



**Updated:**

**3/23/15 @ 1:00pm**

**Added the following:**

**Communications for Item 4 Rezoning 804 Pennsylvania**

**Staff Memo, Resolution, and Communications for Item 5 - Text Amendment Value-Added Agricultural Business**

**Draft February 23, 2015 Planning Commission Minutes**

**3/18/15 @ 4:00pm**

**Added Item 2 - Final Development Plan for Hutton Farms West Phase II**

**3/16/15 @ 4:30pm**

**The following items will be added when available:**

**Item 2 - Final Development Plan for Hutton Farms West Phase II**

**Draft February 23, 2015 Planning Commission Minutes**

**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION**

**CITY HALL, 6 EAST 6<sup>TH</sup> STREET, CITY COMMISSION MEETING ROOM**

**AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS**

**MARCH 23 & 25, 2015 6:30PM - 10:30PM**

**GENERAL BUSINESS:**

**PLANNING COMMISSION MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of February 23, 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.  
Staff Memo Regarding Lawrence Register of Historic Places
- 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 (MARCH 23, 2015) MEETING**

**PUBLIC HEARING ITEM:**

**\*\*DEFERRED\*\***

**~~ITEM NO. 1A — PUD TO RS7; 5.18 ACRES; N SIDE OF QUAIL CREEK DR (SLD)~~**

**~~Z-14-00553:~~** Consider a request to rezone approximately 5.18 acres from PUD [Alvamar] (Planned Unit Development) District to RS7 (Single Dwelling Residential) District located along the north side of

Quail Creek Drive. Submitted by Paul Werner Architects on behalf of Alvamar Inc, property owner of record.

**\*\*DEFERRED\*\***

**NON-PUBLIC HEARING ITEMS:**

**ITEM NO. 1B — ~~PRELIMINARY PLAT FOR ALVAMAR INC TWO ADDITION; N SIDE OF QUAIL CREEK DR (SLD)~~**

~~**PP-14-00555:** Consider a Preliminary Plat for Alvamar Inc Two Addition, a one lot subdivision containing 5.18 acres with frontage on the north side of Quail Creek Drive. The subdivision is proposed to support future low density residential development. Submitted by Paul Werner Architects on behalf of Alvamar Inc, property owner of record.~~

**ITEM NO. 2      FINAL DEVELOPMENT PLAN FOR A HUTTON FARMS WEST PHASE II; N SIDE OF PETERSON RD BETWEEN DAYLILY DR & WILMA WAY (KES)**

**FDP-14-00551:** Consider a Final Development Plan for Hutton Farms West Phase II, located on 16.4 acres on the north side of Peterson Road between Daylily Drive and Wilma Way. The plan includes 87 units of duplex and detached residential units. Submitted by Paul Werner Architects, for North Forty LC, property owner of record.

**RESUME PUBLIC HEARING:**

**ITEM NO. 3      SPECIAL USE PERMIT FOR 12<sup>TH</sup> & HASKELL RECYCLE CENTER; 1010 E 11<sup>TH</sup> ST (SLD)**

**SUP-15-00019:** Consider a Special Use Permit for 12<sup>th</sup> & Haskell Recycle Center, to permit expansion of a Scrap and Salvage Operation, in conjunction with a Recycling, Collection and Processing Center, located at 1010 E 11<sup>th</sup> Street on approximately 5.83 acres. Submitted by Bartlett & West, Inc., for Robert B. Killough, property owner of record.

**ITEM NO. 4      CS-UC TO CS-UC; 0.27 ACRES; 804 PENNSYLVANIA ST (MKM)**

**Z-15-00022:** Consider a request to rezone approximately 0.27 acres from CS-UC (Commercial Strip with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban Conservation Overlay) District with modification to the zoning restriction to permit a bar use without a food sales requirement, located at 804 Pennsylvania St. Submitted by Flint Hills Holdings on behalf of Ohio Mortgage Investors LLC, property owner of record.

