LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
CITY HALL, 6 EAST 6TH STREET, CITY COMMISSION MEETING ROOM
AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS
JULY 20 & 22, 2015  6:00PM - 10:30PM

GENERAL BUSINESS:

PLANNING COMMISSION MINUTES
Receive and amend or approve the minutes from the Planning Commission meeting of June 22, 2015.

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, 2015) MEETING
PUBLIC HEARING ITEMS:
Convene Joint Meeting with Lecompton Planning Commission
ITEM NO. 1  CONDITIONAL USE PERMIT FOR BURNING BARREL; 292 N 2100 RD (MKM)


Adjourn Joint Meeting
Reconvene LDCMPC

ITEM NO. 2  SPECIAL USE PERMIT FOR 2110 HARPER ST (BJP)

SUP-15-00241: Consider a Special Use Permit for an Institutional Development Plan for the Douglas County Fairgrounds Master Plan located at 2110 Harper St. The plan includes the removal of several existing buildings, barns and the baseball fields and construction of a new Open Pavilion Building, Meeting Hall, Outdoor Meeting Area and restrooms. The plan also includes removal and replacement of the Outdoor Arena. Parking and interior circulation areas will also be modified and improved. Improvements are being made to provide code compliant facilities to serve a variety of Community Facility activities that take place at the fairgrounds. Submitted by Landplan Engineering & Treanor Architects on behalf of Douglas County, property owner of record.

ITEM NO. 3  PRD TO RM15; 9.818 ACRES; 2101 EXCHANGE CT (KES)


ITEM NO. 4  SPECIAL USE PERMIT FOR 1045 PENNSYLVANIA ST (BJP)

SUP-15-00256: Consider a Special Use Permit to permit a Limited Manufacturing & Production business that will manufacture and sell dog treats on-site in the existing building located at 1045 Pennsylvania St. Submitted by Gary & Angie Rexroad, property owners of record.

ITEM NO. 5  SPECIAL USE PERMIT FOR 804 PENNSYLVANIA ST (MKM)

SUP-15-00261: Consider a Special Use Permit for a Bar located at 804 Pennsylvania St. Submitted by Flint Hills Holdings Group LLC, for Ohio Mortgage LLC, property owner of record.

NON-PUBLIC HEARING ITEM:
ITEM NO. 6  PRELIMINARY PLAT FOR NORTH LAWRENCE RIVERFRONT ADDITION; 401 NORTH 2ND ST (SLD)

PP-2-1-12: Consider a Preliminary Plat for North Lawrence Riverfront Addition, located at 401 North 2nd Street. This subdivision includes variances related to block length, right-of-way dedication for N. 2nd Street as a principal arterial, and connection of a local street to an arterial street. Submitted by Paul Werner Architects, for North Mass Redevelopment, LLC, Douglas County Kaw Drainage District, City of Lawrence, Kaw River Estates, LLC, HDD of Lawrence LLC, D & D Rentals of Lawrence LLC, Jeffrey W. Hatfield, Exchange Holdings LLC, Loosehead Investments LLC, and Riverfront Properties of Lawrence LLC, property owners of record.

RESUME PUBLIC HEARING:
ITEM NO. 7A  CN2 TO OS; .193 ACRES; 6300 BOB BILLINGS PKWY (SLD)
Z-15-00244: Consider a request to rezone approximately .193 acres from CN2 (Neighborhood Commercial Center) District to OS (Open Space) District, located at 6300 W Bob Billings Pkwy. Submitted by Tim A Herndon, for RSR Holdings LLP, property owner of record.

ITEM NO. 7B OS TO CN2; .992 ACRES; 6300 BOB BILLINGS PKWY (SLD)

Z-15-00245: Consider a request to rezone approximately .992 acres from OS (Open Space) District to CN2 (Neighborhood Commercial Center) District, located at 6300 W Bob Billings Pkwy. Submitted by Tim A Herndon, for RSR Holdings LLP, property owner of record.

ITEM NO. 7C RM24, RM12D, RS7 TO RS5; 11.15 ACRES; 6300 BOB BILLINGS PKWY (SLD)

Z-15-00251: Consider a request to rezone approximately 11.15 acres from RM24 (Multi-Dwelling Residential) District, RM12D (Multi-Dwelling Residential) District, RS7 (Single-Dwelling Residential) District to RS5 (Single-Dwelling Residential) District, located at 6300 Bob Billings Pkwy. Submitted by Tim Herndon, for RSR Holdings LLP, property owner of record.

ITEM NO. 7D RM12D TO RS5; 3.255 ACRES; 6304-6323 SERENADE CT (SLD)


NON-PUBLIC HEARING ITEM:
ITEM NO. 7E PRELIMINARY PLAT FOR LANGSTON COMMONS; BOB BILLINGS PKWY & LANGSTON WAY (SLD)

PP-15-00246: Consider a Preliminary Plat for Langston Commons, located northwest of Bob Billings Pkwy and Langston Way. This subdivision includes 17.5 acres for neighborhood commercial development and 48 lots for residential development. Submitted by BG Consultants, for RSR Holdings LLP and KS Secretary of Transportation, property owners of record.

RESUME PUBLIC HEARING:
ITEM NO. 8A TEXT AMENDMENT FOR FLOODPLAIN OVERLAY DISTRICT MAPS


ITEM NO. 8B TEXT AMENDMENT FOR FLOODPLAIN OVERLAY DISTRICT MAPS


**DEFERRED**
ITEM NO. 9 DESIGN GUIDELINES FOR NORTH LAWRENCE RIVERFRONT ADDITION

Design Guidelines as a condition of the zoning for North Lawrence Riverfront Addition, 401 N 2nd St.

**DEFERRED**
ITEM NO. 10A—RS7, RM12, PUD TO RM24-PD OVERLAY; 51.85 ACRES; 1800, 1809, 2021 CROSSGATE DR (SLD)

Z-14-00552: Consider a request to rezone approximately 51.85 acres from RS7 (Single-Dwelling Residential) District, RM12 (Multi-Dwelling Residential) District, and PUD [Alvamar] (Planned Unit Development) District to RM24-PD Overlay (Multi-Dwelling Residential Planned Development Overlay) District including property located at 1800, 1809, and 2021 Crossgate Dr. Submitted by Paul Werner Architects on behalf of Alvamar Inc., property owner of record. Deferred by Planning Commission on 2/23/15.

**DEFERRED**

ITEM NO. 10B—PRELIMINARY DEVELOPMENT PLAN FOR ALVAMAR; 1809 CROSSGATE DR (SLD)

PDP-15-00247: Consider a Preliminary Development Plan for Alvamar, containing approximately 50 acres and located at 1809 Crossgate Drive. The plan proposes the construction of a new entrance road from Bob Billings Parkway, Multi-Dwelling Structures containing 292 dwelling units, Active and Passive Recreation uses including a new clubhouse and event center, and Assisted and Independent Living uses containing 124 dwelling units. Submitted by Paul Werner Architects, for Alvamar Inc., property owner of record.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

MISC NO. 1 OREAD DESIGN GUIDELINES SUBCOMMITTEE MEMBER

Appoint Planning Commissar to Oread Design Guidelines Subcommittee.

ADJOURN

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

Sign up to receive the Planning Commission agenda or weekly Planning Submittals via email:
http://www.lawrenceks.org/subscriptions
# 2015
LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
MI D-MONTH & REGULAR MEETING DATES

<table>
<thead>
<tr>
<th>Mid-Month Meetings, Wednesdays 7:30 - 9:00 AM (*Friday Meeting)</th>
<th>Mid-Month Topics</th>
<th>Planning Commission Meetings 6:30 PM, Mon &amp; Wed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan 14</td>
<td>Work Plan &amp; Topics for 2015</td>
<td>Jan 26 Jan 28</td>
</tr>
<tr>
<td>Feb 11</td>
<td>Entrepreneur Incubator Spaces</td>
<td>Feb 23 Feb 25</td>
</tr>
<tr>
<td>Mar 11</td>
<td>Legal Review - Open Meetings &amp; Communication Issues</td>
<td>Mar 23 Mar 25</td>
</tr>
<tr>
<td>Apr 8</td>
<td>Article 9 - Parking Amendments</td>
<td>Apr 20 Apr 22</td>
</tr>
<tr>
<td>May 6</td>
<td>Article 9 - Parking Amendments</td>
<td>May 18 May 20</td>
</tr>
<tr>
<td>Jun 10</td>
<td>Discussion of Future Land Uses at Iowa Street/K-10 interchange</td>
<td>Jun 24</td>
</tr>
<tr>
<td>Jul 8</td>
<td>Article 9 - Parking Amendments</td>
<td>Jul 20 Jul 22</td>
</tr>
<tr>
<td>Aug 21*</td>
<td>PC Orientation - all day Friday</td>
<td>Aug 24 Aug 26</td>
</tr>
<tr>
<td>Sep 9</td>
<td>Sustainability - Eileen Horn</td>
<td>Sep 21 Sep 23</td>
</tr>
<tr>
<td>Oct 7</td>
<td>Cultural Plan – Porter Arneill</td>
<td>Oct 19 Oct 21</td>
</tr>
<tr>
<td>Nov 4</td>
<td>TBD</td>
<td>Nov 16 Nov 18</td>
</tr>
<tr>
<td>Dec 2</td>
<td>TBD</td>
<td>Dec 14 Dec 16</td>
</tr>
</tbody>
</table>

**Suggested topics for future meetings:**
- How City/County Depts interact on planning issues
- Stormwater Stds Update - Stream Setbacks
- Overview of different Advisory Groups – potential overlap on planning issues
- Joint meeting with other Cities’ Planning Commissions
- Joint meeting with other Cities and Townships – UGA potential revisions
- New County Zoning Codes
- Tour City/County Facilities
- Water Resources
- Communication Towers - Stealth Design, # of co-locations, notice area
- WiFi Connectivity & Infrastructure Planning
- Oread Overlay Districts & Design Guidelines
- Comprehensive Plan – Goals & Policies
- Sustainability
- Affordable Housing
- Retail Market Impacts
- Cultural Plan/9th Street Corridor
- Case Studies

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

Planning & Development Services | Lawrence-Douglas County Planning Division | 785-832-3150 | www.lawrenceks.org/pds

Revised 07/08/15
### 2015 PLANNING COMMISSION ATTENDANCE

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Britton</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Butler</td>
<td></td>
<td></td>
<td></td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Culver</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Denney</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Graham</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Josserand</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Kelly</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Liese</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Struckhoff</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>von Achen</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### 2015 MID-MONTH ATTENDANCE

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Britton</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Butler</td>
<td></td>
<td></td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Culver</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Denney</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Graham</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Josserand</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kelly</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Liese</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Struckhoff</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>von Achen</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
PLANNING COMMISSION MEETING
June 22, 2015
Meeting Minutes

June 22, 2015 – 6:30 p.m.
Commissioners present: Butler, Britton, Denney, Graham, Kelly, Struckhoff, von Achen
Staff present: McCullough, Stogsdill, Day, Larkin, M. Miller, Pepper, Ewert

PLANNING COMMISSION MINUTES
Receive and amend or approve the minutes from the Planning Commission meeting of May 18, 2015.

Motioned by Commissioner Struckhoff, seconded by Commissioner von Achen, to approve the May 18, 2015 Planning Commission minutes.

Motion carried 7-0.

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

Commissioner Denney said the Metropolitan Planning Organization met last week and a majority of the meeting was a presentation by the Kansas Department of Transportation (KDOT) on the expansion of the west leg of K-10/South Lawrence Trafficway to four lanes. He said it could have a broad ranging effect on planning for the future.

Commissioner Britton provided a Horizon 2020 steering committee update. He said they were getting closer to the final issues action report that would recommend items of concern and priority for an updated comprehensive plan.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST
- Ex parte:
  Commissioner Kelly said he received a call from former Planning Commissioner, Bryan Culver, who talked to Mr. Duane Schwada about Item 2 and concerns regarding the fall zone of the proposed cellular tower.
- No abstentions.
ITEM NO. 1  CONDITIONAL USE PERMIT FOR FLORY DAIRY EQUIPMENT; 702 E 1747 RD (MKM)


STAFF PRESENTATION
Ms. Mary Miller presented the item.

APPLICANT PRESENTATION
Flory Dairy was present and said they agreed with the staff report.

PUBLIC HEARING
No public comment.

ACTION TAKEN
Motioned by Commissioner Kelly, seconded by Commissioner Graham, to approve the Conditional Use Permit for Flory Dairy Equipment, classified as Office and Research Facility and Farm Implement Repair Service, and forwarding it to the Board of County Commissioners with a recommendation for approval based upon the findings of fact in the body of the staff report and subject to the following conditions:

1. The following actions shall occur prior to the release of the permit for the Conditional Use:
   a. Applicant shall obtain an easement from the property owners for the long-term use of the off-site lagoon.
   b. Applicant shall obtain a permit or easement from Douglas County for the pipe under E 1750 Road which accesses the lagoon prior to the release of the permit for the Conditional Use.
   c. Applicant shall dedicate an access easement providing access for the residence at 701 E 1747 Road to connect to E 1747 Road.
   d. A revised CUP plan must be provided to the Planning Office with the following changes:
      a. Recording information for the easement for the lagoon noted on the plan.
      b. The ADA parking space identified on the plan.
      c. Total building area noted on the plan with the following note: “The addition of a new use into the unused portion of the building will require CUP approval.”
      d. Label the portions of the building that are to be used for office, repair/storage, and warehouse.

2. The following actions shall occur prior to the release of a Certificate of Occupancy:
   a. Repair of the lagoon fencing which include the patching of a hole in the north side of the fence and reattachment of the gate to the posts per the County Health Official’s approval.
   b. Improvements made to the access drives on E 1750 Road per the County Engineer’s approval.
   c. Installation of signage noting the access restrictions for the E 1747 Road access points on N 700 and E 1750 Roads.
   d. Applicant shall construct a privacy fence along the access easement to screen the business from the residence at 701 E 1747 Road.
Unanimously approved 7-0.
ITEM NO. 2  SPECIAL USE PERMIT FOR VERIZON WIRELESS; 2001 MOODIE RD (SLD)


STAFF PRESENTATION
Ms. Sandra Day presented the item.

APPLICANT PRESENTATION
Mr. Curtis Holland, Polsinelli Law Office, representing Verizon Wireless. He said this was a compromise to the last application that was denied by City Commission. He said the site was needed to improve coverage and phone calling capacity. He said the tower was moved to where the City Commission directed that it be moved for it not to be an issue. He said the zoning and adjoining land uses were almost all industrial. He stated the adjoining property owner to the north was Duane and Steve Schwada. He said he mistakenly reached out to Free State Bottling thinking that they owned the property when it was really owned by the Schwada's. He said the Schwada's concern was about the fall zone and that it could fall over onto their property. He said there wasn't really any flexibility in moving the tower because of the overhead Westar power lines and the location of Ottawa Cooperative Association deliveries. He said the tower was put in the best spot in terms of where the property owner wanted it and where the power lines were located. He said with respect to concerns about a cell tower falling over, they were built not to fall over. He said cell towers were designed to fail at the top and the pole will crimp. He stated they were not designed to fall over at the base. He said the project met the Code. He showed pictures of other cell towers in Lawrence that were close to buildings and had not had any issues.

PUBLIC HEARING
No public comment.

COMMISSION DISCUSSION
Commissioner Denney asked if the tower was capable of housing other co-locations.

Mr. Holland said yes, it would hold at least two other users.

Commissioner Struckhoff asked about some of the technical challenges of a stealth tower.

Mr. Holland said the biggest issue with a stealth designed tower was that it was hard to use as a co-location for other carriers. He said if a carrier was restricted to a stealth pole they would end up having to stack the technology into a canister type tower that could potentially take up 30’ of space. He said it was harder to co-locate on those types of structures. He said that would mean more short and small towers versus a single taller tower that could accommodate other users.

Commissioner von Achen said a previous application talked about five carriers.

Ms. Day said that was a tower out in the county that was a little taller.

Commissioner von Achen said future carriers would need to negotiate with the land owner to build pad sites. She wondered if that would be an issue in the future.
Mr. Holland said there was ground space but the land owner wanted to control the ground leases and the location of them.

Commissioner von Achen asked if the fall zone was the length of the tower.

Mr. Holland said that was what Mr. Schwada thought. He said the fall zone was the zone of where it would fall if there was a failure. He said the failure point was designed at the upper portion of the tower so it would fall into itself. He said tower setbacks had little to do with a tower falling over and hitting property. He said it was more for aesthetic reasons. He stated skyscrapers did not just fall over and there weren't fall zones for skyscrapers. He said it was the same for monopoles. They were designed and engineered not to fall over.

Commissioner von Achen inquired about different setbacks for different zonings.

Commissioner Kelly said the applicant was saying not to worry about the fall zone.

Ms. Day said tower regulations were adopted in the mid 1990’s. She said the Code gave the option for a tower to be setback a certain distance with an established fall zone. She said the applicant had to provide statements of special inspection and engineer reports about the structure so that there was a high level of confidence.

Commissioner Kelly asked if there was no ability to move the tower. He asked if the engineering documents could support the safety of it.

Ms. Day said the tower had been closer to the property and the street. She said staff encouraged the applicant talk to the adjacent property owner. She said the tower moved a little bit in the same general location.

Commissioner Britton asked how high the grain elevator was.

Mr. Holland said it was roughly 130-140’.

Ms. Day said the grain elevator was taller than the tower.

**ACTION TAKEN**

Motioned by Commissioner Struckhoff, seconded by Commissioner Denney, to approve the Special Use Permit for a communication tower located at 2001 Moodie Road and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Applicant shall submit a revised site plan to show five (5) additional street trees along the north 200 feet of Moodie Road to mitigate the proposed use from the residential use to the south.
2. Prior to release of the site plan for issuance of a building permit, the applicant shall provide the following changes and documentation:
   a. Submission of documentation to demonstrate the tower fall zone will be maintained within the parent parcel.

Commissioner Kelly said Planning Commission received communications regarding requests for mitigation and that it was beyond the scope of Planning Commission.

Commissioner Britton said cell towers were always difficult because people want the technology but without seeing it or being near their property. He said he appreciated hearing from the public but
that Planning Commission had a narrow focus and the applicant did a good job of finding a compromised location.

Unanimously approved 7-0.
ITEM NO. 3A  RSO TO CN2; 10 ACRES; 4300 W 24TH PLACE (SLD)

Z-15-00198: Consider a request to rezone approximately 10 acres from RSO (Single-Dwelling Residential-Office) District to CN2 (Neighborhood Shopping Center) District, located at 4300 W 24th Place. Submitted by Paul Werner Architects, on behalf of RPI LLC, property owner of record.

ITEM NO. 3B  PRELIMINARY PLAT FOR 24TH PLACE ADDITION; 4300 W 24TH PLACE (SLD)

PP-15-00196: Consider a Preliminary Plat for 24th Place Addition, containing one 7-acre lot for proposed neighborhood commercial development and 14 residential lots for duplex development, located at 4300 W 24th Place. Submitted by BG Consultants, Inc., on behalf of RPI LLC, property owner of record.

STAFF PRESENTATION
Ms. Sandra Day presented items 3A and 3B together.

APPLICANT PRESENTATION
Mr. Paul Werner, Paul Werner Architects, said this was a reasonable solution to a tough site. He said the RSO zoning would provide a buffer from Remington Square Apartments and provided the developer a project to get started with right away. He said the CN2 zoning followed the Inverness Park District Plan that was adopted by Planning Commission and City Commission. He said he held a neighborhood meeting on May 11th and that twelve or so people showed up and provided good feedback. He said one of the comments was about limiting large traffic generators such as a McDonald’s fast food restaurant. He said a McDonald’s would not locate at the site because it wasn’t a busy enough area for them. He said another comment he received was flipping the duplex location with the commercial location. He said he did not like that idea because there is a reason that commercial wants to be on a corner with a light. He also did not like having residential fences back up to a busy street. He felt this was a better plan. He said a site plan should go before City Commission for public hearing. He stated that all drive-thrus would have to go through the Special Use Permit process. He said he offered to expand the notification area. He said the alternative to this plan would be the entire site being duplexes. He said this plan fit the neighborhood plan. He said he agreed with the staff report conditions on both items.

PUBLIC HEARING
Mr. Larry Grecian, 4417 W 25th Place, said he spoke in opposition of the previously proposed project, Family Fun Center, in March of 2014. He felt duplexes and greenspace were positive but he was fearful of the CN2 zoning. He wondered what would keep the domino effect from allowing a potentially harmful Special Use Permit. He felt a guarantee should be put in writing that certain uses should not be allowed. He said the neighborhood wanted to protect their homes and children.

APPLICANT CLOSING COMMENTS
Mr. Werner said the idea of guaranteeing certain businesses was not feasible. He said he had a good feel for what the neighborhood would want, such as a local coffee shop.

COMMISSION DISCUSSION
Commissioner von Achen asked staff about the green buffer zone.

Ms. Day said that staff’s recommendation was that the Preliminary Plat would show 65’ buffer for the south 350’. She said the total length of the property along Inverness was 431’. She said it would
extend the bufferyard to the backyards of the row of residences on the north end. She said the intent was to establish a bufferyard and allow for things such as benches and pedestrian amenities. She said it would prohibit buildings, parking lots, and high use areas that were commercially oriented with the building.

Commissioner von Achen said the goals of Inverness Park District Plan encouraged the development of a strong park trail system. She asked if that was being incorporated into this.

Ms. Day said at this point, no. She said the topography of this specific property does not lend itself to having direct pedestrian connection. She said the only way to achieve that was along the public sidewalks. She said the language was focused on greenspace that separates the multi-family on the south side of 24th Place with the residential subdivision farther to the south. She said there was a wide green strip with floodplain and natural drainage area identified as a future park with trails. She said the very south end of the planning area may be more conducive to providing pedestrian connection than this corner because of the steep slope.

Commissioner Britton said the duplexes conformed with the current zoning but not the neighborhood plan, which was an interesting aspect to the proposal. He said he was fine with the proposal and that the previous proposal was more of a regional use instead of a neighborhood commercial use. He felt the conditions were good and he liked the fact that there would be a public process for whatever would go there. He inquired about the notification process for a site plan.

Ms. Day said the notice boundary would be 200’ and public notice signs would be posted at the site.

Commissioner Britton said it would make him feel better about this if good notice could be provided.

Mr. McCullough said it could be added as a condition to the ordinance.

Commissioner Denney agreed with Commissioner Britton. He expressed concern about the potential effect that the expansion of the west trafficway could have. He said the nature of that intersection may change dramatically if the only access off of K-10 was on Inverness. He felt they should carefully watch what happens at this location in light of that potential.

Commissioner Struckhoff said these were uses that were more suitable to the commercial neighborhood designation than the previous application. He felt they should encourage the development of things that people can walk to from their front door. He said he was inclined to support the proposal.

**ACTION TAKEN on Item 3A**

Motioned by Commissioner Kelly, seconded by Commissioner Britton, to approve the rezoning request for approximately 10 acres from Single-Dwelling Residential-Office (RSO) to Neighborhood Shopping Center (CN2) 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 conditions:

1. The City Commission shall review and approve any site plan application prior to issuance of a building permit on the subject property.
2. As part of any proposed development, the extraordinary buffer yard along Inverness Drive shall be limited to open space, landscape, and park-type amenities.
3. The following uses shall be prohibited:
   a. Household living (all residential uses)
4. Provide notice to owners within 1,000 feet for any future site plan on the CN2 zoning.

Commissioner Kelly appreciated what Commissioner Denney said. He said it was tough to know the future of this property forever. He felt this was a great example of planning because it conformed with the neighborhood plan. He said there was a little bit of loss on both sides for the applicant and neighborhood. He encouraged the public to never stop being civically engaged.

Commissioner Britton thanked staff, the applicant, and the neighborhood for their involvement.

Commissioner von Achen thanked staff for their research and time on this project.

Motion carried 6-1, with Commissioner Butler voting in opposition.

ACTION TAKEN on Item 3B
Motioned by Commissioner Kelly, seconded by Commissioner Struckhoff, to approve the Preliminary Plat for 24th Place Addition subject to the following conditions:

1. Revise Preliminary Plat to show a minimum building and parking setback along Inverness Drive of at least 65’ along the southern 350’ of frontage to extend to the rear lot lines of the dwellings on the north side of Adams Avenue.
2. Provision of a note on the face of the plat that states the setback does not apply to accessory structures or pedestrian amenities.

Motion carried 6-1, with Commissioner Butler voting in opposition.
ITEM NO. 4  PRELIMINARY PLAT FOR DEERFIELD WOODS SUBDIVISION NO. 10; 3320 PETERSON RD (BJP)

PP-15-00189: Consider a Preliminary Plat for Deerfield Woods Subdivision No. 10, a Commercial-Office subdivision containing 3 lots, located at 3320 Peterson Rd. Submitted by Landplan Engineering PA, on behalf of Cheer Pole Ltd, property owner of record.

STAFF PRESENTATION
Ms. Becky Pepper presented the item.

APPLICANT PRESENTATION
Mr. Brian Sturm, Landplan Engineering, said the property owner agreed with the staff report and conditions.

PUBLIC HEARING on Variance Only
No public comment.

COMMISSION DISCUSSION
Commissioner von Achen asked why they were voting on variances when they were approved in 2013.

Mr. McCullough said they needed to be reaffirmed since this application superseded the prior subdivision.

ACTION TAKEN
Motioned by Commissioner von Achen, seconded by Commissioner Denney, to

1. Approve the variance with regard to the minimum right-of-way width for Kasold Drive and Peterson Road from 150’ to 100’.

2. Approve the variance to allow sidewalk on only one side of the street for Sherwood Drive and Sterling Drive, with the condition that sidewalks be installed on the entirety of both Sherwood Drive and Sterling Drive with either any new development on Lot 1 or major development on Lot 2 or Lot 3.

Approve the Preliminary Plat for Deerfield Woods Subdivision No. 10., subject to the following conditions:

1. The plat shall be revised to include the following notes:
   a. “On June 22, 2015, the Planning Commission approved a variance to forego the installation of sidewalks on Sherwood Drive and Sterling Drive, with the condition that sidewalks be installed on the entirety of both Sherwood Drive and Sterling Drive with either any new development on Lot 1 or any major development on Lot 2 or Lot 3.”
   b. “Only June 22, 2015, the Planning Commission approved a variance from right-of-way requirements in Section 20-810(e)(5) of the Subdivision Regulations to allow the replatting of this property with 100 feet of right-of-way currently provided for Kasold Drive and Peterson Road.”
   c. “Access to Peterson Road and Sterling Drive shall be limited to one curb cut each.”
Commissioner Britton agreed with the variances on sidewalks for now but that they should be on both sides of the street when developed.

Commissioner Kelly asked if development on lot 1 would trigger sidewalks all the way around or just on lot 1.

Mr. McCullough said it would trigger sidewalks all the way around.

Unanimously approved 7-0.
ITEM NO. 5  FINAL PLAT FOR BAUER FARM SEVENTH PLAT; 4700 OVERLAND DR (MKM)

PF-15-00094: Consider a Final Plat for Bauer Farm Seventh Plat, a 4 lot planned commercial, residential, and office subdivision containing approximately 14.569 acres, located at 4700 Overland Drive. Submitted by Treanor Architects, for Bauer Farms Residential LLC and Free State Holdings, Inc., property owners of record.

STAFF PRESENTATION
Ms. Mary Miller presented the item.

APPLICANT PRESENTATION
Mr. Micah Kimball, Treanor Architects, was present for questioning.

PUBLIC HEARING
No public comment.

ACTION TAKEN
Motioned by Commissioner Struckhoff, seconded by Commissioner Britton, to approve the Final Plat for the Bauer Farm Seventh Plat Subdivision and forwarding it to the City Commission for acceptance of easements and rights-of-way, subject to the following conditions:

1. Provision of revised, executed Master Street Tree Plan for recording.
2. Pinning of lots in accordance with Section 20-811(k) of the Subdivision Regulations.
3. Provision of a revised Final Plat with the following change:
   a. Endorsements revised to reflect that the Planning Commission approved the Final Plat.

Unanimously approved 7-0.
ITEM NO. 6   FINAL DEVELOPMENT PLAN FOR BAUER FARM; XPRESS WELLNESS URGENT CARE; 4700 OVERLAND DR (MKM)

FDP-15-00108: Consider a Final Development Plan for Bauer Farm, Xpress Wellness Urgent Care Walk-In Clinic, located on approximately 1.4 acres, located at the northwest corner of 6th St. and Folks Rd. Submitted by Kerr 3 Design Group, Inc., for Free State Holdings, Inc., property owner of record.

STAFF PRESENTATION
Ms. Mary Miller presented the item.

APPLICANT PRESENTATION
Mr. Donald Rose was present for questioning.

PUBLIC HEARING
No public comment.

COMMISSION DISCUSSION
Commissioner Kelly asked staff to talk about traffic along Folks Road. He inquired about impacts that would be expected.

Ms. Miller said a revised traffic impact study was submitted to the City Engineer and the change in traffic was not found to be much more than the bank.

Commissioner Kelly expressed concern about traffic at that intersection. He thought Bauer Farm Drive may help traffic a little bit by providing another access point. He stated the amount of traffic that turns onto Folks Road from 6th Street was high at the beginning of the school day and also at the end of the school day.

Mr. Rose said the traffic impact study showed it would be far less traffic than the previously proposed bank.

Mr. McCullough said the acceptance of the traffic impact study showed the system could handle the traffic anticipated. He said further north at 6th Street and Folks was a bigger congestion point. He stated staff was working on a benefit district for a traffic signal at Champion and 6th Street.

Commissioner Struckhoff said now pedestrians could walk to the facility from Bauer Farm Drive or 6th Street without crossing the parking lot.

ACTION TAKEN
Motioned by Commissioner Struckhoff, seconded by Commissioner Denney, to approve the Final Development Plan based upon the findings of fact presented in the body of the Staff Report subject to the following conditions:
1. The final plat for the subject property, Bauer Farm Addition No 7, shall be recorded with the Register of Deeds, prior to the recording or release of the Final Development Plan.
2. Submission of revised Final Development Plan with the following change:
   a. Addition of the following note to the Bufferyard Landscape Summary: “The landscaping provided for the Type 1 Bufferyard required on the north side of the property (adjacent to PRD Zoning) as shown on the plan has been approved through Alternative Compliance,”
taking into account the width of the Bauer Farm Drive Right-of-way and the parking area to the north."

Unanimously approved 7-0.
ITEM NO. 7  FINAL DEVELOPMENT PLAN FOR BAUER FARM MULTI-FAMILY; 4700 OVERLAND DR (MKM)

FDP-15-00066: Consider a Final Development Plan for Bauer Farm-Multi-Family, a 100 unit multi-dwelling residential development containing approximately 4.0 acres, located at 4700 Overland Drive. Submitted by Treanor Architects, for Bauer Farms Residential LLC, property owner of record.

STAFF PRESENTATION
Ms. Mary Miller presented the item.

APPLICANT PRESENTATION
Mr. Micah Kimball, Treanor Architects, was present for questioning.

PUBLIC HEARING
No public comment.

COMMISSION DISCUSSION
Commissioner von Achen inquired about the number of stories.

Ms. Miller said 35’ was the height limitation. She said if exceeded it would need setbacks or a variance.

Commissioner von Achen asked what 35’ equaled.

Ms. Miller said three stories.

Commissioner Britton said this was an area of town where increased density could prevent the expansion of more apartments farther west.

Ms. Miller said parking was the main concern.

Commissioner Kelly said he was happy to see row house new urbanism design stay on the south side. He inquired about the choice to go with more traditional on the north side.

Mr. Kimball said it had a different mix of unit types. He said the patterning on the building was broken into vertical patterns with different materials.

Commissioner Britton asked about potential parking concerns with Theatre Lawrence.

Ms. Miller said Theatre Lawrence was concerned about parking and wanted to be sure the development could handle parking on its own site.

ACTION TAKEN
Motioned by Commissioner Kelly, seconded by Commissioner Struckhoff, to approve the Final Development Plan, FDP-15-00066, based upon the findings of fact presented in the body of the Staff Report subject to the following conditions:
1. A revised photometric plan shall be provided and approved prior to release of the plan for building permits.
2. The final plat for the subject property, Bauer Farm Seventh Plat, shall be recorded with the Register of Deeds, prior to the recordation or release of the Final Development Plan.
3. Provision of a revised Maintenance Agreement reflecting the revised development for recording with the Register of Deeds.

4. Provision of a revised plan with minor changes per Fire Code Officials approval.

    Unanimously approved 7-0.
ITEM NO.  8 INITIATE TEXT AMENDMENT FOR FLOODPLAIN OVERLAY DISTRICT MAPS (AAM)

Consider initiation of Text Amendments to the Land Development Code, Chapter 20, Article 12 of the Code of The City of Lawrence, KS and to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas to reference 2015 effective dates for new Floodplain Overlay District Maps and related regulation changes for discussion at a future public hearing.

STAFF PRESENTATION
Mr. McCullough presented the item.

PUBLIC HEARING
No public comment.

ACTION TAKEN
Motioned by Commissioner Kelly, seconded by Commissioner Graham, to:

1. Initiate a text amendment to the Floodplain Regulations in the Land Development Code, Chapter 20, Article 12 of the Code of The City of Lawrence, KS to reference new FEMA FIRM effective dates and study potential changes to comply with the state model ordinance and the Community Rating System.

2. Initiate a text amendment to the Floodplain Regulations in the Zoning Regulations, Chapter 12, Section 12-328 of the Code of the County of Douglas, Kansas to reference new FEMA FIRM effective dates and study potential changes to comply with the state model ordinance and the Community Rating System.

Motion carried 7-0.
ITEM NO. 9  VARIANCE REQUEST TO REDUCE RIGHT-OF-WAY; W OF 2112 BOB BILLINGS PKWY (SLD)

Minor Subdivision, MS-15-00213, variance request to reduce the right-of-way for a principal arterial street per section 20-813(g) of the Land Development Code for Rockledge Addition No. 2, located west of 2112 Bob Billings Parkway. Submitted by Landplan Engineering, for Robert W. Lichtwardt and Elizabeth T. Lichtwardt Revocable Trust, property owner of record.

STAFF PRESENTATION
Ms. Sandra Day presented the item.

APPLICANT PRESENTATION
Mr. CL Maurer, Landplan Engineering, was present for questioning.

PUBLIC HEARING
No public comment.

ACTION TAKEN
Motioned by Commissioner von Achen, seconded by Commissioner Denney, to approve the variance requested for a Minor Subdivision, MS-15-00213, variance request to reduce the right-of-way from Section 20-810(a)(5) for a principal arterial street from 150’ to 100’ per section 20-813(g) of the Land Development Code for property located at 2100 Bob Billings Parkway.

Unanimously approved 7-0.
MI SC NO. 1 \ MINOR SUBDIVISION VARIANCE FOR WAKARUSA CORPORATE CENTRE ADDITION NO. 3; 4900 BLOCK OF CORPORATE CENTRE DR (SLD)

Minor Subdivision, MS-15-00265, variance request to reduce the right-of-way for a principal arterial street per section 20-813(g) of the Land Development Code for Wakarusa Corporate Centre Addition No. 3, located in the 4900 block of Corporate Centre Dr. Submitted by Phillip DiVilbiss on behalf of Bristol Partners XII LLC and BCL Alameda LLC, property owners of record.

STAFF PRESENTATION
Ms. Sandra Day presented the item.

APPLICANT PRESENTATION
No applicant present.

PUBLIC HEARING
No public comment.

ACTION TAKEN
Motioned by Commissioner Denney, seconded by Commissioner Graham, to approve a variance request to reduce the right-of-way from Section 20-810(a)(5) for a principal arterial street from 150’ to 100’ per section 20-813(g) of the Land Development Code for property located in the 4900 block of Wakarusa Drive.

Unanimously approved 7-0.

MI SC NO. 2 \ MINOR SUBDIVISION VARIANCE FOR PINCKNEY ADDITION; 810 W 6th ST (BJP)

Minor Subdivision, MS-15-00123, variance request from Section 20-810(e)(5) of the Land Development Code from the requirement to dedicate additional right-of-way for Pinckney Addition, located at 810 W. 6th Street. Submitted by Grob Engineering Services, LLC for Unified School District 497, property owner of record.

STAFF PRESENTATION
Ms. Becky Pepper presented the item.

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

PUBLIC HEARING
No public comment.

ACTION TAKEN
Motioned by Commissioner Struckhoff, seconded by Commissioner Butler, to approve a variance request from Section 20-810(e)(5) from the requirement to dedicate additional right-of-way for W. 6th Street, subject to the following condition:
The plat shall be revised to include the following note: “On June 22, 2015, the Planning Commission approved a variance from right-of-way requirements in Section 20-810(e)(5) of the Subdivision Regulations to allow the replatting of this property with 100 ft. of right-of-way currently provided for W. 6th Street.”

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

ADJOURN 9:00pm

Complete audio from the meeting can be found online: http://www.lawrenceks.org/boards/planning-commission/agendas
Planning Commission

Key Links

Plans & Documents
- Horizon 2020
- Sector/Area Plans
- Transportation 2040
- 2012 Retail Market Study

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

Online Mapping
- City of Lawrence Interactive GIS Map
- Douglas Co. Map Viewer
- Submittals to the Planning Office

Planning Commission
- Bylaws
- Mid-Months & Special Meetings
- Minutes
- Planning Commission Schedule/Deadlines
Lawrence-Douglas County Planning Commission
July 2015 Public & Non-Public Hearing Agenda Items
PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
7/22/15

ITEM NO. 1  CONDITIONAL USE PERMIT FOR BURNING BARREL; 292 N 2100 RD (MKM)


STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit for a specialty meat processing shop, a Value-added Agricultural Business use, subject to the following conditions:

1. The following standards apply to the use:
   a. A maximum of 4 full-time equivalent employees are permitted.
   b. Structures are required to comply with commercial building code requirements if used for more than the storage of agricultural commodities.
   c. Noise, light, vibration, or odor associated with the production may not be perceptible beyond the site boundary/property lines.
      i. If necessary, an Ozone Generator shall be installed on the smoker to manage smoke and odor.
   d. The production of the value-added product must comply with EPA water and air quality standards.
   e. All equipment used in the production of the value-added product shall be located wholly within a building or structure or be screened from the public rights-of-way and adjacent residential buildings.
   f. Product shall be stored within a building or structure so that it is not visible from the property lines.
   g. Deliveries from commercial vehicles with a GVW (Gross Vehicle Weight) that exceeds 5 tons in capacity are limited to no more than 2 trips (to and from the site) per day.
   h. Slaughtering is not permitted on the premises.
      i. No retail sales shall occur on the premises.
2. The CUP shall be administratively reviewed every 5 years by the Douglas County Zoning and Codes Department.
3. A new septic system shall be installed prior to the operation of the use, per Health Department approval.

Reason for Request:
(Applicant’s Response)
“To process pre-slaughtered and inspected hogs into a variety of products to restaurants seeking locally produced items.”

KEY POINTS
• The subject property is located on, and takes access from, N 2100 Road/County Route 1023 which is classified as a Major Collector in the Douglas County Access Management Road Classification Map.
A joint Lecompton and Lawrence-Douglas Metropolitan Planning Commission meeting will be held on this request as the subject property is within 3 miles of the city limits of Lecompton. (Figure 1)

ASSOCIATED CASES/ OTHER ACTION REQUIRED
- Approval of the Conditional Use by the Board of County Commissioners.
- Applicant shall obtain a permit for the Conditional Use from the Zoning and Codes Office prior to commencing the use.
- Applicant shall obtain a building permit from the Zoning and Codes Office for any structures used in the Value-added Agricultural Business, except those which are solely for storage of commodities.

PUBLIC COMMUNICATION
1. An adjacent property owner contacted Planning with concerns about gluten being used in the smoker. The applicant indicated they will not be smoking items containing gluten.
2. The Lecompton Planning Commission provided a set of questions, which are included with this report as an attachment.

ATTACHMENT
- CUP plans
- Lecompton Planning Commission questions

GENERAL INFORMATION
Current Zoning and Land Use: A (Agricultural) District; Agriculture, outbuildings, and a vacant mobile home.

