument as the Trustee of THE KANSAS DISTRICT OF THE WESLEYAN CHURCH, INC., a Kansas corporation, and acknowledged to me that he executed the same in his authorized capacities, and that by such person's signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Jamie Prescott  
Notary Public

My commission expires:

11-7-2013



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 14 AND NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID QUARTER SECTION 14; THENCE NORTH 88°10'13" EAST, ALONG THE NORTH LINE OF SAID QUARTER SECTION, 902.60 FEET; THENCE SOUTH 01°49'47" EAST, 417.40 FEET; THENCE NORTH 88°10'35" EAST, 421.79 FEET; THENCE SOUTH 01°49'40" EAST, 905.17 FEET; THENCE SOUTH 88°06'55" WEST, 1136.44 FEET; THENCE NORTH 11°06'59" WEST, 85.87 FEET; THENCE SOUTH 88°12'44" WEST, 175.02 FEET; THENCE SOUTH 88°12'53" WEST, 50.00 FEET; THENCE NORTH 01°47'07" WEST, 177.84 FEET; THENCE NORTH 88°12'53" EAST, 17.00 FEET; THENCE NORTH 01°47'07" WEST, 330.00 FEET; THENCE SOUTH 88°12'53" WEST, 17.00 FEET; THENCE NORTH 01°47'07" WEST, 731.00 FEET; THENCE NORTH 88°12'53" EAST, 50.00 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 37.14 ACRES, MORE OR LESS.

LESS THE FOLLOWING DESCRIBED TRACT:

COMMENCING AT THE NORTHWEST CORNER OF SAID QUARTER SECTION 14; THENCE SOUTH 01°47'07" EAST ALONG THE WEST LINE OF SAID SECTION 14, 620.00 FEET TO POINT OF BEGINNING; THENCE NORTH 88°12'53" EAST, 97.00 FEET; SOUTH 01°47'07" EAST, 40.00 FEET; THENCE SOUTH 88°12'53" WEST, 97.00 FEET; THENCE NORTH 01°47'07" WEST, 40.00 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 0.09 ACRES, MORE OR LESS.

THE ABOVE DESCRIBED CONTAINS 37.05 ACRES, MORE OR LESS.



Douglas County Register of Deeds  
Book: 1058 Page: 5202

Receipt #: 403275  
Pages Recorded: 7  
Cashier Initials: rec

Recording Fee: \$32.00  
Authorized By: *Kay Penell*

Date Recorded: 2/8/2010 11:44:43 AM



15-13-19 NE  
14-13-19 NW

# Memorandum

## City of Lawrence-Douglas County Planning & Development Services

**TO:** Lawrence-Douglas County Planning Commission

**FROM:** Michelle Leininger, AICP, Planner II

**CC:** Scott McCullough, Planning and Development Services Director  
Sheila Stogsdill, Planner Administrator

**Date:** July 22, 2013

**RE:** TA-13-00106: Accessory Dwelling Units in the RS5 District

At the June 26, 2013 Planning Commission meeting, the Commission directed staff to bring back language to better define that an owner is required to live in one of the units on the premise. The discussion was that a natural person who owns and has stake the property, and not someone working for a corporation, should live on the premise in order to prevent a loophole which would allow both units to be rentals. Staff proposes that if a corporation does own the property, that a principal of the corporation resides on the premises. While this may not completely satisfy the concern raised by the PC, it does raise the bar for meeting the purpose of the intent of the code and is based on the perception that a principal of a corporation cares for property in a way similar to a natural person owning a property.

The intent to the proposed changes is to better implement the purpose of the use which is to preserve single-family neighborhoods, allow more efficient use of the existing housing stock and infrastructure, provide a mix of housing types, provide a means for residents to remain in their homes and neighborhoods and obtain extra income, security, companionship and services, and provide for a broader range of affordable housing.

Staff has proposed some additional language in Article 5. The attached draft Article 4 and 5 show additions underlined in red and deletions ~~struck through~~ in red.

### **Staff Recommendation**

Staff recommends that the Planning Commission forward a recommendation for approval of the July versions of the proposed amendment to the *Land Development Code*, TA-13-00106, regarding permitting the Accessory Dwelling Unit use as an accessory use in the RS5 District, to the City Commission.

## 20-402 RESIDENTIAL DISTRICT USE TABLE

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts														Use-Specific Standards (Sec. 20-)
		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
RESIDENTIAL USE GROUP																
Household Living	Accessory Dwelling Unit	A*	A*	A*	A*	-A*	-	-	-	-	-	-	-	-	-	534
	Attached Dwelling	-	-	S*	S*	S*	S*	S*	P*	P*	P*	P*	P*	-	P*	503
	Cluster Dwelling	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	702
	Detached Dwelling	P*	P*	P*	P*	P*	P*	P*	S*	S*	S*	S*	S*	-	S*	508
	Duplex	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	-	P*	503
	Manufactured Home	-	-	-	-	-	-	-	S	S	S	S	S	-	-	
	Manufactured Home, Residential-Design	P*	P*	P*	P*	P*	P*	P*	S*	S*	S*	S*	S*	-	S*	513
	Mobile Home	-	-	-	-	-	-	-	-	-	S	S	S	-	-	
	Mobile Home Park	-	-	-	-	-	-	-	-	-	S*	S*	S*	-	-	514
	Multi-Dwelling Structure	-	-	-	-	-	-	-	P*	-	P*	P*	P*	-	P*	517
	Non-Ground Floor Dwelling	--	--	--	--	--	--	P*	--	--	--	--	--	--	P*	517/542
	Work/Live Unit	--	--	--	--	--	--	P*	--	--	--	--	--	--	P*	517/542
	Zero Lot Line Dwelling	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	531
	Home Occupation, Type A or B	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	537
Group Living	Assisted Living	S	S	S	S	S	S	P	P	P	P	P	P	P	P	
	Congregate Living	-	-	-	-	-	-	-	P*	-	P*	P*	P*	-	P*	546
	Dormitory	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
	Fraternity or Sorority House	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
	Group Home, General [11 or more]	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Group Home, Limited [10 or fewer]	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
PUBLIC AND CIVIC USE GROUP																
Community Facilities	Adult Day Care Home	S	S	S	S	S	S	P	P	P	P	P	P	P	P	
	Cemeteries	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	505
	College/University	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	School	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Cultural Center/ Library	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Day Care Center	S*/A*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	P*/A*	S*	507

<b>Key:</b> <i>A = Accessory</i> <i>P = Permitted</i> <i>S = Special Use</i> <i>* = Standard Applies</i> <i>- = Use not allowed</i>		<i>Base Zoning Districts</i>														Use-Specific Standards (Sec. 20-)
		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
	Day Care Home, Class A	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	507
	Day Care Home, Class B	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	-	S*	507
	Detention Facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Lodge, Fraternal & Civic Assembly	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	512
	Postal Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Public Safety	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Funeral and Interment	-	-	-	-	-	-	P*	-	-	-	-	-	-	P*	505
	Temporary Shelter	A*	A*	A*	A*	A*	A*	S*/A*	A*	A*	A*	A*	A*	A*	S*/A*	544/522
	Social Service Agency	--	--	--	--	--	--	P	--	--	--	--	--	--	P	
	Community Meal Program	A*	A*	A*	A*	A*	A*	S/A*	A*	A*	A*	A*	A*	A*	S/A*	522
	Utilities, Minor	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	530
	Utilities and Service, Major	S	S	S	S	S	S	S	S	S	S	S	S	-	S	
Medical Facilities	Community Mental Health Facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
	Extended Care Facility, General	-	-	-	-	-	-	S	P	P	P	P	P	P	P	
	Extended Care Facility, Limited	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Health Care Office, Health Care Clinic	-	-	-	-	-	-	P	-	-	-	-	-	-	P	
	Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Outpatient Care Facility	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	519
Recreational Facilities	Active Recreation	S	S	S	S	S	S	S	S	S	S	S	S	-	S	
	Entertainment & Spectator Sports, Gen.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Entertainment & Spectator Sports, Ltd.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Passive Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Nature Preserve/Undeveloped	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
	Private Recreation	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
	Participant Sports & Recreation, Indoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Participant Sports & Recreation, Outdoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	