**ITEM NO. 5      TEXT AMENDMENT FOR VALUE-ADDED AGRICULTURAL BUSINESS CONDITIONAL USE (MKM)**

**TA-14-00548:** Consider a Text Amendment to clarify locational and developmental standards for *Value-added Agricultural Business* Conditional Use and to clarify the uses which are permitted on non-conforming vested properties. *Initiated by County Commission on 12/17/14.*

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

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**ADJOURN**

## CALENDAR

February 2015						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

March 2015						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

April 2015						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

### PCCM Meeting:

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

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

**2015**  
**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION**  
**MID-MONTH & REGULAR MEETING DATES**

Mid-Month Meetings, Wednesdays 7:30 – 9:00 AM (*Friday Meeting)	Mid-Month Topics		Planning Commission Meetings 6:30 PM, Mon & Wed	
Jan 14	Work Plan & Topics for 2015		Jan 26	Jan 28
Feb 11	Entrepreneur Incubator Spaces		Feb 23	Feb 25
Mar 11	Legal Review – Open Meetings & Communication Issues		Mar 23	Mar 25
Apr 8	Article 9 - Parking Amendments		Apr 20	Apr 22
May 6	Article 9 – Parking Amendments	APA Conference Updates	May 18	May 20
Jun 10	Discussion of Future Land Uses at Iowa Street/K-10 interchange	Health Impact Assessments - Charlie Bryan, LDCHD		Jun 24
Jul 8 or 10	TBD – Orientation?		Jul 20	Jul 22
Aug 12 or 14	TBD – Orientation?		Aug 24	Aug 26
Sep 9	TBD		Sep 21	Sep 23
Oct 7	TBD		Oct 19	Oct 21
Nov 4	TBD		Nov 16	Nov 18
Dec 2	TBD		Dec 14	Dec 16
	<b>Suggested topics for future meetings:</b> <i>How City/County Depts interact on planning issues</i> <i>Stormwater Stds Update – Stream Setbacks</i> <i>Overview of different Advisory Groups – potential overlap on planning issues</i> <i>Joint meeting with other Cities’ Planning Commissions</i> <i>Joint meeting with other Cities and Townships – UGA potential revisions</i> <i>New County Zoning Codes</i> <i>Tour City/County Facilities</i> <i>Water Resources</i>		<i>Communication Towers – Stealth Design, # of co-locations, notice area</i> <i>WiFi Connectivity &amp; Infrastructure Planning</i> <i>Oread Overlay Districts &amp; Design Guidelines</i> <i>Comprehensive Plan – Goals &amp; Policies</i> <i>Sustainability</i> <i>Affordable Housing</i> <i>Retail Market Impacts</i> <i>Cultural Plan/9<sup>th</sup> Street Corridor</i> <i>Case Studies</i>	
<b>Meeting Locations</b>	The Planning Commission meetings are held in the City Commission meeting room on the 1 <sup>st</sup> floor of City Hall, 6 <sup>th</sup> & Massachusetts Streets, unless otherwise noticed.			
<b>Planning &amp; Development Services   Lawrence-Douglas County Planning Division   785-832-3150   <a href="http://www.lawrenceks.org/pds">www.lawrenceks.org/pds</a></b>				



## 2015 PLANNING COMMISSION ATTENDANCE

	Jan 26 2015	Feb 23 2015	March 23 2015				
Britton	Yes	Yes					
Culver	Yes	No					
Denney	Yes	Yes					
Graham	Yes	Yes					
Josserand	Yes	Yes					
Kelly	Yes	Yes					
Liese	Yes	Yes					
Struckhoff	Yes	Yes					
von Achen	Yes	Yes					

## 2015 MID-MONTH ATTENDANCE

	Jan 14 2015	Feb 11 2015	March 11 2015				
Britton	Yes	Yes	No				
Culver	Yes	Yes	Yes				
Denney	Yes	Yes	Yes				
Graham	No	No	No				
Josserand	No	No	Yes				
Kelly	Yes	No	Yes				
Liese	Yes	Yes	No				
Struckhoff	Yes	Yes	Yes				
von Achen	Yes	Yes	Yes				



## **PLANNING COMMISSION MEETING**

**February 23, 2015**

**Meeting Minutes **DRAFT****

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February 23, 2015 – 6:30 p.m.