Surrounding Zoning and Land Use: A (Agricultural) District in all directions; Residential Detached Dwellings, Agriculture, and woodland. (Figure 2)

Summary of Request
The Conditional Use Permit is requested to accommodate a Value-added Agricultural Business on the subject property. The proposed use, a specialty meat processing shop, meets the definition of Value-added Agricultural Business provided in Section 12-319-7.35 of the County Zoning Regulations:
“A business that economically adds value to an agricultural product as a result of a change in the physical state of an agricultural commodity that is not produced on the site, by manufacturing value-added products for end users instead of producing only raw commodities. Value-added products may include:

a. A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam).

b. The physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system).” An example would be packaging sunflower seeds and/or other grains for bird seed.

The proposed specialty meat processing shop will result in a change in the physical state of the product and fits example ‘a’ of the definition above.

The property contains approximately 30 acres and includes agricultural accessory buildings and a vacant mobile home. The applicant intends to remove the mobile home from the site and replace it with the meat processing shop. The existing utility lines will be used to service the facility.

The applicant had considered converting the agricultural buildings but looked into other options after identifying the measures needed to bring them into compliance with the commercial building codes. The meat processing shop will be housed in converted shipping containers which will house the office, kitchen, and storage areas. Shipping/storage containers are converted and used for many uses, from offices to homes. The applicant indicated the unit will have a roof, will be secured to a concrete pad and will be painted with ceramic paint. Figure 3 provides examples of converted containers. The Zoning and Codes Director indicated that the shipping containers would be acceptable if they were engineered to meet building code.

The applicant explained that the Kansas Department of Agriculture defines their use as a ‘Meat and Poultry Processing Facility’ and provided the following information on their use:

“We will be processing off-premise slaughtered hogs and cattle that have been inspected then transported to the Burning Barrel kitchen. In the kitchen we will make custom sausages, bacons, hams and primal cuts for wholesale to restaurant and grocery stores. The smoking of meats will take place one or possibly two days out of the work week. The odor will not be any different than would be a fireplace for home use. The smell will be much less since the method of cooking is done at much lower temperature. The cooking range will be between 150-200 degrees Fahrenheit. If any smell was detected it would be
very minimal given the proximity to area neighbors and would be perceived as a resident having a BBQ. Very little smoke is generated through this colder smoking procedure.”

The plan in Figure 4 shows the placement of the kitchen, office, and smokehouse in the area currently occupied by the vacant mobile home. The facility, including the smokehouse, will be 16 ft x 50 ft. The floorplan in Figure 5 shows the layout.

The products will be sold and delivered to farmers markets, restaurants, and grocery stores seeking locally produced items. The business will bring in inspected meat that has been slaughtered off-site. There will be no slaughtering of animals on the property. This is noted on the plan as a condition of the CUP.

Farm equipment will be stored in the steel sided building or under the open side shed area. Wood for the smoke house will also be stored under the open shed. No equipment used in the production of the value-added product will be visible from N 2100 Road.

The applicant will bring the inspected meat to the site and deliver products to customers with a Toyota truck. At some point in the future they hope to have a small 5 ft x 8 ft refrigerated trailer for deliveries. As they grow it is possible they may have the inspected meat delivered to the site. UPS or Fed-Ex trucks will also make deliveries to the property. The Value-added Agricultural Business use is restricted by code to no more than 2 trips (to and from) the site per day by commercial vehicles with a gross vehicle weight of 5 tons or more. The Value-added Agricultural Business use is restricted by the Zoning Regulations to no more than two trips (to and from) by vehicles with a Gross Vehicle Weight (GVW) of 5 tons or more.
I. ZONING AND USES OF PROPERTY NEARBY

The subject property is not within the urban growth area of any city. Nearby property is zoned A (Agricultural) District and agriculture and rural residences are the primary uses. Given the small scale of the proposed business, the low volume of associated traffic, and the standards applied to a Value-added Agricultural Business use, the proposed use should be compatible with the nearby properties.

Staff Finding - The area is in the rural portion of Douglas County and contains agricultural County zoning. The primary uses in the area are rural residential and agriculture. Given the small scale of the proposed facility and the standards applied with this use, the specialty meat processing shop should be compatible with the zoning and uses of nearby properties.

II. CHARACTER OF THE AREA

This rural area is located beyond the limits of the Urban Growth Areas for any of the cities in the county but is within 3 miles of the Lecompton city limits. The topography is varied with large areas of higher slopes (above 7%) throughout. Woodlands are located on the steep slopes while the more level land is used for agriculture and rural residences are scattered throughout the area.

The subject property contains approximately 30 acres, of which approximately 1.5 acres will be used for the Value-added Agricultural Business use. The remainder of the site will remain in agricultural production. The business owner indicated they hope to garden about 1 to 2 acres and may raise cattle for their personal use.

Staff Finding - This rural area has a mix of agricultural and residential uses and woodland. The proposed Value-added Agricultural Business use and agricultural uses would be compatible with the current land uses and character of the area.

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

The subject property is zoned A (Agricultural) District. Section 12-306 of the County Zoning Regulations notes “…the purpose of this district is to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises, and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses.” The A District is associated with a majority of the unincorporated portion of Douglas County.

Uses allowed in the A District include: farms, truck gardens, orchards, or nurseries for the growing or propagation of plants, trees and shrubs in addition other types of open land uses. It also includes residential detached dwellings, churches, hospitals and clinics for large and small animals, commercial dog kennels, and rural home occupations. In addition, uses enumerated in Section 12-319 which are not listed as permitted uses in the A District, may be permitted when approved as Conditional Uses. The property has been developed with agricultural accessory buildings and is well suited for uses which are permitted in the A District.

The property is well suited for the current agricultural uses and also for the proposed Value-added Agricultural Business use and future agricultural uses.

Staff Finding - The property is suitable for the uses which are permitted within the A (Agricultural) District. The property is also suitable for the proposed Value-added Agricultural Business use, a specialty meat processing shop.
IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

The County Appraiser’s records indicate that the tool shed was built in 1940 and the other accessory buildings were built in 1973. A mobile home is currently on site; however, there is no record when that was installed.

Staff Finding - The property has been used for agricultural and residential uses and has remained in agricultural use since the adoption of the Zoning Regulations in 1966.

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

Section 12-319-1.01 of the County Zoning Regulations recognize that “certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district…when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited.” The proposed use is included in the Conditional Uses enumerated in Section 12-319-4 of the Zoning Regulations for the Unincorporated Territory of Douglas County as a Value-added Agricultural Business.

The proposed use is very low impact, with the processing occurring indoors. The only detrimental effect that may be generated from this use could be the smell of smoking meat. They will have a smoker similar to those associated with restaurants within the City of Lawrence. The smoker cooks at low temperatures which should minimize any odor associated with the smoking meat. The applicant indicated that Ozone Generators are very effective at eliminating the smoke smell as they emit charged ions that attach to the smoke vapor and cause the vapor to drop. One could be attached with the smoker if odor was found to be an issue. This is included as a condition of the Conditional Use.

The subject property is adjacent to, and takes access from, a major collector road. All processing will occur indoors and there will be no exterior storage of products or commodities. Wood for the smoker may be stored in the lean to; however, it will be screened and not visible from the roadway or adjacent properties.

Staff Finding - All production activity will occur within a structure and should have no negative impacts to the adjacent properties. If odor is present at the property lines, an Ozone Generator will be installed to reduce the smoke and odor from the cooking process.

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:
“Without the permit we may lost the opportunity to begin this business.”

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

Approval of this request would allow the landowners to process locally raised meat on the property as a Value-added Agricultural Business. No benefit would be afforded to the public health, safety, or welfare by the denial of the request as the business operation is small scale, a low traffic generator and would be located on a major collector.
**Staff Finding** - In staff’s opinion, the approval of this request will result in a compatible project that will not harm the public health, safety or welfare but will increase availability of locally grown and processed food. Denial of the request would provide no benefit to the public health, safety or welfare.

**VI1. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant’s Response:

“We will provide a product that was raised, produced and sold in Kansas. We will be putting the property back to work as a sustainable farm and by job creation.”

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*. A Conditional Use Permit provides additional review for uses which may be desirable in an area, but could have negative impacts. This tool allows development to occur in harmony with the surrounding area and to address specific land use concerns.

Chapter 16 of the Comprehensive Plan recommends the development of policies to support a sustainable local/regional food system; however, the policies and recommendations have not been developed at this time. The proposed use is a component of a local/regional food system: processing meat from locally raised animals for sale in the area.

**Staff Finding** - The proposed CUP is compliant with the recommendations in the comprehensive plan as it will maintain the rural/agricultural character of the area and will be a part of the local/regional food system.

**CUP PLAN REVIEW**

The proposal is to remove the vacant mobile home from the site and replace it with a converted shipping container with kitchen/office/storage areas. The converted container would be engineered to comply with commercial building codes. The business will pick up inspected pre-slaughtered animals and deliver products to customers using a Toyota pick-up. As the business grows, they plan to use a trailer with a refrigerated storage area for deliveries and may have inspected meat delivered to the site. The business intends to sell to restaurants, grocery stores, and farmers markets. There will be no retail sales on the property.

The applicant explained that the pre-slaughtered animal will be bled and the intestines and other organs removed except for those they can use in the processing prior to being brought to the site. They will use most of the animal in the processing and will have little waste. They will use the leftover materials for dog food or fertilizer or may deliver it to nearby pet food manufacturers. The applicant indicated that residential trash service should be adequate for their business.

The applicant indicated they may be interested in hosting weddings on the property in the future. This use is outside the scope of this CUP but could be permitted with a Special Use Permit, Agritourism Registration, or submittal of a CUP for the use.

**Parking and Access:**

The facility will utilize the existing access to N 2100 Road/County Route 1023. A parking area will be installed adjacent to the facility. One parking space is required for each 2 employees for manufacturing or similar type uses, in Article 16 of the Zoning Regulations. The use will have 2 employees; therefore one parking space is required at this time. The parking space provided on the plan is 15 ft by 30 ft. Per the Zoning Regulations, a parking space must be 180 sq ft; typically 18 ft x 10 ft. The parking area is adequate for one parking space.
Utilities
The Douglas County Sanitary Code requires that septic systems be inspected prior to the sale of property. The septic system failed the inspection and a new septic system will be installed prior to the sale. The applicant should work with the Douglas County Health Department to insure that the new septic system is sized adequately for the *Value-added Agricultural Business* use.

**Landscape and Screening:** The equipment and materials used in the business will be stored inside; therefore, no landscaping or screening is required.

**Limits and Conditions:**
The standards for the *Value-added Agricultural Business* use apply to this use and these are listed on the plan. Additional standards requiring the use of an Ozone Generator, if necessary to manage odors from smoking meat, and a restriction prohibiting site retail sales have been applied to insure compatibility with the rural character and residential uses in the area. A *Slaughter House* is a separate conditional use and the applicant will not slaughter animals for the *Value-added Agricultural Business* use. A condition noting that this CUP use does not include slaughtering of animals was added for clarity. If slaughtering is proposed, a revised CUP application would need to be submitted and reviewed.

Due to the long-term investment, it is not appropriate to impose an end date on this CUP. Five year administrative reviews are recommended to provide regular opportunities to assess changes in operation. These conditions are noted on the plan.

**Conclusion**
The small scale of the proposed use and the standards applied with the Conditional Use Permit should insure compatibility with surrounding properties. A permit required for the Conditional Use may be obtained from the Douglas County Zoning and Codes Office following approval of the Conditional Use and release of the plans to the Zoning and Codes Office. The buildings used for the *Value-added Agricultural Business* must comply with minimum building code standards for non-residential uses and a building permit will be required for changes to the structure.
Conditional Use Permit
Burning Barrel
Specialty Meat Processing Shop
292 N 2100 Road

General Notes:
1. Site: 292 N 2100 Road
2. Site Area: Approximately 27.8 acres
3. Existing Zoning: A (Agricultural) District
4. Current Use: Agriculture, vacant mobile home
5. Proposed Use: Value-added Agricultural Business (Burning Barrel a specialty butcher shop)
6. The business operator is responsible for disposal of waste resulting from the processing of pre-slaughtered animals.

CUP CONDITIONS:
1) A maximum of 4 full-time equivalent employees are permitted.
2) Structures are required to comply with commercial building code requirements if used for more than the storage of agricultural commodities.
3) Noise, light, vibration, or odor associated with the production may not be perceptible beyond the site boundary/property lines.
   a. An Ozone Generator shall be installed on the smoker, if necessary, to manage smoke and odor.
4) The production of the value-added product must comply with EPA water and air quality standards.
5) Deliveries from commercial vehicles that exceed 5 tons (gvw) in capacity shall be limited to 2 trips (to and from the site) per day.
6) All equipment used in the production of the value-added product shall be located wholly within a building or structure, or be screened from public rights-of-way and adjacent residential buildings.
7) Products shall be stored within a building or structure so that it is not visible from the site boundary/property lines.
8) Slaughtering is not permitted with this CUP use.
9) No retail sales shall occur on the premises.
10) The CUP shall be administratively reviewed every 5 years.

PARKING SUMMARY
Production: 1 per 2 employees on maximum shift
2 employees total: 1 parking spaces
Parking Required: 1 space
Parking Provided: 1 space

LEGAL DESCRIPTION: . The Southeast Quarter of the Southeast Quarter of Section 31 Township 11S Range 18E less North Half of North Half of Southeast Quarter of Southeast Quarter EVC (DIV 1987 500136B)
CUP-15-00229: Conditional Use Permit for The Burning Barrel, a Value-added Agricultural Business Located at 292 N 2100 Road
Lecompton Planning Commission Questions/ Response
The questions provided by the Lecompton Planning Commission are listed below with the responses following each, in **bold print**.

1. Clarify pre-slaughtered?
   - Meaning they will be killed before arrival at the plant? With or without heads?
     **Hogs will be killed before arrival. With Heads**
   - Inspected by whom?
     **Killed and slaughtered by Paradise Meats in Missouri**. Hogs are inspected at their facility by a USDA inspector as well as our facility by a KDA inspector.
   - How will hogs be transported to site? **Burning Barrel operator will pick-up and bring meat to the site**. The CUP standards would allow meat to be delivered with a limitation of 2 trips a day (to and from) for vehicles over 5 GVW.
   - How many will be stored awaiting processing? **Max of 4 hogs per week and quarter side of beef.**
   - What inspections will occur at the site? **KDA will be inspecting all aspects of production from butchering to packaging.**
   - How much waste?
     **There will be minimal waste from our facility. We will be utilizing most of the slaughtered animals through means of the meat business to dog food. From an estimate standpoint I would see our waste being comparable to a family of 3 people.**
   - What are plans for Waste Disposal?
     **We plan on recycling the plastic and any other recyclable materials but will need trash service as well. Normal residential service will be adequate.**
   - Will a lagoon be necessary? If so, how large? **The existing septic system failed the pre-purchase inspection so a new system will be installed**. It will be a 1000 gallon tank in accordance with the Douglas county health code requirements.

2. If pre-slaughtered meaning dead before arrival, will the head/hooves /skin still be on?
   - If so, what are your disposal plans for the remains?
     **I am in the process of talking with Hills Pet Food Manufacturing in Topeka and Big Heart Pet Brands in Lawrence for all parts I can’t utilize. There are many options for utilizing these animals from stocks to grinding the bones for bone-meal fertilizer, house made**
dog food that is human consumption friendly. Rendering the fat for lard to selling the skin for chicharonnes. The plan is for making as much possible income from the animal as well as respecting its life.

3. Are you processing the hog into pork products for restaurants only?
   Products will be available through grocery stores, restaurants and farmers markets.

4. Will you be processing any portions of the animal into dog treats/snacks?
   Yes

5. What type of waste disposal plan do you have?
   - In regards to portions of the Hog that you will not be able to sell (meat, bones, fat)
   - How frequently will you have trash service?
   - In regards to animal fats and sewer systems, will the septic system be able to handle the animal fat/residue being washed down the drain? Will you have an appropriate grease/fat trap? What size?
     The grease trap will be in accordance to the Local Heath Inspector requirements.
     Trash service will be the same as a residential service.

6. Would you have employees? If so how many do you anticipate? 2 employees, including self. The standards applied to the Value-added Agricultural Business use permit a maximum of 4 full-time equivalent employees.

7. Fire prevention/safety – extinguishers? Sprinkler systems? Is the water system capable of meeting the need if necessary?
   (Please provide any other info on fire protection. Will you be using extinguishers?)
   Fire prevention will be in accordance to building code.
   The Fire Department had no concerns with this project.

8. Are you using/converting any of the existing structures to fit your business needs?
   One of the existing structures will be to store wood for the smoker. The business itself will be located in a new facility located where the vacant mobile home is now located. The plan is to use converted shipping containers for the kitchen, office and storage area.

9. How many times a week do you anticipate meat deliveries? Do you happen to know what the meat delivery truck will be (Semi tractor-trailer, refrigerated truck, etc.?)
   Meat will be picked-up with a pickup and brought it to the site. A refrigerated unit on a trailer may be used as business grows. There will be no commercial deliveries of meat at this time, although it would be permitted with the CUP.
   One of the standards applied to this use limit the number of commercial deliveries by a vehicle with a gross vehicle weight over 5 tons to 2 trips (to and from) a day.

10. It was indicated on the application that the smell of smoked meat would be the only effect on the nearby properties? If you throw out any remains (unusable meat, fat or bones) how will you prevent the smell of that kind of waste from wafting to nearby properties?
No animal remains will be discarded in this fashion.

11. On the application it was mentioned that the business would provide a product that would put the property back to work as a sustainable farm. In what way is the processing plant considered a farm?
   - Definition of farm: Noun; an area of land and its buildings used for growing crops and rearing animals, typically under the control of one owner or manager.
     Verb; make one's living by growing crops or keeping livestock.
   - If there are no growing of crops or keeping of live animals how is it considered a sustainable farm?
   - Is BBQ-ing meat a “sustainable farm” activity? Meat processing can occur in non-agricultural rural locations.

We will be planting fruit trees, have large garden areas growing a variety of fruits and vegetables for local vendors as well as farmers markets. We will raise livestock for personal use and for the business when that time comes. The property will be farm in all regards, with the addition of the custom meat business. Smoking meat is not the same as BBQ-ing meat. The smoking is done at a much lower temperature range and is a way of preserving and adding flavor to the product. The smoke will be very minimal and not really comparable to a BBQ business. The smoking portion of the business is only a small portion of the plan. Much of the products we create will be custom fresh primal cuts of meats as well as fresh sausages.

12. What level of meat processing business certification/license are you applying for?
   **KDA will issue a Meat and Poultry Processing Permit**

13. Is it relevant to the issue of the CUP, but the PC was curious if the intent of the applicant to purchase the property if the CUP is passed? If so is the applicant purchasing the entire 40 acres or just the 30 acres with the buildings? **If the CUP is not passed we will not purchase the property. If the CUP passed we are under contract to purchase the 40 acres.**

14. Question #4 on the application does not seem to answer the question
   *(Planning Note: Questions 1 through 5 on Sheet A are review criteria for the approval of the CUP. The applicant is provided the opportunity to respond to these questions, and their responses are included in the Staff Report. Staff also provides a review of these criteria in the report. It isn’t necessary for the applicant to answer the questions, or to answer them to a certain degree; but we want to allow them a chance to have input on these criteria).*

   - Just a note: the property is not adjacent to a Federal or State Highway (as indicated on the application.) **Noted.**
SUP-15-00241: Consider a Special Use Permit for an Institutional Development Plan for the Douglas County Fairgrounds Master Plan located at 2110 Harper Street. The plan includes the removal of several existing buildings, barns and the baseball fields and construction of a new Open Pavilion Building, Meeting Hall, Outdoor Meeting Area and restrooms. The plan also includes the removal and replacement of the Outdoor Arena. Parking and interior circulation areas will also be modified and improved. Improvements are being made to provide code compliant facilities to serve a variety of Community Facility activities that take place at the fairgrounds. Submitted by Landplan Engineering and Treanor Architects on behalf of Douglas County, property owner of record.

STAFF RECOMMENDATION: Planning Staff recommends approval of a SUP-15-00241, a Special Use Permit for an Institutional Development Plan (IDP) for the Douglas County Fairgrounds Master Plan located at 2110 Harper Street and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Dedicate the 15’ utility easement and 20’ sanitary sewer easement by separate instrument.
2. Applicant shall request a waiver for the gravel roadway from the City Engineer. If approved, the site plan will be updated to include note regarding waiver.
3. Prior to release of the SUP, applicant shall provide the following:
   a. A photometric plan including lighting fixture details for review and approval prior to issuance of a building permit.
   b. Details requested during SUP review by Utility Manager and Stormwater Engineer for further review and approval.
   c. Revised site plan that includes:
      i. A note referencing the Book & Page for the files 15’ utility easement and 20’ sanitary sewer easement.
      ii. Updated Landscape Schedule to include perimeter parking lot landscaping
   d. Execution of a site plan performance agreement.
4. Filing the approved IDP at the Register of Deeds and publication of an ordinance for the Special Use Permit.

Applicant’s Reason for Request: Remove buildings 1 & 2 with replace with Building D, remove 7 barns, 3 baseball fields, and replace with Open Pavilion, remove and replace the Outdoor Arena. The main reason for the request is to update the existing activities with code compliant facilities.

ASSOCIATED CASES/OTHER ACTION REQUIRED
- UPR-12-14-98: New Community Building (Indefinitely Deferred, No Action)
- UPR-06-08-99: Community Building and Master Plan (Approved by the City Commission on 9/14/1999)
- SP-06-38-04: Site Plan for the removal of two existing buildings and construction of a storage building and an office building.
• SP-09-65-07: Revised Master Plan and Site plan for Dreher Hall Addition for 2110 & 2120 Harper Street
• Z-11-29-07: Rezoning from RS7 to GPI, Douglas County Fairgrounds located at 1910, 2110, and 2120 Harper Street.

Other Action Required
• City Commission approval of rezoning and adoption of ordinance.
• Publication of rezoning ordinance.
• Submission and approval of a photometric plan including light fixture details prior to issuance of a building permit.
• Completion of Public Improvement Plans for the extension of the water main.

KEY POINTS
• This property is zoned GPI (General Public & Institutional) District and contains more than 10 acres. Therefore approval is required through a Special Use Permit per Section 20-1307 of the Development Code.
• The Master Plan for the Douglas County Fairgrounds that includes the removal of several structures and the construction of new facilities.
• This Special Use Permit accommodates the updating of existing activities with code compliant facilities on the Fairgrounds.

FACTORS TO CONSIDER
• Procedural requirements of Section 20-1306; Special Use Permits and 20-1307, Institutional Development Plans.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
• No public comment was received prior to the printing of this staff report.

ATTACHMENTS
1. Area Map
2. Site Plan

GENERAL INFORMATION
Current Zoning and Land Use: GPI (General Public & Institutional) District; Douglas County Fairground

Surrounding Zoning and Land Use: To the northwest/west:
RM12 (Multi-Dwelling Residential District) a church and duplexes are located west and northwest of the subject property.
To the north: RS7 (Single-dwelling Residential) District and PID (Planned Industrial Development) District; single-dwelling residences, church, mobile home park and animal shelter.

To the west: RS7 (Single-dwelling Residential) District and GPI (General Public and Institutional Use) district; established single-family neighborhood and elementary school.

To the south: GPI (General Public and Institutional Use) District and RS7 (Single-dwelling Residential) District; City fire/medical station and mobile home park.

To the east: IG (General Industrial) and IM (Medium Industrial District); Auto recycling/salvaging facility and Farmland Business Park.

Institutional Development Plan
Section 20-1307 states that the purpose of the IDP is “to provide the community vision for the long-term use and development of public institutional space and lands so that they are designed to be compatible with surrounding land uses and contribute to the neighborhood and character of the area in which they are located. Providing this community vision for institutional buildings and sites also allows adjacent and nearby property owners to anticipate future non-residential development patterns and plan for the use and enjoyment of their property accordingly.” When sites are over 10 acres in size, the IDP is reviewed through the Special Use Permit Process to provide public review of the proposed uses and site layout.

Summary of Request
Douglas County Fairgrounds is located at 1910 Harper Street (Lot 1) and 2110 Harper Street (Lot A). This Special Use Permit accommodates the updating of existing activities with code compliant facilities on the Fairgrounds. To accommodate the proposed updates, three baseball fields and 11 structures will be removed, as shown in Figure 1a below. New construction will include an open pavilion, a meeting hall, an outdoor meeting building and area, and a small structure that will contain restrooms, concessions and a ticket area, as highlighted in Figure 1b below. Greenspace that will serve as overflow parking will also be created with this Special Use Permit. Lot 1 will serve as greenspace and provide parking for 1,130 cars as needed. There will also be greenspace that will accommodate exhibitor parking, providing 32 stalls for RV and trailers, and 270 car stalls. The final greenspace that will accommodate parking is located in the southeast corner of Lot A. There are also permanent parking lot improvements proposed. One new parking lot and one expanded parking lot are proposed. These lots will take access from Harper Street.

At this time, the improvements proposed with the Special Use Permit are not anticipated to be completed in a phased approach.
Figure 2, found on the next page, indicates the final development. It shows the existing building that will remain, as well as the proposed buildings and areas.

**Figure 1a:** Current land use with structures to be removed highlighted in yellow.  
**Figure 1b:** Proposed new facilities highlighted in yellow.
Figure 2: Existing to remain, and proposed buildings/areas to be added
Review and Decision-Making Criteria (Land Development Code Section 20-1306(i))

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

Applicant's Response: Yes, the fairground has been used in this area for a number of years (157 years), the first fair was 1858 and the area has been rezoned for this use.

The setbacks in the GPI District are as follows: Front—40 feet; abutting R Districts—40 feet, abutting non-R Districts—15 feet. All proposed new structures will be located within the subject property further than the setback requirements. Of all of the proposed new structures, the closest building to the property line, Building D, will be located 87.60’ from the west property line.

The plan indicates that there is lighting proposed with the Outdoor Event Arena. A photometric plan is required prior to issuance of a building permit. The plan will be submitted for staff review and should include lighting fixture details. Full cut-off fixtures are required to limit off-site glare.

Section 20-1307(c)(2)(ii) indicates that at least two access points shall be provided, one of which being from a Residential Collector Street. Two drives currently existed to provide access to the site from Harper Street, which is classified as a Collector on the T2040 Major Thoroughfares Map. There are not changes proposed to these drives with this proposed plan. A new access drive is proposed with the plan that will provide access from E 19th Street. This new drive is part of an improvement to realign the drive with new proposed internal roads that will provide access to the site's facilities.

The plan proposes to change the vehicle movement within the subject site by creating a network of gravel roadways that will extends from FF Road to E 19th Street and provides access to the site's facilities. These internal gravel drives are subject to the approval of the City Engineer. Other areas within the subject site will be improved with asphalt and concrete paving. A concrete roundabout is proposed east of the new parking lot, east of the Outdoor Event Arena, south of Buildings 30 and A, and north of Building 21. The proposed improvements are shown below in Figure 3.
Staff Finding - As conditioned, and with the City Engineer waiver from the paved road requirement, this use complies with the applicable provisions of the Development Code.

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

Applicant’s Response: The fairground was outside of town for a number of years. The area developed to the fairgrounds and the uses are compatible to the north, east and south. The area to the west is single family homes which develop to the fairground.

There are a variety of zoning districts and land uses nearby. The majority of the surrounding property to the north, west and south is zoned RS7 (Single-dwelling Residential) District and contains detached single-family homes and two mobile home parks. Non-residential uses are located in all directions: to the north is a one-lot Planned Industrial District (PID) which contains the Lawrence Humane Society, the area animal shelter, and a church; to the south and west are properties zoned GPI (General Public and Institutional) District which contain a City fire/medical station and an elementary school, and to the east are industrially zoned properties which contains a salvage yard and vacant property in Venture Park.

The Douglas County Fairgrounds were established in 1951 and the first buildings were constructed between 1951 and 1955. The changes proposed with this Special Use Permit are necessary to update the existing activities with code compliant facilities. With the exception of the removal of the north baseball fields, there are no proposed changes to the use or activities that will take place on the subject site.

Staff Finding - The proposed use is compatible with the adjacent uses in terms of size, massing, orientation, hours of operation and other external impacts.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED

Applicant’s Response: The surrounding development was developed with the fairground in place. The property value will not change with the proposed improvements.

The Douglas County Fairgrounds is a community and neighborhood amenity. The proposed changes associated with the Special Use Permit will increase the usefulness and enjoyment of the site.

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

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

There are existing water and sanitary sewer lines that currently serve the subject property. A new public water line will be extended on the property, which will encircle proposed Building A. A 15’ X
15’ Dump Station will be located at the southeast corner of Building A. This station will support the adjacent RV parking area and will be connected to the sanitary sewer.

**Staff Finding** - Adequate public facilities and transportation access is accommodated for this development.

5. **WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED**

The proposed development will be owned and operated by Douglas County. The Special Use Permit provides the overall scope for the development. The proposed request provides an enforceable tool to address the use and continued maintenance of the property with regard to landscaping, exterior activity, and off-street parking. RV parking on-site shall be related to fairground activities and be restricted to 24 hours before, 24 hours after, and during the fairground activity. RV parking may not be utilized for long-term RV parking.

**Staff Finding** - Adequate assurances of continued maintenance are inherent in the use and the Special Use Permit approval process.

6. **WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT**

Applicant’s Response: The proposed uses exist today on the property. The improvement will only help the environment with more green space that will be easier to maintain and improve.

The Stormwater Engineer indicated that a detailed drainage study will need to be completed for the site. A watershed map of the entire site needs to be provided to determine the existing stormwater runoff pattern, and then compared to the proposed improvements. The Stormwater engineer also indicated that the existing drainage of the site has numerous locations where stormwater runoff is inefficiently handled. An overall stormwater master plan should be developed for the site so that subsequent improvements are accounted for. The majority of the existing runoff is directed to the northeast corner of the site. A stormwater detention basin may be necessary at this locations, depending on the results of the drainage study. Finally, depending on the amount of disturbed earth, either a Stormwater Pollution Prevention Plan or an Erosion Control Plan must be provided for this project.

**Staff Finding** - The proposed development is subject to regulatory controls to protect the significant natural features. This property is free from regulatory floodplain encumbrances.

7. **WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE**

Time limits are established on Special Use Permits to permit a periodic review to determine if the use remains compliant with the area. The SUP review process is required because the property is zoned GPI District and exceeds 10 acres. The Institutional Development Plan serves as the master plan for this facility and provides the public with a long-range view of the site development. It would not be appropriate to place a time limit on this use.

**Staff Finding** - Staff does not recommend a time limit on the Special Use Permit.
A. Site Summary
The following tables summarize the site surface summary for Lot A and Lot 1 of the subject property.

<table>
<thead>
<tr>
<th>Lot A</th>
<th>Area (Sq. Ft)</th>
<th>Area (Sq. Ft)</th>
<th>Area (Sq. Ft)</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Building</td>
<td>127,789</td>
<td>Proposed Building</td>
<td>24,712</td>
<td>Total Buildings</td>
</tr>
<tr>
<td>Existing Pavement</td>
<td>435,405</td>
<td>Proposed Pavement</td>
<td>-6,921</td>
<td>Total Pavement</td>
</tr>
<tr>
<td>Existing Impervious</td>
<td>563,194</td>
<td>Proposed Impervious</td>
<td>17,791</td>
<td>Total Impervious</td>
</tr>
<tr>
<td>Existing Pervious</td>
<td>1,037,008</td>
<td>Proposed Pervious</td>
<td></td>
<td>Total Pervious</td>
</tr>
<tr>
<td>Property Area</td>
<td>1,600,202</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lot 1</th>
<th>Area (Sq. Ft)</th>
<th>Area (Sq. Ft)</th>
<th>Area (Sq. Ft)</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Building</td>
<td>0</td>
<td>Proposed Building</td>
<td>0</td>
<td>Total Buildings</td>
</tr>
<tr>
<td>Existing Pavement</td>
<td>23,709</td>
<td>Proposed Pavement</td>
<td>-8,861</td>
<td>Total Pavement</td>
</tr>
<tr>
<td>Existing Impervious</td>
<td>23,709</td>
<td>Proposed Impervious</td>
<td>-8,861</td>
<td>Total Impervious</td>
</tr>
<tr>
<td>Existing Pervious</td>
<td>426,863</td>
<td>Proposed Pervious</td>
<td></td>
<td>Total Pervious</td>
</tr>
<tr>
<td>Property Area</td>
<td>450,572</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. Access and Parking
On-site Parking:

<table>
<thead>
<tr>
<th>Use</th>
<th>Location*</th>
<th>Parking Requirements</th>
<th>Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entertainment &amp; Spectator, General</td>
<td>C</td>
<td>1/3 seats</td>
<td>296 seats/3=99 stalls</td>
</tr>
<tr>
<td></td>
<td>E</td>
<td>1/3 seats</td>
<td>4,700 seats/3=1,567 stalls</td>
</tr>
<tr>
<td>Participant Sports &amp; Recreation, Indoor</td>
<td>A</td>
<td>1/500 sq. ft.</td>
<td>49,795/500=100 stalls</td>
</tr>
<tr>
<td></td>
<td>21</td>
<td>1/500 sq. ft.</td>
<td>14,628/500=30 stalls</td>
</tr>
<tr>
<td></td>
<td>30</td>
<td>1/500 sq. ft.</td>
<td>14,628/500=30 stalls</td>
</tr>
<tr>
<td>Civic Assembly</td>
<td>D</td>
<td>1/500 sq. ft.</td>
<td>7,665/500=16 stalls</td>
</tr>
<tr>
<td></td>
<td>34</td>
<td>1/500 sq. ft.</td>
<td>5,910/500=12 stalls</td>
</tr>
<tr>
<td>Building Maintenance Service</td>
<td>3</td>
<td>1/500 sq. ft.</td>
<td>2,576/500=6 stalls</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>1/500 sq. ft.</td>
<td>2,576/500=6 stalls</td>
</tr>
<tr>
<td></td>
<td>31</td>
<td>1/500 sq. ft.</td>
<td>9,000/500=18 stalls</td>
</tr>
<tr>
<td>Administrative &amp; Professional</td>
<td>22</td>
<td>1/300 sq. ft.</td>
<td>6,151/300=21 stalls</td>
</tr>
<tr>
<td></td>
<td>32</td>
<td>1/300 sq. ft.</td>
<td>1,500/300=5 stalls</td>
</tr>
</tbody>
</table>

Total Required Parking | 1,910 |
Permanent Parking Stalls Provided | 391 |
Green Space/Temporary Parking Stalls Provided | 1,708 |
Total Parking Stalls Provided | 2,099 |
Permanent Parking ADA Stalls Required | 7/1 (Auto/Van) |
Permanent Parking ADA Stalls Provided | 18 (Van) |
RV and Trailer Parking | 32 |
Access:  
Access to the site will be provided from Harper Street, E 19th Street, and FF Road. There are 4 existing drives along Harper Street, two of which provide the main access to the Fairgrounds. The other 2 drives located on Harper Street provide access to the caretaker’s house and storage facilities. These drives are not intended for public use. The project proposes to add a new drive on E 19th Street. There is an existing drive on E 19th Street, however as part of these improvements, that drive and the road it serves will be removed. A new network of gravel roadways are proposed with this project. As noted previously, the gravel surface is subject to City Engineer Approval. The new drive proposed on E 19th Street will align with the new roadway.

Pedestrian access is provided along Harper Street. Sidewalks exist on the north side of E 19th Street, however they are not provided on the south side of the street. The residential areas are located to the north of E 19th Street and are served by the sidewalk located on the north. That sidewalk provides connectivity to the sidewalk along Harper, which then leads them to the main entrances of the Fairgrounds. Sidewalk on the south side of E 19th Street will be constructed when E 19th Street is improved as part of the long-term plans for Venture Park. These improvements are slated for 2017 in the Capital Improvement Plan.

C. Design Standards

Site Design:
Site changes include the removal of three baseball fields and 11 structures. New construction will include an open pavilion, a meeting hall, an outdoor meeting building and area, and a small structure that will contain restrooms, concessions and a ticket area. The proposed demolition and new construction are shown in Figures 1a and 1b above. Greenspace that will serve as overflow parking will also be created with this Special Use Permit. Lot 1 will serve as greenspace and provide parking for 1,130 cars as needed. There will also be greenspace that will accommodate exhibitor parking, providing 32 stalls for RV and trailers, and 270 car stalls. The final greenspace that will accommodate parking is located in the southeast corner of Lot A. There are also parking lot improvements proposed. One new parking lot and one expanded parking lot are proposed. These lots will take access from Harper Street.

The plan proposes to change the vehicle movement within the subject site by creating a network of gravel roadways that will extends from FF Road to 19th Street and provides access to the site’s facilities. As noted previously, the gravel surface is subject to City Engineer approval. Other areas within the subject site will be improved with asphalt and concrete paving. A concrete roundabout is proposed east of the new parking lot, east of the Outdoor Event Arena, south of Building 30 and A, and north of Building 21. The proposed improvements are shown below in Figure 3.

As indicated previously, there will be a new water main installed as part of this project. Also, there is a dedication of a 15’ utility and a 20’ sanitary sewer easement associated with this project. The easements will be dedicated by separate instrument and noted on the IDP prior to final approval and recording and the Register of Deeds. The utility and sanitary sewer easements are shown in Figure 4 below.

The Utility Engineer indicated that if any buildings being removed have existing water or sewer services, the lines will need to be abandoned per city specifications. Also, a Public Improvement Plan will be required for the water main extension.
D. Landscaping and Screening

Street Trees:
Street trees are provided along Harper Street and E 19th Street and will meet the Master Street Tree requirement of 1 tree per 40’. The table below shows the proposed trees.

<table>
<thead>
<tr>
<th>Location</th>
<th>Trees Required</th>
<th>Existing Trees</th>
<th>Trees Provided</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot A, Harper</td>
<td>1253 sq. ft./40 = 31</td>
<td>10</td>
<td>21</td>
<td>31</td>
</tr>
<tr>
<td>Lot 1, Harper</td>
<td>297 sq. ft./40 = 8</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Lot 1, E 19th</td>
<td>1515 sq. ft./40 = 38</td>
<td>9</td>
<td>29</td>
<td>38</td>
</tr>
</tbody>
</table>

The City’s Horticulture Manager has indicated that interior street trees for FF Road, and/or clusters of shade trees north of the indoor area should be considered. These additions would provide shade and help buffer the large hot parking lots and noise. The Horticulture Manager also indicated that many of the existing trees are in “severe decline”. The consultant working on behalf of the applicant indicated that the applicant was notified of the Horticulture Manager’s request.

Bufferyard:
The property is zoned GPI District. Section 20-1307(c)(2)(i)(a) requires a Type 1 Buffer yard for park and recreational development sites. With the exception of Harper Street, the majority of the subject property contains large expanses of greenspace which provide an adequate buffer to the adjacent areas. These greenspaces will remain intact with this proposed project. Street trees are proposed along Lot A and Lot 1 of Harper Street.

Interior Landscaping:
Interior landscaping will be provided and meets Standard 20-1003(c)(1), which states that parking lots shall contain at least 40 square feet of landscaping area per parking space. The table below shows the square footage of interior parking lot landscape proposed.
Perimeter Landscaping:
Per Section 20-1004 of the Land Development Code, parking lot perimeter landscaping is required for off-street parking lots that contain 5 or more parking spaces, and apply to all new development and redevelopment of existing parking lots that result in an increase of 20% or greater. There are two parking areas, accessed from Harper Street, that meet the criteria. Section 20-1004 also states that parking lots shall be landscaped and screened from view of streets rights-of-way with a minimum of one shade tree or ornamental tree per 25’ of parking lot frontage and include either a masonry wall, a berm, or a continuous row of evergreen shrubs. The site plan proposes Red Oak trees on the west side of the new and expanded parking lot areas, however revisions to the site plan are needed to also include evergreen shrubs.

Mechanical Equipment Screening:
The site plan includes a note that indicates that all mechanical equipment, whether roof mounted or ground mounted, will be appropriately screened.

Alternative Compliance: None is proposed with this request.

E. Lighting
Additional details regarding the lighting proposed with the Outdoor Event Arena are required. All lighting fixtures will need to be directed down and be provided with a full cut-off. A photometric plan and review of lighting fixture details is required to be provided for staff review and approval prior to issuance of a building permit.