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		RS40	RS20	RS10	RS7	RS5	RS3	RSO	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
Religious Assembly	Campus or Community Institution	-	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	P*	522
	Neighborhood Institution	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	522
<b>COMMERCIAL USE GROUP</b>																
Animal Services	Kennel	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Livestock Sale	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Sales and Grooming	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Veterinary	-	-	-	-	-	-	P	-	-	-	-	-	-	P	
Eating & Drinking Establishments	Accessory Bar	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Bar or Lounge	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Brewpub	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Fast Order Food	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Fast Order Food, Drive-in	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Nightclub	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Private Dining Establishments	S*	S*	S*	S*	S*	-	S*	-	-	-	-	-	-	S*	539
	Restaurant, High-turnover	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Restaurant, Quality	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Office	Administrative and Professional	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	518
	Financial, Insurance & Real Estate	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	510
	Other	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	510
Parking Facilities	Accessory	-	-	-	-	-	A*	A*	A*	A*	A*	A*	A*	A*	A*	535
	Commercial	-	-	-	-	-	-	S	-	-	-	-	-	-	-	
Retail Sales & Service	Building Maintenance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Business Equipment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Business Support	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Construction Sales and Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Food and Beverage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

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		RS40	RS20	RS10	RS7	RS5	RS3	RSO	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
	Mixed Media Store	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Personal Convenience	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Personal Improvement	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	521
	Repair Service, Consumer	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Sales, General	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Establishment, Large	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Establishment, Medium	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Establishment, Specialty	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Sexually Oriented Businesses	Sexually Oriented Media Store	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Physical Sexually Oriented Business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Sex Shop	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Sexually Oriented Theater	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Transient Accommodation	Bed and Breakfast	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	P*	P*	-	P*	504
	Campground	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Elderhostel	-	-	-	-	-	-	-	-	-	-	-	-	S	-	
	Hotel, Motel, Extended Stay	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Vehicle Sales & Service	Cleaning (e.g., car wash)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Fleet Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Gas and Fuel Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Heavy Equipment Repair	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Heavy Equipment Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Inoperable Vehicles Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Light Equipment Repair	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Light Equipment Sales/Rental	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	RV and Boats Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>INDUSTRIAL USE GROUP</b>																

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		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
Industrial Facilities	Explosive Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Industrial, General	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Industrial, Intensive	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Laundry Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Manufacturing & Production, Limited	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Manufacturing & Production, Technological	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Research Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Salvage Operation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Wholesale, Storage & Distribution	Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Light	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Mini-Warehouse	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>OTHER USES GROUP</b>																
Adaptive Reuse	Designated Historic Property	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	501
	Greek Housing Unit	-	-	-	-	-	-	-	-	-	-	-	-	S*	-	501
Agriculture	Agricultural Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Agriculture, Animal	P*	-	-	-	-	-	-	-	-	-	-	-	-	-	502
	Agriculture, Crop	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Communications Facilities	Amateur and Receive-Only Antennas	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	536
	Broadcasting Tower	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Communications Service Establishment	-	-	-	-	-	-	P	-	-	-	-	-	-	P	
	Telecommunications Antenna	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	529
	Telecommunications Tower	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	529
	Satellite Dish	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	536

<div>Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed</div>		Base Zoning Districts														Use-Specific Standards (Sec. 20-)
		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
Mining	Mining	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Recycling Facilities	Large Collection	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Small Collection	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Processing Center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

20-534 **ACCESSORY DWELLING UNITS** (Permitted only in RS40, RS20, RS10, RS7, RS5, MU and CN1)

(1) **Purpose**

**Accessory Dwelling Units** are allowed in certain situations to:

- (i) create new housing units while preserving the look and **Scale** of single-Family **Detached Dwelling** neighborhoods; subject to the procedures established in Section 20-534(2)(xi);
- (ii) allow more efficient use of the City's existing housing stock and **Infrastructure**;
- (iii) provide a mix of housing types that responds to changing **Family** needs and smaller households;
- (iv) provide a means for residents, particularly seniors, single parents, and couples, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
- (v) provide a broader range of accessible and more affordable housing.

(2) **Design Standards**

(i) **Purpose**

These design standards are intended to ensure that **Accessory Dwelling Units**:

- a. are compatible with the desired character and livability of the **Zoning Districts**;
- b. respect the general **Building Scale** and placement of **Structures** to allow sharing of common space on the **Lot**, such as **Driveways** and **Yards**; and
- c. are 960 square feet or smaller in size.

(ii) **Generally**

The design standards for **Accessory Dwelling Units** are stated in this section. If not addressed in this section, the **Base District** standards apply.

(iii) **Methods of Creation**

An **Accessory Dwelling Unit** may only be created through one of the following methods:

- a. converting existing living area within a **Detached Dwelling**, **Attached Dwelling** (e.g., attic, **Basement** or attached garage); or
- b. adding **Floor Area** to an existing **Detached Dwelling**, **Attached Dwelling** or detached garage; or
- c. constructing a new **Detached Dwelling**, **Attached Dwelling** or detached garage with an internal **Accessory Dwelling Unit**.

(iv) **Owner Occupancy Required in RS Districts**

Either the principal **Dwelling Unit** or the **Accessory Dwelling Unit** must be occupied by one or more of the persons who is/are the record **Owner** of the **Premises**. If the Owner is not a natural person, then either the principal Dwelling Unit or the Accessory Dwelling Unit must be occupied by one or more principals of the Owner.

If at any time, neither of the **Dwelling Units** in a **Building** that contains an **Accessory Dwelling Unit** is the principal residence of one of the **Owner** of the property ~~or one of the principals of the Owner of the property, then the property shall be considered a Duplex. If a Duplex is not permitted in the Zoning District in which the property is located, then it shall be a violation of this Code and~~ the **Owner** shall be subject to penalties for a zoning violation and to an abatement order requiring restoration of the **Premises** to lawful status, conforming with the uses permitted in the **Zoning District**.

**(v) Number of Residents**

The total number of individuals that reside in both units (principal + accessory) may not exceed Occupancy Limit established for the Principal Building in Section 20-601(d), plus one additional person.

**(vi) Other Uses**

An **Accessory Dwelling Unit** is prohibited in a house with a Type B **Home Occupation**.

**(vii) Location of Entrances**

- a. Only one entrance to the **Principal Building** may be located on the front **Facade** that faces the Street, unless the **Principal Building** contained an additional Street-facing entrance before the **Accessory Dwelling Unit** was created.
- b. When the **Accessory Dwelling Unit** is located behind the rear wall of the **Principal Building**, the accessory **Dwelling** entrance shall face the **Front Lot Line**.
- c. An exception to subsection (b), above, is **Dwelling Units** that do not have **Access** from the ground such as **Dwelling Units** with entrances from balconies or elevated decks.