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

Staff present: McCullough, Stogsdill, Day, Larkin, Simmons, Ewert

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## **PLANNING COMMISSION MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of January 26, 2015.

Motioned by Commissioner Struckhoff, seconded by Commissioner Britton, to approve the January 26, 2015 Planning Commission minutes.

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

## **EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- Ex parte:  
Commissioner Britton said he spoke with Mr. Paul Davis regarding the Alvamar items.
- No abstentions.

PC Minutes 2/23/15 **DRAFT**

**ITEM NO. 1      CONDITIONAL USE PERMIT FOR NEW COMMUNICATION TOWER; 1211  
E 600 RD (SLD)**

**CUP-14-00550:** Consider a Conditional Use Permit for a new 198' self-supporting communication tower located at 1211 E 600 Rd. Submitted by SSC, Inc and Horvath Communications for Verizon Wireless on behalf of Rex and Shirley Johnson, property owners of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Mr. Mark Johnson, Dentons Law Firm, on behalf of Horvath Communications and Verizon Wireless, said the tower would be 189' with a lightning rod and that it would accommodate five carriers. He said the area was zoned agricultural. He said the closest existing tower was more than three miles away. He said the effective service range of a tower was one and a half miles. He said boaters and other visitors of Clinton Lake would be able to have cellular service with the new tower.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner von Achen asked the applicant what the setback was between the tower and Rex and Shirley Johnson's home.

Mr. Johnson said the setback was far enough away from the home itself. He stated the setback from other outbuildings may be less than the height of the tower. He said according to the rules the height of the tower had to be less than the distance from the property line. He said the Johnson's were aware of where the tower would be located.

Commissioner von Achen said some of the concerns that Mr. Dan Hodges wrote about in his letter to the Planning Commission were answered in the staff report. She asked the applicant to respond to the concerns he expressed about surveyor stakes being on his property.

Mr. Johnson said he could not find out anything about that. He said if the stakes were placed by his representatives that they would do everything they could to remove them. He stated he did not know the origination of the stakes.

Commissioner Britton said one of the conditions was the removal of the tower if not used for three years. He asked if Horvath Communications would be responsible for the removal.

Mr. Johnson said yes and that he was agreeable to both conditions in the staff report.

**ACTION TAKEN**

Motioned by Commissioner Kelly, seconded by Commissioner Denney, to approve the Conditional Use Permit, CUP-15-00550, for a communication tower located at 1211 E 600 Rd and forwarding it to the Board of County Commission for a recommendation of approval subject to the following conditions:

1. Provision of a note on the face of the site plan sheet T-1 stating: "The owner at the owner's expense shall remove any tower that is not in use for a period of three years or more." And

2. Provision of a note on the face of the site plan stating: "There shall be a sign placed on the exterior of the fence noting the name and telephone number of the tower owner/operator."

Commissioner Britton said he would vote in favor of the motion. He said Planning Commission approves these types of things because they are needed for the community but it did give him some heartburn for the neighbors next door. He stated Mr. Dan Hodges letter had some good points, one of which was concerns regarding health effects. He said per Federal Statute Planning Commission was not allowed to take health issues into consideration. He said he had dissatisfaction with that and wished they could roll that into their analysis.

Commissioner Struckhoff said he would support the motion and suggested they take up design standards on cell tower aesthetics in the future.

Commissioner von Achen said she would support the motion but she had the same reservations as Commissioner Britton. She said in this particular case having better communications near Clinton Lake may be a safety issue.