F. Floodplain
The property is not located in the regulatory floodplain.

CONCLUSION
The proposed improvements will positively impact the area by updating the existing activities with code compliant facilities. The use is compatible with, and appropriate for this location. Staff recommends approval of the Special Use Permit as conditioned.
SUP-15-00241: Special Use Permit for the Douglas County Fairgrounds to Upgrade Site Facilities, Located at 2110 Harper Street
PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
7/22/15

ITEM NO. 3 PRD TO RM15; 9.818 ACRES; 2101 EXCHANGE CT (KES)

Z-14-00515: Consider a request to rezone approximately 9.818 acres from PRD (Planned Residential Development) District to RM15 (Multi-Dwelling Residential) District, located at 2101 Exchange Ct. Submitted by CFS Engineers, for Southwind Capital LLC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request from PRD (Planned Residential Development) District to RM15 (Multi-Dwelling Residential) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

REASON FOR REQUEST
Applicant’s Response:
“The current property is zoned PRD. The Developer wishes to build units for senior living. The RM15 designation will aptly accommodate the requirements for this type of development.”

KEY POINTS
• The property is located at the southwest corner of K-10 Highway and O’Connell Road and is currently zoned PRD (Planned Residential Development) District.
• PD zoning requires submittal of a Preliminary Development Plan with the rezoning application. A concept plan was submitted with this rezoning application.
• The proposed rezoning will remain the same and not increase the maximum density. The existing and proposed zoning allow for 15 units/acre density.
• As currently zoned, the property has remained vacant since 2006. The Planning Commission granted an extension to the approved Final Development Plan in 2007 for a period through 2008.
• The proposed rezoning will allow development consistent with the residential nature of the area and fit within the goals of the comprehensive plan, the current Land Development Code and the intentions of the Final Development Plan that was approved in 2006 as well as allow the proposed use to better fit within the City Code.

ASSOCIATED CASES
FDP-08-13-05 Final Development Plan; Fairfield Farms Multi-Family; Southwest corner of K-10 Highway and O’Connell Road. Planning Commission approved on January 23, 2006.


OTHER ACTION REQUIRED
• City Commission approval of rezoning request and adoption/publication of ordinance.
• Submission and administrative approval of a site plan.
• Application and release of building permits prior to development.

PUBLIC COMMENT
N/A

Project Summary
The property is currently zoned PRD (Planned Residential Development) District. A rezoning request to the RM15 (Multi-Dwelling Residential) District is requested to better accommodate proposed senior living units. Adjacent zoning in the area is RM12D and the requested rezoning would be in harmony with this residential area. The request complies with the Comprehensive Plan land use projections in the area. The area remains residential and the maximum density of 15 units/acre will remain the same. The RM15 zoning district accommodates the proposed use and permits a one-step, administrative site plan review process.

Properties in the surrounding area of the property are zoned CO (Commercial Office) and RM12D (Residential Dwelling Duplex) and are developed with Residential Dwelling Duplex structures. A zoning map in Figure 1 illustrates the zoning and land uses of the area.

Per Code, a Preliminary Development Plan must be submitted with any rezoning request to the Planned Development Overlay. The previously approved development plan has expired. A concept plan for the proposed use related to this rezoning request was submitted. (Figure 2)
REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN
Applicant’s response: “Existing zoning to the west and to the south are zoned RM12D and the requested rezoning would be in harmony with this residential area. The request complies with the comprehensive plan’s urban growth projections in the subject area.”

This property is currently zoned PRD under an approved Final Development Plan in compliance with the current goals of Horizon 2020 and the urban growth projections for the subject area. No change in density or character of development is proposed.

Staff Finding - The proposed rezoning does not change the overall character of development in the area and the request is in conformance with the residential land use recommendations in the Comprehensive Plan.

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

Current Zoning and Land Use: PRD (Planned Residential Development) District; Undeveloped.

Surrounding Zoning and Land Use:

To the west: RM12D (Multi-Dwelling Residential) District; Residential Duplex units.

To the south: RM12D (Multi-Dwelling Residential) District; Residential Duplex units.

To the east: CC200 (Community Commercial Centers) District; Undeveloped pad sites.

To the north: CO (Office Commercial Development) District; Undeveloped pad sites.

Staff Finding - The subject property is adjacent to properties zoned for residential and commercial land uses. The commercially zoned properties are currently undeveloped. The proposed rezoning is compatible with the zoning and land uses, existing and approved, in the area.

3. CHARACTER OF THE NEIGHBORHOOD
Applicant’s Response:
“The neighborhood area is residential to the west and south. The areas to the east and north are vacant and zoned commercial for future development.”

This area is currently developed as a Multi-Dwelling Residential neighborhood with undeveloped Commercial land uses to the north and east.

Staff Finding - This is a low intensity commercial area with undeveloped pad sites for commercial use, and multi-dwelling residences located around the subject property are in keeping with the proposed Multi-Dwelling living units. The proposed rezoning would result in a development that is compatible with the character of the area.

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

The rezoning request is not changing overall development plans for the area, the character of the neighborhood or impacting adjoining property.

Staff Finding - The rezoning request is compliant with the area. The request is a change from a Planned Development Overlay District to RM15 (Multi-Dwelling Residential) District. The RM15 District permits similar density and housing types as previously approved on the Final Development 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 classification is/will remain residential. The Developer is planning on doing units for senior housing. Density remains the same, RM-15 is a better fit to apply city code to this type of development.”

Staff Finding - The property is well suited to the uses to which it is restricted under the existing zoning regulations. The proposed rezoning does not change the uses to which the property has been restricted. The Land Development Code adopted in 2006 includes many of the site development standards previously only found in the Planned Development regulations. This allows development with increased landscape and buffer yards in conventional (RM) zoning districts without reliance on PD overlays.

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

Applicant’s Response: “Approximately 10-12 years.”

The Planning Commission approved a Final Development Plan for this property on January 23, 2006. On May 21, 2007, an extension to this approved Final Development Plan was granted by the Planning Commission and approval was extended to January 2008. The Final Development Plan approval has expired. The property has never been developed.

Staff Finding - The property has been vacant as zoned since the Final Development Plan was approved in 2006.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETERMINATELY AFFECT NEARBY PROPERTIES
As noted earlier, the property is surrounded on the west and south with Multi-Dwelling Residential zoned property which is partially developed. The residential development of this property would be similar to, and compatible with the adjacent land uses. To the east and north, the property is adjacent to commercially zoned property. This commercially zoned area is currently undeveloped.

**Staff Finding** - The RM15 zoning is in keeping with the nearby properties and the previously approved Final Development Plan. The rezoning would allow for a proposed use that would be compatible with the nearby uses and should have no detrimental effect. Future development is subject to site plan approval.

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**

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.

The proposed rezoning is not changing the allowed use of the property in a manner that would be detrimental to public health, safety and welfare. The proposed rezoning allows the developer to retain a similar density and streamline the site plan review process.

**Staff Finding** - Approval of the rezoning request will allow multi-dwelling residential development similar in intensity and compatible with the uses proposed on the previously approved Final Development Plan. The Land Development Code was adopted to encourage development in conventional zoning districts with increased landscape and bufferyard standards. There would be no gain to the public health, safety, and welfare through the denial of the rezoning request.

**PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan and the Golden Factors, and for compatibility with surrounding development. The rezoning request is compliant with the Comprehensive Plan and the Golden Factors and would be compatible with surrounding development. Staff recommends approval of the rezoning request.
A portion of Lot 3, FAIRFIELD FARMS WEST ADDITION, a subdivision of land in the City of Lawrence, Douglas County, Kansas and being more particularly described as follows:

Beginning at the Southwest corner of said Lot 3, thence North 20°59′47″ West contiguous with the Easterly lines of Lots 4 thru 8 of said FAIRFIELD FARMS WEST ADDITION, a distance of 266.15 feet to the Northeast corner of said Lot 6, thence North 30°33′46″ West contiguous with the Easterly lines of Lots 7 thru 11 of said FAIRFIELD FARMS WEST ADDITION, a distance of 419.33 feet to the Northeast corner of said Lot 11; thence North 88°23′00″ East, a distance of 984.74 feet to the centerline of O’Connell Road (1600 Road); thence South 01°36′53″ East contiguous with the centerline of O’Connell Road (1600 Road), a distance of 513.20 feet to the centerline of 29th Terrace; thence South 88°52′57″ West contiguous with the centerline of 29th Terrace, a distance of 169.43 feet to a point of curvature; thence continuing on said centerline and on a curve to the left, chord bearing South 76°44′05″ West, having a radius of 1000.00 feet, and an arc length of 424.00 feet; thence continuing on said centerline, South 64°35′21″ West, a distance of 21.37 feet to a point of curvature; thence continuing on said centerline and on a curve to the right, having a radius of 1000.00 feet, and an arc length of 5.26 feet; thence North 26°55′47″ West a distance of 40.02 feet to the Point of Beginning. The above described parcel of land contains 427,672 square feet (9.818 acres), more or less.
Z-15-00243: Rezone Approximately 9.818 acres from PRD District to RM15 District
Located at 2101 Exchange Court (NW Corner E 25th Terrace & O'Connell Road)
PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

ITEM NO. 4
SPECIAL USE PERMIT FOR 1045 PENNSYLVANIA STREET

SUP-15-00256: Consider a Special Use Permit to permit a Limited Manufacturing and Production business that will manufacture and sell dog treats on-site in the existing building located at 1045 Pennsylvania Street. Submitted by Gary and Angie Rexroad, property owners of record.

STAFF RECOMMENDATION: Planning Staff recommends approval of SUP-15-00256, a Special Use Permit to permit a Limited Manufacturing and Production business in the existing building located at 1045 Pennsylvania and forwarding the request to the City Commission with a recommendation of approval.

Applicant’s Reason for Request: Bake treats - this is considered production by City Code.

ASSOCIATED CASES
- SP-7-41-93: Site Plan for an appliance repair, sales and service facility located in the existing building at 1045 Pennsylvania Street.
- SP-2-8-98: Site Plan for change of use for L&S Home Improvement Center located at 1045 Pennsylvania Street.
- B-12-37-00: Board of Zoning Appeals side yard setback variance for 1045 Pennsylvania. The approved variance was from the required 12’ side yard setback to a minimum of a 5’ along the north property line to accommodate a building expansion on the subject property. The variance was approved on September 6, 2001, however the building expansion was not constructed.

Other Action Required
- City Commission approval of the Special Use Permit and adoption of ordinance.
- Publication of ordinance.

KEY POINTS
- Subject property is zoned CS (Commercial Strip), and previous use included a Home Improvement Center.
- Applicant is proposing to manufacture and sell dog treats on-site, a Limited Manufacturing and Production Use. This use is allowed with a Special Use Permit in the CS District.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
- No public comment was received prior to the printing of this staff report.

ATTACHMENTS
1. Area Map
2. Site Plan

GENERAL INFORMATION
Current Zoning and Land Use: CS (Commercial Strip) District; vacant commercial building.
Surrounding Zoning and Land Use:
To the north, south, east, & southwest:
RS5 (Single-Dwelling Residential) District; Detached Dwellings and Social Service Agency

To the northwest:
RM12D (Multi-Dwelling Residential) District; Duplex

Summary of Request
The property at 1045 Pennsylvania is zoned CS District. The applicant is proposing to use the existing building for uses that include Retail Sales and Service, Light Warehouse, and Limited Manufacturing and Production. Retail Sales and Service and Light Warehouse uses are permitted by right in the CS District. The Limited Manufacturing and Production use is allowed in the CS District with the approval of a Special Use Permit. The proposed activities would include a retail and pet grooming business, which would be located in the front half of the building. The back half of the building would be used as a storage area for dog food that is associated with the applicant’s business, Love Grub. The manufacturing activity would involve baking natural pet treats.

The activities associated with the property will be initiated in a phased approach. Upon occupation of the building, the applicant will proceed with the activities associated with the Retail Sales and Service and Light Warehouse uses. If the Special Use Permit is approved, the Limited Manufacturing and Production use will be pursued at a future point when the steps necessary to obtain a building permit for commercial kitchen equipment can be completed.

Per Section 20-1306(k)(1), a Special Use Permit expires 24 months past the approval date if the property owner fails to obtain a building permit within that timeframe. The applicant intends to pursue the Limited Manufacturing and Production use prior to that expiration period.

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

1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE
Applicant’s Response: N/A

The proposed use of Limited Manufacturing and Production is allowed with a Special Use Permit. There are no applicable use standards (Article 5) that are related to the Limited Manufacturing and Production use associated with this operation. The activity associated with this use is located indoors. This use does not include any exterior storage of materials. The applicant has been working with the city’s Development Services Staff to address building code requirements separate from the applicable zoning regulations.

Staff Finding - The proposed use is allowed in the CS District subject to the approval of a Special Use Permit. This use complies with the applicable provisions of the Development Code.

2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS
Applicant’s Response: Yes
The property is zoned Commercial Strip and located in a residential area. The majority of the property is surrounded by Detached Dwellings, with the exception of a Duplex to the west and a Social Service Agency (Penn House) to the north. While the property is situated in a residential area, commercial uses have existed on-site in the past. The existing structure was built in 1955 for the purpose of commercial uses. In 1993, the subject property was site planned for an appliance repair, sales and service facility (SP-7-41-93). Later, in 1998, the property was site planned for a Home Improvement Center.

The applicant has indicated that the activity level on-site will be low for this use. The retail pet supply and pet grooming business that will be located in the front portion of the building will produce the majority of the activity. The applicant also indicated that the use associated with the Special Use Permit (manufacturing of pet treats) will not be noticed or have any impact on the surrounding area.

The Director of Development and Administrative Services with the Ballard Center indicated that the organization is very excited about the pet business moving in next door to the Penn House.

**Staff Finding** - The proposed use is compatible with the adjacent uses in terms of size, massing, orientation, hours of operation and other external impacts.

3. ** WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED**

   Applicant’s Response: **NO – Use of now empty building will enhance neighborhood.**

   The subject property is zoned CS and has previously contained commercial activities on-site. There are no changes proposed to the building or the subject property with this Special Use Permit application. There will be no adverse effects generated by the Limited Manufacturing and Production use associated with the Special Use Permit.

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

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

   **Staff Finding** - The subject property is an existing improved property and no changes to services are being proposed, therefore there is no detrimental impact on public safety, transportation and services.

5. ** WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED**

   The proposed request provides an enforceable tool to address the use and continued maintenance of the property with regard to landscaping, exterior activity, and off-street parking.

   **Staff Finding** - Adequate assurances of continued maintenance are inherent in the use and the Special Use Permit approval process.

6. ** WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT**
Applicant’s Response: No

The use associated with this Special Use Permit, the production of pet treats, will have minimal impacts on the natural environment. This Limited Manufacturing and Production activities is associated with small-scale food production operations. The treats will be baked with natural ingredients in a commercial oven on-site.

Staff Finding - The subject property is located within a developed urban neighborhood with no changes to the existing site.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE

The requirement for a Special Use Permit is specific to the portion of activity associated with the Limited Manufacturing and Production activities on-site. These activities will be small-scale food production, rather than mass production. The limited scale of the activities will have minimal impact to the surrounding area.

Staff Finding - Staff does not recommend a time limit on the Special Use Permit.

STAFF REVIEW
The following section of this report addresses the existing physical site development of the subject property. There are no proposed changes to the existing site for this use.

A. Site Summary

<table>
<thead>
<tr>
<th>Site Summary</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total area:</td>
<td>11,700 sq. ft.</td>
<td>11,700 sq. ft.</td>
</tr>
<tr>
<td>Building:</td>
<td>2,500 sq. ft.</td>
<td>2,500 sq. ft.</td>
</tr>
<tr>
<td>Impervious Cover:</td>
<td>8,478 sq. ft.</td>
<td>8,478 sq. ft.</td>
</tr>
<tr>
<td>Pervious Cover:</td>
<td>3,222 sq. ft.</td>
<td>3,222 sq. ft.</td>
</tr>
<tr>
<td>Percent:</td>
<td>27.5%</td>
<td>27.5%</td>
</tr>
</tbody>
</table>

B. Access and Parking

On-site Parking:

<table>
<thead>
<tr>
<th>Use</th>
<th>Parking Requirements</th>
<th>Spaces Required</th>
<th>Spaces Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail (~500 sq. ft.)</td>
<td>1/300 sq. ft.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Warehouse and Manufacturing (~1,730 sq. ft.)</td>
<td>1/1,000 sq. ft. + 1/company vehicle</td>
<td>2+0</td>
<td>14</td>
</tr>
</tbody>
</table>

Access: Access to this site is provided via a driveway intersecting with Pennsylvania Street, a local street. There is also access from the alley that abuts the property to the west.

Pedestrian access is provided by existing sidewalks along the east and west sides of Pennsylvania Street, and the north side of E 11th Street.
C. Design Standards

Site Design:
This project does not propose any changes to the physical site.

On June 3, 1993 the Board of Zoning Appeals granted two variances for the subject property. The board granted a variance from the required 15’ off-street parking setback from the street right-of-way to a minimum 0’. The Board also granted a variance from the requirement of providing curb and gutter around the perimeter of the parking lot. With these approved variances, the site design complies with the Development Code.

D. Landscaping and Screening
This project does not propose any changes to the landscaping or screening.

E. Lighting
A photometric plan is not required for this special use as no changes are proposed to the existing site or lighting.

F. Floodplain
The property is not located within the regulatory floodplain.

CONCLUSION
Section 20-402 of the Land Development Code requires a Special Use Permit for the Limited Manufacturing and Production use in the CS District. The use, as planned, is compatible with this location. Staff recommends approval of the Special Use Permit.
SUP-15-00256: Special Use Permit for 1045 Pennsylvania

Subject Property
SUP-15-00256: Special Use Permit for a Dog Treat Manufacturing Business to be Located at 1045 Pennsylvania Street
Supplemental Report: Consider a Special Use Permit for a Bar located at 804 Pennsylvania St. Submitted by Flint Hills Holdings Group LLC, for Ohio Mortgage LLC, property owner of record.

**Staff Recommendation:** Planning Staff recommends approval of a Special Use Permit for a Bar at 804 Pennsylvania Street subject to the following conditions:

1. Prior to release of the Special Use Permit for issuance of a building permit the applicant shall provide an executed site plan performance agreement to the Planning Office.

2. Any physical changes to the site which are required as a result of this Special Use Permit must be reviewed and approved by the Historic Resource Commission prior to the release of the site plan for building permits.

3. The following standards apply to this use:
   a. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons by the Fire Code. (The site shall be signed with this occupancy limit.)
   b. Seating. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.
   c. Operating Hours. The outdoor seating area shall be closed (unoccupied) at 11:00 p.m. Sunday through Thursday and 12:00 a.m. Friday and Saturday. Business hours inside the building are unrestricted.
   d. Sound Level. Amplified live music on the outside dining area shall cease at 10:00 p.m. Sunday through Thursday, and at 11:00 p.m. Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.
   e. Outside Seating Area. A 4 ft high railing should be installed along the 18” wall around the outdoor seating area to clearly demarcate the area and prevent patrons from spilling over into the parking area.
   f. Food Sales:
      i. Food shall be available for purchase at all times the establishment is open. The food may be provided within the building or by food trucks on site.
      ii. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars. Items such as pastries, breakfast food, sandwiches and sides, or meals will meet the intent of this requirement.

4. Provision of a revised site plan with the following changes:
   a. Addition of a note listing the standards applied with this SUP to the Bar use.
   b. Addition of a note listing the revised restricted uses per Zoning Ordinance No. 9101.
   c. Addition of a 4 ft high railing along the 18” high wall around the outdoor seating area.
Applicant’s Reason for Request:

“This request is being made because the current restrictions stated in Ordinance 8920, Section 2, item a.i. create an unnecessary burden on the potential operator of the business at 804 Pennsylvania. We have had three separate business owners approach us and preliminarily reach an agreement about operating a Bistro business out of the space, but all three have backed out upon learning of the restrictions and reporting burden placed on them after opening. Running a small business is difficult enough without the added burden of chasing around upwards of ten to fifteen food trucks for receipts and reporting—many of which will be coming through town from out of city or out of state. Business owners need to be able to lean on their core competency in creating sustainable businesses, and relying upon the property and accurate reporting of another business owner (i.e. food trucks) puts them in a position to fail before the doors ever open. This has also deterred food trucks from signing agreements to participate because the reporting expectations placed on them would not be what is required to operate anywhere else. The coffee bar owner needs to focus on that aspect of the model, the food trucks need to focus on their part, and this has been stated by all involved to date.

The bistro site plan and architectural layout will not change even after approval of the SUP—the concept is exactly the same. In fact, we expect food sales to increase when these restrictions are lifted because more vendors will want to participate in this highly unique business model. We want this to be a place that neighbors, business owners, property owners, tenants and homeowners are proud to support. If this alienates anyone in East Lawrence, then this business will not succeed in any capacity. We want families to come down with their dogs to enjoy a sunny Sunday, business owners to grab lunch in between meetings, and neighbors to meet friends here and carry on a conversation in a quiet, quaint, controlled environment.

The ownership of this development is the same ownership group for the surrounding Poehler Lofts and Cider Gallery. If this business becomes a nuisance, no one has more to lose than the owners. This project equates to 1/60th of the investment in the neighborhood to date by this development group, and under no circumstances will 1/60th ever cannibalize the remaining 59/60th investment in the Warehouse Arts District.

At the end of the day, we need to determine what is the best environment and framework we can provide to ensure the business operators can operate a business with a chance to proceed. If this SUP provides terms that are agreeable to all, then we will be ready to move forward with construction right away. This will create 3 permanent jobs within the walls of the Bistro right away, and a multitude of others indirectly. This will help grow the food truck culture in Lawrence which will in turn create more jobs though their success, and will provide another avenue for existing businesses to grow such as Lucky Dog, Centro cigars, Kambucha, and we hope, many others.”

ASSOCIATED CASES:


- Z-01-01-06: Rezoning of 5.49 acres from M-2/M-3 (General/Intensive Industrial) Districts to C-5-UC (Limited Commercial with Urban Conservation Overlay) District. Approved by City
Commission on December 19, 2006 with conditions to restrict the uses. The restricted uses were listed in Rezoning Ordinance No. 8054.

- **Conversion:** The C-5 (Limited Commercial) Zoning Designation converted to CS (Commercial Strip) with adoption of Land Development Code on July 1, 2006.

- **Z-08-23-11:** Rezoning of the subject property from CS-UC (Commercial Strip with Urban Conservation Overlay) to RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) to remove the nonconformity status from the duplex use. Approved by City Commission on October 18, 2011 with adoption of Rezoning Ordinance No. 8677.

- **Z-13-00287:** Rezoning of the subject property from RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban Conservation Overlay) District. Approved by City Commission on November 5, 2013 with adoption of Rezoning Ordinance No. 8920. Conditions applied on the original C-5 Zoning for the District were applied with a change to allow 2 years for compliance with the 55% food sales requirement for the Bar use.

- **SP-13-00349:** Site plan for conversion of a duplex dwelling to a Quality Restaurant/Bar at 804 Pennsylvania Street. Site plan included 2,440 sq ft customer service area total: 1200 sq ft customer service area in the building, and 1240 sq ft outside dining. Administratively approved on November 12, 2013.

- **ORD. 9026:** Revision to City Code to allow permanently sited mobile food vendor units when approved with a site plan. Approved by City Commission on October 7, 2014.

- **SP-14-00220:** Site plan to include a space for the permanent location of Mobile Food Vendors at 804 Pennsylvania Street which would be used to meet the 55% food sales requirement. The site plan included 2,649 sq ft of customer service area total: 1084 sq ft in the building, and 1,565 outside dining. Administratively approved on July 3, 2014.

- **Z-15-00022:** Rezoning of subject property from CS-UC to CS-UC (Commercial Strip with Urban Conservation Overlay) District to revise the condition restricting uses to permit a Bar use without the 55% food sales. The City Commission approved this rezoning with adoption of Ordinance No. 9101 at their May 19, 2015 meeting with a revised condition to allow a Bar use without the 55% food sales requirement when the use is approved with a Special Use Permit. The following is the list of restricted uses as revised with Z-15-00022:
  
  (i) Bar or Lounge, Nightclub, or other Licensed Premises, unless:
  
  (A) 55% of gross receipts from said use are derived from the sale of food for consumption on the premises (this condition shall be applied beginning on the two-year anniversary of the commencement of the use); or
  
  (B) approved as a Special Use pursuant to City of Lawrence, Kan., § 20-1306 (Jan. 1, 2015).

  (ii) Liquor Store;
  
  (iii) Ambulance Service;
  
  (iv) Car or Truck Wash;
  
  (v) Auto Repair;
  
  (vi) External drive-through ATM or drive-through window (walk-up ATM’s allowed);
  
  (vii) Furriers;
  
  (viii) Pawn Shop;
(ix) Mobile Home Sales and Service;
(x) Golf Driving Range;
(xi) Pet Store (animal sales)
(xii) Payday Advance and Car Title Loan Businesses; and
(xiii) Convenience Store with Gasoline Sales.

OTHER ACTION REQUIRED
- City Commission approval of SUP application and adoption of SUP Ordinance.
- Publication of SUP Ordinance.
- Provision of a revised site plan reflecting the changes or standards applied with the Special Use Permit to the Planning Office.
- Historic Resource Commission review and approval of change of use and any changes needed to the site plan.
- Building Permits must be obtained from Development Services prior to development activity occurring on the site.

KEY POINTS
- The property contains a contributing structure to the East Lawrence Industrial Historic District, National Register of Historic Places (Figure 1); therefore, the Historic Resources Commission (HRC) must review the Special Use Permit request under the State Preservation Law (K.S.A. 75-2724, as amended). The Historic Resource Administrator administratively approved this SUP permit and the approval is scheduled for confirmation by the HRC at their July 23, 2015 meeting. Any changes to the site plan required as a result of this Special Use Permit must be reviewed by the HRC before the site plan is released.
- The subject property and the surrounding area has been master-planned through the 8th and Pennsylvania Urban Conservation Overlay District and is regulated in part by the 8th and Penn Neighborhood Redevelopment Zone Design Guidelines.
- Shared and on-street parking is utilized throughout the 8th and Penn Neighborhood Redevelopment Zone.
- The City Commission approved the rezoning change to allow a Bar use without an associated restaurant provided the impacts on nearby properties are mitigated through site specific conditions established with the review and approval of a Special Use Permit.
- The applicant is not proposing changes to the development approved with Site Plan SP-14-00220; however, changes may be required as part of the standards established with the Special Use Permit.

Figure 1. Historic structure on the property, proposed for use as a bar/bistro.
PLANS AND STUDIES REQUIRED
The studies and plans that were provided with the previously approved site plan, SP-14-00220, are adequate as no physical changes are being proposed to the site with this request.

PUBLIC COMMENT
- An area property owner called and provided a letter to express opposition to live music.

ATTACHMENTS
A: Zoning Ordinance No. 9101
B: Approved site plan, SP-14-00220
C: Public Communications

GENERAL INFORMATION
Current Zoning and Land Use:
CS-UC (Commercial Strip with Urban Conservation Overlay) District with conditions; vacant building which has site plan approval for development as a Bistro/Bar with a requirement that 55% of the total retail sales must be from food sales.

Surrounding Zoning and Land Use:
To the north:
IG-UC (General Industrial with Urban Conservation Overlay) District; vacant utility yard, most recent use was Heavy Wholesale Storage and Distribution.

To the west:
CS-UC (Commercial Strip with Urban Conservation Overlay) District; Undeveloped land under same ownership as subject property.

To the south:
CS-UC (Commercial Strip with Urban Conservation Overlay) District; Art gallery with retail space and office uses.

To the east:
RM32-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District; Multi-Dwelling Structure (Figure 2)

Figure 2a. Zoning of area. Subject property is outlined. Hatched area -- conditional zoning. Stippled yellow area -- UC (Urban Conservation Overlay) District.

Figure 2b. Land use in the area. Subject property is outlined.
Summary of Request
The property was rezoned in January of 2015 to revise the restrictions of use to allow a Bar use without the 55% food sales requirement when the Bar use is approved with a Special Use Permit. The Special Use review and approval process includes a public review and evaluation of a use’s operating characteristics and site development features. This review is intended to ensure that proposed Special Uses will not have a significant adverse impact on surrounding uses or on the community at-large.

A site plan for the Bistro/Bar (with 55% food sales requirement) was approved in 2014 with spaces for two on-site food trucks (Figure 2). This site plan, SP-14-00220, serves as the site plan for this SUP request as no changes are being proposed to the property. The focus of this review is on the possible impacts the proposed Bar use could have on nearby land uses and the establishment of specific standards and conditions to ensure the development is compatible with the area.

![Diagram of site plan](image)

Figure 3. Approved site plan (SP-14-00220) for a Bar/Bistro at 804 Penn. Building is shown in brown and the outside seating area is highlighted in yellow.

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

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

Applicant’s Response:
“Yes.”
Typically, Special Use Permits include a site plan which is reviewed for compliance with the Development Code. The site plan in this case, SP-14-00220, (Figure 2) was found to be compliant with the Development Code and was approved in 2014.

**Staff Finding** - The site plan for this use, SP-14-00220, was found to be compliant with the Development Code and was administratively approved in 2014. The proposed use complies with the applicable provisions of the Development Code.

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

Applicant's Response:

"Seeing as how the concept for the restaurant will not change if approval is given, the impact will be exactly the same as our previously approved site plan and concept. This will not become a loud, obnoxious, collegiate bar. We aim to serve those in the neighborhood and anything that is not respectful to their wishes and offering a product they will not enjoy is counterproductive to all. Food trucks will always have a place on site and be vital to the business model. Coffee, baked items, and food truck breakfast items will still be available in the mornings. A wide range of spirits, craft cocktails, craft beers, and affordable domestic beers will be offered to attract the diverse citizens that frequent the Warehouse Arts District right now. We would love for people to bring their dogs down to the patio for a weeknight beer, come with close friends for a cocktail before they head home after dinner, or provide a place where business owners down the street can bring clients to discuss their next partnership opportunity. This will be an establishment that people will have pride in and because of that will maintain an atmosphere that is suitable for all.

The outdoor seating area is the dominant use on the site with an area slightly larger than the area of the building. The building is approximately 1084 sq ft while the outdoor seating area has an area of approximately 1565 sq ft. The site plan depicts seating for 32 individual seats and 4 picnic tables in the outdoor seating area, which could accommodate between 56 and 64 customers.

The 55% Food Sales requirement allows a bar only when accessory to a restaurant use. The different nature of the *Restaurant* and *Bar* outdoor dining or seating areas can result in differing impacts to an area. Patrons visiting a restaurant’s outdoor dining area typically stay on site for shorter periods of time than patrons of an outdoor area with a bar. Occupancy with a restaurant use is typically limited to the number of seats provided; however, a bar’s outdoor area can have greater occupant levels as many patrons remain standing. Televisions and amplified music are more often associated with a bar’s outdoor area than a restaurant’s. There is usually more interaction between patrons in a bar’s seating area while conversations in a restaurant’s seating area are usually limited to the table. A stand-alone bar with the amount of outdoor seating that is proposed could generate noise from activities or amplified music in the outdoor seating area that could have a negative impact on nearby properties. In staff’s opinion, it is the outdoor seating area that would be the source of possible negative impacts with the surrounding properties.

The proposed bar is within the interior of the 8th and Penn Neighborhood Redevelopment Zone (Figure 2) and is separated from the residences to the west by Pennsylvania Street, and a vacant lot and industrial uses which are located along the west side of Pennsylvania Street. The closest
single-dwelling residence is approximately 200 ft from the subject property; however, the outdoor seating area is just across the alley from the new residential apartments developed in the Poehler Building to the east.

Operating restrictions that could be used to mitigate the negative impact associated with the activity in the outdoor seating area could be a time limit on amplified music, a limit on the number of people that can be in the outdoor area, or an early closing time. Staff recommends the following list of standards to minimize the impact of the activity in the outdoor area:

- **Occupancy**: No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons by the Fire Code.
- **Seating**: The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.
- **Operating Hours**: The outdoor seating area shall be closed (unoccupied) at 11:00 p.m. Sunday through Thursday and 12:00 a.m. Friday and Saturday. Business hours inside the building are unrestricted.
- **Sound Level**: Amplified live music on the outside dining area shall cease at 10:00 p.m. Sunday through Thursday, and at 11:00 p.m. Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.
- **Outside Seating Area**: A 4 ft high railing should be installed along the 18” wall around the outdoor seating area to clearly demarcate the area and prevent patrons from spilling over into the parking area.

Most of the public communications provided for the rezoning request spoke in favor of a restaurant and bar use. The City Commission voted to revise the zoning restrictions to allow a Bar without a required food sales percentage but noted that food sales should remain an important component of the establishment. Staff proposes the following condition to achieve that goal:

- **Food Sales**:
  - Food shall be available for purchase at all times the establishment is open. The food may be provided within the building or by food trucks on site.
  - The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars. Items such as pastries, breakfast food, sandwiches and sides, or meals will meet the intent of this requirement.

In staff’s opinion, these standards should limit the occupancy, hours, and noise associated with the outdoor area and result in a bar that is compatible with the nearby residential uses while also insuring that use will maintain a restaurant aspect.

**Staff Finding** - The proposed standards on the use applied through the Special Use Permit would limit the features of the outside seating area that may be incompatible with nearby land uses. With the appropriate standards, the use should be compatible with adjacent land uses.

3. **WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED**
Applicant’s Response:

“"No, the proposed use of a restaurant will balance out the residential and office space in
the Warehouse Arts District. This development will offer a place to relax, unwind, and
connect with colleagues/clients or reconnect with neighbors. It will be an asset to the
area and to Lawrence when the design is implemented. Keep in mind this building is 1300
sq ft gross, compared to the 250,000 sq ft + of occupied developed property to go along
with the additional 100,000 sq ft + of undeveloped property. This equates to roughly 1%  
of the square footage in the district that is controlled by this ownership group.”

The nature of the outdoor seating area could have an impact on the value of other property in the
neighborhood. If the use becomes a nuisance nearby property values could drop. On the other
hand, if it becomes an amenity to the area it could have a positive effect on the value of nearby
properties.

Staff Finding - The outdoor seating area has the capability of negatively impacting property
values if it is managed in similar fashion to other bars. Staff recommends adoption of standards on
the outdoor seating area to insure that the use has no significant negative impact on other
properties in the area.

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

A site plan has been approved for a bar/bistro at this location. The property has direct access to
Pennsylvania Street, is adjacent to 8th Street on the north, and has an alley along the east
property line. Adequate access is provided for public safety. The studies that were submitted with
the previously approved site plans indicated that the streets are adequate for the anticipated
traffic and the utility lines are adequate for the proposed use.

Staff Finding - Adequate public facilities and transportation access is accommodated for this
development at this time.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE
BEEN PROVIDED

Staff Finding - Adequate assurances of continued maintenance are inherent in the use and the
Special Use Permit approval process.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE
NATURAL ENVIRONMENT

Applicant’s Response:

“No, the proposed use will allow for the restoration and development of a building
constructed in the late 1800s, which is a historic asset to the neighborhood and currently
vacant. This will provide a significant improvement to the natural environment because
there will be strict restrictions imposed on the operator by the ownership group related to
upkeep, maintenance and cleanliness. It will be one of the most well maintained and
managed properties in the City.”

Staff Finding - The property is currently developed and has an approved site plan for changes
for a Bar/Bistro use. The addition of a Bar use without the 55% food sales requirement will not
impact the natural environment.
7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE

This Special Use Permit is required to accommodate a specific use in this district. Standards can be applied to insure compatible development. Given the amount of investment for this use, and its ongoing nature, Staff does not recommend a time limit on the Special Use Permit.

Staff Finding - In staff’s opinion, it would not be appropriate to limit the period of time the Bar use should be allowed by Special Use Permit based on the amount of investment involved and the ongoing nature of the use.

STAFF REVIEW
Typically, this section of the SUP staff report reviews the site plan for compliance with the Development Code. In this case, the site plan has been approved and the SUP is being requested so that site and use specific standards can be applied to the use to insure compatibility with nearby properties. As no changes are being proposed to the approved site plan, it will not be reviewed. The proposed standards should minimize any negative impact to nearby land uses by limiting the number of people who can be in the outdoor seating area, limiting the time the area is open, and limiting the time that amplified music can be played. A condition requiring the sale of food products is intended to maintain the joint restaurant/bar nature of the use, without a requirement for a specific portion of the sales to be from food. A condition which requires the tables and chairs to remain as shown on the site plan will maintain the character of the outdoor seating area. The 4 ft high railing along the 18” wall bordering the seating area will help demarcate the outdoor seating area and will prevent customers from spilling into the parking or grassed areas. The applicant found the proposed standards acceptable but had some concerns with the limitation on the hours of operation. Staff suggested the limited hours to reduce late night impact on nearby residences based in part on comments provided in public communications for the rezoning requests to permit a Bar use without the 55% Food Sales requirement.

CONCLUSION
A set of standards are proposed by staff to accommodate the proposed Bar use while minimizing negative impacts to nearby properties. In staff’s opinion these standards would result in a compatible restaurant/bar use.
ORDINANCE NO. 9101

AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, REZONING APPROXIMATELY 0.27 ACRES FROM CS-UC (COMMERCIAL STRIP-URBAN CONSERVATION OVERLAY) DISTRICT WITH CONDITIONS TO CS-UC (COMMERCIAL STRIP-URBAN CONSERVATION OVERLAY) DISTRICT WITH REVISED CONDITIONS AND AMENDING THE CITY'S "OFFICIAL ZONING DISTRICT MAP," INCORPORATED BY REFERENCE INTO THE CITY CODE AT CHAPTER 20, ARTICLE 1, SECTION 20-108 OF THE CODE OF THE CITY OF LAWRENCE, KANSAS, 2015 EDITION, AND AMENDMENTS THERETO.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

SECTION 1. The base zoning district classification for the following legally described real property, situated in the City of Lawrence, Douglas County, Kansas, to-wit:

LOT 1 IN 8TH AND PENNSYLVANIA NEIGHBORHOOD REDEVELOPMENT ADDITION NO. 3, A MINOR SUBDIVISION REPLAT OF LOTS 1 AND 2, BLOCK 'A' OF 8TH AND PENNSYLVANIA NEIGHBORHOOD REDEVELOPMENT IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS

is hereby changed from CS-UC (Commercial Strip-Urban Conservation Overlay) District with conditions to CS-UC (Commercial Strip-Urban Conservation Overlay) District with revised conditions, as such district is defined and prescribed in Chapter 20 of the Code of the City of Lawrence, Kansas, 2015 Edition, and amendments thereto.

SECTION 2. The rezoning granted in Section 1, supra, in addition to being subject to the general conditions established in Chapter 20 of the Code of the City of Lawrence, Kansas, 2015 Edition, as amended, is also subject to the following special conditions:

(a) The following uses are excluded from the zoning district described in Section 1, supra:

(i) Bar or Lounge, Nightclub, or other Licensed Premises, unless:

(A) 55% of gross receipts from said use are derived from the sale of food for consumption on the premises (this condition shall be applied beginning on the two-year anniversary of the commencement of the use); or

(B) approved as a Special Use pursuant to City of Lawrence, Kan., § 20-1306 (Jan. 1, 2015).

(ii) Liquor Store;

(iii) Ambulance Service;

(iv) Car or Truck Wash;

(v) Auto Repair;
(vi) External drive-through ATM or drive-through window (walk-up ATM’s would be allowed);

(vii) Furriers;

(viii) Pawn Shop;

(ix) Mobile Home Sales and Service;

(x) Golf Driving Range;

(xi) Pet Store (animal sales)

(xii) Payday Advance and Car Title Loan Businesses; and

(xiii) Convenience Store with Gasoline Sales.

SECTION 3. The “Official Zoning District Map,” which is adopted and incorporated into the City Code by reference at City of Lawrence, Kan., Code § 20-108 (January 1, 2015), is hereby amended by showing and reflecting thereon the new zoning district classification for the subject property as described in more detail in Section 1, supra.

SECTION 4. If any section, sentence, clause, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 5. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED by the Governing Body of the City of Lawrence, Kansas, this 26th day of May, 2015.