**(viii) Parking**

The following Parking requirements apply to **Accessory Dwelling Units**.

- a. Lots containing **Accessory Dwelling Units** shall contain a minimum of two off-Street **Parking Spaces**.
- b. If the **Lot** containing the **Accessory Dwelling Unit** abuts only a **Local Street** and the pavement of the **Local Street** is at least 27 feet wide, no additional **Parking Space** is required for the **Accessory Dwelling Unit**.
- c. If the **Lot** containing the **Accessory Dwelling Unit** abuts only a **Local Street** and the pavement of the **Local Street** is less than 27 feet wide, or if the **Accessory Dwelling Unit** is created at the same time as the principal **Dwelling Unit**, one additional **Parking Space** is required for the **Accessory Dwelling Unit**.
- d. One additional **Parking Space** is required for the **Accessory Dwelling Unit** if the **Lot** containing the **Accessory Dwelling Unit** abuts only a Collector or **Arterial Street**.

**(ix) Size**

The maximum size of an **Accessory Dwelling Unit** may be no more than (33%) of the living area of the **Detached Dwelling** or **Attached Dwelling**, or 960 square feet, whichever is less.



**(x) Floor Area Additions**

**Accessory Dwelling Units** created through the addition of habitable **Floor Area** to an existing **Structure** shall comply with the following standards:

- a. the exterior finish material shall be the same or visually match in type, size and placement, the exterior finish material of the house or existing **Structure**;
- b. the roof pitch shall be the same as the predominant roof pitch of the house or existing **Structure**;
- c. trim on edges of elements on the addition shall be the same in type, size and location as the trim used on the rest of the house or existing **Structure**;
- d. windows shall match those in the house in proportion (relationship of width to **Height**) and orientation (horizontal or vertical);and
- e. eaves shall project from the **Building** walls the same distance as the eaves on the rest of the house or existing **Structure**.

**(xi) Registration; Affidavit**

- a. **Accessory Dwelling Units** shall be registered with the **Planning Director** prior to their establishment. The requirement for registration is intended to ensure that the applicant is aware of the provisions of this Development Code governing **Accessory Dwelling Units**; that the City has all information necessary to evaluate whether the **Accessory Dwelling Unit** initially meets and continues to meet Development Code requirements; and that the distribution and location of **Accessory Dwelling Units** is known.
- b. At the time of registration, the applicant shall submit an affidavit pledging agreement to the **Accessory Dwelling Unit** standards of this section. The affidavit shall specify which of the **Dwelling Units** will be occupied by an **Owner** of the property; if at any time such **Owner** moves to the other **Dwelling Unit**, the **Owner** shall be responsible for filing an updated affidavit, recording such change.
- c. Permits for **Accessory Dwelling Units** may be issued after the **Planning Director** determines that the proposal complies with all applicable Development Code requirements.

**PLANNING COMMISSION REPORT**  
**Regular Agenda -- Public Hearing Item**

PC Staff Report  
6/24/13

**ITEM NO. 5      TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; ACCESSORY DWELLING UNIT (MJL)**

**TA-13-00106:** Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Articles 4 and 5, to permit the Accessory Dwelling Unit use as an accessory use in the RS5 (Single-Dwelling Residential) District.

**RECOMMENDATION:** Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendment to the Land Development Code, TA-13-00106, regarding permitting the Accessory Dwelling Unit use as an accessory use in the RS5 District, to the City Commission.

**Reason for Request:** To permit the Accessory Dwelling Unit use, as an accessory use in the RS5 District.

**RELEVANT GOLDEN FACTOR:**

- The text amendment is consistent with various goals and policies in the comprehensive plan.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None received.

**OVERVIEW OF PROPOSED AMENDMENT**

Currently the *Land Development Code* permits the Accessory Dwelling Unit use as an accessory use in the RS40, RS20, RS10, RS7 (Single-Dwelling Residential), MU (Mixed Use) and CN1 (Inner Neighborhood Commercial) Districts. Article 5 includes standards regarding the use. Staff is not proposing to make changes to the standards.

**CONFORMANCE WITH THE COMPREHENSIVE PLAN**

The proposed text amendment is consistent with various goals and policies in Chapter 5 – Residential Land Use. Chapter 5 discusses encouraging infill development and supports a mix of housing types, styles, and economic levels.

**CRITERIA FOR REVIEW AND DECISION-MAKING**

Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It states that review bodies shall consider at least the following factors:

- 1) **Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and**

*Applicant Response*

Only that the Accessory Dwelling Units are not allowed in all RS zoning districts above RS5.

*Staff Response*

The RS5 District is a zoning district that was created with the 2006 code and certain properties were

rezoned to the RS5 upon adoption. Additionally, the Accessory Dwelling Unit use was a new use permitted in the code. Staff has had 15 Accessory Dwelling Units registered since the code adoption in 2006 and has had many conversations with property owners regarding the opportunity for the use on various properties, in various residential zoning districts including the RS5 District. With this interest and a change in economic conditions over the past few years, staff feels that this text amendment does address a changing condition. There have been more situations where people are looking to downsize, have had economic hardships and need to rely on family or property owners are looking to maximize their property investments while staying in their existing home.

**2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (Sec. 20-104).**

The text amendment is consistent with various policies in *Horizon 2020*, Chapter 5 – Residential Land Use. Policies in Goal 3: Neighborhood Conservation discusses infill development and providing a variety of housing types. The chapter strategies discusses a mixture of housing types, styles and economic levels. Accessory Dwelling Units, if developed to meet the standards, can help achieve these goals, policies and strategies.

**Staff Review**

An Accessory Dwelling Unit is defined in the code as “A dwelling unit that is incidental to and located on the same lot as the principal building or use, when the principal building or use is a dwelling.” This use is permitted as an accessory use in the RS40, RS20, RS10, RS7, MU and CN1 Districts with standards. The code outlines the purpose of the use to:

1. create new housing units while preserving the look and scale of single-family detached dwelling neighborhoods;
2. allow more efficient use of the City’s existing housing stock and infrastructure;
3. provide a mix of housing types that responds to changing family needs and smaller households;
4. provide a means for residents, particularly seniors, single parents, and couples, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
5. provide a broader range of accessible and more affordable housing.

The Code provides design standards to address potential issues regarding occupancy, number of residents, parking, size, and registration are a few. Below is a general summary of the regulations. For the full regulations, see the attached section with changes noted in red.

- Methods of Creation – conversion of existing space, addition to the primary structure or new detached structure.
- Occupancy – Owner must occupy either unit
- Number of Residents – district occupancy limit plus 1
- Parking – situational depending on abutting street classification. A minimum of 2 parking spaces per lot
- Size – no more than 33% of the living area of the dwelling or 960 sf, whichever is less
- Registration – registered with the Planning Office, and an affidavit pledging agreement to the standards, which unit the owner will live and recording the affidavit at the Register of Deeds Office

Accessory Dwelling Units can be used in various ways to improve the community. It is an opportunity to increase density in established neighborhoods with minimal disruption to the area. It is an opportunity to offer housing to address changing family needs, whether it is for family members or

additional income while continuing to reside on the property. The standards require the owner to live in one of the units which can address property maintenance issues and concerns that occur with some rental properties.

Staff is not proposing to change the use standards with this text amendment. Only the addition of the RS5 District as a district that permits an Accessory Dwelling Unit as an accessory use is proposed. See the attached draft changes to Articles 4 and 5. Changes are noted in red.