Commissioner Liese said there was a misconception that VHF radios were an appropriate way to signal problems on the lake. He said in this part of the country there was no body, such as law enforcement, that monitored radios. He said the safest solution to a problem on the water was to dial 911.

Unanimously approved 8-0.

PC Minutes 2/23/15 **DRAFT**

**ITEM NO. 2 SPECIAL USE PERMIT FOR PRECIOUS ONE'S LEARNING CENTER; 1100 KASOLD DR (KES)**

**SUP-14-00488:** Consider a Special Use Permit for Precious One's Learning Center, located at 1100 Kasold Dr. The proposal includes four pre-school classrooms accommodating approximately 50 children on weekdays. Submitted by Precious One's Learning Center, for Christ Community Church, property owner of record.

**STAFF PRESENTATION**

Ms. Katherine Simmons presented the item.

**APPLICANT PRESENTATION**

Mr. Jeff Barclay, Lead Pastor for Christ Community Church, said he agreed with the staff report. He said it was the church's desire to be good neighbors. He said he went and visited with the woman who sent a letter of concern, Ms. Marcia Carney. He said another letter received from Chuck and Sara Holley indicated concern about water runoff. He stated there would be no new construction at the site so water runoff was not an issue.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Kelly inquired about resurfacing of the parking lot.

Mr. Barclay said that had nothing to do with this application and that it had been scheduled previously.

Commissioner Britton inquired about mechanisms for enforcing the change of operator.

Mr. McCullough said it was a way to ensure the new owner was cognizant of the conditions with fire inspections and a way to track ownership in case there were issues. He said it was incumbent upon the operator to advise of any change in operator.

**ACTION TAKEN**

Motioned by Commissioner von Achen, seconded by Commissioner Britton, to approve a weekday three hour Preschool/Daycare Center inside the Christ Community Church located at 1100 Kasold Dr. and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions to be completed prior to the release of the site plan for issuance of occupancy or building permits:

1. Provisions of a revised site plan with the following changes:
  - a. Additional use, number of students and hours of operation identified.
  - b. Identify area/location of outdoor play.
  - c. A note indicating that City review is required if there is a change in the preschool/daycare operator.

Commissioner Kelly said he would vote in favor of the motion. He thanked the applicant for reaching out to neighbors.

Unanimously approved 8-0.

PC Minutes 2/23/15 **DRAFT**

**ITEM NO. 3A RS7, RM12, PUD TO RM24; 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 (Multi-Dwelling Residential) 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\*\***

~~**ITEM NO. 3B PUD TO RS7; 5.18 ACRES; N SIDE OF QUAIL CREEK DR (SLD)**~~

~~**Z-14-00553:** Consider a request to rezone approximately 5.18 acres from PUD [Alvamar] (Planned Unit Development) District to RS7 (Single-Dwelling Residential) District located along the north side of Quail Creek Drive. Submitted by Paul Werner Architects on behalf of Alvamar Inc, property owner of record.~~

**ITEM NO. 3C PRELIMINARY PLAT FOR ALVAMAR INC ONE ADDITION; 1800, 1809, & 2021 CROSSGATE DR (SLD)**

**PP-14-00554:** Consider a Preliminary Plat for Alvamar Inc One Addition, a six lot subdivision containing 51.85 acres, including property located at 1800, 1809, and 2021 Crossgate Dr. The proposed subdivision is proposed to support future residential and recreational uses. Submitted by Paul Werner Architects on behalf of Alvamar Inc, property owner of record.

**\*\*DEFERRED\*\***

~~**ITEM NO. 3D PRELIMINARY PLAT FOR ALVAMAR INC TWO ADDITION; N SIDE OF QUAIL CREEK DR (SLD)**~~

~~**PP-14-00555:** Consider a Preliminary Plat for Alvamar Inc Two Addition, a one lot subdivision containing 5.18 acres with frontage on the north side of Quail Creek Drive. The subdivision is proposed to support future low density residential development. Submitted by Paul Werner Architects on behalf of Alvamar Inc, property owner of record.~~

**STAFF PRESENTATION**

Ms. Sandra Day presented Items 3A and 3C together.