APPROVED:

Jeremy Farmer
Mayor

ATTEST:

Diane Bucia
Acting City Clerk

APPROVED AS TO FORM:

Toni R. Wheeler
City Attorney
8TH & PENN NEIGHBORHOOD REDEVELOPMENT ZONE

PARKING TABULATION CURRENT

<table>
<thead>
<tr>
<th>PROPERTY</th>
<th>REQUIRED</th>
<th>PROVIDE</th>
<th>TOTAL REQUIRED</th>
<th>PROVIDE</th>
<th>DIFFERENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>POP DEP WAREHOUSE</td>
<td>41</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>POP DEP BLD PENNSYLVANIA</td>
<td>41</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PEP BUILDING KEN037 PENNSYLVANIA</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>COMER GALLERI (91 PONNSYLVANIA STREET)</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CITY (61 PONNSYLVANIA STREET)</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL PARKING REQUIRED</td>
<td>148</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

PARKING TABULATION PROJECTED

<table>
<thead>
<tr>
<th>PROPERTY</th>
<th>REQUIRED</th>
<th>PROVIDE</th>
<th>TOTAL REQUIRED</th>
<th>PROVIDE</th>
<th>DIFFERENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>POP DEP WAREHOUSE</td>
<td>41</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>POP DEP BLD PENNSYLVANIA</td>
<td>41</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PEP BUILDING KEN037 PENNSYLVANIA</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>COMER GALLERI (91 PONNSYLVANIA STREET)</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CITY (61 PONNSYLVANIA STREET)</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL PARKING REQUIRED</td>
<td>137</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SUP-15-00261: Special Use Permit for a Bar to be Located at 804 Pennsylvania Street

Lawrence-Douglas County Planning Office
July 2015
I would like to object to the 804 Penn. St. Special Use Permit for the request for live music 7 days a week.

Please take into consideration the families living on New Jersey St. There is a family with a newborn, a young couple with a school-age child, an older woman caring for her even older sister with dementia, several students with early classes, and people with jobs that need their sleep. Live music a half a block away would be very unsettling.

I do not live on New Jersey St. I have lived in the 800 block of New York St. for 25 yrs and I know most of the folks who live on New Jersey St. and I felt I needed to speak up for the unhardened city commission goers the uncomputer users and those who are not sure how to voice their concerns in writing.

So please take us neighbors into consideration when considering this special use permit for live music.

Thank you
Cynthia Trask  ozdog@sunflower.com

P.S. Personally I am against having this bar in our neighborhood at all.
Commissioners,

Please see attachment with detail as to the Special Use Permit Request for the property at 804 Penn St. Please note, that The Planning office and I have worked for many weeks drafting a document that would address all concerns. Theirs has been submitted to you as the staff recommendation. The main sticking point, as you will see in the document is the hours of operation restriction we have omitted. I wanted to reiterate our issues with restricting the hours separate from the attachment for clarity's sake.

Please note that every operator we have approached that has been interested in operating the Bistro has been adamantly that no hours restriction take place for two main reasons:

1) The Fire Department lists the indoor occupancy for the Bistro building at 44 persons. In Kansas, much of the year people do not want to be outside, so the operator is limited to a maximum of 44 people to serve at one time. Restricting the hours on top of this seemed too much when forecasting cashflow to all potential owners. The patio helps during the warmer seasons, however many students are still out of town. We do not intend to target students in our marketing, but they are still a part of the local economy. Keeping the hours the same as competing establishments is important to involved.

2) Many people that live and work in the Warehouse Arts District work in the service industry as waiters, bartenders or similar. These shifts often go until 11pm or later, and business hours need to accommodate this reality. A business in the Warehouse Arts District that cannot serve those in the Warehouse Arts District has no chance of surviving.

I think all are in agreement with the other five conditions. I think it does a great job of addressing issues with food sales, noise, clientele and precedent.

I am hopeful the summary of the process to date and an explanation of how we came to our request will help simplify this complex project. We have a number of operators ready for business, but they did not want to agree with so many of these variable up in the air over the past few years. Hopefully, our terms in the attachment will be agreeable for your Commission so we can file for our building permit and break ground.

Thank you very much for your time.

Tom Larkin
Flint Hills Holdings, LLC
832 Pennsylvania Street
Lawrence, KS  66044
c: 785.766.9230
Tom Larkin  
Flint Hills Development Group, LLC  
on behalf of Ohio Mortgage Investors, LLC  
832 Pennsylvania St.  
Lawrence, KS 66044

Re: 804 Penn St. Bistro Special Use Permit

Commissioners,

This project has been stagnant for two years now, and this will mark the third time that we have been before you. Due to the evolution of this project over time, I think a little background summary is necessary.

In 2007, the previous ownership group of many buildings located in what is now known as the Warehouse Arts District (8th St. to 9th St. and Delaware St. to Pennsylvania St., generally), led by Bo Harris, agreed to placing the 55% restriction for food sales on this block. This restriction was historically only used in downtown Lawrence. The restriction kept the downtown from becoming a bar district, and in that capacity, was effective. However, 50% of the current liquor licenses issued within downtown are to establishments that were grandfathered into this ordinance, and therefore, do not have to abide by the restriction. The property at 804 Pennsylvania Street was within the block that was subject to the 55% restriction. This owner was unsuccessful in redeveloping the historically rich but physically decaying district.

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

Fast forward to 2013, the properties in the Warehouse Arts District are largely under new ownership. Two years ago the current property owner at 804 Penn approached the Commission to request a rezoning that would remove the 55% restriction. This would be the third redevelopment in the area by the same ownership group that won national awards for the Poehler Lofts and the Cider Gallery as exemplary historic renovation developments.

The decision came down to two options based upon the neighborhood’s feedback and the commission’s suggestions:

1. Place substantial hours restrictions on the business owner
2. Extend the 55% sales reporting term to two years instead of one

The latter was chosen as we felt we could attract an operator that would be able to meet this threshold after two years. We still have not found an operator to agree to the terms despite interest in this concept from ten plus individuals because the food sales number was not achievable.
Because of this, we approached the city about allowing food trucks to serve on site, and to count their gross sales toward the 55% benchmark. The city agreed, but only if we did so through the proper channels and modified the Lawrence mobile food vendor code and ordinances to allow them to remain on site more than 3 hours. In 2014, we completed the due process to change these ordinances.

Unfortunately, potentially owners still backed out after hearing of the restrictions (see exhibit A)

Fast forward to 2015. We presented you with a request to fully rezone the property in March of this year. Prior to that meeting we did our due diligence for this effort and met with neighbors, business owners, nearby homeowners, board members of ELNA, Poehler residents and office tenants and property owners in the area to get some feedback as to our plan to apply for the removal of the 55% restriction through a rezoning. Questions arose of noise, activity, demographics of those served and marketed to and the precedent this project would set. I met with ELNA, business owners and property owners, listened to concerns and tried to address as many as I could before ever going before the commission. As an example, prior to any municipal mandate, we:

1. Scaled down the patio in square footage and occupancy
2. Eliminated alley access to vehicles completely
3. Created a singular Penn St. entrance to the parking lot
4. Added a significant landscape buffer between Poehler and the Bistro
5. Agreed to limit amplified outdoor live music past 11pm.

Additionally, we reached out to local businesses to see if they would partner with us on this project to help sell products to invoke the neighborhood feel and drive sales that were non-alcoholic in nature. Businesses such as Kanbucha, Optimal Living, Lucky Dog Outfitters and Centro Cigars along with Food Truck letters of intent from Wilma’s, Drasko’s and Torched Goodness (see exhibits B-F) were sent back to us quickly as a show of support. We want this to be a place where people bring kids for a weekend beverage or dogs to relax on the patio. These partners will help us to create this atmosphere and attract the clientele from the neighborhood.

Additionally, the local support was evidenced during the meeting and in correspondence as well. There was a comment made at our meeting that some of you were surprised that not as many neighborhood residents were there. There were many there in support of the project, however. The letters of support from Poehler residents and nearby business owners were evidence as well. This was something that a large contingency that are directly impacted by the Bistro want and still want. In the City Commission meeting, one commissioner commented that he received 18 emails in favor of this rezoning prior to the
meeting and only three dissenting. The support is and will continue to be present for this project.

Finally, we explained that the biggest concern we kept hearing from the neighborhood was that this was going to be a disruptive, obnoxious bar that everyone would end up opposing. The same ownership group owns the property immediately adjacent to the Bistro—the Poehler Lofts at 619 E. 8th St. and the Cider Gallery at 810 Pennsylvania St. Combined between those properties are 74,000 total square feet and a total investment of $11.3M owned and managed by the same group. This Bistro is an amenity in the neighborhood but not a financial anchor. If word were given that the Bistro was deterring brides from wanting to get married at Cider due to noise or causing residents to move out of Poehler due to disruption then immediate action would take place by the ownership. There is no question that we have the most to lose of anyone if the Bistro ever became too loud or disruptive.

The site plan has been approved for nearly a year now, and the concept has not changed in that span aside from adding food trucks to the operations. Still, we have yet to attract an operator due to the code restrictions on the property.

=*=*=*=*=*

As for this application, we are requesting a Special Use Permit for this property.

Things that will stay the same from the last rezoning effort through this SUP request:

1. The overall concept will stay exactly the same
2. Food will remain a crucial part of the business plan
3. All previous partnership intent remains intact (Lucky Dog, Kanbucha, etc.)
4. Food trucks will remain a staple of this concept and we seek to support them all hours of operations if the demand is there.
5. We will continue to try to attract, families, kids, dogs, etc to keep this a local, neighborhood establishment that is tailored to that clientele

After the meeting with the Commission in March, I immediately met again with neighbors and business owners to hear some suggestions for the concessions to be included in the SUP. I emailed numerous times and met in person with Scott McCullough and other city staff to see their draft of the conditions they felt would satisfy all involved. Their list was sent as the staff recommendation that you all have seen in your packet.

I presented the concessions to ELNA, and explained that the City drafted these conditions, not the ownership. They were slightly modified after I met with the City numerous times but the meat is the same. I was hopeful that ELNA be supportive of our document and sign off on the conditions, but your letter from ELNA shows they are opposed to this effort in its entirety. However, the emails
and letters of support show that the entire neighborhood does not agree with the ELNA board. I believe the correspondence shows many in favor as well.

Here are the conditions we as owners would like to see for this Special Use Permit:

1. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons.

2. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.

3. Amplified live music on the outside dining area shall cease at 10pm Sunday through Thursday and at 11pm Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.

4. Requirements to provide food:
   a. Food shall be available for purchase at all times the establishment is open. The food may be provided within the building and/or by food trucks on site.
   b. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars, yet affordable options should be provided. Items such as pastries, breakfast foods, sandwiches and sides, or meals will meet the intent of this requirement.

5. Based on the information from ABC representative, a railing or barrier should be installed along the 18" wall around the dining area to clearly demarcate the area and prevent patrons from spilling over into the parking area (It should be noted that any barrier design is subject to SHPO and NPS approval).

The one point that the City and the ownership disagree upon is the restriction of hours, as omitted above. We have made it clear the type of business we will ensure opens in the Bistro and the market it intends to serve. The reason the hours restriction will not work is for two reasons that cannot be ignored as a business owner. One, the interior occupancy in this building is only 44 as per the Lawrence Fire Department. In Kansas, much of the year outdoor patios are obsolete due to Mother Nature, so it must be acknowledged that much of the year you are very limited in number of customers you can serve. This condition is restrictive enough and limiting the hours to less than those of competing establishments in town will make this business unsustainable before it starts. Secondly, this business is in the middle of the Warehouse Arts District, and many of those that live and work here are employed in the service industry that
requires them to work until 11pm or later. For this business to survive in the Warehouse Arts District it needs to serve all in the Warehouse Arts District and this has been consistent with everyone that has discussed operating the Bistro. There has not been a single operator that has been open to restricting hours due to location. We have yet to identify another SUP that restricts hours to handicap that business from competing with others in town. It is for this reason, I believe if a hours restriction becomes a requirement by the Planning Commission or the City Commission we do not believe we can pursue the SUP any further.

We have worked closely with every interested group to come to this point in the process. We feel the above conditions are more than fair and provide a layer of protection for those concerned about this in the neighborhood while still providing a framework in which an operator can run a successful business. Please consider the ownership’s side and the length we have gone to get the neighborhood to sign off on this business. We are convinced, that once opened, those that may have been opposed will be please with the product and even chose to visit it on occasion.

Thank you for your time.

Best,

Tom Larkin
Please note my new email address:
tony@flinthillsholdings.com

Sent from my iPhone

Begin forwarded message:

From: [redacted] <[redacted]@gmail.com>
Date: November 5, 2014 at 9:31:46 AM CST
To: Tony Krnsich <tonyk@landmarkigllc.com>
Subject: 804 PENN

Hi Tony,

I hope all is well with you. After deeply considering the proposed lease to open a bar/bistro in 804 Pennsylvania I'm afraid I can't make it work. The zoning restrictions as well as my own financial risk make this unattractive.
I appreciate what you are doing in East Lawrence and wish you all the best. I hope we can work together in some capacity in the near future.

Sincerely,

[signature]

EXHIBIT A
KANbucha
126 Indian Avenue
Lawrence, KS 66046

To Whom It May Concern:

In regard to Tom Larkin’s request to open retail space in the East Lawrence neighborhood area, Kanbucha supports the removal of the 55% restriction. We understand that operating a small business is difficult enough, and adding extra reporting requirements will not help to facilitate sales, but in fact, will help deter due to the reporting procedures. Additionally, We have an agreement with the owners to sell our product on the 804 Penn St. premises for, at minimum, the next 5 years, should the project be approved.

We appreciate your time in considering this matter.

Thank you,

Elliot Pees
Owner
KANbucha
To Whom It May Concern:

Optimal Living has entered an agreement with the owners of 804 Pennsylvania to have a pick up location for our food for a minimum of the next 5 years.

Sincerely,

[Signature]

Jeremy Rodrock, Owner

EXHIBIT C
May 11, 2015

To Whom It May Concern:

I am writing this letter in support of The Bistro, 804 Pennsylvania. I encourage a change to the 55% non-alcohol sales percentage so that they may offer alcoholic beverages at this location, as well as food and other locally made goods.

Additionally, we are hoping to develop a partnership for the term of 5 years with The Bistro to offer our dog bakery treats on their patio.

Sincerely,

Jennifer Ybarra
Co-Owner
Lucky Dog Outfitters

EXHIBIT D
MAY 12, 2015

City of Lawrence Commissioner’s
City Hall
P O Box 708
Lawrence, KS 66044

Dear Sirs and Madam,

This letter is in reference to City Ordinance 8054 in concern to the proposed establishment of The Bistro at 804 Pennsylvania.

Drasko's Food Truck & Catering fully supports the removal of the 55% requirement of Ordinance 8054. Running a small business is difficult enough without having to increase our reporting requirements, unnecessarily. The removal of the 55% through rezoning will allow for us to operate more effectively and efficiently.

We currently have an agreement with the ownership Bistro to be on site at least one day a week for the next 5 years, with every intention of renewing this as long as it's in business.

With warm regards,

Jay Draskovich
Richard Draskovich
May 11, 2015

To Whom It May Concern;

I own a gourmet food truck in Lawrence and am writing in regards to the Bistro in the Warehouse Arts District. I have had numerous meetings and conversations with the building operator and have agreed to have my food truck at the Bistro for a minimum of one day per week for the next five years. I expect this partnership to last longer than that and hope to be able to increase my days per week.

My concern is the 55% restriction and I support having that lifted. Without that restriction in place I would be able to operate more effectively. In addition, I do not welcome more reporting and paperwork as it takes away from my time to actually work in my food truck and generate income.

It’s my belief that this will be a win win for both sides. I expect the alcohol and beverage sales to help my food sale revenue and vice versa. This way customers can stay at the location longer and enjoy both food and drinks.

Another benefit being offered to me from the building operator is the ability to plug into both a power and water supply. This also cuts down my overhead by not having to run my generator.

Thank you in advance for your consideration.

Sincerely,

Julia Ireland
Torched Goodness
785.766.2287
torchedgoodness@gmail.com

EXHIBIT F
From: Jacqueline Putman [mailto:jputman@flinthillsmgmt.com]
Sent: Tuesday, July 21, 2015 5:35 PM
To: Robert.c.sands@gmail.com; bculver@gmail.com; julia.v.butler@gmail.com; pkelly@usd497.org; amalia.graham@gmail.com; denney1@sunflower.com; squampva@aol.com; clay.britton@yahoo.com; bruce@kansascitysailing.com; eric.c.struckhoff@gmail.com; Mary Miller; Scott McCullough
Subject: Cider Gallery and Poehler Lofts

Commissioners,

Please see the attached letter regarding the suspected noise complaints from the Poehler Loft residents concerning the Cider Gallery at 810 Pennsylvania Street. My management team has researched current resident files as well as past resident files in search of any documented noise complaints regarding the Cider Gallery, and zero complaints were found.

As the letter will explain, we are required to keep resident files and all notices, including complaints for up to 7 years. My management team at the Poehler Lofts has never received a verbal or documented noise complaint from the Cider Gallery or any neighboring businesses.

Thank you for your time and attention! Let me know if you have any questions at all.

Jacqueline Putman
Vice President of Property Management
Flint Hills Management Group

832 Pennsylvania Street
Lawrence, KS  66044
PH: 785-550-7228
FAX: 785-856-5658
www.flinthillsholdings.com
www.gDelLofts.com
www.poehlerloftapartments.com
www.liveatchatham.com
www.rockhillgreens.com
July 21, 2015

RE: Lawrence Bistro – 804 Pennsylvania Street

Dear Commissioners,

This letter is to confirm that there has been zero documented noise complaints regarding the Cider Gallery made by current or previous residents at the Poehler Lofts. Under Section 42 of the Internal Revenue Code, the Poehler Lofts, as well as all LIHTC (Low Income Housing Tax Credit program) properties, are required to keep documented complaints from all residents for at least 7 years. We have researched all the Poehler tenant files from the opening of the building, June 2012 to the present and have found no noise complaints.

Please contact me with any questions! Thank you.

Jacqueline Putman
VP of Property Management
Flint Hills Management Group
785-550-7228
jputman@flinthillsmgmt.com
Commissioners,

Please see the attached signatures from current 9-Del Loft residents in support of the Bistro – 804 Pennsylvania Street Special Use Permit.

9-Del Lofts is a brand new property and many residents are still moving in, however, we were able to get all signatures in support of the Bistro.

Again, please let me know if you have any questions. Thank you!

Jacqueline Putman  
Vice President of Property Management  
Flint Hills Management Group

832 Pennsylvania Street  
Lawrence, KS 66044  
PH: 785-550-7228  
FAX: 785-856-5658  
www.flinthillsholdings.com  
www.9DelLofts.com  
www.poehlerloftapartments.com  
www.liveatchatham.com  
www.rockhillgreens.com
July 10, 2015

City of Lawrence
City and Planning Commissioners
6 East 6th Street
Lawrence, KS 66044

9 Del Lofts
900 Delaware Street
Lawrence, KS 66044

RE: Special Use Permit Request for 804 Pennsylvania St.

Esteemed Commissioners,

As 9 Del Loft tenants, we are extremely supportive of the Special Use Permit application for the neighboring development referred to as “The Bistro” at 804 Pennsylvania Street.

Let this letter, and the accompanying signatures, show that we fully support the issuance of a Special Use Permit with the following proposed requirements:

1. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons.

2. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.

3. Amplified live music on the outside dining area shall cease at 10pm Sunday through Thursday and at 11pm Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.

4. Requirements to provide food:
   a. Food shall be available for purchase at all times the establishment is open. The food may be provided within the building and/or by food trucks on site.
   b. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars, yet affordable options should
be provided. Items such as pastries, breakfast foods, sandwiches and sides, or meals will meet the intent of this requirement.

5. Based on the information from ABC representative, a railing or distinguishable barrier should be installed along the 18” wall around the dining area to clearly demarcate the area and prevent patrons from spilling over into the parking area.

As tenants, we chose to move into this apartment complex and neighborhood over others because of the vibrancy and innovation manifested in all of the Warehouse Arts District developments. Not only do we ask for your vote of approval, but we intend to support the business as patrons for years to come.

Sincerely,

9 Del Loft Apartment Residents

(Signatures Enclosed)
<table>
<thead>
<tr>
<th>Name</th>
<th>Unit #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Todd Fosse</td>
<td>Office</td>
</tr>
<tr>
<td>Matt Fox</td>
<td>Office</td>
</tr>
<tr>
<td>Carly S. Heus</td>
<td>201</td>
</tr>
<tr>
<td>Erik Johnsen</td>
<td>Artist</td>
</tr>
<tr>
<td></td>
<td>101</td>
</tr>
<tr>
<td></td>
<td>101</td>
</tr>
<tr>
<td></td>
<td>411</td>
</tr>
<tr>
<td></td>
<td>105</td>
</tr>
<tr>
<td></td>
<td>302</td>
</tr>
<tr>
<td></td>
<td>302</td>
</tr>
<tr>
<td></td>
<td>406</td>
</tr>
<tr>
<td></td>
<td>104</td>
</tr>
<tr>
<td></td>
<td>108</td>
</tr>
<tr>
<td></td>
<td>201</td>
</tr>
<tr>
<td></td>
<td>307</td>
</tr>
<tr>
<td></td>
<td>310</td>
</tr>
<tr>
<td>Stevani Smith</td>
<td>404</td>
</tr>
<tr>
<td>Wendy Willmatt</td>
<td>103</td>
</tr>
<tr>
<td>Chris Henn</td>
<td>402</td>
</tr>
<tr>
<td>Athena Sanchez</td>
<td>409</td>
</tr>
<tr>
<td>Mimi Holcomb</td>
<td>206</td>
</tr>
<tr>
<td>Matthew E. Chip</td>
<td>102</td>
</tr>
<tr>
<td>Cindy Lott</td>
<td></td>
</tr>
<tr>
<td>Ellen Pilkey</td>
<td></td>
</tr>
<tr>
<td>Hannah Smith</td>
<td></td>
</tr>
<tr>
<td>Chrissy Sen</td>
<td></td>
</tr>
</tbody>
</table>
Commissioners,

Please see the attached letter of support from the Poehler Lofts residents for the Bistro - 804 Pennsylvania Street Special Use Permit.

One point of clarification, some residents when approached to sign this final document, were either unavailable during our office hours or getting worn out by the solicitation for signatures. All residents are very supportive of the Bistro and look forward to it joining their community very soon. Everyone has voiced verbal support about its opening next door.

Also attached is a letter from one of our residences at the Poehler Lofts, David Hickey, asking to relocate to the west side of the property in order to experience the Bistro when it opens. Just wanted this to illustrate that residents are not concerned with the Bistro opening, but rather see it as an asset.

Please let me know if you have any questions. Thanks so much!

Jacqueline Putman  
Vice President of Property Management  
Flint Hills Management Group  
832 Pennsylvania Street  
Lawrence, KS  66044  
PH: 785-550-7228  
FAX: 785-856-5658  
www.flinthillsholdings.com  
www.qDelLofts.com  
www.poehlerloftapartments.com  
www.liveatchatham.com  
www.rockhillgreens.com
July 10, 2015

City of Lawrence
City and Planning Commissioners
6 East 6th Street
Lawrence, KS 66044

Poehler Loft Apartments
619 East 8th St.
Lawrence, KS 66044

RE: Special Use Permit Request for 804 Pennsylvania St.

Esteemed Commissioners,

As Poehler Loft Apartment tenants, we are extremely supportive of the Special Use Permit application for the neighboring development referred to as “The Bistro” at 804 Pennsylvania Street.

Let this letter, and the accompanying signatures, show that we fully support the issuance of a Special Use Permit with the following proposed requirements:

1. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons.

2. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.

3. Amplified live music on the outside dining area shall cease at 10pm Sunday through Thursday and at 11pm Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.

4. Requirements to provide food:
   a. Food shall be available for purchase at all times the establishment is open. The food may be provided within the building and/or by food trucks on site.
   b. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars, yet affordable options should
be provided. Items such as pastries, breakfast foods, sandwiches and sides, or meals will meet the intent of this requirement.

5. Based on the information from ABC representative, a railing or distinguishable barrier should be installed along the 18” wall around the dining area to clearly demarcate the area and prevent patrons from spilling over into the parking area.

As tenants, we chose to move into this apartment complex and neighborhood over others because of the vibrancy and innovation manifested in all of the Warehouse Arts District developments. Not only do we ask for your vote of approval, but we intend to support the business as patrons for years to come.

Sincerely,

Poehler Loft Apartment Residents

(Signatures Enclosed)
<table>
<thead>
<tr>
<th>Name</th>
<th>Unit #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Katherine Jade Katz</td>
<td>108</td>
</tr>
<tr>
<td>Janene Ramsey</td>
<td>108</td>
</tr>
<tr>
<td>Carol Huyano</td>
<td>111</td>
</tr>
<tr>
<td>Robert Burman</td>
<td>102</td>
</tr>
<tr>
<td></td>
<td>107</td>
</tr>
<tr>
<td></td>
<td>Basement Condo -</td>
</tr>
<tr>
<td>Sharon Chernak</td>
<td>401</td>
</tr>
<tr>
<td>Maggie M.</td>
<td>206</td>
</tr>
<tr>
<td>Nelé Jones</td>
<td>206</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Kebbi Smith</td>
<td>201</td>
</tr>
<tr>
<td></td>
<td>212</td>
</tr>
<tr>
<td></td>
<td>302</td>
</tr>
<tr>
<td></td>
<td>406</td>
</tr>
<tr>
<td></td>
<td>109</td>
</tr>
<tr>
<td></td>
<td>106</td>
</tr>
<tr>
<td></td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>3 1/2</td>
</tr>
<tr>
<td></td>
<td>412</td>
</tr>
<tr>
<td></td>
<td>409</td>
</tr>
</tbody>
</table>
Flint Hills Management,

I am interested in a unit facing the West side, so I can overlook the Bistro when it opens. Please let me know if and when something is available and we can discuss.

Sincerely,

David Hickey

Unit 109
Flint Hills Management,

I am interested in a unit facing the West side, so I can overlook the Bistro when it opens. Please let me know if and when something is available and we can discuss.

Sincerely,

[Signature]

David Hickey

Unit 109
Hello, Commissioners.

We have compiled a list of surrounding businesses that support a special use permit as written in the attached letter. They feel that these requirements without restriction to hours of operation are more than sufficient and factor in all concerns from the surrounding neighborhood. All of the attached business owners understand the challenges of running a small business and support a city and commission that provide an environment that allows for small businesses to succeed.

Please see attachment. Thank you.

--
Alexandra Santos
Property Manager The Poultry Building
832 Pennsylvania Street

--
Alexandra Santos
Flint Hills Holdings Group
July 10, 2015

City of Lawrence  
City and Planning Commissioners  
6 East 6th Street  
Lawrence, KS 66044

Warehouse Arts District and Surrounding Business Owners

RE: Special Use Permit Request for 804 Pennsylvania St.

Esteemed Commissioners,

Let this letter, and the accompanying signatures, show that we fully support the issuance of a Special Use Permit with the following proposed requirements:

1. Occupancy. No more than 75 persons may be within the outside dining area at any one time. The interior of the building is limited to no more than 44 persons.

2. The number of tables and chairs, as shown on the approved site plan, shall be provided to patrons during all hours that the outside dining area is open, including during Temporary Special Events.

3. Amplified live music on the outside dining area shall cease at 10pm Sunday through Thursday and at 11pm Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.

4. Requirements to provide food:
   a. Food shall be available for purchase at all times the establishment is open. The food may be provided within the building and/or by food trucks on site.
   b. The food shall consist of menu items more substantial in nature than the typical nuts and/or popcorn offered at bars, yet affordable options should be provided. Items such as pastries, breakfast foods, sandwiches and sides, or meals will meet the intent of this requirement.

5. Based on the information from ABC representative, a railing or distinguishable barrier should be installed along the 18" wall around the dining area to clearly demarcate the area and prevent patrons from spilling over into the parking area.
We chose to set up and grow our businesses in the Warehouse Arts District and East Lawrence because we feel there is a tremendous amount of momentum and positive energy that will help us as business owners. Some of us were attracted because of the creative population base that exists here, some for the affordable space availability, some to work alongside like minded folk, but all of us want to work in a vibrant district that provides a home and identity for our business that matches our professional culture.

We are extremely excited for this next business to open its doors at 804 Pennsylvania, and we will support them like we do our current neighbors and colleagues. Professionally, this addition is needed as a place to entertain clients, build relationships amongst coworkers and get to know other businesses in the area by sitting at the same table for a beverage or meal. Personally, the concept for this bistro could not be more fitting for its location and building.

We fully support the Special Use Permit being pursued and will anxiously await the grand opening should this Permit receive approval!

Sincerely,

Warehouse Arts District and Surrounding Business Owners

(Signatures Enclosed)
<table>
<thead>
<tr>
<th>Business Name</th>
<th>Printed Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Through A Glass</td>
<td>Stephen Deaver</td>
<td>730 E 9th St #8</td>
</tr>
<tr>
<td>Potter's</td>
<td>Sam Z Lynn</td>
<td>901 Delaware</td>
</tr>
<tr>
<td>A-1 Automotive</td>
<td>Brian Eveland</td>
<td>837 Penn</td>
</tr>
<tr>
<td>A-1 Automotive</td>
<td>Timothy J. Wizarsczyk</td>
<td>837 Pennsylvania Street</td>
</tr>
<tr>
<td>Cidre Gallery</td>
<td>Tara Sacerdote</td>
<td>810 Pennsylvania</td>
</tr>
<tr>
<td>APEX ENGINEERS</td>
<td>Mike Brunin</td>
<td>810 Penn SYLVANIA, #29</td>
</tr>
<tr>
<td>Zeta McDowdsey</td>
<td>Mark Woledge</td>
<td>810 Penn</td>
</tr>
<tr>
<td>STAR SIGNS LLC</td>
<td>Robert Terry</td>
<td>801 E. 9TH Street</td>
</tr>
<tr>
<td>Star Signs LLC</td>
<td>Stacey Singer</td>
<td>801 E 9th Street</td>
</tr>
<tr>
<td>Business Name</td>
<td>Address</td>
<td>Printed Name</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Star Signs</td>
<td>801 E. 9th St.</td>
<td>Erin Sameck</td>
</tr>
<tr>
<td>TREKK</td>
<td>810 Penn</td>
<td></td>
</tr>
<tr>
<td>TREKK</td>
<td>810 Pennsylvania</td>
<td>Erin Stauffer</td>
</tr>
<tr>
<td>Trekk</td>
<td>810 Penn</td>
<td>Dylan Garrett</td>
</tr>
<tr>
<td>Mark Voss Design</td>
<td>810 Penn</td>
<td>Mark Voss</td>
</tr>
<tr>
<td>CIDER GALLERY LLC</td>
<td>810 Pennsylvania</td>
<td>Jennifer Lerner</td>
</tr>
<tr>
<td>Smiling Mad</td>
<td>720 E. 9th St. #4</td>
<td>Margo Holland</td>
</tr>
<tr>
<td>Yellow Pencil Studio</td>
<td>720 E 9th St #4</td>
<td>Christy Schneider</td>
</tr>
<tr>
<td>Lawrence Community Photo</td>
<td>720 E 9th #6</td>
<td>John Clayton</td>
</tr>
<tr>
<td>Business Name</td>
<td>Address</td>
<td>Printed Name</td>
</tr>
<tr>
<td>---------------</td>
<td>--------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Kennedy Glass</td>
<td>987 ENSO Rd</td>
<td>Randall Stemfelt</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kennedy Glass</td>
<td>730 W 7th St</td>
<td>John Kennedy</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kennedy Glass</td>
<td></td>
<td>Zac Hoffmires</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bixy</td>
<td>810 Penn</td>
<td>Andelyn Fernandez</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bixy</td>
<td>810 Penn</td>
<td>Evan Hodges</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bixy</td>
<td>810 Penn</td>
<td>Kyle Johnson</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bixy</td>
<td>810 Penn</td>
<td>Danielle S. Peterson</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
July 21, 2015

TO: Mr. Clay Britton, Chair, and Members of the Lawrence-Douglas County Metropolitan Planning Commission

RE: ITEM NO. 5 SPECIAL USE PERMIT FOR 804 PENNSYLVANIA ST

When this issue was placed on the Planning Commission’s March 23, 2015 agenda, the League of Women Voters Land Use Committee wrote a letter in opposition to the proposal to rezone the property to eliminate the 55% food sales reporting requirement. We were primarily concerned whether a bar without food service could meet the needs of the community; and whether it would attract a large number of customers from outside the neighborhood, eventually becoming a hazard and a nuisance rather than a benefit for the residents. We were also unsure whether conditions imposed under a SUP could adequately address the food issue. Although we still do not think this property should be exempt from the 55% food requirement, we agree that the next best outcome is a Special Use Permit with stringent conditions.

It is obvious that Planning Commission Staff has put a lot of thought into the SUP and made an attempt to cover each and every issue. We believe, however, there are still two areas where further adjustments would benefit the neighborhood: operating hours and sound level, particularly in relation to the outdoor dining area.

3.d. Staff Recommendation - Sound Levels: live music on the outside dining area shall cease at 10:00 p.m. Sunday through Thursday, and at 11:00 p.m. Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.

Response: The issue of sound has been discussed several times in prior hearings on this rezoning request. Whenever it arises, the answer always involves outdoor events held at the Cider Gallery, with the primary argument being if there is no objection to noise from the Cider Gallery (a statement which is disputed) there should be no objection to noise from this proposed small bistro next door. No one has mentioned that the Cider Gallery has only one or two events per week, while the property in question could be open seven days a week. If amplified music is allowed, the onslaught of noise day after day would be very disruptive to the neighborhood. This could potentially be handled by prohibiting outdoor amplified music altogether or by limiting the number of days per week amplified music is allowed.
July 21, 2015

TO: Mr. Clay Britton, Chair, and Members of the Lawrence-Douglas County Metropolitan Planning Commission

RE: ITEM NO. 5 SPECIAL USE PERMIT FOR 804 PENNSYLVANIA ST

When this issue was placed on the Planning Commission’s March 23, 2015 agenda, the League of Women Voters Land Use Committee wrote a letter in opposition to the proposal to rezone the property to eliminate the 55% food sales reporting requirement. We were primarily concerned whether a bar without food service could meet the needs of the community; and whether it would attract a large number of customers from outside the neighborhood, eventually becoming a hazard and a nuisance rather than a benefit for the residents. We were also unsure whether conditions imposed under a SUP could adequately address the food issue. Although we still do not think this property should be exempt from the 55% food requirement, we agree that the next best outcome is a Special Use Permit with stringent conditions.

It is obvious that Planning Commission Staff has put a lot of thought into the SUP and made an attempt to cover each and every issue. We believe, however, there are still two areas where further adjustments would benefit the neighborhood: operating hours and sound level, particularly in relation to the outdoor dining area.

3.d. Staff Recommendation - Sound Levels: live music on the outside dining area shall cease at 10:00 p.m. Sunday through Thursday, and at 11:00 p.m. Friday and Saturday. Other music (live acoustical and digital or stereo sources) shall be kept at an ambient level after those times.

Response: The issue of sound has been discussed several times in prior hearings on this rezoning request. Whenever it arises, the answer always involves outdoor events held at the Cider Gallery, with the primary argument being if there is no objection to noise from the Cider Gallery (a statement which is disputed) there should be no objection to noise from this proposed small bistro next door. No one has mentioned that the Cider Gallery has only one or two events per week, while the property in question could be open seven days a week. If amplified music is allowed, the onslaught of noise day after day would be very disruptive to the neighborhood. This could potentially be handled by prohibiting outdoor amplified music altogether or by limiting the number of days per week amplified music is allowed.
2.d. Staff Recommendation: Operating Hours. The outdoor seating area shall be closed (unoccupied) at 11:00 p.m. Sunday through Thursday and 12:00 a.m. Friday and Saturday. Business hours inside the building are unrestricted.

Response: Allowing outdoor seating until 11 pm on weeknights and 12 pm on Fridays and Saturdays seems unreasonable for an establishment located in the middle of a neighborhood. Again, the impact on the neighborhood could be mitigated or controlled by prohibiting or limiting outdoor amplified music.

Based on the public comments during the May 19, 2015 City Commission meeting, it is apparent that a small, quiet neighborhood restaurant/bar is something that many people in the area would enjoy. Limiting the impact of noise from this establishment may help to achieve that goal.

Sincerely,

Debra S. Duncan
President

Alan Black
Chairman, Land Use Committee
Hi Scott, please include this for the Planning Commission Packet for 8/22 agenda item 5.

Here are my thoughts on this SUP.

I want to see this establishment geared more towards being a neighborhood restaurant rather than a neighborhood bar. The bar aspect has connotations that do not make it fit in to a neighborhood as well as a restaurant can.

I also believe the standards set forth in this SUP will have precedent setting consequences both in this newly burgeoning area as well as in other areas of the city.

The SUP should limit hours, both inside and outside. I would prefer an earlier closing on the inside than the SUP offers. Midnight would be good.

The SUP should have specific and measurable standards on food. Percentages of sales would be the easiest way to measure.

The SUP should have specific and measurable standards on noise. There are families living within view of the site. They do not need the distractions of a bar, but want the amenities of a restaurant.

The current SUP as written leaves far too much interpretation to the standards being placed. The standards being put into place should not be left to judgements.

The new restaurant should be a positive addition to the neighborhood, a new bar is a divisive addition to the neighborhood. The primary entertainment district is a mere 5 or 6 blocks away, where it should be - Downtown.

Thanks for the opportunity to give feedback.

Phil Collison
900 block of Pennsylvania.
July 19, 2015

Re: SUP for 804 Pennsylvania

The East Lawrence Neighborhood Association is pleased to be able to weigh in on the Special Use Permit for the restaurant that is being proposed for 804 Pennsylvania. We would have much preferred that the applicant just follow the rules as they were laid out in the Conservation Overlay District that we worked hard to put into place back in 2006. The goal then was to allow for development that could be congruent within a neighborhood. Our goal today will be to accomplish that same thing. Applicant has been discussing this issue with us for nearly three years; our feedback to him throughout that timeframe has been consistently the same, we want the hours shortened, we want food served, and we want noise mitigated. Applicant has not budged on a desire to run a bar with no food requirements, but with good intentions to serve food.

A Special Use Permit should define specific criterion that would make it very easy to determine if a bar were in compliance. That criterion should be easily measurable. That this bar should be capable of serving “substantial” food during all hours it is open is not easily measurable and could quickly be undermined by a shrewd owner. Our intent is that not only would the bar be prepared to serve food, but food would be served routinely, and the volume of food served be documented in some manner. A percentage of sales is an easily measurable methodology. The SUP should have a clear and measurable method for documenting the amount of food served.

A Special Use Permit should also have a measurable component in regards to noise. Keeping the noise to an “ambient level” requires judgment on the part of the listener, and the perception of ambient noise to a neighbor lying in bed with a window open would be quite different than how a person having a conversation on the deck of said bar might perceive ambient noise. Noise levels should be easily measurable and criterion chosen should be specific. Routine checks should be made by City Staff to ensure compliance. Dense vegetation around the patio could also help keep sound reverberation to a minimum.

In 2006 when we came up with a 55% food requirement for the overlay we wanted a way to encourage a business to open as a restaurant rather than a bar. Applicant wants the business to be more bar than restaurant and has stated an intent to have the bar available to patrons of the Cider Gallery once their special events end. Late night hours may be desired by the owner, but are not conducive to a quiet and peaceful neighborhood. We do see this recognized by the SUP for the outside area of the bar. We want it to go one step further and apply to the inside area of the bar. We do not see potential for food service in the late night hours that a bar would be open, and we do not believe that late night bar
activities are congruent within the neighborhood. We want to see a reasonable closing time of midnight for the inside patrons, also.

Applicant has stated good intentions will drive the operations of the bar. We are glad that Applicant does have good intentions, but also believe good intentions should have checks and balances in place to back them up. That is what a clear and concise Special Use Permit can accomplish. Those good intentions should make it such that the SUP does not come into play. We hope that they do, but we will sleep better at night knowing that a solid SUP will accomplish what our hopes may not.

Thank you for the opportunity to provide input,

Aaron Paden
President, East Lawrence Neighborhood Association
July 19, 2015      From: N. Proudfoot, Resident and Property owner E.L.

To the City of Lawrence:

The Ant-track and the 9th street Corridor:

The supposed "Art Corridor" has little if nothing to do with Art. It is a Trojan horse strategy, using Art as a ploy to Access the neighborhood for developers and speculators, who do not even live in Lawrence. There are 9 residential houses on 9th street. Where are these people going to go? East Lawrence is one of the oldest original working class neighborhoods west of the Mississippi still basically intact! It is residential, light commercial and small business, mostly owner occupied that is if you do not count the 100 new apartments to the north. We already have public gathering places; Lawrence creates, Art Emergence, The Cider House. The idea of putting a bar at 801 Penn seems out of order. I live at 814 New Jersey and have to get my sleep. I hear complaints from people who live next to bars and they reiterate how noisy it is and having to deal with the drunk patrons at 2 am in the morning. Is this just opening the door to what else will be allowed?