**Staff Recommendation**

Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendment to the Land Development Code, TA-13-00106, regarding permitting the Accessory Dwelling Unit use as an accessory use in the RS5 District, to the City Commission.

## 20-402 RESIDENTIAL DISTRICT USE TABLE

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts														Use-Specific Standards (Sec. 20-)
		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
RESIDENTIAL USE GROUP																
Household Living	Accessory Dwelling Unit	A*	A*	A*	A*	LP	-	-	-	-	-	-	-	-	-	534
	Attached Dwelling	-	-	S*	S*	S*	S*	S*	P*	P*	P*	P*	P*	-	P*	503
	Cluster Dwelling	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	702
	Detached Dwelling	P*	P*	P*	P*	P*	P*	P*	S*	S*	S*	S*	S*	-	S*	508
	Duplex	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	-	P*	503
	Manufactured Home	-	-	-	-	-	-	-	S	S	S	S	S	-	-	
	Manufactured Home, Residential-Design	P*	P*	P*	P*	P*	P*	P*	S*	S*	S*	S*	S*	-	S*	513
	Mobile Home	-	-	-	-	-	-	-	-	-	S	S	S	-	-	
	Mobile Home Park	-	-	-	-	-	-	-	-	-	S*	S*	S*	-	-	514
	Multi-Dwelling Structure	-	-	-	-	-	-	-	P*	-	P*	P*	P*	-	P*	517
	Non-Ground Floor Dwelling	--	--	--	--	--	--	P*	--	--	--	--	--	--	P*	517/542
	Work/Live Unit	--	--	--	--	--	--	P*	--	--	--	--	--	--	P*	517/542
	Zero Lot Line Dwelling	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	531
	Home Occupation, Type A or B	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	537
Group Living	Assisted Living	S	S	S	S	S	S	P	P	P	P	P	P	P	P	
	Congregate Living	-	-	-	-	-	-	-	P*	-	P*	P*	P*	-	P*	546
	Dormitory	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
	Fraternity or Sorority House	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
	Group Home, General [11 or more]	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Group Home, Limited [10 or fewer]	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
PUBLIC AND CIVIC USE GROUP																
Community Facilities	Adult Day Care Home	S	S	S	S	S	S	P	P	P	P	P	P	P	P	
	Cemeteries	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	505
	College/University	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	School	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Cultural Center/ Library	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Day Care Center	S*/A*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	P*/A*	S*	507

<b>Key:</b> <i>A = Accessory</i> <i>P = Permitted</i> <i>S = Special Use</i> <i>* = Standard Applies</i> <i>- = Use not allowed</i>		<i>Base Zoning Districts</i>														Use-Specific Standards (Sec. 20-)
		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
	Day Care Home, Class A	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	507
	Day Care Home, Class B	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	-	S*	507
	Detention Facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Lodge, Fraternal & Civic Assembly	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	512
	Postal Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Public Safety	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
	Funeral and Interment	-	-	-	-	-	-	P*	-	-	-	-	-	-	P*	505
	Temporary Shelter	A*	A*	A*	A*	A*	A*	S*/A*	A*	A*	A*	A*	A*	A*	S*/A*	544/522
	Social Service Agency	--	--	--	--	--	--	P	--	--	--	--	--	--	P	
	Community Meal Program	A*	A*	A*	A*	A*	A*	S/A*	A*	A*	A*	A*	A*	A*	S/A*	522
	Utilities, Minor	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	P*/S*	530
	Utilities and Service, Major	S	S	S	S	S	S	S	S	S	S	S	S	-	S	
Medical Facilities	Community Mental Health Facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
	Extended Care Facility, General	-	-	-	-	-	-	S	P	P	P	P	P	P	P	
	Extended Care Facility, Limited	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Health Care Office, Health Care Clinic	-	-	-	-	-	-	P	-	-	-	-	-	-	P	
	Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Outpatient Care Facility	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	519
Recreational Facilities	Active Recreation	S	S	S	S	S	S	S	S	S	S	S	S	-	S	
	Entertainment & Spectator Sports, Gen.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Entertainment & Spectator Sports, Ltd.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Passive Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Nature Preserve/Undeveloped	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
	Private Recreation	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
	Participant Sports & Recreation, Indoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Participant Sports & Recreation, Outdoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

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		RS40	RS20	RS10	RS7	RS5	RS3	RSO	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
Religious Assembly	Campus or Community Institution	-	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	P*	522
	Neighborhood Institution	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	522
COMMERCIAL USE GROUP																
Animal Services	Kennel	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Livestock Sale	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Sales and Grooming	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Veterinary	-	-	-	-	-	-	P	-	-	-	-	-	-	P	
Eating & Drinking Establishments	Accessory Bar	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Bar or Lounge	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Brewpub	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Fast Order Food	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Fast Order Food, Drive-in	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Nightclub	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Private Dining Establishments	S*	S*	S*	S*	S*	-	S*	-	-	-	-	-	-	S*	539
	Restaurant, High-turnover	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Restaurant, Quality	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Office	Administrative and Professional	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	518
	Financial, Insurance & Real Estate	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	510
	Other	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	510
Parking Facilities	Accessory	-	-	-	-	-	A*	A*	A*	A*	A*	A*	A*	A*	A*	535
	Commercial	-	-	-	-	-	-	S	-	-	-	-	-	-	-	
Retail Sales & Service	Building Maintenance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Business Equipment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Business Support	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Construction Sales and Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Food and Beverage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	



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		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
	Mixed Media Store	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Personal Convenience	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Personal Improvement	-	-	-	-	-	-	P*	-	-	-	-	-	P*	P*	521
	Repair Service, Consumer	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Sales, General	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Establishment, Large	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Establishment, Medium	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Establishment, Specialty	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Sexually Oriented Businesses	Sexually Oriented Media Store	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Physical Sexually Oriented Business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Sex Shop	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Sexually Oriented Theater	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Transient Accommodation	Bed and Breakfast	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	P*	P*	-	P*	504
	Campground	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Elderhostel	-	-	-	-	-	-	-	-	-	-	-	-	S	-	
	Hotel, Motel, Extended Stay	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Vehicle Sales & Service	Cleaning (e.g., car wash)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Fleet Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Gas and Fuel Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Heavy Equipment Repair	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Heavy Equipment Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Inoperable Vehicles Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Light Equipment Repair	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Light Equipment Sales/Rental	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	RV and Boats Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>INDUSTRIAL USE GROUP</b>																

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		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
Industrial Facilities	Explosive Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Industrial, General	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Industrial, Intensive	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Laundry Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Manufacturing & Production, Limited	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Manufacturing & Production, Technological	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Research Service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Salvage Operation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Wholesale, Storage & Distribution	Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Light	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Mini-Warehouse	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>OTHER USES GROUP</b>																
Adaptive Reuse	Designated Historic Property	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	501
	Greek Housing Unit	-	-	-	-	-	-	-	-	-	-	-	-	S*	-	501
Agriculture	Agricultural Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Agriculture, Animal	P*	-	-	-	-	-	-	-	-	-	-	-	-	-	502
	Agriculture, Crop	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Communications Facilities	Amateur and Receive-Only Antennas	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	-	A*	536
	Broadcasting Tower	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Communications Service Establishment	-	-	-	-	-	-	P	-	-	-	-	-	-	P	
	Telecommunications Antenna	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	529
	Telecommunications Tower	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	529
	Satellite Dish	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	536

<div>Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed</div>		Base Zoning Districts														Use-Specific Standards (Sec. 20-)
		RS40	RS20	RS10	RS7	RS5	RS3	RS0	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
Mining	Mining	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Recycling Facilities	Large Collection	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Small Collection	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Processing Center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

20-534 **ACCESSORY DWELLING UNITS** (Permitted only in RS40, RS20, RS10, RS7, RS5, MU and CN1)

(1) **Purpose**

**Accessory Dwelling Units** are allowed in certain situations to:

- (i) create new housing units while preserving the look and **Scale** of single-Family **Detached Dwelling** neighborhoods; subject to the procedures established in Section 20-534(2)(xi);
- (ii) allow more efficient use of the City's existing housing stock and **Infrastructure**;
- (iii) provide a mix of housing types that responds to changing **Family** needs and smaller households;
- (iv) provide a means for residents, particularly seniors, single parents, and couples, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
- (v) provide a broader range of accessible and more affordable housing.