*Items 3B and 3D were deferred prior to the meeting.*

**APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, said he was disappointed in the staff recommendation of deferral. He stated this plan was the best way to save Alvamar as a viable operation. He said everyone who lived on a golf hole would still live on a golf hole. He said some residents views could change and that traffic could increase. He said golf courses in general were increasingly closing. He said in 2013 more golf courses were closed than opened. He said in 1990 there were 5,200 member owned clubs in the United States but that in 2010 that number was down to 4,200. He said it was estimated that another 1,500 clubs would be lost by the year 2020. He showed a schematic plan on the overhead. He said the hope was for a new club house, a new banquet facility, new pools, rebuilding the 9<sup>th</sup> and 15<sup>th</sup> green on the public side, moving the putting practice area, and a feature pond around the 18<sup>th</sup> green. He stated the plan was to use the pond to irrigate the course on both

sides. He said the proposed layout was for 612 residential units. He said they were not trying to maximize the monster number in the existing PUD. He said the 1993 version allowed for 2,153 units. He said there were currently 644 units, which left over 1,500 units available in the existing PUD to be built. He said he held three public meetings. He stated 763 mailings went out for notice of this meeting. He felt that there was more concern from staff about concern from the neighborhood. He said there was not a line out the door protesting the project. He stated this plan was about saving Alvamar. He said the traffic study was approved. He said he liked the plan of traffic calming on Crossgate. He said the stormwater study was approved. He felt the best mechanism for providing draining easements was by a separate instrument. He said the proposed new street, south of Bob Billings just south of the last house on Crossgate, would provide neighbors some protection and eliminate all of the traffic going through their neighborhood. He said it would be expensive but the developer would be responsible for building the public street from Bob Billings to connect to the private part of Crossgate Drive. He said the homeowners association would deal with their Crossgate however they wanted to improve it. He said he would like the City to be involved with improvements on Bob Billings Pkwy. He said it provided an excellent answer to some of the issues that neighbors were concerned about. He said he was disappointed that staff was recommending a PD Overlay for the rezoning because it was not the route they wanted to go. He said PD's could directly affect more people. He suggested a condition be on the plat that no more than 612 units built on the property and that any site plan be subject to a public hearing by the City Commission. He said eliminating the number may eliminate the need to defer or a PD Overlay. He said the Preliminary Plat could be conditioned instead of deferred.

#### **PUBLIC HEARING**

Mr. Paul Davis, attorney on behalf of Woodfield Meadows Condo Homeowner Association and Woodfield Meadows West Homeowner Association. He said the residents were not opposed to the project and wanted to see Alvamar continue. He said neighbors have been engaged in dialogue with the developers. He said neighbors were concerned with the existing Crossgate Drive. He said the street was unique because the north area was a private road. He said homeowners have had difficulty with traffic. He said a number of residents back out of their drive to the street. He said he talked to the developer about alternatives and the developer has tried to address some of the concerns. He said conceptually the homeowners supported because it would alleviate the concerns about significant increase in traffic. He said they were continuing discussions with the developer and intended to tie up some issues. He stated they needed a little bit more time to get it ironed out but that they believed they could reach an agreement. He said they support the new road that Mr. Werner mentioned.

Mr. Douglas Lawrence, 2106 Greenbriar, expressed concern regarding traffic on Greenbriar Drive being increased by any calming created on Crossgate Drive. He supported saving Alvamar.

Mr. George Wheeler, 3421 Tam O'Shanter Dr, concerned about Alvamar Two Addition and any impact that it may have on the view out his window. He felt this could be alleviated by planting of trees. He felt calming devices could help with increased traffic. He expressed concerns about traffic safety due to his neighborhood not having street lights. He said he would like more details about housing density.