Why after decades of neglect, all of a sudden there is such an amount of interest in the east Lawrence. We find this highly suspicious. I am not against development but it has to include sustainability and participation of local property and Business owners in the process and not just outside investors. The corridor is the magnet for land speculators and drive up prices to make a quick buck in the process driving out long term even 4th generation residents.

It is the first step in the creation of a Manhattan-style Aggieville in the Heart of East Lawrence. What we need is new sewers, sidewalks, traffic calming devices, pedestrian friendly streets and sidewalks and Low lighting, not a satellite entertainment district competing with downtown. For all our property taxes we deserve more than 30 years of neglect. Lawrence was born in these bottoms. Remember to preserve our past, and not be blinded by visions of exploiters.

I am a neighbor that is objecting to the opening of a late night bar on Penn Street in East Lawrence and one who will be directly affected by the commotion.

N.Proudfoot
proud38@gmail.com
From: "Judy Romero" <jjromero@hotmail.com>
To: "Scott McCullough" <smccullough@lawrenceks.org>
Cc: "Judy Jane Romero" <jjromero@hotmail.com>, "Phil Collison" <phil@collison.com>
Subject: Bistro/bar of 800 block of Pennsylvania St
Date: Fri, Jul 17, 2015 11:44 am

I'm Judy Romero of 929 Pennsylvania St. My family has lived on the 900 block for many years. (I grew up in
the 50s on the block)

I am writing to voice my four concerns of the BAR/bistro to the area.

When Robert Kruse set up his business, the family supported him. It was a great improvement after living with
the east side bar (under age drinking & rude college kids & picking up beer cans very weekend.)

Now & the future ...ugh.

1. noise
The occasional food fest & festival is OK. But my concern now is based on an instinct. This could be an open
door to late night craziness/noise not just occasionally but weekly (daily/nightly  OMG) it seems the owners of
the bistro/bar are wanting to make money with no regard to the neighborhood.

Tom once stated change is coming if you like it or not. So I've become suspicious.

It would be nice to have a quiet place to walk to for a drink or food when having out of town company. But at
what cost to the neighborhood?

2. drinking
50% food 50% liquor would be what I think logical but not what owners want. It would need to be called a bar
not a bistro, if liquor % is higher. I think a person who drinks daily & that late at night may not be what would
be good for the neighborhood.

3. hours of operation
Late night hours are of concern. These late hours are not for the 8 to 5 worker & the nearby neighbors trying to
sleep. So who would be buying drink/food at the late hour? It been said the restaurant/bar workers of Lawrence
needed a place and this would be it... & daily. How many would that be? How could a business make money off
these workers? So there must be more to this venture than we have been told.

4. size of the place
This is of interest. Small, yes, but something tells me there are already plans to expand...to make money. It
would be a nice place for private parties & gatherings like cider gallery. That would be great!

FYI
These are incidents we have experienced from east side bar. I've had people ring my door bell after midnight
wanting to use bathroom. (heard them talk but did not answer)
My brother across the street had men & women urinate in the yard behind hedge. He also had word exchanges
with people...most were college students. He finally removed hedges. The words exchanged summed up --its a
bad neighborhood & they could do what they (college kid) want.
I also know that marijuana can easily be accessed....I've called & written the police. So what other drugs could
be had. Yes its available all over town but if it can be stopped in this area maybe we could avoid future
problems.
It is sad to say I see more negatives than positives for the future, if this BAR/bistro is able to set its rules/conditions of operation. Other businesses would be ready to open if there is this freedom the city would allow.

Respectfully,

Judy Romero
jjomer@hotmail.com
785 760-2107
July 20, 2015

To the Planning Commissioners,

Regarding the SUP for 804 Pennsylvania, we do not support the proposal as written by the applicant.

There needs to be a set closing time, not just adjusting the sound levels of the music at 10 and 11 o'clock. Who describes what is ambient at midnight during the week?

There needs to be a very adequate sound barrier.

There needs to be a more reliable food requirement.

There does not need to be a bar close by for when an event at the Cider Gallery (where alcohol can be served via catering) ends for people to go have another drink. There are plenty other bars nearby downtown.

Once again, if the business model does not work a new business model can be figured out.

Thank you for your consideration of this matter.

Cindy Suenram
Arch Naramore
1204 New York
Lawrence
PLANNING COMMISSION REPORT
NON PUBLIC HEARING ITEM
Public Hearing on variance only

PP-2-1-12: Consider a Preliminary Plat for North Lawrence Riverfront Addition, located at 401 North 2nd Street. This subdivision includes variances related to block length, right-of-way dedication for N. 2nd Street as a principal arterial, and connection of a local street to an arterial street. Submitted by Paul Werner Architects, for North Mass Redevelopment, LLC, Douglas County Kaw Drainage District, City of Lawrence, Kaw River Estates, LLC, HDD of Lawrence LLC, D & D Rentals of Lawrence LLC, Jeffrey W. Hatfield, Exchange Holdings LLC, Loosehead Investments LLC, and Riverfront Properties of Lawrence LLC, property owners of record.

VARIANCE RECOMMENDATION:
1. Staff recommends approval of a block length in excess of 800’.
2. Staff recommends approval of reduced right-of-way dedication for N. 2nd Street as a principal arterial street.

STAFF RECOMMENDATION:
Staff recommends approval of the Preliminary Plat for North Lawrence Riverfront Addition subject to the following condition:
1. Provision of a revised drawing to include access around tower per staff approval.

Reason for Request:
Purpose of this application is to clarify property ownership boundaries as a preliminary development step and position the property for transfers of land ownership as development of the property is planned. Existing development is intended to remain in the interim.

KEY POINTS
- Platting required as pre-development step.
- Easements and rights-of-way serving existing development will remain in the interim.
- Unused or undeveloped right-of-way will be vacated through this subdivision process.
- Current ownership includes both public and private property owners.

SUBDIVISION CITATIONS TO CONSIDER
- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 10, 2012.
- Section 20-810 Subdivision Design Standards
- Section 20-813 (g) Variances

ATTACHMENTS
Attachment A: Preliminary Plat
Attachment B: development concept from TIS
Attachment C: North Lawrence Improvement Association boundary map
ASSOCIATED CASES/OTHER ACTION REQUIRED

Associated Cases:

Note: Zoning has been approved by the City Commission May 1, 2012 subject to approval and adoption of design guidelines. The design guidelines have not yet been approved.

- **Z-12-29-11**: Consider a request to rezone approximately 1.38 acres from IG (General Industrial) and CS (Commercial Strip) to CD (Downtown Commercial), located at 401 & 415 North 2nd Street. Submitted by Paul Werner Architects, for Exchange Holdings LLC, property owner of record.
- **Z-12-30-11**: Consider a request to rezone approximately 2.14 acres from IG (General Industrial) to CD (Downtown Commercial), located at 0 & 100 Lincoln Street and 151 & 100 Perry Street. Submitted by Paul Werner Architects, for D&D Rentals of Lawrence, LLC, property owner of record.
- **Z-12-32-11**: Consider a request to rezone approximately .83 acres from IG (General Industrial) and CS (Commercial Strip) to CD (Downtown Commercial), located at 409 & 501 North 2nd Street. Submitted by Paul Werner Architects, for Jeffrey Hatfield, property owner of record.
- **Z-12-33-11**: Consider a request to rezone approximately .34 acres from OS (Open Space) and CS (Commercial Strip) to CD (Downtown Commercial), located at 300, 311, & 317 North 2nd Street. Submitted by Paul Werner Architects, for Riverfront Properties of Lawrence, LLC, property owner of record.
- **Z-12-34-11**: Consider a request to rezone approximately 1.61 acres from IG (General Industrial) to CD (Downtown Commercial), located at 139 Perry Street, 505 North 2nd Street & 141 Maple Street. Submitted by Paul Werner Architects, for HDD of Lawrence, LLC, property owner of record.
- **Z-12-35-11**: Consider a request to rezone approximately .55 acres from IG (General Industrial) to CD (Downtown Commercial), located at 133 Perry Street. Submitted by Paul Werner Architects, for Kaw River Estates, LLC, property owner of record.
- **Z-12-36-11**: Consider a request to rezone approximately 1.38 acres from IG (General Industrial) to CD (Downtown Commercial), located at 600 North 1st Street, Block 3. Submitted by Paul Werner Architects, for Abfield Investments, property owner of record.

Other Action Required:
- Submittal of final plat for administrative approval and recordation.
- City Commission acceptance of dedication of easements and vacations of existing right-of-way as depicted on the Final Plat.
- Submittal and approval of public improvement plans and provision of means of assurance of completion shall be submitted prior to the recording of the Final Plat.

PLANS AND STUDIES REQUIRED

*Downstream Sanitary Sewer Analysis* – The understanding of the Department of Utilities is that this preliminary plat is only related to existing utilities at the site. Therefore, the Department of Utilities has no comments related to this submittal. For future improvements to the site, additional comments will be applicable. Per Administrative Policy 76, a downstream sanitary sewer analysis is required as part of this project. Sanitary sewer model results were provided to Landplan Engineering on September 24, 2014.
• **Drainage Study** – A comprehensive drainage study is required for the future development of this area. The existing storm sewer network will not handle any additional stormwater runoff. All stormwater runoff generated by additional impervious surfaces will need to be collected and pumped straight to the Kansas River.

• **Traffic Study** – Accepted by Staff. Additional review of a traffic study may be needed as development details are made available for this project.

**PUBLIC COMMENT**
None received

<table>
<thead>
<tr>
<th>Site Summary</th>
<th>16.116 Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Area:</td>
<td></td>
</tr>
<tr>
<td>Additional Right-of-Way (acres):</td>
<td>No new right-of-way proposed. Preliminary Plat proposes to vacate existing right-of-way for streets and alley and dedicate instead access easement.</td>
</tr>
<tr>
<td>Number of Proposed Lots:</td>
<td>1</td>
</tr>
<tr>
<td>Minimum lot size</td>
<td>16.116 Acres</td>
</tr>
<tr>
<td>Maximum lot size</td>
<td>16.116 Acres</td>
</tr>
<tr>
<td>Average lot size</td>
<td>16.116 Acres</td>
</tr>
<tr>
<td>Total Developable area</td>
<td>16.116 Acres</td>
</tr>
</tbody>
</table>

**GENERAL INFORMATION**

<table>
<thead>
<tr>
<th>Current Zoning and Land Use:</th>
<th>Existing zoning includes CS (Commercial Strip) District, IG (General Industrial) District and OS (Open Space) District. – Pending approval of CD (Downtown Commercial). Existing improvements include manufactured homes and commercial businesses.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surrounding Zoning and Land Use:</td>
<td></td>
</tr>
<tr>
<td>To the north; north of Lyon Street:</td>
<td>OS (Open Space) District; existing Riverfront Park.</td>
</tr>
<tr>
<td>To the east; east of the railroad tracks north of Lincoln Street:</td>
<td>IG (General Industrial) District and CS (Commercial Strip) District; existing automotive sales and services and contractor shop.</td>
</tr>
<tr>
<td>To the east; east of N. 2nd Street south of Lincoln Street:</td>
<td>CS (Commercial Strip) District; existing parking lot. IG (General Industrial) District; manufacturing use. GPI (General Public and Institution) District; Union Pacific Depot.</td>
</tr>
<tr>
<td>To the south:</td>
<td>OS (Open Space) District; existing Riverfront Park and River.</td>
</tr>
<tr>
<td>To the west:</td>
<td>OS (Open Space) District; existing levee and Riverfront Park.</td>
</tr>
</tbody>
</table>
STAFF REVIEW
This property is proposed to be platted as a single lot for the purposes of establishing a defined boundary between the levee and the development parcel. Existing access and utilities will be retained through easements. Interior right-of-way is proposed to be vacated through this development.

This property is located in what is generally known as North Lawrence. However, the mapped neighborhood boundary begins along the east side of N. 2nd Street, excluding this area. The area located along N. 2nd Street between the river and Highway 70 is an existing commercial and industrial corridor.

The property includes multiple ownership including property owned by the City of Lawrence and the Kaw Drainage District. A separate map attached highlights the location of the publically owned parcels within the boundary of the preliminary plat. The developer has executed an agreement with the city to acquire certain properties to facilitate development.

Zoning and Land Use
This property currently includes multiple zoning districts. Zoning has been approved for CD (Downtown Commercial) zoning but is not effective at this time. The CD zoning was approved subject to a condition regarding the development and approval of commercial design guidelines. At this time, the guidelines have not been developed or approved; therefore, the CD zoning status is pending. The applicant desires to complete the land consolidation phase of the development while
the design guidelines are being developed. Design guidelines for the redevelopment of this property would be considered by the Planning Commission as a future agenda item.

Existing land uses include commercial and residential uses. Attachment E highlights the location of existing structures on the property. Much of the existing property is vacant.

Two significant structures are “Johnny’s” located on the northwest corner of Locust Street and N. 2nd Street and the “Gaslight” building located on the southwest corner of Locust Street and N. 2nd Street. The intent of the development is to retain these two buildings. The locations of the buildings frame the intersection and provide an entry to the development. Most, if not all, of the remaining structures will be demolished prior to redevelopment of the site. There is no timeline for redevelopment of the property.

The levee (Riverfront Park) is also a significant land use within the immediate area of the subject property. This feature marks the western boundary of the development area and is intended to be significantly incorporated into the redevelopment of the site.

A related land use of this property is the regulatory floodplain. Much of the property is protected by the levee. However, a small area is designated in zone AH. This floodplain will require consideration in future development applications as the project advances. The applicant has been working with City Staff regarding stormwater requirements for this project. Easements shown on the preliminary plat are intended to accommodate the existing development. Prior to redevelopment of the site; easements will be revised through a new subdivision plat of this property.

Lot Design
This property is proposed, at this time, as a one lot subdivision with interior access and utility easement. The lot fronts along N. 2nd Street along the length of the east property line. The irregular shape of the lot is a function of the levee, railroad right-of-way and existing highway/street configuration. Long term plans include future subdivision of the property. At this time the purpose of the subdivision plat is to establish clear and distinct boundaries to accommodate development planning.

This project retains existing easements that provide water and sanitary sewer service to existing development. Public streets and alleys are proposed to be vacated. The proposed Preliminary Plat complies with the minim lot design standards for subdivisions. However since the property is proposed as a single lot the block length exceeds 800 feet. The overall block length, measured across the length of the property is approximately 2,000 feet. Section 20-810 (d) (2) of the Subdivision Regulations states:

*Block length for Local Streets within the City of Lawrence shall not exceed 800 feet in length (centerline to centerline of streets) unless the subdivider demonstrates to the satisfaction of the Planning Commission that:*

a. There are pedestrian Ways at intervals of 700 feet or less, replacing the connection that would exist as a sidewalk along the street; and

b. The proposed block must be greater than 800’ in length because physical conditions preclude a block length of less than 800 feet. Such conditions may include, but are not limited to, topography or the existence of natural resource areas such as jurisdictional wetlands, floodplains, wildlife habitats areas, steep slopes or woodlands.
The block length of the street frontage of N. 2nd Street is 792.89’, excluding the 95.46’ that overlay with the railroad right of way.

Figure 3: Block Length Exhibit

The green line in the above graphic highlights the street frontage used for measuring block length. The red line highlights that segment of the street right-of-way that overlaps with the railroad right-of-way. It is in that north 95’ that the street continues north through an underpass. Conservatively, to comply with the subdivision regulations, a variance is needed regarding block length.
VARIANCE NO. 1: Block length in excess of 800 feet per Section 20-810 (d).
The standard for the required block length assumes intersecting streets but allows for pedestrian easements. This property is uniquely shaped as a factor of the Kansas River, levee system, railroad right-of-way and location of N. 2nd Street/Highway 24/40.

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

The purpose of this application is to consolidate multiple parcels into a single lot to facilitate future redevelopment. Existing improvements will remain with access easement providing interior circulation. At this time access easements are provided between N. 2nd Street and the interior of the site. Separately dedicated pedestrian easements are not included at this time. It is anticipated that the property will be re-subdivided in the future when development plans are more refined. The dedication of any pedestrian easements would not necessarily be meaningful.

There are no existing pedestrian facilities in the area other than the levee trail located in Riverfront Park. No changes to that trail or the boundaries of the levee are proposed to be altered with this application.

STAFF FINDING: Strict application of the regulations would result in dedication of easements that may or may not be useful with the future development plans. General access circulation is retained though access and utility easements.

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

This design standard is intended to provide pedestrian access and connectivity as part of a development or redevelopment project.

The intent of this Preliminary Plat is to combine multiple lots into a single lot to facilitate redevelopment of the property. This is an interim development application to accommodate the applicant’s desire to define the development boundaries and retain existing development in the interim.

STAFF FINDING: Granting this requested variance from the required block length is not opposed to the purpose and intent of the regulations and does not impact this design principle.

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

The current frontage for N. 2nd Street is unchanged with this application. As future development plans are refined additional connections and pedestrian facilities will be provided.

STAFF FINDING: Granting this requested variance from the required block length will not harm the public health, safety or welfare. These public aspirations will continue to be protected though the planning of corridor improvements and future re-subdivision of this property.
Streets and Access
This property includes a number of existing public streets and alleys though not all have been constructed. The following table summarizes the affected streets within the boundary of the preliminary plat.

Table 1: Street Vacation

<table>
<thead>
<tr>
<th>Proposed Street and Alley Vacation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Locust Street</td>
</tr>
<tr>
<td>Maple Street</td>
</tr>
<tr>
<td>Perry Street</td>
</tr>
<tr>
<td>Lincoln Street</td>
</tr>
<tr>
<td>Massachusetts Street</td>
</tr>
<tr>
<td>N. 1st Street</td>
</tr>
<tr>
<td>Various alleys located south of Maple Street</td>
</tr>
</tbody>
</table>

The vacation of the right-of-way for these streets will provide more buildable area as the property is redeveloped. Access to structures will be retained with internal access easements as shown on the attached exhibit.

Access to Bowersock Dam, Riverfront Park and the KP&L tower are located at the south end of the property. Access to these facilities must be maintained. The access easement, as proposed, provides connectivity but much of the access is obstructed by the KP&L tower. The easement will need to be adjusted to comply with this design requirement. This requirement is reflected as a condition of approval.
This project includes an additional access to N. 2\textsuperscript{nd} Street at the north end of the bridge. Across from Elm Street. The design intent is for a “right-out” only and for use by emergency responders as needed. Access to the site is complicated by the location of the existing railroad corridor along the eastern side of the property. Maple Street is not sufficiently north of the Locust Street intersection to provide street separation to function as a viable second point of full access. Intersections farther north would require crossing over or under the existing rail corridor. These options for various reasons are not feasible. To off-set the creation of a new at-grade rail crossing, multiple existing at-grade crossings must be eliminated. There are no reasonable candidates for at-grade crossing closures in the immediate vicinity of this proposed development. Bridging over or tunneling under the rail corridor is economically infeasible at this time.

This fact limits the property to one full access point at the intersection of Locust Street and N. 2\textsuperscript{nd} Street. This intersection was recently reconstructed. No intersection improvements are proposed at this time.

N. 2\textsuperscript{nd} Street provides the primary access to this area. N. 2\textsuperscript{nd} Street is a designated as a principal arterial street. As such, N. 2\textsuperscript{nd} Street requires 150’ of right-of-way to comply with the subdivision design guidelines. Right-of-way along this corridor varies widely from 130’ to 80’ between the north end of the bridge and the south side of the overpass. This project does not include the dedication of any new or additional right-of-way along N. 2\textsuperscript{nd} Street. There are no plans to widen the right-of-way along this street segment.

Per section 20-810 (E), local streets should not intersect with arterial streets. As noted N. 2\textsuperscript{nd} Street is an arterial Street. Locust Street, however, is a local street. The Subdivision states:

*Local Streets generally should not intersect Arterial Streets. The Planning Commission, with The City Engineer’s recommendation, may approve a new connection of a Local Street to an Arterial Street:*

- a. Where it finds that such connection is part of the best traffic solution for the new Subdivision; and

- b. Where the Subdivider will add turn lanes or other Improvements recommended by the City Engineer to the Arterial Street to minimize the impact of the connection on the functioning of the Arterial Street.

In this application the existing Locust Street intersection is an existing condition. Additionally, the applicant proposes to vacate the west leg of the Locust Street intersection making it an access
drive. Early plans included retaining the west leg of the intersection as a public street, therefore requiring the variance as advertised. The secondary access discussed previously would also be an access drive rather than a public street. The City Engineer has accepted the proposed design. City Staff will continue to review access and interior circulation as site development plans are made available.

**VARIANCE NO 2: Reduction in the width of right-of-way from 150’ to variable as required for a Principal Arterial Street (N. 2nd Street) per Section 20-810 (e) (5).**

The standard for the required right-of-way width changed in 2006 from 100’ to 150’. The 150’ of required right-of-way is more applicable to new greenfield development rather than existing corridors. There are no plans to widening this segment of the corridor.

N. 2nd Street is a developed corridor with an existing bridge structure crossing the Kansas River at the south end and a railroad underpass located north of the Locust Street intersection. These two features are fixed. The city owns property on the east side of this segment of the corridor.

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

The purpose of this application is to consolidate multiple parcels into a single lot to facilitate redevelopment. Existing buildings are located along the east property line of the property and are intended to remain. Widening the right-of-way would result in these building encroaching into public right-of-way. The buildings would need to be either demolished or relocated outside of the right-of-way to avoid the encroachment. This location change of existing buildings is considered to be a material loss to the historic context of the immediate area.

**STAFF FINDING:** Strict application of the regulations would limit the owner’s ability to retain existing development along N. 2nd Street.

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

This design standard was adopted in 2006 with the Land Development Code. The wider right-of-width accommodates street design with boulevards, multiple lanes and amenities that may or may not exist along developed street segments within the community. Similar variances have been granted for other projects located along developed urban corridors designated as arterial streets.

The intent of the preliminary plat is to combine multiple lots into a single lot to facilitate redevelopment of the property.

Section 20-810 (e) (1) provides general design criteria for streets. Subsection iii states "Arterial and collector streets shall be laid-out, arranged and designed in accordance with any adopted Major Thoroughfares Map or corridor plan." N. 2nd Street is identified as a Principal Arterial Street and is an existing street.

**STAFF FINDING:** Granting this requested variance from the required right-of-way is not opposed to the purpose and intent of the regulations and does not impact this design principle.

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

The current width for N. 2nd Street is variable. The current right-of-way is an existing condition of the corridor.
STAFF FINDING: Granting this requested variance from the required right-of-way will not harm the public health, safety or welfare. These public aspirations will continue to be protected through the planning of corridor improvements.

Public Space and Green Space
Several properties within the project boundary are owned by the City of Lawrence or the Douglas County Kaw Drainage District. The development group has executed a development agreement with the City and the Drainage District that allows for land transfers to sell the properties. These properties are located adjacent to the levee that is also part of the Riverfront Park. There is an existing trail along the riverfront that also provides vehicular access to the levee as needed.

The area at the south end of the project represents the lowest level of the site making the levee trail accessible. This accessibility will need to be maintained. Additionally, the KP&L tower located at the south end will also remain. The Preliminary Plat, as proposed, shows access to the public levee trail aligned with the tower. As noted earlier this access will need to be adjusted.

Early review comments from the Parks and Recreation Department indicated a recommendation to retain city properties as open space. Additionally, landscape treatment along the N. 2nd Street corridor should be designed and installed in a manner that is compatible with the adopted landscape plan along N. 2nd Street. Redevelopment of this property will include changes in ownership and the transfer of City owned parcels to the development group. Development of the site must include appropriate landscape treatment of the N. 2nd Street corridor and non-motorized connections between the levee path and the development.

Figure 8 shows the existing access to the levee trail at the south end of the subject property. Access is accommodated through tracts of land owned by the City of Lawrence. The existing KP&L tower is proposed to remain in the redevelopment plans for this property. Access to the tower, levee and Bowersock Dam must also be maintained.

Figure 9 shows existing public open spaces that have been enhanced by the City along the east side of N. 2nd Street. Similar and/or complementary landscape treatments will be expected along the corridor as the site redevelops.
Utilities and Infrastructure
At this time all existing utilities will be retained and maintained within easements to serve the existing development. The applicant has been working with city staff to define specific requirements that will be applicable to redevelopment of this property in the future. Expectations include providing adequate easement or right-of-way to accommodate a looped water line for two points of feed to the system. Existing utility lines will be replaced when the property is redeveloped. The applicant has been advised that the water lines must be replaced. Similar infrastructure improvements will be needed for the sanitary sewer service for this property with redevelopment. A future development application will require a full downstream sanitary sewer analysis as part of the submission application documents.

Easements and Rights-of-Way
Redevelopment of this property will include additional subdivision plat applications that will further revise and refine easements and interior right-of-way as applicable to support the intended design, building placement and necessary access. Access to N. 2nd Street will remain at Locust Street and will remain as the primary entrance into this development.

Conformance
With the exception of the variances noted above, the proposed preliminary plat complies with the applicable subdivision regulations.
EASEMENT EXHIBIT
PRELIMINARY PLAT
NORTH LAWRENCE RIVERFRONT ADDITION
LAWRENCE, KANSAS  66044
401 N. 2nd STREET

PER DEPT. COMMENTS
REVISIONS
A/E & U/E

5/27/15
7/26/12
5/25/10
5/23/10
5/20/10

CMS
BS
PWA/LPE
20153011
1/13/10
ITEM NO. 7A:  Z-15-00244 CN2 (NEIGHBORHOOD COMMERCIAL) DISTRICT TO OS (OPEN SPACE) DISTRICT; .193 ACRES (SLD)

Z-15-00244: Consider a request to rezone approximately .193 acres from CN2 (Neighborhood Commercial Center) District to OS (Open Space) District, located at 6300 W Bob Billings Pkwy. Submitted by Tim A Herndon, for RSR Holdings LLP, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately .193 acres, from CN2 (Neighborhood Commercial) District to OS (Open Space) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Reason for Request: Rezoning is requested to accommodate a reconfigured stormwater detention pond design.

KEY POINTS
- Proposed application is associated with development as shown in Preliminary Plat PP-15-00246.

ASSOCIATED CASES/OTHER ACTION REQUIRED
- Z-15-00245: .992 acres from OS to CN2
- Z-15-00251: 11.15 acres from RM24, RM12D, RS7 to RS5
- PP-15-00246: Preliminary Plat for Langston Commons 17.5 acres for neighborhood commercial development and 48 lots for residential development.

PLANS AND STUDIES REQUIRED
- Traffic Study – Not required for rezoning
- Downstream Sanitary Sewer Analysis – not required for rezoning
- Drainage Study – Not required for rezoning
- Retail Market Study – Not applicable to request

ATTACHMENTS
1. Area Map
2. Master Plan Comparison
3. Zoning Exhibit
4. Neighborhood maps

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
- None received regarding request for OS zoning.

Project Summary:
The request proposes to revise the zoning boundaries to align with the proposed Preliminary Plat. This application should be considered concurrently with Z-15-00245 that rezones a parcel of land from OS to CN2 and the related Preliminary Plat for Langston Commons PP-15-00246. The following image highlights the area of change as presented in the previous Preliminary Plat and the proposed Preliminary Plat.
1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant’s Response: The subject rezoning facilitates open space/stormwater detention as a component of the “Neighborhood Commercial” land use designation prescribed in the Comprehensive Plan, conforming also with previously approved plans and zoning designations for the subject area.

This property is part of an area planned and approved for development. The proposed change does not alter the existing land use recommendations of the area. It does provide continuity within the development and aligns the zoning district with the proposed platted lot boundaries to facilitate development of the commercial and open space areas consistent with previous land use approval for this area.

Staff Finding – The proposed request for CN2 to OS for .193 (8,407 SF) does not alter the approved land use plans for this area articulated in Horizon 2020.

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


Surrounding Zoning and Land Use: CN2 (Neighborhood Commercial) District to the north, east and west. Undeveloped land.

OS (Open Space) District to the south. Undeveloped land. Intended development will include multi-use recreation path as SLT project is completed in the immediate area. Pathway/sidewalk connections can be seen on the Preliminary Plat.

The attached Zoning Exhibit highlights the two related rezoning requests for the OS and CN2 Districts within the Langston Commons proposed Subdivision.
Staff Finding — The proposed request along with the related rezoning request, Z-15-00245 and Preliminary Plat PP-15-00246, accommodate future infrastructure improvements in the immediate area. The proposed request aligns the zoning district boundaries with the proposed plat lines as shown on the Preliminary Plat.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant’s Response: The immediate neighborhood is zoned CN2 for Neighborhood Commercial development and use.

This property was originally discussed in staff report Z-13-00256 that was approved for Neighborhood Commercial Development as proposed for the development known as Langston Commons.

This property is located within the West Lawrence Neighborhood. The neighborhood boundaries extend north of W. 6th Street between Wakarusa Drive and Queens Road and south of W. 6th Street to Clinton Parkway between Wakarusa Drive and the K-10 Highway. Within the overall neighborhood there are several sub-areas that have been platted and function as micro neighborhoods. This report and related applications focus on the portion of the neighborhood located between Bob Billings Parkway on the south and W. 6th Street to the north. Related Neighborhood maps are attached to this report for reference.

Langston Heights and Langston Commons Subdivisions are intended to connect and extend existing connections within the larger neighborhood context. The north part of the Langston micro neighborhood has begun to development and includes infrastructure and residential structures. The proposed rezoning will not alter the development neighborhood character.

Staff Finding — This property is part of the developing west portion of the West Lawrence Neighborhood. The proposed rezoning will not alter the developing neighborhood character.

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

This property is located within the boundary of the West of K10 Plan. The area shown at the immediate intersection of Bob Billings Parkway and K-10 is identified as a Neighborhood Commercial area. The plan addressed gateway areas and states that development "shall enhance identified gateways” by “providing pleasing corridors.” This project, through the rezoning and subdivision processes, establishes a framework to implement this goal by creating a connected greenspace area along the public right-of-way. The proposed rezoning request seeks to align the district boundaries with the proposed subdivision lots and tracts. Approval of the request that revises the OS and CN2 boundaries supports this concept.

Staff Finding — The proposed request is consistent with the land use recommendations and development policies included in the West of K10 Plan.

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

Applicant’s Response: The subject property is generally suited for the existing CN2 and/or OS zoning designations. However, the subject site [and zonings] must be reconfigured to
accommodate revisions to the stormwater management facility to be constructed within the OS-zoned portion of the site.

This application should be reviewed concurrently with the request for .992 acres from OS to CN2 (Z-15-00245) and the Preliminary Plat (PP-15-00246). The combined applications represent a swap of land from one district to another. While the overall area of the CN2 District increases and the OS District decreases, the development impact is not impacted. The zoning request aligns the district boundary with the platted lot and tract boundaries facilitating development.

This specific application increases the open space area at the southwest corner of the property. This property will be contained in Tract B as shown on the Preliminary Plat and will be part of a drainage easement that serves this area.

**Staff Finding** – Approval of the rezoning shifts development to the north away from the immediate southwest corner of the site. The proposed zoning is suitable for and consistent with the previous land use approvals and proposed development concept for this area.

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

Applicant’s Response: The subject [undeveloped] property has been zoned in its present condition for approximately two years.

Prior to the 2013 application that rezoned this property to CN2 the property had been zoned for Planned Commercial Development. The district boundary extended to the south and west property lines. The Langston Commons Preliminary Plat and related zoning applications establish a green space along the south side of the future neighborhood commercial development between the development and the public streets and highway. This request is a reflection of a revision in the development concept.

**Staff Finding** – This property has been zoned CN2 since September 2013.

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

Applicant’s Response: Approval of this request will not affect nearby properties

At this time the property immediately surrounding the .193 acres to be rezoned from CN2 to OS is undeveloped. The area will be incorporated into the planned development that will include future commercial development as well as open space, a multi-use path that will connect Bob Billings Parkway and the K-10 highway. The recreation path is an allowed use within the open space zoning district.

The proposed request reflects changes in the site development as shown on the related Preliminary Plat. There are no detrimental impacts anticipated from this proposed changes.

**Staff Finding** – Staff does not anticipate any detrimental impacts from the proposed rezoning request.

### 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: *The public health, safety and welfare will remain unaffected by approval of this application. However, the hardship imposed upon the landowner by denial of this application would be significant, and would result in the inability of the owner to construct the property in a manner consistent with conventional Neighborhood Commercial use.*

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.

This request should be considered concurrently with the Preliminary Plat for Langston Commons as well as the rezoning from OS to CN2 (Z-15-00245). These two zoning applications and the preliminary plat are intended to rebalance or recalibrate the boundary of development as reflected in changes to the overall development of the area.

- This application represents .193 acres.
- The related rezoning application .992 acres.

The intent of the rezoning is to provide a cohesive open space area along the boundary of the commercial development. This area serves multiple purposes including, connectivity of non-motorized pathways (recreation path), stormwater detention, buffering, and gateway treatment along the Bob Billings Parkway and K-10 Highway corridor.

The CN2 District is restricted by the Land Development Code to not exceed 15 acres. The configuration of the lot due to the location of the three streets that abut the property resulted in a request for a variance that allows the CN2 District to exceed 15 acres [B-15-00156]. The Board of Zoning Appeals granted this variance on May 7, 2015 which permits the creation of a CN2 District in excess of 15 acres. Retaining this property as CN2 would require a reduction in the district size in some other location to maintain the maximum size approved by the Board of Zoning Appeals (BZA).

**Staff Finding** – There is no harm to the public resulting from approval of this request.

**9. PROFESSIONAL STAFF RECOMMENDATION**

This application represents a refinement of the intended development concept as details of development in the area are being clarified and street and highway construction projects are being completed.

This application is a part of a larger development request that includes rezoning for CN2 to the east and changes in the residential development pattern from duplex to detached housing. These changes are all reflected as part of the Preliminary Plat

**CONCLUSION**

Staff recommends approval of the proposed rezoning to facilitate planned development in this area.
Langston Heights and Langston Commons Development Concepts

2013 Concept

2015 Concept
Z-15-00244: Rezone Approximately 0.193 acres from CN2 District to OS District
Z-15-00245: Rezone Approximately 0.992 acres from OS District to CN2 District
Located on Northeast Corner of K-10 & Bob Billings Parkway Interchange
PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
7/22/2015

ITEM NO. 7B: Z-15-00245 OS (OPEN SPACE) DISTRICT TO CN2 (NEIGHBORHOOD COMMERCIAL) DISTRICT, .992 SF (SLD)

Z-15-00245: Consider a request to rezone approximately .992 acres from OS (Open Space) District to CN2 (Neighborhood Commercial Center) District, located at 6300 W Bob Billings Pkwy. Submitted by Tim A. Herndon, for RSR Holdings LLP, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately .992 acres from OS (Open Space) District to CN2 (Neighborhood Commercial Center) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Reason for Request: Rezoning is requested to accommodate a reconfigured stormwater detention pond design.

KEY POINTS
• Proposed application is associated with development as shown in Preliminary Plat PP-15-00246.

ASSOCIATED CASES/OTHER ACTION REQUIRED
• B-15-00156: Variance to allow CN2 district larger than 15 acres. [18 acres Net area. Without street right-of-way – 16.38 acres]. Approved on May 7, 2015. Subject to conditions:
  ➢ Approval by City of a CN2 rezoning currently zoned OS and
  ➢ All other density and dimensional standards related to the CN2 District shall be enforced.
• Z-15-00244: .193 acres from CN2 to OS
• Z-15-00251: 11.15 acres from RM24, RM12D, RS7 to RS5
• PP-15-00246: Preliminary Plat for Langston Commons 17.5 acres for neighborhood commercial development and 48 lots for residential development.

PLANS AND STUDIES REQUIRED
• Traffic Study – Not required for rezoning
• Downstream Sanitary Sewer Analysis – Not required for rezoning
• Drainage Study – Not required for rezoning
• Retail Market Study – Not applicable to request

ATTACHMENTS
1. Area Map
2. Zoning exhibit
3. Revised Master Plan 2015
4. Development Comparison

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
• Phone call from resident inquiring about proposed request, clarification of uses, appearance of area along streets and detention pond.

Project Summary:
This application includes approximately .992 acres and is part of a larger development application that also includes rezoning from CN2 to OS and a Preliminary Plat. The significant change in the planned development for the Neighborhood Commercial area is the relocation of the stormwater detention area to run parallel to Bob Billings Parkway. Previous plans showed this feature extending north/south into the development. The proposed request reflects this change with the intention of establishing a tract for the detention area to be contained in a single zoning district (OS) and the balance of the property being located in the CN2 District. Refer to Commercial Development Comparison attachment.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN
Applicant’s Response: The subject rezoning facilitates open space/stormwater detention as a component of the “neighborhood commercial” land use designation prescribed in the Comprehensive Plan, conforming also with previously approved plans and zoning designations for the subject area.

The northeast corner of Bob Billings Parkway and K-10 Highway will function as a gateway to the communication at large as well as to the immediate neighborhood. This area has been designated for commercial development in Horizon 2020 and in plan documents predating Horizon 2020. The proposed application does not alter the previous land use recommendations or actions related to neighborhood commercial development in this area. This property was originally discussed and approved for commercial development in August 2013 (Z-13-00256). The purpose of this request is to redefine the boundaries of the CN2 District consistent with the planned development pattern for the area as shown graphically in the related Preliminary Plat.

Staff Finding - The proposed request for OS to CN2 for .992 acres does not alter the approved land use plans for this area articulated in Horizon 2020.

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

Current Zoning and Land Use: OS (Open Space) District. Undeveloped land. Area shown on previous Preliminary Plat as drainage easement.

Surrounding Zoning and Land Use: CN2 (Neighborhood Commercial) District to the immediate north, east and west. Undeveloped land.

OS (Open Space) District to the south. Undeveloped Land.


Existing RS10 (Single-Dwelling Residential) District east of Langston Way. Undeveloped portion of land owned by USD 497.

Existing RS7 (Single Dwelling Residential) District and RM12 (Multi-Dwelling Residential) District south of Bob Billings Parkway.
The following graphic highlights the area to be rezoned from OS to CN2. Langston Way represents the eastern boundary of the district and Renaissance Drive represents the north boundary of the district. The CN2 District as approved included OS along the west and south boundaries. The open space district will continue to be the west and south boundaries if approved.

**Staff Finding** - The subject property will be surrounded by like zoning if approved. The larger surrounding area includes residential zoning with undeveloped land to the east of Langston Way and south of Bob Billings Parkway.

3. **CHARACTER OF THE NEIGHBORHOOD**

Applicant’s Response: *The immediate neighborhood is zoned CN2 for Neighborhood Commercial development and use.*

This section of the report expands on the discussion included in Z-15-00244 regarding the character of the Neighborhood. This property is included in Block 1, Lot 13 of the related Preliminary Plat (PP-15-00246). This property is intended to provide commercial services at the neighborhood level to the surrounding subdivisions or “micro neighborhoods” in the area. Development of the area will allow for commercial services to be provided more readily to the immediate neighborhood. Additionally, the planned street connections enhance the travel network in the surrounding area.

The proposed request is internal to an area currently designated as a Neighborhood Commercial area.
Staff Finding - The proposed request is consistent with the developing character of the surrounding area.

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

This property is located within the boundary of the West of K10 Plan. The area shown at the immediate intersection of Bob Billings Parkway and K10 is identified as a Neighborhood Commercial area. The plan addressed gateway areas and states that development “shall enhance identified gateways” by “providing pleasing corridors.” This project, through the rezoning and subdivision processes, establishes a framework to implement this goal by creating a connected greenspace area along the public right-of-way and a uniform area for neighborhood commercial development. The proposed rezoning request seeks to align the district boundaries with the proposed subdivision lots and tracts. Approval of this request to revise the OS and CN2 boundaries supports this concept.

Staff Finding - The proposed request is consistent with the land use recommendations and development policies included in the West of K10 Plan.

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

Applicant’s Response: The subject property is generally suited for the existing CN2 and/or OS zoning designations. However, the subject site [and zoning] must be reconfigured to accommodate revisions to the stormwater management facility to be constructed within the OS-zoned portion of the site.