(2) **Design Standards**

(i) **Purpose**

These design standards are intended to ensure that **Accessory Dwelling Units**:

- a. are compatible with the desired character and livability of the **Zoning Districts**;
- b. respect the general **Building Scale** and placement of **Structures** to allow sharing of common space on the **Lot**, such as **Driveways** and **Yards**; and
- c. are 960 square feet or smaller in size.

(ii) **Generally**

The design standards for **Accessory Dwelling Units** are stated in this section. If not addressed in this section, the **Base District** standards apply.

(iii) **Methods of Creation**

An **Accessory Dwelling Unit** may only be created through one of the following methods:

- a. converting existing living area within a **Detached Dwelling**, **Attached Dwelling** (e.g., attic, **Basement** or attached garage); or
- b. adding **Floor Area** to an existing **Detached Dwelling**, **Attached Dwelling** or detached garage; or
- c. constructing a new **Detached Dwelling**, **Attached Dwelling** or detached garage with an internal **Accessory Dwelling Unit**.

(iv) **Owner Occupancy Required in RS Districts**

Either the principal **Dwelling Unit** or the **Accessory Dwelling Unit** must be occupied by one or more of the persons who is/are the record **Owner** of the **Premises**.

If at any time, neither of the **Dwelling Units** in a **Building** that contains an **Accessory Dwelling Unit** is the principal residence of one of the **Owner** of the property, then the

property shall be considered a [Duplex](#). If a [Duplex](#) is not permitted in the [Zoning District](#) in which the property is located, the [Owner](#) shall be subject to penalties for a zoning violation and to an abatement order requiring restoration of the [Premises](#) to lawful status, conforming with the uses permitted in the [Zoning District](#).

**(v) Number of Residents**

The total number of individuals that reside in both units (principal + accessory) may not exceed Occupancy Limit established for the Principal Building in Section 20-601(d), plus one additional person.

**(vi) Other Uses**

An [Accessory Dwelling Unit](#) is prohibited in a house with a Type B [Home Occupation](#).

**(vii) Location of Entrances**

- a. Only one entrance to the [Principal Building](#) may be located on the front [Facade](#) that faces the Street, unless the [Principal Building](#) contained an additional Street-facing entrance before the [Accessory Dwelling Unit](#) was created.
- b. When the [Accessory Dwelling Unit](#) is located behind the rear wall of the [Principal Building](#), the accessory [Dwelling](#) entrance shall face the [Front Lot Line](#).
- c. An exception to subsection (b), above, is [Dwelling Units](#) that do not have [Access](#) from the ground such as [Dwelling Units](#) with entrances from balconies or elevated decks.

**(viii) Parking**

The following Parking requirements apply to [Accessory Dwelling Units](#).

- a. Lots containing [Accessory Dwelling Units](#) shall contain a minimum of two off-Street [Parking Spaces](#).
- b. If the [Lot](#) containing the [Accessory Dwelling Unit](#) abuts only a [Local Street](#) and the pavement of the [Local Street](#) is at least 27 feet wide, no additional [Parking Space](#) is required for the [Accessory Dwelling Unit](#).
- c. If the [Lot](#) containing the [Accessory Dwelling Unit](#) abuts only a [Local Street](#) and the pavement of the [Local Street](#) is less than 27 feet wide, or if the [Accessory Dwelling Unit](#) is created at the same time as the principal [Dwelling Unit](#), one additional [Parking Space](#) is required for the [Accessory Dwelling Unit](#).
- d. One additional [Parking Space](#) is required for the [Accessory Dwelling Unit](#) if the [Lot](#) containing the [Accessory Dwelling Unit](#) abuts only a Collector or [Arterial Street](#).

**(ix) Size**

The maximum size of an [Accessory Dwelling Unit](#) may be no more than (33%) of the living area of the [Detached Dwelling](#) or [Attached Dwelling](#), or 960 square feet, whichever is less.

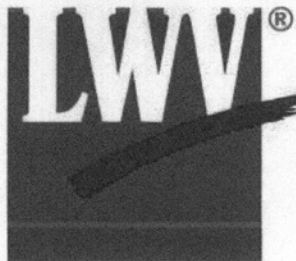
**(x) Floor Area Additions**

[Accessory Dwelling Units](#) created through the addition of habitable [Floor Area](#) to an existing [Structure](#) shall comply with the following standards:

- a. the exterior finish material shall be the same or visually match in type, size and placement, the exterior finish material of the house or existing [Structure](#);
- b. the roof pitch shall be the same as the predominant roof pitch of the house or existing [Structure](#);
- c. trim on edges of elements on the addition shall be the same in type, size and location as the trim used on the rest of the house or existing [Structure](#);
- d. windows shall match those in the house in proportion (relationship of width to [Height](#)) and orientation (horizontal or vertical);and
- e. eaves shall project from the [Building](#) walls the same distance as the eaves on the rest of the house or existing [Structure](#).

**(xi) Registration; Affidavit**

- a. [Accessory Dwelling Units](#) shall be registered with the [Planning Director](#) prior to their establishment. The requirement for registration is intended to ensure that the applicant is aware of the provisions of this Development Code governing [Accessory Dwelling Units](#); that the City has all information necessary to evaluate whether the [Accessory Dwelling Unit](#) initially meets and continues to meet Development Code requirements; and that the distribution and location of [Accessory Dwelling Units](#) is known.
- b. At the time of registration, the applicant shall submit an affidavit pledging agreement to the [Accessory Dwelling Unit](#) standards of this section. The affidavit shall specify which of the [Dwelling Units](#) will be occupied by an [Owner](#) of the property; if at any time such [Owner](#) moves to the other [Dwelling Unit](#), the [Owner](#) shall be responsible for filing an updated affidavit, recording such change.
- c. Permits for [Accessory Dwelling Units](#) may be issued after the [Planning Director](#) determines that the proposal complies with all applicable Development Code requirements.



LEAGUE OF WOMEN VOTERS®  
OF LAWRENCE/DOUGLAS COUNTY

June 23, 2013

RECEIVED

JUN 24 2013

City County Planning Office  
Lawrence, Kansas

To: Dr. Bruce Liese, Chair, and Lawrence/Douglas County Planning Commission

**ITEM NO. 5: TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; ACCESSORY DWELLING UNIT**

The accessory dwelling unit concept was introduced by the League representative to the ZAC (Zoning Advisory Committee) as one of the suggested recommendations to improvements to the new zoning code—the Land Development Code (LDC)—adopted in 2006. The reasons are listed in the LDC regulations, one example of which are “granny apartments” for aging relatives. A critical provision of the Use Regulations on Accessory Dwelling Units (Section 20-534) was that one of the units must be owner occupied. However, it never occurred to us at the time that the term “owner occupant” could be construed as a being a corporate owner, thereby occupying a residence as an “owner occupant” through being an appointed temporary representative of the corporation.