Mr. Steve Koger, 2004 Crossgate Dr, expressed concern about structure height of housing built along the fairway number 9. He said he would prefer unobstructed views. He said he was generally supportive of the project but that a PUD seemed to provide a little more detail.



Mr. Greg Gardner, 1516 Alvamar Dr, said he was happy that a local person bought the golf course because it would mean greater success in the long term. He expressed concern about traffic on Crossgate Dr. He said he was happy to see an irrigation pond as part of the project.

Mr. Brian Sloop, 2105 Greenbriar Dr, said he was excited about the potential saving of Alvamar but expressed concern about the history of Mr. Fritzel not being very good. He felt there had been broken promises from Mr. Fritzel with other projects, such as Varsity House and Rock Chalk, and that he needed a tight leash to know exactly what would be going on. He expressed concern about parking for events as well as increased traffic. He felt that deferral of the project was a great idea.

Ms. Donna Geisler, 1800 Inverness Dr, expressed concern about the addition of 332 apartments devaluing homes in Alvamar. She also expressed concern about increased traffic. She said she was not against building as long as the units were appropriate for the neighborhood. She did not feel there was a need for more apartments in Lawrence.

Mr. Bob Johnson, spoke on behalf of Alvamar Inc, affirmed the comments that Mr. Paul Davis made. He said Alvamar was a privately held corporation and had spent an enormous amount of money to provide the resources of Alvamar to keep it going. He said Alvamar could not continue as it exists today. He said those people who live on the golf course live there because they want to live on a golf course. He said the current zoning could potentially allow for 1,500 units. He felt rezoning to reduce that number should be a good thing. He said the people who eventually own Alvamar need to be people who are committed to the community of Lawrence. He said there was nothing the board could do that would be in the best interest of Alvamar, community, developer, KU, etc, than what they were doing.

#### **APPLICANT CLOSING COMMENT**

Mr. Werner responded to questions raised during the public hearing. He said they were making progress with Mr. Paul Davis regarding the neighborhood concerns about traffic. He said they were committed to transitioning to lower density to the north and south along Crossgate. He said they were committed to keeping the density in the center of Alvamar. He stated Hutton Farms and Tuckaway Apartments were good examples of Mr. Fritzel's work. He said only 7 people spoke when 763 letters went out. He loved the idea of conditioning the number of units to 612 and making the site plan be a public hearing at City Commission.

#### **COMMISSION DISCUSSION**

Commissioner Liese said it was implied that the number of people who spoke was how important the project was. He said Planning Commission appreciated a small number of people working with the community and making clear statements versus 100 people saying the same thing. He asked staff to respond to some of the technical matters that were raised.

Mr. McCullough said staff had not voiced opposition to the development of Alvamar. He said staff found that the project lacked sufficient details to assess the impacts of RM24 zoning. He said there was a wide range of development potential in the RM24 District with structure type, height, buffering, and compatibility. He stated Alvamar was a unique area with different structure types and staff wanted to be sure that it was all working together in one comprehensive well thought out plan. He said staff was recommending deferral of the rezoning request and direct the applicant to apply a Planned Development Overlay. He said staff also recommended deferral of the Preliminary Plat to vet some of the issues.

Commissioner Josserand asked about the proposed road relocation.

Mr. Werner said the same traffic would be moved to the west.

Commissioner Josserand asked if the City Traffic Engineer included calculations for estimates of increased traffic with the completed intersection.

Mr. Werner said he included comments about it but it was still unclear how that would be affected by this far east.

Mr. McCullough said staff was struggling with the actual projections.

Ms. Day said Public Works staff acknowledged that there would need to be a traffic study. The improvements need to be done and then a period of time for traffic to normalize. She said any study work would need to be one to two years after all the improvements were complete.

Mr. Werner felt it was a phenomenal answer.

Commissioner Josserand thanked the audience for attending and those that wrote letters.