The property is currently zoned OS consistent with the previously approved Preliminary Plat for this area. The intent of the OS district is to accommodate the required stormwater detention for the development and to facilitate commercial development in the south part of the property included in PP-15-00246. The proposed request shifts a portion of the current OS district into the CN2 district that follows the revised platted lot lines as they pertain to proposed commercial lot.

Based on the planned development of Lot 13, Block 1 the current OS District is not suitable. Denial of the request would have the effect of reducing the area available for neighborhood commercial development and creating some odd connections within the development.

Staff Finding - The proposed request is less suitable for the current OS District given the proposed changes to the boundary of the development and planned stormwater detention facility to serve this development. Approval of the request will facilitate development consistent with the proposed Preliminary Plat lot lines.

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

Applicant’s Response: The subject [undeveloped] property has been zoned in its present condition for approximately two years.

Prior to the 2013 application that rezoned this property to OS the property had been zoned for Planned Commercial Development. The district boundary extended to the south and west property lines. The Langston Commons Preliminary Plat and related zoning applications establish a green space along the south side of the future neighborhood commercial development between the development and the public streets and highway. This request is a reflection of a revision in the development concept.
Staff Finding - This property has been zoned OS since September 2013.

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

Applicant’s Response: Approval of this request will not affect nearby properties.

At this time the property immediately surrounding the .992 acres to be rezoned from OS to CN2 is undeveloped. The area will be incorporated into the planned development that will include future commercial development as well as open space, a multi-use path that will connect Bob Billings Parkway and the K-10 highway.

The proposed request reflects changes in the site development as shown on the related Preliminary Plat. There are no detrimental impacts anticipated from this proposed changes.

Staff Finding - Detrimental impacts are not anticipated from the proposed rezoning request.

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: The public health, safety and welfare will remain unaffected by approval of his application. However, the hardship upon the landowner by denial of this application would be significant, and would result in the inability of the owner to construct the property in a manner consistent with conventional Neighborhood commercial Use.

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.

This request should be considered concurrently with the Preliminary Plat for Langston Commons as well as the rezoning from CN2 to OS (Z-15-00244). These two zoning applications and the Preliminary Plat are intended to rebalance or recalibrate the boundary of development as reflected in changes to the overall development of the area.

- This application represents .992 acres.
- The related rezoning application .193 acres.

The intent of the rezoning is to provide a uniformly, commercially zoned area for Neighborhood Commercial Development.

The CN2 District is restricted by the Land Development Code to not exceed 15 acres. The configuration of the lot resulting from the location of the three streets that abut the property resulted in a request for a variance that allows the CN2 District to exceed 15 acres [B-15-00156]. The Board of Zoning Appeals granted this variance on May 7, 2015 which permits the creation of a CN2 District in excess of 15 acres. Retaining this property as OS would not substantively impact the total area proposed for development but would impact the design and layout of development by extending (retaining) the OS into the CN2 District. Similar zoning boundaries are considered encroachments into a district. The benefit to approving the request is the establishment of a more uniform lot as a framework for establishing the commercial development pattern.
Staff Finding - Approval of the proposed request facilitates neighborhood commercial development intended to serve the surrounding area.

9. PROFESSIONAL STAFF RECOMMENDATION
This application represents a refinement of the intended development concept as details of development in the area are being clarified and street and highway construction projects are being completed.

This application is a part of a larger development request that includes rezoning for OS to the west and changes in the residential development pattern from duplex to detached housing north of Renaissance Drive. These changes are all reflected as part of the Preliminary Plat.

CONCLUSION
Staff recommends approval of the proposed rezoning to facilitate planned neighborhood commercial development in this area.
Langston Commons Commercial Development Comparison

2013 concept plan with detention feature
Revised 2015 development concept Option A
Langston Commons Commercial Development Comparison

Revised 2015 development concept Option B
Z-15-00244: Rezone Approximately 0.193 acres from CN2 District to OS District
Z-15-00245: Rezone Approximately 0.992 acres from OS District to CN2 District
Located on Northeast Corner of K-10 & Bob Billings Parkway Interchange

Lawrence-Douglas County Planning Office
July 2015

Z-15-00244: CN2 District to OS District
Z-15-00245: OS District to CN2 District
Z-15-00251: Consider a request to rezone approximately 11.15 acres from RM24 (Multi-Dwelling Residential) District, RM12D (Multi-Dwelling Residential) District and RS7 (Single-Dwelling Residential) District to RS5 (Single-Dwelling Residential) District, located at 6300 Bob Billings Pkwy. Submitted by Tim Herndon, for RSR Holdings LLP, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 11.15 acres from RM24 (Multi-Dwelling Residential) District, RM12D (Multi-Dwelling Residential) District and RS7 (Single-Dwelling Residential) 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.

Reason for Request: Rezoning is requested to accommodate detached single-family houses in an area presently zoned for a combination of multi-family (RM24), attached townhome dwelling (RM12D) and larger-lot single-family dwelling (RS7).

KEY POINTS
- Applicant desires to develop more of the proposed subdivision area with detached housing on smaller lots.
- The proposed request is considered concurrently with the Preliminary Plat PP-15-00246 for Langston Commons.

ASSOCIATED CASES/OTHER ACTION REQUIRED
- Z-15-00244: .193 acres from CN2 to OS
- Z-15-00245: .992 acres from OS to CN2
- Z-15-00251: 11.15 acres from RM24, RM12D, RS7 to RS5
- PP-15-00246: Preliminary Plat for Langston Commons 17.5 acres for neighborhood commercial development and 56 lots for residential development.

PLANS AND STUDIES REQUIRED
- Traffic Study – Not required for rezoning
- Downstream Sanitary Sewer Analysis – Not required for rezoning
- Drainage Study – Not required for rezoning
- Retail Market Study – Not applicable to residential request

ATTACHMENTS
1. Area Map
2. Rezoning Exhibit provided by applicant
3. Building Permit Map
4. 

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
- Comment from Michael Kelly, area resident, regarding pedestrian connections from the development area to Langston Hughes Elementary School – See Preliminary Plat Discussion.
- Response from USD 497 regarding pedestrian connections.
Project Summary:
Proposed request is for the residential portion of undeveloped land included in the preliminary plat of Langston Commons. The currently approved development project includes a mix of detached and attached housing as well as multi-dwelling residential uses. This request would revise the uses to a single type of housing – detached dwellings on individual lots. The proposed zoning is for RS5. This district requires a minimum of 5,000 SF per lot and allows for 40’ wide lots and narrower side and front yard building setbacks. Similar zoning is being developed to the north of this property in the Langston Heights subdivision. The attached rezoning exhibit highlights the three existing zoning districts proposed to be rezoned with this application (attachment 2). Staff has also provided an exhibit that highlights the location of active building permits in the immediate area.

Zoning is the framework that establishes the base uses allowed in a particular district. This application represents a change to the boundary of the RS5 District as it relates to Langston Commons Subdivision only. Development concerns that focus on pedestrian connections, lot configuration and density are addressed as part of the subdivision design.

A portion of the area included in the Preliminary Plat for Langston Commons is currently zoned RS5 and is not affected by this proposed application.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant’s Response: Horizon 2020 calls for “low density residential [six or fewer units per acre.] Proposed RS5 zoning will result in a gross density of approximately 4.9 units per acre. The proposed street and sidewalk configuration remains unchanged from the previously approved (2013) preliminary plat and associated rezonings.

This property was originally discussed in Z-13-00251 to Z-13-00254 establishing the current zoning district boundaries. The intent of the mixed residential zoning districts was to provide both a range of housing types while keeping the overall density low and to provide land use transition through housing type between W. 6th Street to the north and Bob Billings Parkway to the south. The proposed request seeks to rezone the property to a district for a single use, that being detached residential dwellings on individual lots.

Horizon 2020 recommends infill development over new annexation and compatibility of densities and housing types within neighborhoods. The plan also recommends the provision of a mix of housing types and styles for new residential and infill developments. This application represents an extension of development from the Diamondhead and Langston Heights Subdivisions. Larger residential lots are located to the northeast of the proposed rezoning (RS7) and duplex lots are located to the northwest of the subject property (RM12). The balance of land area is proposed for detached residential dwelling on individual lots. Approval of the request extends a uniform development pattern to the south.

Land use transition between the proposed RS5 and the CN2 District will be required to be addressed through site planning and applicable buffer yards. The image below highlights the existing zoning districts proposed to be rezoned to RS5 and the location of the transition zone between the RS5 and the CN2 Districts.
The overall residential density is 5.328 dwelling units per acre. This is a low density residential development pattern. Changing the zoning district boundary and replacing the RM12D and RM24 District with the proposed RS5 District establishes a uniform zoning district for the residential portion of the proposed subdivision.

**Staff Finding** - The proposed request represents a low-density residential development pattern that is consistent with the land use recommendations in *Horizon 2020*. 
2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Surrounding Zoning and Land Use:</td>
<td></td>
</tr>
<tr>
<td>To the east</td>
<td>RS10 (Single-Dwelling) Residential and GPI (General Public and Institutional) District; existing USD 497 property including Langston Hughes Elementary School and undeveloped land.</td>
</tr>
<tr>
<td>To the south</td>
<td>CN2 (Neighborhood Commercial) District and OS (Open Space) District; undeveloped land proposed for future commercial development and open space area to include multi-use recreation path parallel to K-10 highway.</td>
</tr>
<tr>
<td>To the west</td>
<td>A (County Agricultural) District; K-10 Highway. Portion annexed into the City Limits to accommodate construction of the interchange of K-10 Highway and Bob Billings Parkway (A-14-00155). Rezoning of the right-of-way deferred until such time that the remaining portions of the corridor are also annexed.</td>
</tr>
<tr>
<td>To the north</td>
<td>RM12 (Multi-Dwelling Residential) District and RS7 (Single-Dwelling Residential) District to the north (Langston Heights Subdivision). RM12D (Multi-Dwelling Residential) District proposed for RS5 per Z-15-00252); undeveloped lots located in Langston Heights Subdivision.</td>
</tr>
</tbody>
</table>

Staff Finding - As proposed, the subject property will be uniformly zoned similar to development to the north.
3. **CHARACTER OF THE NEIGHBORHOOD**

Applicant's Response: *This developing neighborhood is comprised predominantly of detached single-family housing to the north and east, the South Lawrence Trafficway to the west and Neighborhood Commercial zoned property to the south.*

This section of the report expands on the discussion included in Z-15-00244 and Z-15-00245 regarding the character of the Neighborhood. This property represents the residential portion of the undeveloped land included in the related preliminary plat (PP-15-00246). The proposed request extends the predominance of detached single-dwelling residential land use in the surrounding area. Local streets provide separation between the residential and non-residential uses in the surrounding area.

Attached housing in this area is located in the Cove Subdivision located at Ken Ridge Drive and George Williams Way; in the Longleaf Subdivision located on the northeast corner of George Williams Way and Bob Billings Parkway; and in the Legends Trail Subdivision located on the south side of Bob Billings Parkway. Multi-dwelling structures are located on the southwest corner of Bob Billings Parkway and George Williams Way. The remaining area is zoned for and developed with detached housing on individual lots.

Within the existing City limits there are a few undeveloped parcels with the potential for multi-dwelling residential and non-residential development. The hub of the area includes the Langston Hughes Elementary School, DeVictor Park and Corpus Christi Church/School. The proposed request fills in an undeveloped area with a housing type consistent with the developing area to the north.

![Figure 4: Existing undeveloped parcels.](image)

Multiple building permits have been applied for within the Langston Heights Subdivision and are either under construction or pending approval.

**Staff Finding** – The proposed request is consistent with the developing character of the area and appears to meet a market-defined need for more individual residential lots.
4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

This property is located within the boundary of the West of K10 Plan. The area shown at the immediate intersection of Bob Billings Parkway and K10 is identified as a Neighborhood Commercial area. The plan addressed gateway areas and states that development “shall enhance identified gateways” by “providing pleasing corridors.” This project through the rezoning and subdivision processes establishes a framework to implement this goal by creating a connected greenspace area along the public right-of-way.

The residential portion of the plan generally recommends low-density residential development. The previous zoning plan for this property included multiple zoning districts and lot sizes to achieve an overall density consistent with the plan. The proposed request uses a single zoning district, RS5, and the subdivision plat to achieve compliance with the land use plan for this area.

| Zoning and Density Lot summary for approved Langston Commons |
|---------------------------------|----------------|-----|-----|---------|-----|
| As approved | Total Area | Lots | Units | Density | Average Lot size |
| RM12     | 2.861 Acres | 1 | 34 | 11.88 | NA |
| RM12D    | 3.195 Acres | 7 | 15 | 6.006 | 14,507 SF |
| RS7      | 4.71 Acres | 15 | 15 | 4.33 | 10,052 SF |
| RS5      | 2.67 Acres | 14 | 14 | 7.107 | 6,130 SF |
| All      | 13.436 Acres | 37 | 78 | 5.80 | NA |

| Zoning and Density Lot Summary for Proposed Langston Commons. |
|---------------------------------|----------------|-----|-----|---------|-----|
| As Proposed Total Area | Lots | Units | Density | Average Lot size |
| RM12 to RS5 | 2.9 Acres | 12 | 12 | 4.13 | 10,382 SF |
| RM12D to RS5 | 3.2 Acres | 9 | 9 | 2.08 | 11,037 SF |
| RS7 to RS5 | 4.5 Acres | 21 | 21 | 4.66 | 6,912 SF |
| RS5 No change | 2.67 Acres | 14 | 14 | 5.2 | 6,130 SF |
| All | 13.27 Acres | 56 | 56 | 4.22 | NA |

Overall the proposed plan reduces the residential density by approximately one dwelling unit per acre. While there are many lots less than 7,000 SF, the minimum lot area for the RS7 zoning to the northeast, the average lot size proposed for Langston Commons is approximately 8,175 SF. The proposed rezoning and related Preliminary Plat are consistent with the residential land use recommendations for low-density residential development described in the West of K10 Plan.

Staff Finding - The proposed rezoning represents a single dwelling housing type for the remainder of the undeveloped/unplatted residential area included in the Langston Commons Subdivision. The overall density proposed complies with the residential land use recommendation included in the plan.

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

Applicant’s Response: While the subject property is not necessarily unsuitable for the multi-family and single-family zoning districts presently in place, existing regulations prohibit the desired (RS5) single-family lot size/home size.

The proposed zoning is for a land use that is a detached dwelling housing type located on individual lots. Detached dwellings are allowed in the RM12 and RM12D district but require a
Special Use Permit. This would be an onerous requirement for new development. Additionally, the RS7 District requires a minimum lot area and lot size that is larger than the density and dimensional requirements of the RS5 district. The applicant could not plat lots meeting the RS5 dimensional standards with the existing base zoning of RS7. The applicant’s intent is to modify the development pattern to provide more detached housing on smaller lots than previously approved. Therefore, the existing RM12, RM12D and RS7 zoning is not suitable.

**Staff Finding** - The existing zoning is not suitable given the intended development pattern for this property as exhibited in the Preliminary Plat for Langston Commons (PP-15-00246).

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

Applicant’s Response: *The subject undeveloped property has been zoned in its present condition for approximately two years.*

Prior to the 2013 application that rezoned this property to multi-dwelling, duplex and detached residential zoning districts, the property had been zoned UR (Urban Reserve). The Langston Commons preliminary plat and related zoning applications establish a framework for development of the property. This request is a reflection of a revision in the development concept.

**Staff Finding** - This property has been zoned since September 2013.

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

Applicant’s Response: *Approval of this request will have no effect upon nearby properties.*

The immediately surrounding area is undeveloped. This area includes school district property to the east, planned neighborhood commercial zoning to the south, and K-10 Highway to the west. The proposed zoning extends the developing residential pattern in Langston Heights further south.

**Staff Finding** - There are no anticipated detrimental affects for nearby property.

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: *The gain to the public by approval of this application is the additional sought-after single-family housing stock to the Lawrence Residential Market; the hardship imposed by denial would lie in the absence of such stock in a predominantly single-family neighborhood.*

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.

The proposed request modifies the intensity of development by reducing the overall number of total dwelling units planned for this area and restricts the use to a single housing type consistent with the developing area to the north. Utility plans to serve this area are not substantially altered by the reduced density planned.

**Staff Finding** - Approval of the proposed request facilitates infill residential development in an area planned for low-density residential development.
9. PROFESSIONAL STAFF RECOMMENDATION

The significant change this application represents is a modification in the development pattern from a plan to provide a mix of housing types to a plan for a uniform housing type. Duplex development continues to be an allowed use within the Langston Heights Subdivision to the north. Higher density residential uses also continue to be allowed uses for undeveloped land located in the Diamondhead Subdivision also to the north. These undeveloped areas and other existing multi-dwelling zoned areas south of Bob Billings Parkway and west of George Williams Way provide options for housing within the larger neighborhood context. The proposed request reflects a housing demand as interpreted by the developers. Numerous building permits have been applied for and/or issued for the Langston Heights Subdivision to the north. Development in this area is expected to continue in the near future.

The imminent opening of the Bob Billings Parkway intersection with K-10 highway is considered to be influential in making this area a desirable residential area.

Approval of the request means that zoning and land use are not used as a transition between the commercial and residential areas. This will place a burden on the development of the CN2 area to implement design aesthetics that provide both appropriate land use transition and buffering, as well as appropriate connectivity and integration with the surrounding neighborhood.

CONCLUSION

Staff recommends approval of the proposed rezoning to facilitate planned development in this area.
Blue indicates the permit has been approved, but has not been picked up by the contractor.

Red indicates permit has been approved, and picked up – work may be underway at this address.

Green indicates work has been completed and inspected.
Z-15-00251: Rezone Approximately 11.15 acres from RM24, RM12D and RS7 Districts to RS5 District, Located West of Langston Hughes Elementary School & South of Palisades Drive
Michael,

Assistant Superintendent Kyle Hayden provided the below information and attached drawing to me on June 12, 2015 after I requested that the district consider a pedestrian connection from the west. This information will be shared with the Planning Commission.

Scott-

I appreciate you reaching out to me to talk about this development issue. I discussed the proposed new sidewalk from the Langston Heights development to the west side of Langston Hughes with Dr. Doll and our Facility Planning & Progress Committee. The group is not in favor of it for multiple reasons. I’ve attached a drawing that hopefully illustrates things.

The district already plans to build a new access road with sidewalk accessibility from the south end of the neighborhood during the 2016-17 school year. This sidewalk will provide for a safe connection to paths off of Renaissance Drive and Langston Way. This should sufficiently serve the new homes directly west of the school district’s property. The other homes to the north are served by an existing sidewalk on Palisades.

The existing sidewalk along Palisades connects to Diamondhead Drive and the roundabout at George Williams Way. At the request of the city, the district recently constructed a new sidewalk running along the south side of Diamondhead Drive and connecting into the north side of the Langston Hughes playground. In addition, the district built an ADA accessible sidewalk into the playground area and ran it to the front door of the school. The district was originally opposed to building both of these sidewalks but did eventually agree to it at a cost of over $15,000.

The newly proposed sidewalk that would run east/west along the north side of the district’s property connecting Langston Hughes to Silver Rain Rd. This would be a long stretch of sidewalk that would run across an undeveloped large open green space. The proposed sidewalk would also be unlit and relatively close to the existing Palisades path.

Thanks for understanding the district’s position.

Kyle

Please let me know of any questions.

Scott McCullough, Director
Planning and Development Services – www.lawrenceks.org
City Hall, 6 E. 6th Street
Good afternoon Scott,

Caveat: I am speaking only for myself and not for any group I am involved with.

After our friendly discussion of a few days ago, I had another thought on the Langston Commons Block Three lots abutting the western boundary of LHES playground.

Has USD 497 provided you or your colleagues any written explanation of their plans and preferences for the northern and western boundaries of the USD 497 property to the west of Langston Hughes ES or the future use of the land west of LHES beyond the not yet designed Renaissance Drive extension in the district’s 2017 Capital Improvement Plan? I have heard similar, but only hearsay statements, from you and Bob Santee/Tim Herndon development team. Is USD 497 on public record with you or your planner on this issue related to the subject submittal beyond the verbal discussions you described?

Note that I have copied USD 497 Communications Office Director, Julie Boyle, so she may discuss with the district staff, if she thinks it would be useful to do so. I think it would improve the factual basis of the upcoming July 22, 2015 Planning Commission deliberations if the district would make its plans (even if very preliminary) known in a more formal way.

Thank you for your time on the previous phone call, for the professionalism displayed by you and your colleagues, and for your careful consideration of my concerns.

Respectfully,

Mike Kelly
1123 Brynwood CT
Lawrence KS 66049
STAFF RECOMMENDATION:
Staff recommends approval of the Preliminary Plat of the Langston Commons.

KEY POINTS
- Proposed preliminary plat reflects an overall gross density of 5.3 dwelling units per acre consistent with low-density development of the comprehensive plan.
- Proposed density is reduced from 5.5 to 5.3 dwelling units per acre from previous approval.
- Proposed preliminary plat concurrently with rezoning applications removes duplex and multi-dwelling development within this area. All residential development within boundary of the Preliminary Plat is for single-dwelling, detached residential development.
- The proposed preliminary plat represents the proposed zoning boundaries.
- This property was evaluated for compliance with the preservation of natural areas through the Sensitive Lands regulations outlined in Article 11 of the Development Code. A sensitive lands site plan and required preservation of open space is not applicable to this property.

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

ASSOCIATED CASES/ OTHER ACTION REQUIRED
Original Applications 2013
- Z-13-00251: 4.712 AC from UR to RS7
- Z-13-00252: 2.674 AC from UR to RS5
- Z-13-00253: 3.195 AC from UR to RM12D
- Z-13-00254: 3.349 AC from UR to RM12
- Z-13-00255: 4.182 AC from UR and PD (Bob Billings Parkway Center PCD) to OS
- Z-13-00256: 16.619 AC from UR and PCD Planned Commercial District to CN2
- PP-13-00257: Langston Commons approved by the Planning Commission on 8/26/13.
  - Preliminary Plat included 29 detached residential dwelling lots,
  - 7 duplex lots,
  - 1 multi-dwelling lot,
  - 1 neighborhood commercial lot, and
  - 2 tracts for open space.

New Applications 2015
- Z-15-00244: 0.193 acres from CN2 (Neighborhood Commercial) District to OS (Open Space),
- Z-15-00245: 0.992 acres from OS (Open Space) to CN2 (Neighborhood Commercial) District

PLANS AND STUDIES REQUIRED
• Traffic Study – Study provided and accepted.
• Downstream Sanitary Sewer Analysis – 1. As indicated in the May 13, 2015 downstream sanitary sewer analysis, the proposed rezoning at Langston Commons will result in a lower wastewater design flow than that approved for the development in the August 7, 2013 DSSA. The DSSA is accepted for this project to satisfy the criteria required for the DSSA as outlined in Administrative Policy 76.
• Drainage Study – The drainage letter dated 5-15-2015 meets the specified requirements and is approved.
• Environmentally Sensitive Lands Study – Evaluation of existing trees was completed by applicant and reviewed by staff per PP-13-00257. The existing trees did not meet the minimum size requirements defined in Article 11 of the Development Code. Active development on the property has not altered this finding.
• Retail Market Study – Refer to Z-13-00256. Study provided and accepted. A new study is not required.

ATTACHMENTS
• Preliminary Plat
• Sidewalk exhibit

PUBLIC COMMENT
• Complaints from residents regarding construction traffic.
• Michael Kelly regarding pedestrian connections to Langston Heights Hughes Elementary School

<table>
<thead>
<tr>
<th>GENERAL INFORMATION</th>
<th>Current Zoning and Land Use:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surrounding Zoning and Land Use:</td>
<td>RM24 (Multi-Dwelling Residential) District, RM12D (Multi-Dwelling Residential) District, RS7 (Single-Dwelling Residential) District, RS5 Multi-Dwelling Residential District, CN2 (Neighborhood Commercial) District, OS (Open space) District and TC (SLT/K10 Major Transportation Corridor Overlay) District; undeveloped property.</td>
</tr>
<tr>
<td>To the north:</td>
<td>See related zoning applications for changes in the proposed zoning district boundaries within limits of proposed Preliminary Plat.</td>
</tr>
<tr>
<td>To the east:</td>
<td>RM12, RM12D (Multi-Dwelling Residential) Districts and RS7 (Single-Dwelling Residential) District; developing land in Langston Heights Subdivision.</td>
</tr>
<tr>
<td>To the south:</td>
<td>RS10 (Single-Dwelling Residential) District; unplatted and undeveloped land owned by USD 497.</td>
</tr>
<tr>
<td>To the west:</td>
<td>A (Agricultural) County District, RS7 (Single-Dwelling Residential) and RM12 (Multi-Dwelling) K-10 Highway, undeveloped land and existing multi-dwelling development located along south side of Bob Billings Parkway.</td>
</tr>
<tr>
<td>To the west:</td>
<td>A (Agricultural) County District; K-10 Highway.</td>
</tr>
</tbody>
</table>
This property is proposed for residential and non-residential development as noted in the related rezoning staff reports. The residential use is limited to detached dwellings on individual lots within this proposed subdivision. The subdivision extends existing local streets between K-10 Highway to the west and George Williams Way to the east and between Bob Billings Parkway to the south and W. 6th Street to the north. This property is located along K-10 Highway and is subject to specific development standards for buffering along the west property line as they pertain to Transportation Corridor Overlay District requirements. There are no variances proposed for this Preliminary Plat.

**Zoning and Land Use**
The property is proposed for RS5 residential zoning and CN2 and OS non-residential zoning. This application is being reviewed and considered concurrently with the associated zoning applications. Each proposed zoning district is discussed separately.
The property is currently undeveloped. Langston Way, located along the east side of the property separates the commercial area from the school district property to the east. The residential lots are oriented to abut the rear yards to the school district property north of Renaissance Drive.

The proposed subdivision design and interior and boundary street network establish the framework for the district boundaries. The proposed subdivision design is similar to the 2013 application with the exception of the proposed lots along the west side adjacent to K-10 highway and the changes to the open space and commercial boundary at the south end. Minor changes to the remaining residential lots account for smaller lots consistent with RS5 zoning. Lots meet the minimum area and size requirements per the proposed district boundaries with the exception of Lot 13, the proposed CN2 District property. The previous development concept included multi-dwelling residential development options. This application includes a single type of residential housing – detached dwellings on individual lots.

The CN2 District is restricted by the Land Development Code to not exceed 15 acres. The configuration of the lot due to the location of the three streets that abut the property resulted in a request for a variance that allows the CN2 District to exceed 15 acres [B-15-00156]. The Board of Zoning Appeals granted this variance on May 7, 2015 which permits the creation of a CN2 District in excess of 15 acres. Retaining this property as CN2 would require a reduction in the district size in some other location to maintain the maximum size approved by the Board of Zoning Appeals (BZA). The Preliminary Plat graphically reflects the lot boundaries.

The west portion of this property is encumbered by a Major Transportation Corridor Overlay District for the SLT/K10 Highway. Several other major corridors are also subject to an overlay district. These districts are listed in Section 20-307 of the Development Code. At this time, only the SLT/K10 Overlay District includes development standards.

The boundary of the SLT/K10 Overlay District extends 500 feet on either side of the centerline of the right-of-way within the City of Lawrence. The overlay does not, at this time, extend into unincorporated areas. The preliminary plat shows this boundary as extended to the east side of Renaissance Drive and into the adjacent lots approximately 45’. The standards include an extraordinary setback of 50’ as shown on the preliminary plat. Buildings and improvements are prohibited in this setback. Additional standards will be considered with future building permit and site plans for affected properties. This setback is an extension of the same setback applicable to the recently approved subdivision, Langston Heights, to the north.

<table>
<thead>
<tr>
<th>SLT/ K10 Overlay District Boundary</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Overlay district = 500’ wide from Center line of highway.</td>
</tr>
<tr>
<td>• Building Setback = 50’ from property line.</td>
</tr>
<tr>
<td>• Landscape standard applicable to lots within overlay District, abutting the highway.</td>
</tr>
</tbody>
</table>
Lot and Block Arrangement
This subdivision extends a modified grid street pattern to the south from the approved subdivision of Langston Heights. A cul-de-sac is used to orient lots internally in the central portion of the subdivision and provide a transition between the commercial to the south.

This proposed subdivision also includes area for non-residential uses. Area for open space and neighborhood commercial development is proposed. The Open Space District does not require a minimum lot area. There is no residential density associated with the OS District. The OS District reflects drainage required for this development. The area is used as a buffer for the development from the Highway and a method for the connection of pedestrian pathways and trails to the public sidewalk and multi-use path system.

The CN2 District is currently proposed as a single lot with access to the internal street network. It is likely the lot will be further subdivided as more detailed development plans of the area are developed. Development at the north end of this lot will need to include buffer yard improvements to create a transition area between the residential areas to the north. Staff will continue to review this element as part of the final plat for the property and with related site plans for site specific development.

Streets and Access
The proposed subdivision extends the local street network for the area south to Bob Billings Parkway. The plat shows a future access to Langston Hughes Elementary School. This is a conceptually located access intended for a future driveway connection between the elementary school and the public street network. This improvement is not proposed as a public street but as an interior driveway/access for the school. Designs will need to include pedestrian access discussed later in this report.

The plat also shows conceptual access driveway locations from Renaissance Drive to the proposed commercial lot across from the residential lots. These driveways will be further evaluated with the submission of a site plan for future development.

The plat graphically shows “no access hatch marks” along the south property line adjacent to Bob Billings Parkway and the west property line along K-10 Highway. Access along Langston Way may be restricted at the intersection some distance north of Bob Billings Parkway to protect the intersection. This element will be reviewed with the submission of the Final Plat.

The proposed subdivision does not modify the right-of-way for the South Lawrence Trafficway.

Pedestrian Connections
This subdivision, like Langston Heights Subdivision to the north, will require public sidewalks on both sides of the streets. The existing Diamondhead Subdivision to the northwest was constructed under regulations that only required sidewalks on one side of the street. A recent improvement to Langston Hughes Elementary School includes a connection from Diamondhead Drive to the school on the north side of the property.

Development of this subdivision and Langston Heights Subdivision also include pedestrian connections from the multi-use path along K-10 highway and the development. The following image shows the constructed connection in Langston Heights. A similar connection will be made in Langston Commons just north of Rockaway Drive.
Figure 1: Pedestrian connection between K-10 Highway/ multi-use path and Renaissance Drive to north of Steeple Chase Drive in Langston Heights.

A comment provided by the public suggested that the development be required to provide a connection between the proposed subdivision, Langston Commons and the elementary school. Staff has also consulted with the School District regarding plans for the undeveloped property surrounding the school. The area located west of Langston Hughes Elementary School is currently used as an outdoor field. The distance between the south side of Palisades Drive and the north side of Renaissance Drive is just under 800’. Extending a pedestrian connection mid-block would result in bisecting the play field and creating inefficient use of the space for the school.

A planned connection to the school will be provided with the construction of an access driveway from Renaissance Drive to the school property with a sidewalk in the future. This improvement is estimated by the school district to occur in the 2017 budget year. The planned sidewalk would provide the connectivity between the proposed residential subdivision and the school property in a manner that facilitates pedestrian use and does not conflict with future use of the school property.

Figure 2: Existing and planned sidewalk connections for Langston Commons Subdivision and Langston Hughes Elementary School
Utilities and Infrastructure
Utilities can be extended to serve this development. The proposed preliminary plat includes the necessary easements to accommodate infrastructure needs for the proposed development.

Conformance
The proposed preliminary plat modifies the lot sizes for future residential development for detached dwellings and reconfigures the boundary of the open space and neighborhood commercial districts within this property. The proposed preliminary plat is in conformance with the recommendations in Horizon 2020. The preliminary plat is in conformance with the standards and requirements of the Subdivision Regulations and the Development Code with the approved BZA variance related to the CN2 District size.
This comment regards the pedestrian service challenges posed by property development west and northwest of USD 497’s Langston Hughes Elementary School.

Construction on Langston Heights residential lots is underway

RM-24 zoned parcel to north of Langston Heights remains unbuilt

Langston Commons residential lots remain unbuilt

Unless pedestrian easements shown are built, school children residing in RM 24 apartments, Langston Heights, and Langston Commons will have no direct walking path to school

This violate Transportation 2040 Chapter 5, Table 5.5

“Whereas it is not necessarily critical for routes to schools to be picturesque and visually captivating, there are basic pedestrian needs for the student, including a safe and secure continuous sidewalk with safe street crossings and direct connections to neighborhoods. Cities in the region have been participating in the federal “Safe Routes to School” program which funds studies that address these issues.”

Requested rezoning does not comply with Transportation 2040 plan and should not be approved absent additional pedestrian easement and sidewalk provided at Rockway Drive and Silver Rain Road intersection east to USD 497 boundary

Unbuilt pedestrian easement at Andrew John and Palisades needs to be built to provide proper elementary school level of service

No exceptions to Lawrence Complete Street Policy Section 5 paragraph (b) exist that would preclude the construction on either pedestrian easement shown.

Mike Kelly
Langston Heights Residences under construction and future unbuilt RM-24 Site

Diamondhead Development Lot
Langston Commons Block 3 Lot
Langston Hughes Parking Lot

W. Harvard Road

Pedestrian Easement Missing at Rockaway Drive And Silver Rain Road

Pedestrian Easement Recorded but unbuilt at Palisades Drive and Andrew John

USD 497 Unbuilt-Renassaince Drive Extension

Langston Commons unbuilt residential lots

North
July 21, 2015

Lawrence-Douglas County Planning Commission
City Hall
6 East 6th Street
Lawrence, KS 66044

Dear Planning Commission,

USD 497 administration has been in contact with the developer and a neighbor in the new Langston Heights neighborhood concerning easements and sidewalks connecting to Langston Hughes Elementary School. We do not support an easement off of Silver Rain Road that could connect to a district-built sidewalk across the school's greenspace/playground.

In the near future, the district will build an access drive, with sidewalk, that will connect the neighborhood to the school on the south. This drive will connect with the existing driveways. Students and families will also be able to walk to school via Silver Rain Road to Palisades Drive to Diamond Head. A sidewalk connecting Diamond Head to the school from the north has already been constructed. These two sidewalks provide more than enough walking access to school. Quite honestly, adding another route almost feels like "privilege."

Any proposed sidewalk across the greenspace/playground would not be lighted, causing some safety concerns. Also, the sidewalk would cut across the existing greenspace, limiting its use. This issue has been discussed with our Facility Planning Committee, which is a subcommittee of the Board of Education, and its members do not support this proposed access either.

Because USD 497 does not support another sidewalk access to Langston Hughes Elementary School from the Langston Heights neighborhood, we do not support an easement on Silver Rain Road.

Sincerely,

Dr. Rick Doll
Superintendent of Schools
From: Michael Kelly [mailto:job4mike6@aol.com]
Sent: Wednesday, July 22, 2015 3:59 AM
To: Sarah Hoskinson; Randy Glidewell; Angel Nuzum; Amy Weishaar; Jenn Hethcoat; Kristie Bowen; Pittman Karl/Carol; Jackie Mickel; Chris Heider; Reenie Stogsdill; Allison Gowing; Timothy Herndon
Cc: Kris Adair; Shannon Kimball; Julie Boyle; tbarron@usd497.org; vsanburn@usd497.org; mharmon@usd497.org; jbeeson@usd497.org; jfincher@usd497.org; ringram@usd497.org; Scott McCullough; Sandra Day; Jackiw Meortinger; Jennifer McCall; apitts@treanorarchitects.com; mattgudenkauf@gmail.com; mcwhit@att.net; ryanfike@gmail.com; tiffanyfike@gmail.com; thepitts@sunflower.com; carolinejackson@stephensre.com; Amy Elliott; Denise Johnson; Diane Vigna; Mayor Jeremy Farmer; Larry Grecian; laura Glockner; Amy Phalen; Rebecca Garza; Kim Rack; Sandra Sola; Kristina Meyer-Szelewycz; Dianna Dykes; Chris Tilden
Subject: Planning Commission Meeting is 6 pm, 07-22-15, Agenda item 7E, Preliminary Plat for Langston Commons

All-

Below is what I propose to say to the Planning Commission later tonight as they consider their agenda item on the development of the property west of Langston Hughes ES.

The Planning Commission meets at 6 pm at City Hall, 6 East 6th ST.

If you can attend the meeting, that would be great! If you wish to contact the Planning Department with comments, Scott McCullough and Sandra Day are the key individuals. They can be reached by phone at 832-3150.

I will be speaking for myself and not for PTO or Site Council.

Thank you,

Mike Kelly
Safe Routes to School Committee Chair
LHES PTO

**Statement to Planning Commission**

As submitted this neighborhood design does not conform to national best practices for pedestrian facility design, *Transportation 2040* plan, or the *Horizon 2020* plan. One example from *Transportation 2040* (Table 5.5, page 55) is: “There are basic pedestrian needs for the student, including a safe and secure continuous sidewalk with safe street crossings and direct connections to neighborhoods.”

Langston Hughes Elementary School (LHES) does not have direct pedestrian access from Diamondhead Subdivision, north of the school site despite recent improvements to sidewalks on south side of Diamondhead Drive and on school property. Unfortunately, this circumstance has a negative impact for residential lots in the northern and central portions of Langston Heights in the achievement direct pedestrian access to LHES.

A pedestrian walkway compliant with ADA has never been built on the pedestrian easement recorded on south side of Palisades Drive and Andrew John Drive intersection. Recorded in 2004, this easement abuts 6121 and 6125 Palisades Drive. Note: Palisades Drive block length exceeds 800’. This unused opportunity also creates a negative impact for residential lots in the northern and central portions of Langston Heights in the achievement direct pedestrian access to LHES for neighborhood students.

Plat described in this agenda item does not provide direct pedestrian access from new residential lots to LHES from the west. Only access envisioned is to be provided by future USD 497 Capital Improvement Plan Project from southeastern-most vertex of the residential portion of the parcel at Klein Drive and Langston Way intersection onto LHES property. Apparently the USD 497 project remains in conceptual, pre-design stage. Completion is not assured due to litigation arising from school funding political disagreements at the state level. In any event, this USD 497 potential project will not provide direct pedestrian access except for those lots near Klein Court cul-de-sac.
Plat described in this agenda item contains a local street block length of more than 800’ along Silver Rain Drive south of Palisades Drive and north of Klein Drive. Lawrence Land Development Code (Subdivision Design Standards) requires pedestrian easements in such cases to provide pedestrian connections between the neighborhood and the school. Before approving this agenda item, the Commission must address this shortfall.

On Page 62 of Transportation 2040, the MPO states: “It is almost always easier to include space for bicycles and pedestrians in the development project before things are built than to come back years later and try to add bicycle and pedestrian facilities.”

I urge the Planning Commission to approve this submission only with the design change to provide a pedestrian easement across the Block 3 lots and the following condition: Developer construct a 10’ wide, ADA-compliant pedestrian walkway upon the easement to abut the west edge of the LHES site. Further the condition should specify, the azimuthal alignment of this walkway should project eastward to align with the western courtyard of LHES building.
Good morning Scott, Sandra, and Jessica-

I reviewed the Staff Report for the Langston Commons Preliminary Plat (PP-15-00246) recently posted online. The url for the staff report is:

http://www.lawrenceks.org/assets/pds/planning/July15_Item7E.pdf

Please refer to the following text on page 6:

The area located west of Langston Heights is currently used as an outdoor field. The distance between the south side of Palisades Drive and the north side of Renaissance Drive is just under 800’. Extending a pedestrian connection mid-block would result in bisecting the play field and creating inefficient use of the space for the school.

First, I believe where the report says “Langston Heights” it should read "Langston Hughes Elementary School.”

Some of the land west of LHES and east of Langston Heights Addition Block Three is an outdoor play field used for PE and other outdoor recreation. Some of the land has been excavated by the Langston Commons developer with the knowledge and agreement of the School District staff. The land west of Langston Heights and Langston Common developments is the SLT/ K-10 right of way. Correcting this description for the sake of accuracy should not be contentious.

Second, as you are well aware Article 8, Section 20-810(h)(4)(i-ii) of the City of Lawrence Land Development Code effective July 1, 2006 states:

(i) Pedestrian Easements shall be required when Block lengths for Local Streets exceed 800 feet in length. Such Easements shall extend

entirely across the width of the Block at approximately the midpoint of the Block.