We believe that the concerns of the residents of an older neighborhood regarding modifying the provisions of the RS5 District to add it to the section 20-534 of the LDC are valid and should be a concern to all neighborhoods. The possible interpretation of including corporations as being eligible for the provisions of accessory dwelling units would apply to all, not just the RS5 District. We therefore request that you add a definition of “owner occupant” to Section 20-1701 of the LDC that would exclude all meaning of the term and related terms that do not specifically mean an existing adult human person with direct legal ownership rights to occupy the residence, and not an abstract concept such as a corporation occupying a residence by way of an agent or representative or business (or however it can be explained to clarify the difference).

We hope that you will add the definition of “owner occupant” to Section 20-1701, or wherever necessary in the Land Development Code, to make the necessary distinction to protect our neighborhoods while at the same time encouraging owner-occupancy, as the meaning of the term is generally understood.

Thank you.

Sincerely yours,

*Cille King*

Cille King  
Co-President

*Alan Black*

Alan Black, Chairman  
Land Use Committee

Co-President  
David Burress

Co-President  
Cille King

President-Elect  
Cille King

Vice President  
marci francisco

Secretary  
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Old West Lawrence Association  
Kirk McClure, President  
mcclurefamily@sbcglobal.net

---

June 23, 2013

**Amalia Graham**

[amalia.graham@gmail.com](mailto:amalia.graham@gmail.com)

**Jim Denney**

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**Stan Rasmussen**

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**Bryan Culver (Vice-Chair)**

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**Bruce Liese (Chair)**

[bruce@kansascitysailing.com](mailto:bruce@kansascitysailing.com)

Re: **TA-13-00106: Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Articles 4 and 5, to permit the Accessory Dwelling Unit use as an accessory use in the RS5 (Single-Dwelling Residential) District.**

Dear Members of the Planning Commission

The proposed text amendment is generally supported by the Old West Lawrence Association (OWLA). Under many circumstances, accessory units can be beneficial to the neighborhood.

“Staff has had 15 Accessory Dwelling Units registered since the code adoption in 2006 and has had many conversations with property owners regarding the opportunity for the use on various properties, in various residential zoning districts including the RS5 District. With this interest and a change in economic conditions over the past few years, staff feels that this is text amendment does address a changing condition. There have been more situations where people are looking to downsize, have had economic

hardships and need to rely on family or property owners are looking to maximize their property investments while staying in their existing home. “

Old West Lawrence is mostly zoned RS5. Thus, the neighborhood has a deep interest in seeing that a change of this type be well implemented.

The proposed amendment also states:

“It is an opportunity to offer housing to address changing family needs, whether it is for family members or additional income while continuing to reside on the property. The standards require the owner to live in one of the units which can address property maintenance issues and concerns that occur with some rental properties.”

OWLA is concerned with possible abuse of this provision. OWLA does not want to see its single-family character diminished incrementally. There is concern that single-family homes could be broken up into multi-unit rental properties through misuse of this provision, calling one unit the primary residence and the second unit an “accessory unit.” This could be done by creation of partnerships designating the occupant of the primary units as a partner in the ownership, thus meeting the requirement of owner-occupancy even though in all other respects, the resident of the primary unit is a renter. Similar problems could arise if there is corporate ownership. Other mechanisms could be used to circumvent the intention but adhere to the letter of the law.

OWLA asks for more stringent language to prevent abuse and to ensure that an owner-occupant, not a surrogate for an owner, lives in one of the units.

Yours truly,

A handwritten signature in dark ink, appearing to read "Kirk McClure", followed by a horizontal line.

Kirk McClure, President  
*Old West Lawrence Association*

RECEIVED

JUN 24 2013

City County Planning Office  
Lawrence, Kansas

626 Ohio Street  
Lawrence, KS 66044  
June 24, 2013

Dear Commissioners:

RE: Agenda Item No. 5, scheduled for June 26

I am a resident of Old West Lawrence, and also own rental property there. The proposed text amendment would allow Accessory Dwelling Units in Old West Lawrence, which is in an RS5 District.

I am concerned that Section 20-534 of the Development Code could be interpreted as allowing corporations to own houses with Accessory Dwelling Units. This would be bad policy, that would, in effect, allow duplexes with absentee landlords in stable, well-maintained RS Districts like Old West Lawrence. I request that the section be amended to clarify that corporations cannot be owner-occupants of houses with Accessory Dwelling Units.

1. The current version of Development Code Section 20-534 requires owner occupancy of either the Accessory or Principal Dwelling Unit for Accessory Dwelling use in the RS districts where Accessory Dwelling Units are allowed.
2. Section 534 also requires that one of the units be the "principal residence" of an owner.
3. Development Code Section 20-1701 defines "Owner" to include corporations.
4. The Code does not define either owner-occupant or "principal residence."

Can a corporation be an owner-occupant with a principal residence within the meaning of the Accessory Dwelling Unit provision of the Code?

In light of the stated purposes of Accessory Dwelling Units, under any common-sense definition of "owner-occupant" or "principal residence" a corporation should not be considered an owner-occupant with a principal residence.

Section 20-534 provides:

Accessory Dwelling Units are allowed in certain situations to:

- (i) create new housing units while preserving the look and Scale of single-Family Detached Dwelling neighborhoods; subject to the procedures established in Section 20-534(2)(xi);
- (ii) allow more efficient use of the City's existing housing stock and Infrastructure;
- (iii) provide a mix of housing types that responds to *changing Family needs and smaller households*;

(iv) provide a means for *residents, particularly seniors, single parents, and couples, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services*; and

(v) provide a broader range of accessible and more affordable housing.

(Emphasis added.)

The clear intent of the owner-occupancy and principal residence requirements of Section 20-534 is to prohibit ownership of houses with Accessory Dwelling Units by absentee landlords. A corporation almost by its very nature is an absentee, because it is not a natural person, but a legal fiction.

Corporations are business organizations that the law regards as legal persons separate from their shareholders for economic purposes, such as owning property and entering contracts. Corporations do not have families, or households. They cannot be seniors, parents, or part of a couple. They do not need companionship, or the kind of personal security and services referred to in subsection (iv) of Section 20-534.

Corporations are not alive and so do not live anywhere. They do not sleep or cook, or watch cable TV. Corporations do not occupy Dwelling Units or have principal residences within the meaning of the Code because they cannot dwell or reside – that is, live – in them. What corporations have are places of business.

It might be argued that a corporation could occupy a unit through an agent. Suppose a corporation acquired a house that had an Accessory Dwelling Unit originally built for the former owner's aging relative. The corporation could offer a prospective tenant of the Accessory Unit a slight break in rent in return for acting as the corporation's agent with nominal duties, such as reporting problems. The principal unit could be rented to a family or up to three unrelated persons. This house would be essentially a Duplex, with neither unit occupied by an owner in any common-sense meaning of owner-occupant.

The "agent" would not have the same incentive or ability as a real owner-occupant to maintain and improve the property or influence the behavior of the other tenants. The corporation would be an absentee landlord for all practical purposes.

A house with an Accessory Dwelling Unit would be a more attractive investment property to a corporation in the business of renting houses than an identical house without one because it could well bring in an additional \$500 a month in rent.

Note also that one of the units in the house would have to be the *corporation's* principal residence satisfy the requirements of Section 20-534. But the corporation does not reside anywhere. The tenant



who is the corporation's agent would have its principal residence in the house, but the owner—the corporation—would not.

The closest thing a corporation has to a principal residence is a principal place of business. To be entitled to Accessory Dwelling Unit use, a corporation would have to maintain its principal office in one of the units. And that would be inconsistent with maintaining the single family character of RS districts.

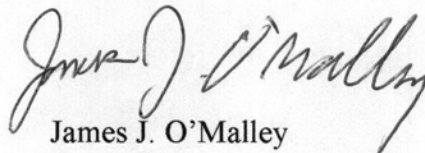
That it takes this long to explain why corporations cannot be owner occupants of houses with Accessory Dwelling Units is a strong indication that the Code language needs to be more clear.

Accordingly, I request that the Code be amended to clarify that corporations cannot be owner-occupants under Section 20-534 of the Development Code regarding Accessory Dwelling Units.

**Lack of Notice to Neighbors and Neighborhood Associations:**

The current version of Section 20-534 does not provide any notice of the proposed change of use from single family to Accessory Dwelling to neighbors or neighborhood associations. Other changes of use require notice to neighbors through special use permits. A change from single family use to a what is essentially a special kind of duplex is significant enough to warrant notice to neighbors and neighborhood associations.

Accordingly, I request that Section 20-534 be amended to require notice of the proposed change of use to neighbors and neighborhood associations.

A handwritten signature in dark ink, appearing to read "James J. O'Malley", is written over the printed name.

James J. O'Malley

RECEIVED

JUN 24 2013

City & County Planning Office  
Lawrence, Kansas

**Corporations should not be allowed to own structures containing  
Accessory Dwelling Units**

1. The City's ADU standards require owner-occupancy in one of the units, which the PC staff report points out "can address property maintenance issues and concerns that occur with some rental properties." That section obviously envisions the resident owner as a natural person. I would like to call your attention to the possibility of a corporation in the business of renting residential properties.

Can such a corporation be prevented from designating one tenant as an **agent** of the corporation to try to meet the owner-occupancy requirement for an ADU?

2. The City believes it is OK to have ADUs in single-family districts because:
  - A. Because it is their home, owner occupants usually take better physical care of property than absentee landlords.
  - B. Tenant behavior that would disturb residents of neighboring houses would to an even greater degree disturb an owner-occupant living on the other side of the wall from the ADU. Therefore, an owner-occupant can be expected to be motivated to impose restrictions on his or her tenant to minimize annoying behavior.

Is a corporate **agent** any more motivated than an **absentee owner** of a duplex?

Analysis

Under the law, corporations are legal "persons," capable of owning property. Corporations are included in the City ordinance section that defines "owner." But corporations are not "natural persons." They cannot be disturbed at night by noise, be discouraged by encroaching blight, or be disgusted by the smell of accumulated garbage. A corporation cannot live in a house. Corporations act through shareholders, directors, officers, agents, and employees. Who among those would have sufficient incentive to maintain the qualities hoped for in a single family residence? The identity of those actors can quickly change in the context of corporations.

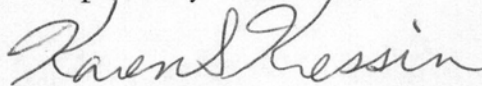
I submit that on one end of the spectrum, shareholders who singly or as a couple closely hold the corporation **might** qualify, and on the other end an agent or employee **certainly**

**would not.** The latter would be indistinguishable from a tenant in a duplex. This presents drafting problems.

- Where should the ordinance draw the line along the hierarchy of corporate actors?
- If shareholders qualify, how can they be adequately defined?
- How many shareholders can a corporation have before the ownership interest is too watered down to meet the goals of the Accessory Dwelling Unit ordinance?

**There are many uncertainties that drafters of an ordinance would be hard-pressed to foresee and forestall. The cleanest way to draft the ordinance would be to bar corporations from owning buildings with Accessory Dwelling Units in single family districts. If persons who hold a house in corporate ownership desire, for personal reasons, to have an Accessory Dwelling Unit in their home, they should be required to transfer ownership out of the corporation and into their own personal ownership, and then live there themselves.**

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Karen S. Kressin".

Karen S. Kressin, 626 Ohio Street, Lawrence



RECEIVED

JUL 22 2013

City County Planning Office  
Lawrence, Kansas

Dear Planning Commissioners,

7-21-13

The Lawrence Association of Neighborhoods, LAN, has voted to support OWL and all single-family neighborhoods in drafting an Accessory Dwelling Unit (ADU) code that will protect the peaceful nature of single-family zoned neighborhoods. Single family implies one family. This is not rental zoning. The intention of an ADU should be to allow minor flexibility for families living in our city-wide single-family neighborhoods to use their property in a judicious manner in keeping with "family" zoning expectations. It is imperative that the principal owner on record is the primary resident of the house or the accessory dwelling unit. The use of such units should be restricted to family members or supportive caregivers for family members.

There are many opportunities for investors to buy and rent property in more densely zoned neighborhoods. The enticement to buy in single-family neighborhoods is due to the fact that the houses are in better condition and thus more desirable than units in rental neighborhoods. Some unscrupulous investors have purchased houses in single-family neighborhoods and rented to more unrelated individuals than is allowed by city code. This was covered in recent years in an extensive LJ World article.

It would seem to be a simple solution for ADU's to make it mandatory that the principal owner on record is the primary resident of the house or the accessory dwelling. LLC's or corporations should not qualify as an owner occupant. If this code is changed from it's present form, please include language that makes these stipulations clear. Loop-holes left open will be discovered and used to economic advantage by non-neighborhood residents.

Thank you for your consideration, Laura Routh LAN Chair

TO: The Lawrence/Douglas County Planning Commission  
FROM: Jim O'Malley  
RE: Accessory Dwelling Unit Text Amendment  
DATE: July 20, 2013

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JUL 22 2013

City County Planning Office  
Lawrence, Kansas

I live at 626 Ohio Street, in Old West Lawrence, which is zoned RS-5.

**One.** Is there any reason to extend Accessory Dwelling Unit use to RS-5 districts? They are pretty dense already, and there has been no demand for it so far; the folks who requested the text amendment said they don't even plan to put in an ADU, but only want to have it available in case they might want one in the future. Perhaps the sensible thing would be to wait until someone has a specific project in mind.

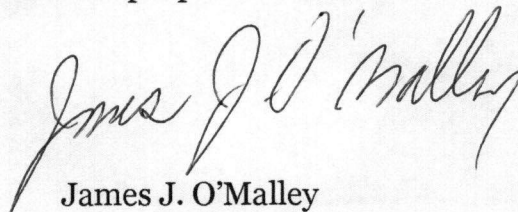
**Two.** It makes no sense to allow corporate ownership of homes with Accessory Dwelling Units. Accessory Dwelling Units were clearly intended only for actual living breathing homeowners who actually live on the property, and not for corporations and other business entities that don't live or reside anywhere.

The Accessory Dwelling Unit concept began as a recommendation by the League of Women Voters, and was enacted by the City in 2006. The League's June 23, 2013 letter to the Planning Commission states: "[I]t never occurred to us that the term 'owner occupant' could be construed as being a corporate owner. 'The letter makes it clear that Accessory Dwelling Units were intended only to be available to actual living breathing homeowners.