(ii) Additional Pedestrian Easements should be required within the City and Urban Growth Area to provide pedestrian connections from a Subdivision to schools, parks, shopping, employment or other nearby uses and to link pedestrian routes in adjacent Subdivisions or neighborhoods, including a pedestrian connection at the terminus of each Cul-de-sac. (page 72, emphasis added)

Additionally, the Subdivision Design Standards (specifically Article 8, Section 20-810(d)(2)(i)) defines block length from "centerline to centerline of streets.” (page 63) Therefore, the statement "The distance between the south side of Palisades Drive and the north side of Renaissance Drive is just under 800’. ” is consistent with the relevant preliminary plat and Diamondhead Final Plat documents. Unfortunately, in my view, this statement does not accurately describe the relevant block length. To calculate the block length one must add lot line to right-of-way centerline lengths on both the north and south ends which adds 60 feet. Therefore, I calculate the block length from the centerline of Palisades Drive to the centerline of Renaissance (or Klein?) Drive as 827.78 feet. (Calculation detailed below.) As I have pointed out in my earlier comments, there is no intervening
pedestrian easement permitting construction of a pedestrian walkway in this block (Langston Heights Addition Block 3) directly connecting residences to USD 497 property.

Because the block length is greater than 800 feet and no pedestrian easement is documented in the submittal your staff report concluding conformance statement appears to be incorrect when it states: "The preliminary plat is in conformance with the standards and requirements of the Subdivision Regulations and the Development Code." As I have documented above, this conformance statement does not appear to be true and should be changed accordingly.

I respectfully request you correct the staff report in both the first and second instances I have cited above.

I recall the e-mailed information provided by the School District staff to the Planning and Development Services Staff. Establishing the pedestrian easement in the preliminary plat and setting the condition of constructing a shared use path or sidewalk on the easement does not compel the School District to budget for a sidewalk across the outdoor play field west of LHES. That discussion can occur later when the site plan for the Renaissance (Klein?) Drive extension is submitted to your office circa 2017 by School District staff. Also, future School District funding remains turbulent and there exists a significant chance the 2017 capital improvement project for future access to LHES from the west will be deferred or cancelled.

Thank you for your professionalism, courtesy, and careful consideration of my views throughout.

Best wishes,

Mike Kelly
1123 Brynwood Court
785-424-7527

Calculation of block length details:

North to South depth of Diamondhead Lot 1 is 130 feet per Diamondhead Final Plat filed for record on November 29, 2004
R/W of Palisades Drive is 60 feet per Diamondhead Final Plat. Northern lot 1 boundary to R/W centerline is 30 feet.
R/W centerline at south end of block is likewise 30 feet.
Sum of east boundaries of lots comprising Block Three Langston Heights Addition is 637.78 feet per BG Consultants Preliminary Plat revised July 7, 2015

30' + 130' + 637.78' + 30' = 827.78'

827.78' > 800'
PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
07/22/2015
ITEM NO. 7D RM12D TO RS5; 3.255 ACRES; 6304-6323 SERENADE CT (SLD)


STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 3.255 acres from RM12D (Multi-Dwelling Residential) 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.

Reason for Request: Rezoning is requested to accommodate detached single-family houses in an area presently zoned exclusively for attached two-family housing.

KEY POINTS
- Applicant desires to develop more detached housing on smaller lots.
- A Minor Subdivision was submitted and is being processed to revise the existing platted duplex lots to accommodate smaller detached residential lots.

ASSOCIATED CASES/OTHER ACTION REQUIRED
- MS-15-00285; Minor Subdivision

PLANS AND STUDIES REQUIRED
- Traffic Study – Not required for rezoning
- Downstream Sanitary Sewer Analysis – Not required for rezoning
- Drainage Study – Not required for rezoning
- Retail Market Study – Not applicable to residential request

ATTACHMENTS
1. Area Map
2. Rezoning Exhibit provided by applicant
3. Building Permit Map
4. Minor Subdivision drawing

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
- None regarding this application

Project Summary:
Proposed request is for an area currently zoned RM12D located at the south end of Langston Heights Subdivision. The proposed zoning is for RS5. This district requires a minimum of 5,000 SF per lot and allows for 40’ wide lots and narrower side and front yard building setbacks. Similar zoning is being developed to the north of this property in the Langston Heights subdivision along Serenade Drive and to the south along Steeple Chase Drive.

Zoning is the framework that establishes the base uses allowed in a particular district. This application represents a change to the boundary of the RS5 District as it relates to Langston Heights Subdivision only.
1. **CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant’s Response: *Horizon 2020 calls for “low density residential” [six or fewer units per acre.] Proposed RS5 zoning will effectively reduce the subject area gross density from approx. 5 units/acre to approx. 3.5 units/acre.*

This property was originally discussed in Z-12-00229 and Z-13-00015 that established the RM12D and RS5 district boundaries within Langston Heights Subdivision. The intent of the mixed residential zoning districts was to provide both a range of housing types while keeping the overall density low and to provide land use transition through housing type between W. 6th Street to the north and Bob Billings Parkway to the south. The proposed request seeks to rezone the property to a district for detached residential dwellings on individual lots.

*Horizon 2020* recommends infill development over new annexation and compatibility of densities and housing types within neighborhoods. The plan also recommends the provision of a mix of housing types and styles for new residential and infill developments. This application represents an extension of development from the Diamondhead and Langston Heights Subdivisions. Larger residential lots, zoned RS7, are located to the east of the proposed rezoning and duplex lots, zoned RM12 are located to the west of the subject property. Approval of the request extends a uniform development pattern to the south.

The overall residential density is 5.328 dwelling units per acre. This is a low density residential development pattern. Changing the zoning district boundary and replacing the RM12D District with the proposed RS5 District establishes a uniform zoning district for the residential portion of the proposed subdivision and continues to lower the overall density.

**Staff Finding** – The proposed request represents a low-density residential development pattern that is consistent with the land use recommendations in *Horizon 2020*.

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

<table>
<thead>
<tr>
<th>Current Zoning and Land Use:</th>
<th>RM12D (Multi-Dwelling Residential) District; undeveloped land.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surrounding Zoning and Land Use:</td>
<td>RS7 (Single-Dwelling Residential) District; Residential developing residential lots.</td>
</tr>
<tr>
<td>To the east</td>
<td>RS7 (Single-Dwelling Residential) District; developing residential lots.</td>
</tr>
<tr>
<td>To the south</td>
<td>RM12 (Multi-Dwelling Residential) District; developing duplex lots.</td>
</tr>
<tr>
<td>To the west</td>
<td>RS5 (Single-Dwelling Residential) District; developing residential lots.</td>
</tr>
</tbody>
</table>

**Staff Finding** – As proposed, the subject property will be uniformly zoned similar to development property located both north and south.

3. **CHARACTER OF THE NEIGHBORHOOD**

Applicant’s Response: *This Langston Heights neighborhood is comprised of predominantly detached single-family housing (75 single-family lots and 23 two-family lots).*
This application is located within the boundary of the developing Langston Heights Subdivision and was submitted concurrently with a Minor Subdivision to adjust the interior lot lines to accommodate the change from duplex to detached residential lot development. The area is developing with predominantly detached residential housing. Multiple building permits have been applied for within the Langston Heights Subdivision and are either under construction or pending approval.

**Staff Finding** – The proposed request is consistent with the developing character of the area and appears to meet a market-defined need for more individual residential lots.

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

This property is located within the boundary of the *West of K10 Plan*. The area shown is located within an interior portion of a developing area that reflects a low density residential development pattern. The residential portion of the plan generally recommends low-density residential development. The previous zoning plan for this property included multiple zoning districts and lot sizes to achieve an overall density consistent with the plan. The proposed request uses a single zoning district, RS5, and the subdivision plat to achieve compliance with the land use plan for this area.

<table>
<thead>
<tr>
<th>Langston Heights as approved</th>
<th>Langston Heights with Additional RS5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Area</strong></td>
<td><strong>Total Area</strong></td>
</tr>
<tr>
<td>RM12</td>
<td>5.565</td>
</tr>
<tr>
<td>RM12D</td>
<td>5.135</td>
</tr>
<tr>
<td>RS7</td>
<td>6.691</td>
</tr>
<tr>
<td>RS5</td>
<td>4.049</td>
</tr>
<tr>
<td>All</td>
<td>21.44</td>
</tr>
</tbody>
</table>

Overall, the proposed zoning change does not substantially impact the residential density. The proposed rezoning and related Minor Subdivision are consistent with the residential land use recommendations for low-density residential development described in the *West of K10 Plan*.

**Staff Finding** – The proposed rezoning represents a single dwelling housing type consistent with the existing zoning to the north and south. The overall density proposed complies with the residential land use recommendation included in the plan.

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

**Applicant’s Response:** *The subject property is generally suited for two-family and/or single-family development.*

The proposed zoning is for a land use that is a detached dwelling housing type located on individual lots. Detached dwellings are allowed in the RM12 and RM12D district but require a Special Use Permit. This would be an onerous requirement for new development. The applicant could not plat lots meeting the RS5 dimensional standards with the existing base zoning of RM12D. The applicant’s intent is to modify the development pattern to provide more detached housing on smaller lots than previously approved. Therefore, the existing RM12D zoning is not suitable.
Staff Finding – The existing zoning is not suitable given the intended development pattern for this property as exhibited in the Minor Subdivision for a portion of Langston Heights (MS-15-00285).

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED
Applicant’s Response: The subject undeveloped property has been zoned in its present condition for approximately two years.

Prior to the 2013 application that rezoned this property to a duplex residential zoning districts, the property had been zoned UR (Urban Reserve). The Langston Heights Final Plat and related zoning applications established a framework for development of the property. This request is a reflection of a revision in the development concept.

Staff Finding – This property has been zoned since September 2013.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES
Applicant’s Response: Approval of this request will have no effect upon nearby properties.

The immediately surrounding area is developing with residential uses. This area includes school district property to the southeast, planned neighborhood commercial zoning to the south, and K-10 Highway to the west.

Staff Finding – There are no anticipated detrimental affects for nearby property.

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: The gain to the public by approval of this application is the addition of sought-after single-family housing stock to the Lawrence Residential Market; the hardship imposed by denial would lie in the absence of such stock in a predominantly single-family neighborhood.

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.

The proposed request modifies the intensity of development by reducing the overall number of total dwelling units planned for this area and restricts the use to a single housing type consistent with the developing area to the north and south. Utility plans to serve this area are not substantially altered by the reduced density planned.

Staff Finding – Approval of the proposed request facilitates infill residential development in an area planned for low-density residential development.

9. PROFESSIONAL STAFF RECOMMENDATION
The significant change this application represents is a modification in the development pattern from a plan to provide a mix of housing types to a plan for a uniform housing type. Duplex development continues to be an allowed use within the Langston Heights Subdivision to the west and south of the subject property. Higher density residential uses also continue to be allowed uses for undeveloped land located in the Diamondhead Subdivision also to the north. These
undeveloped areas and other existing multi-dwelling zoned areas south of Bob Billings Parkway and west of George Williams Way provide options for housing within the larger neighborhood context. The proposed request reflects a housing demand as interpreted by the developers. Numerous building permits have been applied for and/or issued for the Langston Heights Subdivision. Development in this area is expected to continue in the near future.

CONCLUSION
Staff recommends approval of the proposed rezoning to facilitate planned residential development.
Blue indicates the permit has been approved, but has not been picked up by the contractor.

Red indicates permit has been approved, and picked up – work may be underway at this address.

Green indicates work has been completed and inspected.
Z-15-00252: Rezone Approximately 3.255 acres from RM12D District to RS5 District
Located at 6304 thru 6323 Serenade Court
PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
07/22/15

ITEM NO. 8A TEXT AMENDMENT FOR FLOODPLAIN OVERLAY DISTRICT MAPS (AAM)


RECOMMENDATION: Staff recommends approval of the revised text for Article 12 and forwarding of the proposed text amendments to Chapter 20, Article 12 to the City Commission for approval and adoption.

Reason for Request: The Planning Commission initiated this amendment on June 22, 2015 as a result of the Risk Mapping, Assessment and Planning (Risk MAP) program undertaken by the Federal Emergency Management Administration (FEMA) by which new floodplain maps will be produced for Douglas County. The effective date for those maps needs to be reflected in the Development Code in order to comply with the State of Kansas model floodplain ordinance. In undertaking a review of the floodplain ordinance, staff has identified other changes that are necessary to avoid the issuance of multiple variances, and to comply with the National Flood Insurance Program (NFIP) requirements.

RELEVANT GOLDEN FACTOR:

- Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Adoption of new regulatory tools, one of which is zoning regulations, is an implementation step in Chapter 17 of Horizon 2020, the City/County Comprehensive Land Use Plan.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No written comments received to date.
- Staff has conferred with State Division of Water Resources floodplain program administrators regarding the proposed changes and is awaiting final approval on the ordinance changes from NFIP.

OVERVIEW OF PROPOSED AMENDMENT

The Federal Emergency Management Agency (FEMA) recently completed a re-evaluation of flood hazards for certain streams in Douglas County through the Risk Mapping, Assessment and Planning (Risk MAP) program. Staff has received the preliminary maps and has reviewed them. As part of the issuance of new Flood Insurance Rate Maps (FIRMs), staff has placed the new maps on the website for the public to view (http://www.lawrenceks.org/city_maps), and will be conducting outreach activities within the community to raise awareness about the new flood hazard maps.

FEMA requires each community to amend their floodplain regulations to include the new effective date of the FIRM maps, which will be September 2, 2015. Sections 1201(a)(3)(i), 20-1201(b)(1),
and 20-1201(c)(1) need to be changed to reflect the new effective date.

In addition, staff has identified that regulations related to fill in the floodplain need to be amended. Sections 20-1204 (e)(1)(i) and 20-1204 (e)(2)(ii) currently state that no fill can be placed in the setback areas, and for residential lots, regulate maximum slope of the fill and regulate in further detail the placement of that fill. The fill standards were originally recommended by the Stormwater Engineer in 2001 to address placement of large amounts of fill over entire lots in already developed areas. Over the past few years, staff has identified that this regulation is not feasible for some development, primarily new developments, where filling of an entire site across lot lines before development begins is in the best interest of the community and creates a better overall grading plan. Staff has processed six (6) variances through the Board of Zoning Appeals (BZA) in the last five years related to these code sections and in all cases staff recommended approval of the variances and the BZA approved those variances. This regulation is part of our local ordinance and is not a requirement of the State of Kansas or the NFIP. Therefore, staff is recommending a change to these sections whereby the project can either comply with the existing standards related to fill, or have a grading plan approved by the Stormwater Engineer. In processing the variances in the last few years, staff has relied on the expertise of the Stormwater Engineer to approve grading plans that deviate from the regulations.

Staff has also identified a change related to the threshold for when a project is required to comply with the floodplain regulations. Currently, the code requires compliance with the floodplain regulations when a project involves new construction or is a substantial improvement. Substantial Improvement is defined as “means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement.” Staff is recommending that this section of the code be amending to also include Cumulative Improvement, defined as “any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds fifty-percent (50%) of the of the market value of the structure over the course of the last five calendar years.” The idea behind substantial and cumulative improvement is if a property owner is improving a property, then a threshold should be established for when a portion of the financial commitment for those improvements should go towards decreasing the flood risk to the property, which will in turn reduce flood insurance costs and the potential payout should there be flood damage. Staff has identified that a loophole exists in the current code, whereby a property owner can apply for multiple permits over time, in order to improve a property without triggering substantial improvement, which currently only applies to each building permit. Cumulative improvement would track those improvements for five years. In addition to closing the loophole, the addition of cumulative improvement is considered a higher regulatory standard. Adoption of this standard improves the overall rating in the city’s participation in the Community Rating System (CRS) program, which allows property owners to receive a discount on their flood insurance premiums.

Staff has also made some very minor modifications that have been recommended by DWR in order to further comply with NFIP regulations. These changes are not substantive in nature, but are mostly alternate wording choices or duplication of regulations that existed elsewhere in the floodplain regulations. In summary, language was added to further clarify that HVAC and mechanical equipment needs to be elevated; language was added to the purpose statement to clarify that development should be reasonably safe from flooding; language was added to the purpose statement to clarify that the carrying capacity should not be altered for watercourse modifications; three definitions were added (floodplain variance, expansion to an existing mobile home park or subdivision, and new mobile home park or subdivision); added a standard related to un-numbered A zones stating that until a floodway is designated no encroachments may increase the base flood
more than one foot; and language was added to reference two Kansas Statutes as required by DWR and NFIP.

A full copy of Article 12, listing the proposed changes is attached to this staff report. Text to be deleted is shown with strikeout and proposed text is shown in underlined font.

The following is a summary listing of the proposed changes:

1) FIRM effective date changed to September 2, 2015.
2) Addition of an alternative to compliance with fill standards with a grading plan approved by the Stormwater Engineer.
3) Addition of Cumulative Improvement to threshold for compliance with elevation, floodproofing, and impervious surface coverage regulations.
4) Minor modifications to comply with NFIP and DWR regulations.

Prior to adoption, this proposed language will need to be officially reviewed by the Kansas Department of Agriculture, Division of Water Resources (DWR) to ensure compliance with the City’s participation in the National Flood Insurance Program (NFIP), including alignment with the current State Model Floodplain Ordinance. Staff has sent the proposed ordinance to DWR and it is currently under review.

Staff has also identified a change for future consideration regarding the location of critical facilities in the floodplain. Critical facilities are facilities that store or use hazardous materials; housing units likely to have occupants that cannot readily evacuate; public safety facilities that are needed in the event of a flood disaster; and utility and public works operations. Examples include, but are not limited to police stations, fire stations, hospitals and public works operation sites. In recent years, a federal executive order was issued that does not allow the use of federal money to repair or develop critical facilities in the 100-year or 500-year floodplain. Staff is still researching this potential change and therefore is not including it in this text amendment.

CRITERIA FOR REVIEW & 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.

**Staff Response:** The proposed amendment addresses a change to reflect the issuance of new Federal Insurance Rate Maps by FEMA for Douglas County; a change to add cumulative improvement to close a loophole that exists; a change to address fill standards that have not been practical; and minor changes to comply with DWR and NFIP standards. These changes correct inconsistencies and address changing conditions as outlined above.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (Sec. 20-104).

**Staff Response:** The comprehensive plan does not specifically address the amendment. The amendment helps to carry out the plan’s goal of using zoning standards to create compatible neighborhoods and efficient development processes.
ARTICLE 12. FLOODPLAIN MANAGEMENT REGULATIONS

20-1201 General
20-1202 Application
20-1203 Administration
20-1204 Provisions for Flood Hazard Reduction
20-1205 Definitions

20-1201 GENERAL

(a) Findings of Fact

(1) The Areas of Special Flood Hazard of Lawrence, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for Flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety, and general welfare.

(2) These Flood losses are caused by:

(i) the cumulative effect of Development in any delineated Floodplain causing increases in Flood Heights and velocities;

(ii) urbanization of upstream areas, resulting in increased Impervious Surface and increased stormwater runoff;

(iii) the occupancy of Flood hazard areas by uses vulnerable to Floods, hazardous to others, inadequately elevated, or otherwise unprotected from Flood damages; and

(iv) the modification of the Floodplain by grading or filling.

(3) The Flood Insurance Study (FIS) that is the basis of the National Flood Insurance Program uses a standard engineering method of analyzing Flood hazards, which consists of a series of interrelated steps:

(i) Selection of a Base Flood that is based upon engineering calculations, which permit a consideration of such Flood factors at its expected frequency of occurrence, the area inundated, and the depth of inundation. The Base Flood selected for this Article is representative of large Floods, which are characteristic of what can be expected to occur on the particular streams subject to this Article. It is in the general order of a Flood which could be expected to have a one percent (1%) chance of occurrence in any one year as delineated in the Federal Insurance Administrator's FIS, and illustrative materials dated August 5, 2010 September 2, 2015, as amended, and any future revisions thereto;

(ii) Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the Regulatory Flood;
(iii) Computation of a Floodway required to convey this Flood without increasing Flood Heights more than one (1) foot at any point;

(iv) Delineation of Floodway Encroachment Lines within which no Development is permitted that would cause any increase in Flood Height; and

(v) Delineation of Floodway Fringe, i.e., that area outside the Floodway Encroachment Lines, but still subject to inundation by the Base Flood.

(b) Floodplain Overlay District – Property within the City Limits on 03/01/03

(1) The Floodplain Overlay District boundaries for properties within the city’s corporate limits as of March 1, 2003 shall be consistent with the Base Flood Elevations and Floodplain widths identified by the FIS and Flood Insurance Rate Map (FIRM) for “Douglas County Kansas and Incorporated Areas dated August 5, 2010 September 2, 2015”.

(c) Floodplain Overlay District – Property Annexed into the City after 03/01/03

(1) The Base Flood Elevations and Floodplain widths identified by the FIS and Flood Insurance Rate Map (FIRM) for “Douglas County, Kansas, and Incorporated Areas dated August 5, 2010 September 2, 2015,” may increase over time as a result of additional watershed Development; therefore the City has identified the Floodplain (FP) Overlay District for property annexed into the city’s corporate limits after March 1, 2003, as the area that includes:

(i) All Zones A on the current FIRM;

(ii) All Zones AE and AH on the current FIRM and all adjacent areas inundated by a Flood having an elevation of the FIS Base Flood Elevation plus an additional two feet of Freeboard. If an approved Hydrologic and Hydraulic Study has been completed, the boundary information provided in that study will be utilized to amend the Floodplain Overlay District boundaries;

(iii) All Zones AO on the current FIRM and all adjacent areas inundated by a Flood having an elevation of the FIS average depth of Flooding plus an additional two feet of Freeboard. If an approved Hydrologic and Hydraulic Study has been completed, the boundary information provided in that study will be utilized to amend the Floodplain Overlay District boundaries; and

(iv) All stream tributaries having a drainage area of 240 acres or more regardless of the limits of the FIS. Upstream of the limits of the FIS, the width of the Floodplain Overlay District shall be determined by the City using recognized engineering practices.

(2) The Floodplain Overlay District will be shown and identified on the Official Zoning Map of the City of Lawrence.
(d) **Floodway**
Floodways are located within the Floodplain Overlay District established in Section 20-1201 and Section 20-1201(e) as designated on the FIRM. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the City hereby adopts a Regulatory Floodway based on the principle that the area identified for the Regulatory Floodway must be designed to carry the waters of the Base Flood without increasing the Water Surface Elevation of that Flood more than one (1) foot at any point.

(1) The Regulatory Floodway includes:

(i) Floodway areas shown within Zone AE on the current FIRM or as modified by a Letter of Map Revision (LOMR); and

(ii) Floodway areas outside Zone AE as defined by an approved Hydrologic and Hydraulic Study.

(e) **Statement of Purpose**
It is the purpose of this Article to promote the public health, safety, and general welfare; to minimize those losses described in Section 20-1201(a)(2); to establish or maintain the Community’s eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 512.22 (a) (3); and to meet the requirements of 44 CFR 60.3(d), K.S.A. 12-741, K.S.A. 12-766 and K.A.R. 5-44-4 by applying the provisions of this Article to:

(1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of Flooding or cause undue increases in Flood Heights or velocities;

(2) Ensure that development is reasonably safe from flooding;

(3) Require uses vulnerable to Floods, including public facilities that serve such uses, to be provided with Flood protection at the time of initial construction;

(4) Protect individuals from unknowingly buying land that is unsuited for the intended Development purposes due to the potential Flood hazard;

(5) Protect individuals from unknowingly buying or leasing property that is prone to Flooding;

(6) With the exception of certain previously platted properties, allow Development in the Floodplain only when the Development will not increase the Base Flood Elevation or Flood velocities; and

(7) Promote conservation and restoration of natural vegetation in riparian areas;

(8) Maintain the carrying capacity of altered or relocated watercourses.
20-1202  APPLICATION

(a) Lands to Which the Ordinance Applies
This Article shall apply to all lands within the Floodplain Overlay District.

(b) Compliance
No Development shall be located, extended, converted, or structurally altered within the Floodplain Overlay District without full compliance with the terms of this Article and all other applicable regulations.

(c) Abrogation and Greater Restrictions
It is not intended by this Article to repeal, abrogate, or impair any existing Easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other Articles inconsistent with this Article are hereby repealed to the extent of the inconsistency only.

(d) Interpretation
In their interpretation and application, the provisions of this Article shall be held to be minimum requirements, shall be liberally construed in favor of the City Commission, and shall not be deemed a limitation or repeal of any other powers granted by Kansas Statutes.

(e) Warning and Disclaimer of Liability
The degree of Flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger Floods may occur on rare occasions or the Flood Heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside the Floodplain Overlay District, Floodway and Floodway Fringe or land uses permitted within such areas will be free from Flooding or Flood damage. This ordinance shall not create a liability on the part of the City of Lawrence, Kansas, or any officer or employee thereof, for any Flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.

(f) Severability
If any section, clause, provision, or portion of this Article is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this Article shall not be affected thereby.
20-1203 ADMINISTRATION

(a) **Floodplain Development Permit**
A Floodplain Development permit shall be required for all proposed construction or other Development, including the placement of Mobile Homes, in the Floodplain Overlay District. No Person, FIRM, corporation, or unit of government shall initiate any Development or Substantial Improvement or Cumulative Improvement or cause the same to be done without first obtaining a separate Floodplain Development permit for each Structure or other Development.

(b) **Designation of Floodplain Administrator**
The Director of Planning is hereby appointed as the Floodplain Administrator to administer and implement the provisions of this article.

(c) **Duties and Responsibilities of Floodplain Administrator**
Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review of all applications for Floodplain Development permits to assure that the requirements of this Article have been satisfied;

2. When an application for a Floodplain Development permit requires the submittal of a Hydrologic and Hydraulic Study, coordinate the review and approval of the study by the City Stormwater Engineer to assure that the requirements of this Article have been satisfied;

3. Issue Floodplain Development permits for all approved applications;

4. Notify adjacent communities, impacted Drainage Districts, and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

5. Verify through an “Elevation Certificate” and maintain a record of the actual elevation (in relation to Mean Sea Level) of the Lowest Floor, of all new, or substantially improved or cumulatively improved residential Structures;

6. Verify through an “Elevation Certificate” the actual elevation (in relation to Mean Sea Level) that the new, or substantially improved or cumulatively improved non-residential Structures have been Floodproofed;

7. Maintain a record of the actual elevation (in relation to Mean Sea Level) that the new, or substantially improved or cumulatively improved non-residential Structures have been Flood-proofed; and
(8) When Floodproofing techniques are utilized for a particular non-residential Structure, the Floodplain Administrator shall require certification from a registered professional engineer or architect.

(d) Floodplain Development Permit

(1) To obtain a Floodplain Development permit, the applicant shall first file an application in writing, on a form furnished for that purpose, with the Floodplain Administrator. Every Floodplain Development permit application shall:

(i) When required pursuant to Section 20-1204, provide two copies of the Hydrologic and Hydraulic Study for the proposed Development;

(ii) Identify the Base Flood Elevation;

   a. When required pursuant to Section –20-1204 identify the Water Surface Elevation of the Base Flood as determined by both the Flood Insurance Study and the Hydrologic and Hydraulic Study. The higher of these elevations shall be the Base Flood Elevation for compliance with the provisions of this article; or,

   b. When a Hydrologic and Hydraulic Study is not required, identify the Water Surface Elevation of the Base Flood as determined by the Flood Insurance Study.

   c. When the Water Surface Elevation of the Base Flood is not provided by the Flood Insurance Study or an approved Hydrologic and Hydraulic Study, the applicant shall provide a signed study by a registered, professional engineer that states the Water Surface Elevation of the Base Flood for the property. Until a regulatory floodway is designated no encroachments may increase the base flood more than one foot.

(iii) Provide a legal description of the land on which the proposed work is to be done by Lot, Block and Tract, Street address, and description of Structures or provide a similar description that will readily identify and specifically locate the proposed Structure or work;

(iv) Identify and describe the work to be covered by the Floodplain Development permit;

(v) Provide verification that all necessary permits from Federal, State, and local government agencies have been obtained;

(vi) Indicate the use or occupancy for which the proposed work is intended;
(vii) Indicate the county appraiser’s assessed value of the existing Structure(s) and the Market Value of the improvement;

(viii) Specify whether Development is located in designated Floodway Fringe, Floodway, or an Unmapped Floodplain Area;

(ix) Show existing contours lines and proposed contours;

(x) Give such other information as reasonably may be required by the Floodplain Administrator;

(xi) Be accompanied by scaled plans and engineering specifications for proposed construction; and

(xii) Be signed by the permittee or his authorized Agent who may be required to submit evidence to indicate such authority.

(2) Before a final inspection, the Floodplain Administrator must be provided with a completed FEMA “Elevation Certificate” stating the finished construction elevation of the Lowest Floor in relation to Mean Sea Level signed by a land surveyor or professional engineer licensed by the State of Kansas.

(e) Expiration of Floodplain Development Permits
Floodplain Development permits expire 18 months from the date of issuance if a certificate of elevation has not been received. If requested, and for good cause shown, the Floodplain Administrator may grant a 6-month extension.
20-1204 PROVISIONS FOR FLOOD HAZARD REDUCTION

(a) Development of Property in the Floodplain Overlay District

(1) Development of land or subdivision of property (including Lot splits) into a Buildable Lot(s) within the Floodplain Overlay District shall be permitted only where an approved Hydrologic and Hydraulic Study demonstrates that there will be no rise in the Base Flood Elevation and no increase in Flood velocities at any point resulting from the proposed Development.

(2) Property platted prior to December 31, 2003, may develop and/or replat or subdivide (including Lot splits) for non-residential uses without conducting a Hydrologic and Hydraulic Study. Such Development is still subject to the remaining sections of this Article [Article 12].

(3) Development of undeveloped residential property that was platted prior to December 31, 2003, may occur without conducting a Hydrologic and Hydraulic Study until December 31, 2008. Such Development is still subject to the remaining sections of this Article [Article 12]. After December 31, 2008, Development of the property is subject to all sections contained within this Article [Article 12].

(b) Floodway Restrictions
Any encroachment, including fill, New Construction, substantial improvements, or cumulative improvements or other Development is prohibited within the Regulatory Floodway, except for the following Structures:

(1) Flood control and stormwater management Structures;

(2) Road improvements and repair;

(3) Utility Easements/Rights-of-Way; and

(4) Public improvements or public Structures for bridging the Floodway.

(c) Hydrologic and Hydraulic Study

(1) Hydrologic and Hydraulic Studies shall comply with the following standards:

   (i) The study shall be signed and sealed by a professional engineer, licensed by the State of Kansas;
(ii) The study shall be submitted for approval by the City Stormwater Engineer concurrent with the initial submittal of a Floodplain Development permit application, preliminary plat, Development plan or site plan;

(iii) Hydrologic and hydraulic methods of analysis shall be consistent with those used in the current Flood Insurance Study for Douglas County, and shall comply with the City “Stormwater Management Criteria”;

(iv) The study shall extend an adequate distance upstream and downstream of the proposed Development to encompass the hydraulic effects of the proposed Development;

(v) The study shall assume full Development of the watershed based on the current Comprehensive Land Use Plan or other reasonable assumptions of impervious cover. Full Development of the watershed shall be assumed in all calculations, for either existing conditions or proposed modifications;

(vi) The study shall determine the Water Surface Elevations of the Base Flood for the existing stream and for any proposed Development. Based on the assumption of full watershed Development and other factors, the findings of the Hydrologic and Hydraulic Study may differ from the Flood Insurance Study. At a given location, the higher Water Surface Elevation shall be the Base Flood Elevation for compliance with the provisions of this Article;

(vii) The study shall identify the velocities of the Base Flood for the existing stream and for any proposed Development;

(viii) The study shall determine the areas of inundation of the Base Flood for the existing stream and for any proposed Development. The area of inundation shall be dimensioned to the property corners for use in revising the Floodplain Overlay District on all property within the extent of the study; and

(ix) In areas outside Zone AE, the study shall also identify the Floodway for the proposed Development.

(2) Once a study is approved, the City shall initiate the rezoning of any property in and around the Floodplain Overlay District to reflect the limits of Flooding determined by the study based on full Development of the watershed.

(3) For a Hydrologic and Hydraulic Study that proposes an alteration of FEMA’s designated Floodplain or Floodway, a letter of map revision (LOMR) must be obtained from FEMA before a Building permit will be issued for any Lot containing a Zone A, AE, AH or AO of the current FIRM.

(d) Land Disturbance
Land disturbance or removal of vegetation within the Floodplain Overlay District shall be minimized to the extent possible. When excavation, grading, removal of vegetation or other modifications to the cross-sectional geometry of the Floodplain
are proposed in order to meet the requirements set forth in Section 20-1204 those modifications shall comply with the following:

(1) Construction plans shall be prepared for the proposed modifications and shall be submitted for review and approval by the City Engineer. Design and plan preparation shall comply with the “City of Lawrence Design Guidelines and Standard Specifications” and the City “Stormwater Management Criteria”.

(2) As approved by the City Engineer, pursuant to the “Stormwater Management Criteria”:

(i) Channel lining materials shall be limited to native vegetation, stabilized as necessary to prevent erosion. The use of concrete lining, pipe or other structural materials shall be minimized;

(ii) Within the area of inundation, all disturbed areas above the channel lining shall be restored with native vegetation, including trees, to promote wildlife habitat; and

(iii) Channel designs shall preserve existing low-flow channels to the extent possible.

(e) General Development Standards
The following standards apply to any and all Development that is proposed within the Floodplain Overlay District.

(1) All Development shall comply with the following standards:

(i) Fill shall not be placed in the Setback areas except at approved Access points unless a grading plan has been approved by the Stormwater Engineer;

(ii) Structures must be designed and constructed with adequate anchorage to prevent flotation, collapse, or lateral movement of the Structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(iii) Structures must be designed and constructed with materials resistant to Flood damage using methods and practices that minimize Flood damages;

(iv) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities must be designed and/or located to prevent water from entering or accumulating within the mechanical components during conditions of Flooding;

(v) New or replacement water supply systems and/or sanitary sewage systems must be designed to eliminate infiltration of Flood waters into the systems and discharges from the systems into Flood waters, and on-site waste disposal systems must be located so as to avoid impairment or contamination;

(vi) All public utilities and facilities, such as sewer, gas, electrical, and water systems must be located and constructed to eliminate Flood damage;
(vii) Fully enclosed areas below the Lowest Floor that are used solely for Parking of vehicles, Building Access, or storage in an area other than a Basement and that are subject to Flooding must be designed to automatically equalize hydrostatic Flood forces on exterior walls by allowing for the entry and exit of Flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect to meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to Flooding shall be provided; and,

b. The bottom of all openings shall be no higher than one foot above Grade. Openings may be equipped with Screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(viii) Storage of Material and Equipment;

a. The storage or processing of materials within the Floodplain Overlay District area that are in time of Flooding buoyant, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited; and

b. Storage of other material or equipment may be allowed if not subject to major damage by Floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a Flood warning.

(2) Additional Standards for Residential Construction

(i) Proposed New Construction, or Substantial-Improvement or Cumulative Improvement of any residential Structures, including Mobile Homes or Manufactured Homes, shall comply with the following:

a. The Lowest Floor, including all HVAC and mechanical equipment, shall be elevated a minimum of two (2) feet above the Base Flood Elevation. A licensed land surveyor or licensed professional engineer shall provide written certification of the Lowest Floor elevation to the Floodplain Administrator as set out in Section 20-1203(c)(7).

b. For the portion of a property within the Floodplain Overlay District, the maximum impervious surface coverage shall not exceed 30%.

(ii) Fill on individual Lots shall meet the following requirements, unless a grading plan has been approved by the Stormwater Engineer:

a. No fill dirt shall be placed closer than five (5) feet to perimeter Lot Line(s) of the property;

b. No fill dirt shall be placed greater than 20 feet from the Structure;
Article 12 – Floodplain Management Regulations

(3) Additional Standards for Non-Residential Construction

(i) Any proposed New Construction, or Substantial-Improvement or Cumulative Improvement of any non-residential Structures shall meet the following standards:

a. Either of the following:

1. The Lowest Floor, including Basement, HVAC, and mechanical equipment, shall be elevated a minimum of one (1) foot above the Base Flood Elevation. A licensed land surveyor or licensed professional engineer shall certify the elevation of the Lowest Floor. Such certifications shall be provided to the Floodplain Administrator as set forth in Section 20-1203(c)(7); or

2. Together with attendant utility and sanitary facilities, the Structure shall be Floodproofed to at least one foot above the Base Flood Elevation. The portion of the Structure below this level is to be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

b. For the portion of a property within the Floodplain Overlay District, the maximum impervious surface coverage shall not exceed 60%.

(f) Duties of a Landlord

A landlord, or any Person authorized to enter a rental agreement on the landlord’s behalf, of rental property that is located within the Floodplain Overlay District shall, before the signing of a lease agreement, provide the prospective tenant(s) the following information in writing:

(1) The property is within the City’s Floodplain Overlay District;

(2) There is the possibility that Structures within the Floodplain Overlay District may be inundated with water during a Flood;
(3) There is the possibility of the loss of life and/or the loss of Personal property as a result of a Flood;

(4) Insurance against the loss of Personal property due to a Flood may be available and is typically the responsibility of the tenant to obtain; and

(5) Such notice shall be in 12-point bold type, signed by all parties to the rental agreement, and retained by the landlord as long as the rental agreement is in full force and effect.

(g) Duties of a Seller

A seller, or any Person authorized to represent the seller in the sales transaction of property that is located within the Floodplain Overlay District shall, before the sale of the property, provide the prospective buyer(s) the following information in writing:

(1) The property is within the City’s Floodplain Overlay District;

(2) There is the possibility that Structures within the Floodplain Overlay District may be inundated by water during a Flood;

(3) There is the possibility of the loss of life and/or the loss of Personal property as a result of a Flood;

(4) Insurance against the loss of Personal property or structural damage due to a Flood may be available and is typically the responsibility of the property Owner to obtain; and

(5) Such notice shall be in 12-point bold type, signed by all buyers, and retained by the seller for five years following the closing of the sale.

(h) Mobile Homes or Manufactured Homes

(1) All Mobile Homes or Manufactured Homes to be placed within the Floodplain Overlay District shall be required to be installed using methods and practices that minimize Flood damage. For the purposes of this requirement, Mobile Homes or Manufactured Homes must be elevated and anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(2) Mobile Homes or Manufactured Homes to be placed, or substantially improved or cumulatively improved on sites in an Existing Mobile Home Park or Subdivision within the Floodplain Overlay District must be elevated so that either:

(i) The Lowest Floor of the Mobile Home or Manufactured Home shall be a minimum of two (2) feet above the Base Flood Elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. A licensed land surveyor or licensed professional engineer shall certify the elevation of the Lowest Floor; or

(ii) The Mobile Home or Manufactured Home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in Height above
Grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. A licensed land surveyor or licensed professional engineer shall certify the elevation of the Lowest Floor.

(i) Areas of Shallow Flooding (Zones AO and AH)
The following provisions apply to areas designated as Zone AO and Zone AH:

(1) Zone AO

(i) All Development and Substantial-Improvements or Cumulative Improvements of residential Structures, including Mobile Homes and Manufactured Homes, shall have the Lowest Floor, including Basement, elevated above the Highest Adjacent Grade at least as high as the depth number specified in feet on the Community’s FIRM (at least two feet if no depth number is specified);

(ii) All Development and Substantial-Improvements or Cumulative Improvements of any commercial, industrial, or other non-residential Structures shall have the Lowest Floor, including Basement, elevated above the Highest Adjacent Grade at least as high as the depth number specified in feet on the Community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely Floodproofed so that the Structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(iii) Drainage paths must be provided to adequately guide floodwaters around Structures.

(2) Zone AH

(i) The Development standards for all Areas of Special Flood Hazard where Base Flood Elevation has been provided shall be required as set forth in Section 20-1204; and

(ii) Drainage paths must be provided to adequately guide floodwaters around Structures.