Note the stated purposes of the ADU provision in subsection (1) (iv) of 20-534. Accessory Dwelling Units are intended to "provide a means for residents, particularly seniors, single parents, and couples, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services." Section 20-534 cannot reasonably be construed to apply to corporations.

The section was never intended to allow corporate ownership. The Code should be amended to clarify that only living breathing natural persons can have Accessory Dwelling Units. That's what I requested last month. I now suggest the following:

"Only natural persons may be Owners for the purposes of this section "



James J. O'Malley



Other cities have enacted language to limit ownership of Accessory Dwelling Units to natural persons. Some examples follow:

Town of Lexington (Mass.) Article V, 135-19, Accessory Apartments

Subsection B (I)(d)

The owner of the property on which the accessory apartment is to be created shall occupy one or the other of the dwelling units, except for temporary absences as provided in Subsection B (I) (e). ***For the purposes of this section, the "owner" shall be one or more individuals who constitute a family, who hold title directly or indirectly to the dwelling, and for whom the dwelling is the primary residence...***(Emphasis added.)

Fauquier County, Virginia, Zoning Ordinance

***5-105 Standards for an administrative permit for a Family Dwelling Unit***

1. Such a unit shall not be occupied by more than five (5) persons, ***at least one of whom must be the natural or adopted parent, grandparent, child, grandchild, brother or sister of the owner and occupant of the single family residence on the same lot. Or, the lot owner may live in the family dwelling unit and allow such family members to reside in the main house. In either case, the lot owner must reside on the property*** (Emphasis added.)

Seattle

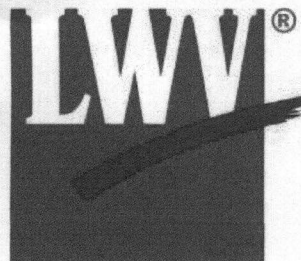
The home must be occupied by one or more owner(s) of the property as a ***permanent and principal residence***. The owner may live in either the main or accessory unit and must have ***a 50 percent or greater interest in the property*** (SMC 23.84A.028). The ***owner occupant must live in the structure for more than six months of each calendar year***. The owner is allowed to receive rent for the owneroccupied unit. (Emphasis added.)

City of Federal Way, Washington Revised Code 19.195.180

8. The property owner ***must reside in either*** the primary dwelling unit or ADU ***for six months or more of each calendar year, and at no time receive rent or other compensation*** for the owner-occupied unit.

Bellvue (Wash.) Municipal Code Ch. 20.20.120(A)(3)

'Owner occupancy' means a property owner, as reflected in title records, makes his or her ***legal residence*** at the site, ***as evidenced by voter registration***, vehicle registration, or similar means .... (Emphasis added.)



LEAGUE OF WOMEN VOTERS®  
OF LAWRENCE/DOUGLAS COUNTY

RECEIVED

JUL 22 2013

City County Planning Office  
Lawrence, Kansas

July 21, 2013

To Mr. Bryan Culver, Chair, and Members of the Lawrence-Douglas Co. Planning Commission

RE: AGENDA ITEM NO. 6, TA ON ACCESSORY DWELLING UNITS

In our letter to you in June regarding the Text Amendment to Accessory Dwelling Units, we pointed out that the original concept of accessory dwelling units was to aid families owning and living in single family homes who needed living space for elderly relatives. It was later broadened in our new Land Development Code to include the concept of providing expanded living space to homeowners to encourage owner-occupancy. It was never intended to become a threat to home owners and neighborhoods, which the current uncertainty about the term owner-occupancy and its relationship to permitting accessory dwelling units would create.

A high percentage of home owner-occupancy is desirable and recognized by urban planners because it provides stability to a neighborhood. The reason is because owners who live in their homes gain income from this ownership only upon selling it after maintaining their property in good condition and contributing to the stability of their neighborhoods. Therefore, they have an inherent incentive to do this. Absentee owners, on the other hand, gain income from their property through a stream of payments by renters, and this income isn't necessarily totally dependent on properly maintaining the property in good condition. Thus a high percentage of rental property in a neighborhood tends, without other measures, to lead to its deterioration. It is for this reason that any uncertainty and the wrong incentives are viewed by single family neighborhoods as threatening their stability.

Regarding a lack in our Land Development Code, the term "owner-occupancy" has not been defined in the Terminology Section 17. Only the term "owner" has been defined. At the June Planning Commission meeting it was pointed out that this allows corporate ownership to also mean a non-human owner-occupier, which, in turn raised the possibility, because of the ambiguity of terms, that a home that is owned by a corporation could qualify for an accessory dwelling without having a bone fide flesh-and-blood occupant-owner. This could lead ultimately to actual absentee ownership but with technical owner-occupancy and the incentive to convert single family homes to rental properties legally having two rental units. This is why owners living in their homes in single family districts feel threatened by this section on accessory dwellings in Section 20-534.

The staff has returned with the definition of "owner" as it applies to accessory dwelling units that would allow in a case where the **"...owner is not a natural person, then either the principal Dwelling Unit or the Accessory**

Co-President  
David Burress

Co-President  
Cille King

President-Elect  
Cille King

Vice President  
marci francisco

Secretary  
Caleb Morse

Treasurer  
Marjorie Cole

Directors  
Margaret Arnold

Caroljean Brune

Scott Criqui

James Dunn

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OF LAWRENCE/DOUGLAS COUNTY  
Page 2

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**Dwelling Unit must be occupied by one or more principals of the Owner."** (Proposed amendment to Section 20-534(2)(iv))

We are greatly concerned with this new addition to the section and ask that you not accept this as a text amendment for the following reasons: Any term applied to a type of ownership that allows the "owner" to be described as "**other than a natural person**," regardless of the meaning of the term "principal" opens up the invitation to elaborate on the interpretation. This could result in allowing absentee "ownership" with the same unfortunate consequences as any absentee ownership whose purpose is income from both units. It would essentially provide incentive to transform current and future neighborhoods having a high percentage of owner-occupancy of real live people into properties with absentee owners occupied by some varied interpretation of the term "principal."

**The permission to add an "attached dwelling unit" is a privilege, not a right.** It requires real, live people who legally own a recorded deed to the property in their legal names and who actually live in the home on the property, i.e., owner-occupancy, and does not in the understanding of the term include "other than a natural person." Therefore, we suggest the following to make the term owner-occupancy unambiguous:

Add two definitions of "owner-occupancy" in Section 17, page 17-13 after the definition of "owner."

(a) "**Owner-occupancy, general** can include in its meaning a corporate or similar ownership that does not include a natural person. This does not include eligibility to apply Section 534 to any structure which is occupied as defined under this definition."

(b) "(2) "**Owner-occupancy, specific** means "a natural person or persons whose legal name(s) are on the recorded deed as individual natural persons and owners of the property in which they reside. These natural persons are eligible to add Accessory Dwelling Units to their homes, provided they have conformed to Section 20-534 and all other applicable laws of the City of Lawrence Land Development Code."

If these two definitions, or similar wording with the same meaning, cannot be added to the definitions, Section 20-1701, then we ask that you completely eliminate Section 20-534(2)(iv)) from the Land Development Code based on the threat that it would pose to all of our present and future single family neighborhoods.

Sincerely yours,

*Cille King*

Cille King  
President

*Alan Black*

Alan Black, Chairman  
Land Use Committee