(j) Recreational Vehicles
Recreational Vehicles placed on sites in the Floodplain Overlay District shall either:

(1) Be on the site for fewer than 180 consecutive days; or

(2) Be fully licensed and ready for highway use; or

(3) Meet the permitting, elevation, and anchoring requirements For Mobile Homes or Manufactured Homes of this Article [Article 12].
## 20-1205 DEFINITIONS

The following definitions are applicable to only the terms found in this article.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>100-year Flood</td>
<td>see “Base Flood”</td>
</tr>
<tr>
<td>Agency</td>
<td>means the Federal Emergency Management Agency (FEMA)</td>
</tr>
<tr>
<td>Appeal</td>
<td>means a request for review of the Floodplain Administrator’s interpretation of any provision of this Article [Article 12] or a request for a variance</td>
</tr>
<tr>
<td>Areas of Special Flood Hazard</td>
<td>is the land in the Floodplain within a Community subject to a one percent (1%) or greater chance of Flooding in any given year</td>
</tr>
<tr>
<td>Base Flood</td>
<td>means the Flood having a one percent (1%) chance of being equaled or exceeded in any given year</td>
</tr>
<tr>
<td>Base Flood Elevation</td>
<td>means the Water Surface Elevation of the Base Flood as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study, whichever is higher</td>
</tr>
<tr>
<td>Basement</td>
<td>means any area of the Structure having its floor sub-Grade (below ground level) on all sides</td>
</tr>
<tr>
<td>Buildable Lot</td>
<td>a Lot for which a Building permit can be obtained. Property that is designated as a “Tract” of land is not a Buildable Lot.</td>
</tr>
<tr>
<td>Community</td>
<td>means any State or area or political subdivision thereof, which has authority to adopt and enforce Floodplain Management Regulations for the areas within its jurisdiction</td>
</tr>
<tr>
<td>Cumulative Improvement</td>
<td>Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds fifty-percent (50%) of the of the Market Value of the Structure over the course of the last five calendar years. This includes Structures, which have incurred “Substantial-Damage,” regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a Structure to correct existing violations of State or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “Historic Structure,” provided that the alteration will not preclude the Structure’s continued designation as a “Historic Structure.”</td>
</tr>
<tr>
<td>Development</td>
<td>means any human-made change to Premises, including but not limited to: (a) the erection, conversion, expansion, reconstruction, renovation, movement or Structural Alteration, or partial or total demolition of Buildings and Structures; (b) the subdivision of land; (c) changing the use of land, or Buildings or Structures on land; or (d) mining, dredging, filling, grading, paving, excavation, drilling, or Landscaping of land or bodies of water on land.</td>
</tr>
<tr>
<td>“Eligible Community” or “Participating Community”</td>
<td>means a Community for which the Administrator has authorized the sale of Flood insurance under the National Flood Insurance Program (NFIP)</td>
</tr>
<tr>
<td>Existing Construction</td>
<td>means for the purposes of determining rates, Structures for which the “Start of Construction” commenced before the Effective Date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing Construction” may also be referred to as “existing Structures”</td>
</tr>
<tr>
<td>Existing Mobile Home</td>
<td>means a Mobile Home Park or subdivision for which the construction of facilities for servicing the...</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>------</td>
<td>------------</td>
</tr>
<tr>
<td>Park or Subdivision</td>
<td>Lots on which the Mobile Homes are to be affixed (including, at a minimum, the installation of utilities, the construction of Streets, and either final site grading or the pouring of concrete pads) is completed before the Effective Date of the Floodplain Management Regulations adopted by a Community</td>
</tr>
<tr>
<td>Expansion to an Existing Mobile Home Park or Subdivision</td>
<td>means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile or manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).</td>
</tr>
<tr>
<td>&quot;Flood&quot; or &quot;Flooding*</td>
<td>means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash Flood, or by some similarly unusual and unforeseeable event which results in Flooding as defined above in item (1)</td>
</tr>
<tr>
<td>Flood Insurance Rate Map (FIRM)</td>
<td>means an official map of a Community, on which the Administrator has delineated both the Special Flood Hazard Areas and the risk premium Zones Applicable to the Community</td>
</tr>
<tr>
<td>Flood Insurance Study (FIS)</td>
<td>means an examination, evaluation and determination of Flood hazards and, if appropriate, corresponding Water Surface Elevations</td>
</tr>
<tr>
<td>Floodplain or Regulatory Floodplain</td>
<td>means the land inundated by a Flood of a given magnitude as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study</td>
</tr>
<tr>
<td>Floodplain Management</td>
<td>means the operation of an overall program of corrective and preventive measures for reducing Flood damage, including but not limited to emergency preparedness plans, Flood control works, and Floodplain Management Regulations</td>
</tr>
<tr>
<td>Floodplain Management Regulations</td>
<td>means zoning ordinances, subdivision regulations, Building codes, health regulations, special purpose ordinances (such as Floodplain and grading ordinances) and other applications of police power. The term describes such State or local regulations, in any combination thereof, that provide standards for the purpose of Flood damage prevention and reduction</td>
</tr>
<tr>
<td>Floodplain Variance</td>
<td>means a grant of relief by the community from the terms of a floodplain management regulation. Flood Insurance requirements remain in place for a ny varied use or structure and cannot be varied by the community.</td>
</tr>
<tr>
<td>Floodproofing</td>
<td>means any combination of structural and nonstructural additions, changes, or adjustments to Structures that reduce or eliminate Flood damage to real estate or improved real property, water and sanitary facilities, or Structures and their contents</td>
</tr>
<tr>
<td>&quot;Floodway&quot; or &quot;Regulatory Floodway&quot;</td>
<td>means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the Water Surface Elevation more than one foot</td>
</tr>
<tr>
<td>Floodway Encroachment Lines</td>
<td>means the lines marking the limits of floodways on Federal, State and local Floodplain maps</td>
</tr>
<tr>
<td>Floodway Fringe or Regulatory Floodway Fringe</td>
<td>means the area outside the Floodway Encroachment Lines, but still subject to inundation by the Regulatory Flood</td>
</tr>
<tr>
<td>Freeboard</td>
<td>means a factor of safety usually expressed in feet above a Flood level for purposes of Floodplain Management. &quot;Freeboard* tends to compensate for the many unknown factors that could contribute to Flood Heights greater than the Height calculated for a selected size Flood and Floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed</td>
</tr>
<tr>
<td>Highest Adjacent Grade</td>
<td>means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a Structure</td>
</tr>
<tr>
<td>Historic Structure</td>
<td>means any Structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places / communities with historic preservation programs that have been certified with (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Hydrologic and Hydraulic Study</td>
<td>means an engineering study that is done in accordance with 20-1204(c).</td>
</tr>
<tr>
<td>Lowest Floor</td>
<td>means the Lowest Floor of the lowest enclosed area, including a Basement; an unfinished or Flood-resistant enclosure, usable solely for Parking of vehicles, Building Access, or storage, in an area other than a Basement area, is not considered a Building's Lowest Floor, provided that such enclosure is not built so as to render the Structure in violation of the applicable Floodproofing design requirements of this Article.</td>
</tr>
<tr>
<td>Manufactured Home or Mobile Home</td>
<td>means a Structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “Mobile Home” or “Manufactured Home” does not include a “Recreational Vehicle”.</td>
</tr>
<tr>
<td>Manufactured Home Park or Mobile Home Park</td>
<td>means a Parcel (or contiguous Parcel) of land divided into two or more Manufactured Home or Mobile Home Lots for rent or sale.</td>
</tr>
<tr>
<td>Market Value</td>
<td>means an estimate of what is fair, economic, just and equitable value under normal local market conditions.</td>
</tr>
<tr>
<td>Mean Sea Level</td>
<td>means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a Community’s Flood Insurance Rate Map (FIRM) are referenced.</td>
</tr>
<tr>
<td>New Construction</td>
<td>means, for the purposes of determining insurance rates, Structures for which the “start of construction” commenced on or after the Effective Date of an initial FIRM (March 2, 1981) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such Structures. For Floodplain Management purposes, “New Construction” means Structures for which the “Start of Construction” commenced on or after the Effective Date of the Floodplain Management Regulations adopted by a Community and includes any subsequent improvements to such Structures.</td>
</tr>
<tr>
<td>New Mobile Home Park or Subdivision</td>
<td>means a mobile home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured or mobile homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.</td>
</tr>
<tr>
<td>Overlay District</td>
<td>means a special Zoning District that has been “overlaid” on a base zoning classification to alter some or all the Base District zoning regulations</td>
</tr>
<tr>
<td>Participating Community</td>
<td>also known as an “Eligible Community,” means a Community in which the Administrator has authorized the sale of Flood insurance</td>
</tr>
<tr>
<td>Person</td>
<td>includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies</td>
</tr>
<tr>
<td>Principally above Ground</td>
<td>means that at least 51% of the actual cash value of the Structure, less land value, is above ground</td>
</tr>
<tr>
<td>Recreational Vehicle</td>
<td>means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent Dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. A Recreational Vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.</td>
</tr>
<tr>
<td>Regulatory Flood</td>
<td>see “Base Flood”</td>
</tr>
<tr>
<td>Special Flood Hazard Area (SPFA)</td>
<td>see “Area of Special Flood Hazard”</td>
</tr>
<tr>
<td>Start of Construction</td>
<td>includes Substantial-Improvements or Cumulative Improvements, and means the date the Building permit was issued, provided the actual Start of Construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a Structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a Mobile Home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of Streets and/or walkways, excavation for a Basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of Accessory Structures, such as garages or sheds not occupied as Dwelling Units or not part of the main Structure. For a Substantial-Improvement or Cumulative Improvement, the actual Start of Construction means the first alteration of any wall, ceiling, floor, or other structural part of a Building, whether or not that alteration affects the external structure of the Building.</td>
</tr>
</tbody>
</table>

Effective July 1, 2006  
Amended July 15, 2010July 22, 2015
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Coordinating</td>
<td>means the Division of Water Resources, Kansas Department of Agriculture, or other office Agency</td>
</tr>
<tr>
<td>Agency</td>
<td>designated by the governor of the State or by State statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that State</td>
</tr>
<tr>
<td>Structure</td>
<td>means, for Floodplain Management purposes, a walled and roofed Building, including a gas or liquid storage tank, that is Principally above Ground, as well as a Mobile Home. &quot;Structure&quot; for insurance purposes, means a walled and roofed Building, other than a gas or liquid storage tank that is Principally above Ground and affixed to a permanent site, as well as a Mobile Home on a permanent foundation. For the latter purpose, the term includes a Building while in the course of construction, alteration or repair, but does not include Building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed Building on the Premises</td>
</tr>
<tr>
<td>Substantial-Damage</td>
<td>means, for Floodplain Management purposes, damage of any origin sustained by a Structure whereby the cost of restoring the Structure to pre-damaged condition would equal or exceed fifty percent (50%) of the Market Value of the Structure before the damage occurred</td>
</tr>
<tr>
<td>Substantial-Improvement</td>
<td>means any reconstruction, rehabilitation, addition, or other improvement of a Structure, the cost of which equals or exceeds fifty percent (50%) of the Market Value of the Structure before &quot;Start of Construction&quot; of the improvement. This term includes Structures, which have incurred &quot;Substantial-Damage,&quot; regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a Structure to correct existing violations of State or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a &quot;Historic Structure,&quot; provided that the alteration will not preclude the Structure’s continued designation as a &quot;Historic Structure&quot;</td>
</tr>
<tr>
<td>Unmapped Floodplain Area</td>
<td>means all stream tributaries having a drainage area of 240 acres or more regardless of the limits of the FIS</td>
</tr>
<tr>
<td>Water Surface Elevation</td>
<td>means the Height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the Floodplain</td>
</tr>
<tr>
<td>Zone A</td>
<td>means Special Flood Hazard Areas inundated by 100-year Flood where no Base Flood Elevations have been determined</td>
</tr>
<tr>
<td>Zone AE</td>
<td>means Special Flood Hazard Areas inundated by 100-year Flood where Base Flood Elevations have been determined</td>
</tr>
<tr>
<td>Zone AH</td>
<td>means Special Flood Hazard Areas inundated by 100-year Flood with Flood depths of one (1) to three (3) feet (usually areas of ponding), where Base Flood Elevations have been determined</td>
</tr>
<tr>
<td>Zone AO</td>
<td>means Special Flood Hazard Areas inundated by 100-year Flood with Flood depths of one (1) to three (3) feet (usually sheet flow on sloping terrain), where average depths have been determined. For areas of alluvial fan Flooding velocities have also been determined</td>
</tr>
</tbody>
</table>
ITEM NO. 8B TEXT AMENDMENT FOR FLOODPLAIN OVERLAY DISTRICT MAPS (AAM)


RECOMMENDATION: Staff recommends approval of the proposed text amendment [TA-15-00254] regarding changes to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas and forwarding a recommendation for approval to the Board of County Commissioners.

Reason for Request: The Planning Commission initiated this amendment on June 22, 2015 as a result of the Risk Mapping, Assessment and Planning (Risk MAP) program undertaken by the Federal Emergency Management Administration (FEMA) by which new floodplain maps will be produced for Douglas County. The effective date for those maps needs to be reflected in the Zoning Regulations in order to comply with the State of Kansas model floodplain ordinance. In undertaking a review of the floodplain ordinance, staff has identified other minor changes that are necessary to comply with the National Flood Insurance Program (NFIP) requirements.

RELEVANT GOLDEN FACTOR:

- Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Adoption of new regulatory tools, one of which is zoning regulations, is an implementation step in Chapter 17 of Horizon 2020, the City/County Comprehensive Land Use Plan.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No written comments received to date.
- Staff has conferred with State Division of Water Resources floodplain program administrators regarding the proposed changes and is awaiting final approval on the ordinance changes from NFIP.

OVERVIEW OF PROPOSED AMENDMENT

The Federal Emergency Management Agency (FEMA) recently completed a re-evaluation of flood hazards for certain streams in Douglas County through the Risk Mapping, Assessment and Planning (Risk MAP) program. Staff has received the preliminary maps and has reviewed them. As part of the issuance of new Flood Insurance Rate Maps (FIRMs), staff has placed the
new maps on the website for the public to view (http://www.lawrenceks.org/city_maps), and will be conducting outreach activities within the community to raise awareness about the new flood hazard maps.

FEMA requires each community to amend their floodplain regulations to include the new effective date of the FIRM maps, which will be September 2, 2015. Sections 12-328-3 needs to be changed to reflect the new effective date.

Staff has also made some very minor modifications that have been recommended by DWR in order to further comply with NFIP regulations. These changes are not substantive in nature, but are mostly alternate wording choices or duplication of regulations that existed elsewhere in the floodplain regulations. In summary, language was added to further clarify that HVAC and mechanical equipment needs to be elevated; language was added to the purpose statement to clarify that development should be reasonably safe from flooding; language was added to the purpose statement to clarify that the carrying capacity should not be altered for watercourse modifications; and language was added to reference two Kansas Statutes as required by DWR and NFIP.

A full copy of Article 28, listing the proposed changes is attached to this staff report. Text to be deleted is shown with strikeout and proposed text is shown in underlined font.

The following is a summary listing of the proposed changes:

1) FIRM effective date change to September 2, 2015.
2) Minor modifications to comply with NFIP and DWR regulation.

Prior to adoption, this proposed language will need to be officially reviewed by the Kansas Department of Agriculture, Division of Water Resources (DWR) to ensure compliance with the County's participation in the National Flood Insurance Program (NFIP), including alignment with the current State Model Floodplain Ordinance. Staff has sent the proposed ordinance to DWR and it is currently under review.

Staff has also identified a few possible changes for future consideration:

1. **Critical Facilities:** Critical facilities are facilities that store or use hazardous materials; housing units likely to have occupants that cannot readily evacuate; public safety facilities that are needed in the event of a flood disaster; and utility and public works operations. Examples include, but are not limited to police stations, fire stations, hospitals and public works operation sites. In recent years, a federal executive order was issued that does not allow the use of federal money to repair or develop critical facilities in the 100-year or 500-year floodplain.

2. **Elevation Requirement:** Currently, the county zoning regulations require residential structures to be elevated 1’ above the Base Flood Elevation (BFE) unless they are located in the Urban Growth Area (UGA) where they have to be elevated 2’ above BFE. The City of Lawrence regulations require residential structures to be elevated 2’ above the BFE inside city limits. Staff has identified that a higher regulatory standard that would require all residential structures in the county to be elevated 2’ above the BFE is in the best interest of the community. Not only will flood risks be reduced, insurance premiums will be lowered for property owners.

3. **Cumulative Improvement:** Staff has also identified a possible change related to the threshold for when a project is required to comply with the floodplain regulations.
Currently, the code requires compliance with the floodplain regulations when a project involves new construction or is a substantial improvement. Substantial Improvement is defined as “means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement.” Staff has identified that this section of the code could be amended to also include Cumulative Improvement, defined as “any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds fifty-percent (50%) of the market value of the structure over the course of the last five calendar years.” The idea behind substantial and cumulative improvement is if a property owner is improving a property, then a threshold should be established for when a portion of the financial commitment for those improvements should go towards decreasing the flood risk to the property, which will in turn reduce flood insurance costs and the potential payout should there be flood damage. Staff has identified that a loophole exists in the current code, whereby a property owner can apply for multiple permits over time, in order to improve a property without triggering substantial improvement, which currently only applies to each building permit. Cumulative improvement would track those improvements for five years. In addition to closing the loophole, the addition of cumulative improvement is considered a higher regulatory standard. Adoption of this standard improves the overall rating in the county's participation in the Community Rating System (CRS) program, which allows property owners to receive a discount on their flood insurance premiums.

The above changes are considered higher regulatory standards. Adoption of these standards improves the overall rating in the county's participation in the Community Rating System (CRS) program, which allows property owners to receive a discount on their flood insurance premiums. These possible code changes will require research and are not being included in this text amendment. If appropriate, the County Commission may initiate text amendments for future changes to the regulations.
STATEMENT OF PURPOSE AND INTENT

Statement of Purpose.

The management regulations set forth in this Section are the floodplain management regulations for the unincorporated portions of Douglas County. The purpose of these regulations is to protect individuals and property from flood hazards or flooding by providing for the orderly and safe development of the floodplain for the most advantageous uses which are consistent with the health, safety, and welfare of the general public and which are also consistent with sound practices for utilizing those areas required for the conveyance of specified stream flows in the regulatory floodway. This article is also used to establish or maintain the Community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 512.22 (a) (3); and to meet the requirements of 44 CFR 60.3(d), K.S.A. 12-741, K.S.A. 12-766 and K.A.R. 5-44-4 by applying the provisions of this Article.

Intent.

a. The intent of these regulations is to avoid additional costs for home owners upon annexation and to minimize losses due to floods or flood waters by provisions designed to:

1) Prohibit the placement of fill, materials, and structures which would obstruct flood flows and decrease the carrying storage—capacity of the regulatory floodway unless it can be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2) Require structures in the floodplain and public utilities vulnerable to floods be provided with flood protection at the initial construction stage.

3) Protect individuals from the purchase of lands rendered unsuitable for intended uses by their proximity to floodplain.

4) Minimize public expenditures for flood control projects and damage to public improvements within the floodplain.

5) Maintain property values adjacent to the floodplain and minimize flood blight areas.

6) Assure eligibility for property owners in the Federal Flood Insurance Program.

b. These regulations are designed and intended to be administered in a manner which will:

1) Restrict or prohibit uses dangerous because of water and erosion hazards or which will result in undue increases in erosion, flood heights, or velocities.

2) Control grading (fill or excavation), dredging, and development which may unduly increase the potential for flood damage.

3) Require that uses protect private and public investments by requiring floodproofing.

4) Control alteration of floodplains, stream channels and natural barriers which accommodate or channel floodwaters.

5) Prevent or regulate construction of barriers that unnaturally divert flood waters or cause increased flood hazards. Construction in floodplains should be directed
to the outer limits of the Floodway Fringe before it is allowed to encroach further into the regulatory floodplain.

12-328-2. **FLOODPLAIN OVERLAY DISTRICTS**
The floodplain overlay districts shall include only those areas designated as floodplain by the Federal Insurance Study or by an approved Hydrologic and Hydraulic Study.

The floodplain overlay districts consist of: the "F-W" floodway overlay district; and, the "F-F" floodway fringe overlay districts.

12-328-3. **FLOODPLAIN OVERLAY DISTRICTS MAP**
The official floodplain overlay districts map shall be used in conjunction with the official zoning districts map. The official floodplain overlay districts map shall show the boundaries of the "F-W" floodway and the "F-F" floodway fringe overlay districts. These boundaries shall be consistent with the Floodway and Floodway Fringe as identified by the Federal Emergency Management Agency (FEMA) through a scientific and engineering report entitled, "The Flood Insurance Study for the County of Douglas, Kansas, and Incorporated Areas September 2, 2015 August 10, 2010 November 7, 2001", with the accompanying Flood Insurance Rate Maps and revisions thereto.

12-328-4. **FLOOD INSURANCE**
No part of this Section or any regulation therein shall be construed as affecting the eligibility for flood insurance of any structure existing at the time of publication of the Flood Insurance Rate Maps.

12-328-5. **FLOODPLAIN DEVELOPMENT WITHIN THE CITY OF LAWRENCE URBAN GROWTH AREA (UGA)**

12-328-5.01. Development of Property in the Floodplain Overlay District. Development of land or subdivision of property (including lot splits) within the City of Lawrence Urban Growth Area (UGA) and a floodplain overlay district shall be permitted only where an approved hydrologic and hydraulic study demonstrates that there will be no rise in the base flood elevation and no increase in flood velocities at any point resulting from the proposed development.

a. Property platted prior to June 1, 2005, may develop and/or re-plat or subdivide (including lot splits) for non-residential uses without conducting a hydrologic and hydraulic study. Such development is still subject to the remaining sections of this Article.

b. Development of undeveloped property that was platted prior to June 1, 2005 may occur without conducting a hydrologic and hydraulic study until January 1, 2007. Such development is still subject to the remaining sections of this Article. After January 1, 2007 development of the property is subject to all sections contained within this Section.

12-328-5.02. **Floodway Restrictions.** Any encroachment, including fill, new construction, substantial improvements, or other development is prohibited within the F-W Overlay District, except for the following structures:

a. Flood control and stormwater management structures;

b. Road improvements and repair;

c. Utility easements/Rights-of-Way; and,

d. Public improvements or public structures for bridging the Floodway.
12-328-5.03. Hydrologic and Hydraulic Study

a. Hydrologic and hydraulic studies shall comply with the following standards:

1) The study shall be signed and sealed by a professional engineer, licensed in the State of Kansas;
2) The study shall be submitted for approval by the Douglas County Director of Public Works concurrent with the initial submittal of a floodplain development permit application, preliminary plat, development plan or site plan;
3) Hydrologic and hydraulic methods of analysis shall be consistent with those used in the current Flood Insurance Study for Douglas County;
4) The study shall extend an adequate distance upstream and downstream of the proposed development to encompass the hydraulic effects of the proposed development;
5) The study shall determine the water surface elevations of the base flood for the existing stream and for any proposed development. Based on the assumption of full watershed development and other factors, the findings of the hydrologic and hydraulic study may differ from the Flood Insurance Study. At a given location, the higher water surface elevation shall be the base flood elevation for compliance with the provisions of this section;
6) The study shall identify the velocities of the base flood for the existing stream and for any proposed development;
7) The study shall determine the areas of inundation of the base flood for the existing stream and for any proposed development. The area of inundation shall be dimensioned to the property corners for use in revising the floodplain overlay districts on all property within the extent of the study; and,
8) In areas outside Zone AE, the study shall also identify the Floodway for the proposed development.

b. For a hydrologic and hydraulic study that proposes an alteration of FEMA’s designated floodplain or Floodway, a letter of map revision (LOMR) must be obtained before a building permit will be used for any lot containing a Zone A, AE, AH or AO of the current FIRM.

12-328-5.04. Land Disturbance. Land disturbance or removal of vegetation within the floodplain overlay districts shall be minimized to the extent possible. When excavation, grading, removal of vegetation or other modifications to the cross-sectional geometry of the floodplain are proposed in order to meet the requirements set forth in section 12-328-5.01, those modifications shall comply with the following:

a. Construction plans shall be prepared for the proposed modifications and shall be submitted for review and approval by the Douglas County Director of Public Works.

b. As approved by the Douglas County Director of Public Works:

1) Channel lining materials shall be limited to native vegetation, stabilized as necessary to prevent erosion. The use of concrete lining, pipe or other structural materials shall be minimized;
2) Within the area of inundation, all disturbed areas above the channel lining shall be restored with native vegetation, including trees, to promote wildlife habitat; and,
3) Channel designs shall preserve existing low-flow channels to the extent possible.

12-328-6 DEVELOPMENT STANDARDS AND CRITERIA

12-328-6.01. General Standards. Development in areas that are included in the floodplain overlay districts shall be required to meet the following general standards:
a. No structure, fill, or other uses within the floodway overlay district shall be permitted which will increase the base flood elevation.

b. Public improvements shall be waterproofed to the base flood elevation. Any space below the base flood elevation shall be watertight with walls substantially impermeable to the passage of water with structural components having the capabilities of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. The interior and content of the structures shall remain substantially dry.

c. Water lines shall be designed to eliminate infiltration of flood waters into systems.

d. Sewer lines shall be designed to eliminate infiltration of flood waters into systems and discharge from the systems into the floodwaters.

e. Residential Construction: New construction or substantial improvements of a residential structure shall be elevated, anchored to prevent flotation, collapse, or lateral movement of the structure and shall be constructed to resist and minimize flood damage. Construction shall be with materials resistant to flood damages, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

f. Non-Residential Construction: All new construction and substantial improvements that fully enclose areas below the lowest floor which are usable solely for parking of vehicles, building access or storage in an area other than a basement; and, which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

g. Storage of materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after the flood warning. Storage of materials that are buoyant, flammable, explosive or potentially injurious to human life at times of flooding shall not be permitted.

h. On site waste disposal systems shall be designed to avoid impairment due to flooding.

i. All new construction and substantial improvements that fully enclose areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

j. Until a Floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated
development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

12-328-6.02. **Specific Standards.** In addition to these general standards, development shall be required to meet the following specific standards:

a. **Residential Construction.** New construction and substantial improvement of residential structures shall have the lowest floor, including basement and all HVAC and mechanical equipment, elevated: a) a minimum of two feet above the base flood elevation when located within the Urban Growth Area (UGA) of Lawrence, or, b) a minimum of one foot above the base flood elevation when located outside the Urban Growth Area of Lawrence but within the unincorporated area of Douglas County.

b. **Non-Residential Construction.** All new construction and substantial improvements of non-residential structures, including all HVAC and mechanical equipment, shall have a) the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation; or, b) together with attendant utility and sanitary facilities, be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and c) a registered professional engineer or architect shall develop and/or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting applicable provisions of the Federal Emergency Management Regulations [44FR311177, the Section 60.3 (c)(3)(ii) & Section 60.3 (c)(8)(ii), and amendments thereto.]

c. **Existing Manufactured (Mobile) Home Park.** All manufactured homes to be placed in an existing park located in a floodplain overlay district are required to be firmly secured to an adequately anchored foundation system to resist floatation, collapse, or lateral movement, which may include, but is not limited to, the use of over-the-top or fame ties to ground anchors. (This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.)

d. **Manufactured (mobile) homes.** Manufactured (mobile) homes to be placed or substantially improved in an expansion to an existing manufactured (mobile) home park where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced are required to have the manufactured home chassis elevated by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely attached to an adequately anchored foundation such that the lowest floor of the manufactured home is elevated at least two feet above the base flood elevation.

e. **A licensed land surveyor or professional engineer shall certify that the elevation of a proposed structure is above the specified base flood elevation.**

f. **In areas where a base flood elevation has not been provided by the FIS, the county shall obtain, review and reasonably utilize any base flood elevation and Floodway data available from federal, state or other sources until such other data has been provided by FEMA for use and enforcement of this chapter.**

g. **Require that recreational vehicles placed on sites within the identified floodplain on the community’s FIRM either 1) be on the site for fewer than 180 consecutive days, 2) be fully licensed and ready for highway use, or 3) meet the permit requirements and the elevation and anchoring requirements for manufactured homes in this ordinance. A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is
attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

h. All proposals for development must include base flood elevation data.
i. In Zone AO and AH, adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

12-328-6.03. **Letter of Map Revision (LOMR).** Structures placed on property that has been removed from the floodplain by a LOMR shall have the lowest floor, including basement, elevated above the base flood elevation in compliance with section 12-328-6-02.

12-328-7. **ADMINISTRATION AND RECORDS**

12-328-7.01. **Administration.** The Director of Zoning and Codes shall be vested with the administration of these regulations. It shall be his responsibility to review all requests for floodplain development permits and to enforce the regulations in this Section. Each permit shall be reviewed in consideration with the following:

a. Satisfying all the requirements of this Section.
b. Obtaining all the necessary permits from federal, state, or local government agencies prior to approval of the development permit.
c. The location of the proposed development in relation to the Floodway and the assurance that any encroachment meet the standards in this Section, and K.S.A. 12-766.

12-328-7.02. **Records.** The Director of Zoning and Codes, as administrator of these regulations, shall record and maintain a record of all development permits issued. Documentation of these permits shall include:

a. The proposed use, residential or non-residential;
b. The elevation of the regulatory floodway for the area developed; and,
c. Certification that the elevation of the lowest floor is above the base flood elevation by the required; one foot in the unincorporated area of the County outside the Lawrence Urban Growth Area or, two feet within the Urban Growth Area of Lawrence.

The Director of Zoning and Codes shall submit a biennial report on the appropriate federal annual report form to the Administrator concerning the community's participation in the Federal Insurance Program.

12-328-8. **DEVELOPMENT PERMIT**

12-328-8.01. No development shall be made in, on, or over any land designated by this Section and shown on the official floodplain overlay district map as being within the floodway overlay districts without obtaining approval from the Director of Zoning and Codes.

12-328-8.02. Application for a development permit shall be made by the property owner or his certified agent to the Director of Zoning and Codes upon appropriate forms. Such application shall be made at least ten days prior to the approval of a development permit. The application shall be accompanied by a fee of Fifty Dollars; no part shall be returnable to the applicant after review of the permit request has begun. The application fee shall be made payable to the Director of Zoning and Codes.

12-328-8.03. **Information required.** An application for a development permit shall be accompanied by the following information:

a. Identification and description of proposed use or development;
b. Legal description of the property;
c. Plan of the proposed development or use at a scale of one inch equals fifty feet or larger
showing the Floodway and Floodway Fringe as designated by the Federal Insurance Administrator;

d. Use and type of structures proposed;

e. The elevation (in relation to mean sea level) of the lowest floor, including basements, of all structures or proposed fill;

f. A statement of the elevation flood proofed by a licensed land surveyor;

g. Proposed developments which include alteration of watercourses must:

1) In river or tributary situations, the Director of Zoning and Codes will notify any adjacent community, state coordinating agency for the National Flood Insurance Program, and the Federal Insurance Administration prior to any alteration or relocation of a watercourse.

2) Evidence submitted by the applicant's engineer or architect showing that no adverse impacts will result from the alteration and the flood carrying capacity within the altered or relocated portion of the watercourse is not diminished.

h. Any additional data which the Director of Zoning and Codes or County Engineer requests which is pertinent to the issuance of a development permit.

12-328-9. CERTIFICATION OF ELEVATION

Within sixty days after a building permit has been issued, a certification of elevation must be received, approved and recorded at the Director of Zoning & Codes’ Office.

The development permit must include certification from a land surveyor (licensed to do business in the State of Kansas) that the lowest floor, including basement, is a minimum of one foot above the base floodplain elevation. The building permit is null and void after said sixty day period if such certification is not provided. Occupancy of the structure shall be illegal prior to the approval of a development permit.

12-328-10. NON-CONFORMING USES AND STRUCTURES IN THE FLOODPLAIN

All non-conforming uses and structures within a floodway or regulatory floodway fringe overlay districts shall be subject to the following requirements in addition to other provisions of the County's Zoning Resolution.

12-328-10.01. No non-conforming use or structure shall be altered, repaired or modified unless a permit is issued under this Section.

12-328-10.02. No permit for the alteration, repair or modification of a non-conforming use in the Floodway Fringe shall be issued unless such alteration, repair or modification includes flood proofing by elevation to or above the base flood elevation. No permits shall be issued for alteration, repair or modification in the Floodway that will obstruct flow or increase the height of the base flood.

12-328-10.03. Uses or adjuncts thereof, which are or become nuisances shall not be entitled to continue as non-conforming uses.

12-328-10.04. The Director of Zoning and Codes, before issuing a development permit for the alteration, repair or modification of a non-conforming use or structure, shall request a decision from the Board of Zoning Appeals in determining the adequacy of the proposed flood proofing measures for the proposed alteration, repair or modification of the non-conforming use or structure. The Board of Zoning Appeals shall make this determination in accordance with the following specific criteria:

a. The susceptibility of the structure or use to flood damage.
b. The availability and expense of alternate floodproofing techniques.
c. The safety of the flood-proofing measures.

12-328-11. **AREAS OF SHALLOW FLOODING (ZONE AO AND ZONE AH)**
The following provisions apply to areas designated as Zone AO and Zone AH:

12-328-11.01. **Zone AO.**
a. All development and substantial-improvements of residential structures, including mobile homes or manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);
b. All development and substantial-improvements of any commercial, industrial, or other non-residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
c. Drainage paths must be provided adequately to guide floodwaters around structures.

12-328-11.02. **Zone AH.**
a. The development standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in section 12-328-6 et al; and,
b. Drainage paths must be provided adequately to guide floodwaters around structures.

12-328-12. **AMENDMENTS**
The regulations, restrictions, and boundaries set forth in this section may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, that prior to the adoption thereof, the Board of County Commissioners shall submit to the chief engineer of the Division of Water Resources of the State Board of Agriculture any ordinance, resolution, regulation or plan that proposes to create or to effect any change in a floodplain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments, and uses of land within such an area.

The chief engineer may require, pursuant to rules and regulations, each submission hereunder to be accompanied by complete maps, plans, profiles, specifications and textual matter. The chief engineer shall approve or disapprove any such ordinance, resolution, regulation or plan or changes thereof within 90 days of the date of receipt of all such data required by the chief engineer as specified in rules and regulations adopted thereby.

If the chief engineer fails to approve or disapprove within the 90 day period required by this section, such ordinance, resolution, regulation or plan or change thereof shall be deemed approved. The chief engineer shall provide, in writing, specific reasons for any disapproval.

12-328-13. **DEFINITIONS**
The following definitions are applicable to only the terms found in this section.

12-328-13.02. **Areas of Special Flood Hazard.** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

12-328-13.03. **Base Flood.** The flood having a one percent chance of being equaled or exceeded in any given year.

12-328-13.04. **Base Flood Elevation.** The water surface elevation of the base flood as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study, whichever is higher.

12-328-13.05. **Community.** Any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

12-328-13.06. **Development.** Any man-made change to improved or unimproved real estate, including but not limited to, building or other structure, mining, fill, dredging, grading, paving, excavation or drilling operations (excluding wells for potable water), or storage of equipment or materials.

12-328-13.07. **“Eligible Community”.** A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

12-328-13.08. **Existing Construction.** For the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “existing construction” may also be referred to as “existing structures”.

12-328-13.09. **Existing Manufactured Home, Park or Subdivision.** A manufactured home, park or subdivision for which the construction of facilities for servicing the lot(s) on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before March 2, 1981, the effective date of the adoption of the first County floodplain management regulations.

12-328-13.10. **Existing Structures.** (See “Existing Construction”)

12-328-13.11. **Expansion to an Existing Manufactured Home Park or Subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.)

12-328-13.12. **Flood.** A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland waters; 2) the unusual and rapid accumulation or runoff of surface waters from any source; and 3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item 1).

12-328-13.13. **Flooding.** [See “Flood”].
12-328-13.14. **Flood Insurance Rate Map (FIRM).** The official map of a community on which both the special flood hazard areas and the risk premium zones have been delineated.

12-328-13.15. **Flood Insurance Study (FIS).** An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

12-328-13.16. **Floodplain.** The land area inundated by a flood of a given magnitude as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study.

12-328-13.17. **Floodplain Management.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness flood control works, and floodplain management regulations.

12-328-13.18. **Floodplain Management Regulations.** Zoning ordinances, subdivision regulations, building codes, health regulations, special purposes (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

12-328-13.19. **Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

12-328-13.20. **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

12-328-13.21. **Floodway Encroachment Lines.** The lines marking the limits of Floodways on Federal, State and local floodplain maps.

12-328-13.22. **Floodway Fringe.** The area outside the Floodway encroachment lines, but still subject to inundation by the regulatory flood.

12-328-13.23. **Freeboard.** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and Floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

12-328-13.24. **Habitable Floor.** Any floor usable for living purposes, which include working, sleeping, eating, cooking or recreation, or a combination thereof.

12-328-13.25. **Highest Adjacent.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

12-328-13.26. **Historic Structure.** Any structure that is: a) Listed individually in the National Register of Historic places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; b) certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic
district or a district preliminary determined by the Secretary to qualify as a registered historic
district; c) individually listed on a state inventory of historic places in states with historic
preservation programs which have been approved by the Secretary of the Interior; or d)
individually listed on a local inventory of historic places in communities with historic
preservation programs that have been certified either: 1) by an approved state program as
determined by the Secretary of the Interior or 2) directly by the Secretary of the Interior in
states without approved programs.

12-328-13.27. **Hydrologic and Hydraulic Study.** An engineering study that is done in
accordance with section 12-328-5.03 et al.

12-328-13.28. **Lowest Floor.** The lowest floor of the lowest enclosed area (including
basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles,
building access or storage, in an area other than a basement area, is not considered a building’s
lowest floor, provided that such enclosure is not built so as to render to structure in violation of
the applicable non-elevation design requirements of this ordinance.

12-328-13.29. **Manufactured Homes [See “Mobile Home”]**

12-328-13.30. **Market Value.** An estimate of what is fair, economic, just and equitable
value under normal local market conditions. If market value cannot be determined, the
construction estimate can be used.

12-328-13.31. **Mean Sea Level.** For purposes of the National Flood Insurance Program
(NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base
flood elevations shown on a community’s Flood Insurance Rate Map (FIRM) are reference.

12-328-13.32. **Mobile or Manufactured Home.** A structure, transportable in one or more
sections, that is built on a permanent chassis and is designed for use with or without a
permanent foundation when attached to the required utilities. The terms “mobile home” or
“manufactured home” does not include a “recreational vehicle”.

12-328-13.33. **New Construction.** For the purposes of determining insurance rates,
structures for which the “start of construction” commenced on or after the effective date of an
initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent
improvements to such structures. For floodplain management purposes, “new construction”
means structures for which the “start of construction” commenced on or after the effective date
of the floodplain management regulations adopted by a community and includes any
subsequent improvements to such structure.

12-328-13.34. **Overlay District.** A special zoning district that has been “overlaid” on a
base zoning classification to add to or alter some or all of the base district zoning regulations.

12-328-13.35. **Participating Community.** [See “Eligible Community”]

12-328-13.36. **Person.** Includes any individual or group of individuals, corporation,
partnership, association, or any other entity, including Federal, State, and local governments
and agencies.

12-328-13.37. **Principally Above Ground.** When at least 51 percent of the actual cash
value of the structure, less land value, is above ground.
12-328-13.38. **Recreational Vehicle.** A vehicle which is a) built on a single chassis; b) 400 square feet or less when measured at the largest horizontal projections; c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

12-328-13.39. **Special Flood Hazard Area (SFHA).** See [“Area of Special Flood Hazard”].

12-328-13.40. **Start of Construction.** This includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

12-328-13.41. **State Coordinating Agency.** The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

12-328-13.42. **Structure.** For the purpose of this section the definition of structure shall mean, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. “Structure” for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principal above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

12-328-13.43. **Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

12-328-13.44. **Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceed 50 percent of the market value of the structure; either 1) before the improvement or repair is started or 2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or
safety code specifications which are solely necessary to assure safe living conditions, or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

12-328-13.45. **Urban Growth Area.** The area that is defined in the City and County Comprehensive Land Use Plan as the Urban Growth Area (UGA) surrounding the City of Lawrence.

12-328-13.46. **Variance.** A grant of relief by the community from the terms of floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied the community.

12-328-13.47. **Violation.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

12-328-13.48. **Water Surface Elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

12-328-13.49. **Zone A.** The special flood hazard area inundated by 100-year flood where no base flood elevations have been determined.

12-328-13.50. **Zone AE.** The special flood hazard area inundated by 100-year flood where the base flood elevations have been determined.

12-328-13.51. **Zone AH.** The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually areas of ponding); where base flood elevations have been determined.

12-328-13.52. **Zone AO.** The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); where average depths have been determined. For areas of alluvial fan flooding velocities have also been determined.