Commissioner Kelly asked the applicant about the Golden Factors and what hardship would be imposed on the land owner with a deferral.

Mr. Werner said he agreed that the Preliminary Plat needed to be deferred. He said a 60 acre development plan would be a lot of work not knowing anything and would not solve Alvamar's problem. He said to create that plan would take about four months to get back to Planning Commission. He said if the need was to have a public hearing and keep people involved there was a better way to do that.

Commissioner Kelly asked if Mr. Werner would prefer it to be approved with conditions.

Mr. Werner said yes and cap the density and have a public hearing at the City Commission level. He said that would allow him assurance to keep moving forward versus doing a 60 acre development plan.

Commissioner Kelly asked if there was a way to do a smaller version of the overlay district.

Mr. McCullough said if he was searching for alternatives to the PD Overlay District so that the applicant could move forward without the cost and time of developing the Preliminary Development Plans then he would at the very least suggest giving staff a month to work with the applicant to get a framework of conditions so that the public could comment on those. He said that would be an alternative to the time and cost of adding a PD Overlay. He said this was not just residential uses.

Commissioner Kelly asked Mr. Werner to respond.

Mr. Werner said all of the non-residential stuff was already in Alvamar. He said he did not know that conditions would solve problems. He felt all it would do would delay the plan for a month.

Commissioner Kelly asked if recreational uses required a Special Use Permit.

Mr. McCullough said they were permitted uses in the zoning district.

Commissioner Denney asked if staff's recommendation for deferral was just for Alvamar One.

Mr. McCullough said that was correct. He said the PD Overlay for the other plat was for a single-family subdivision.

Commissioner Denney asked if the items were deferred would they be grouped back together or moved forward separately.

Mr. McCullough said they could run separate tracks.

Commissioner Denney asked if they could approve the zoning with conditions and then defer the plat.

Mr. McCullough said that was correct.

Ms. Day said the 612 units they were talking about were in the RM24 zoning. She said there was no unit count associated with the RS7 zoning which was why it was deferred.

Commissioner Josserand said he understood the hardship imposed by creating a more detailed PD Overlay District but this was a huge project. He wanted a project that the community agreed with.

Commissioner Britton agreed with Commissioner Josserand. He said staff doesn't often recommend deferral so he put a lot of stock in that. He said it sounded like more work needed to be done. He said there was no question that this ought to be deferred but he was unsure of what direction to give to the applicant and staff. He felt there was no reason they shouldn't take the time to do this right. He said he would lean toward a PD Overlay versus conditional zoning.

Commissioner Struckhoff echoed Commissioner Britton's comments about feeling positive about this project. He said he would like to see this succeed and that the details were important. He said the concerns expressed were mostly site plan related issues.

Commissioner von Achen said it seemed like there were three entities/stakeholders that they were looking out for; Alvarado, Alvarado residents, and the community at large. She said it was a complex project with some loose ends so her strong recommendation would be for deferral. She said she would prefer a PD Overlay.

Commissioner Britton asked if conditional zoning was an effective avenue.

Mr. McCullough said some of the types of things at play with this one were process, the site plan going to City Commission, the maximum number of units, the maximum height, and more detail for transition. He said either option would give staff the ability to look at the traffic on all the different streets and if staff agrees with the improvements.

Commissioner Liese asked the applicant what he would have to do to make the turnaround time shorter.

Mr. Werner said one month with conditions on a schematic plan and taking it to City Commission would solve it.

Commissioner Liese asked the applicant if he was left with the choice of only doing a PD Overlay what would enable him to do it in less than 4 months.

Mr. Werner said he could not site plan this in two weeks so July would probably be the soonest.

Mr. McCullough said the applicant would need time to develop the plans and staff would need time to review the plans. He said the outcome from both options would be the same timeline. He said there were two ways to get at this but in any event it demanded a hard public look at what the actual project was.

Mr. Werner said conditions could be put over all the schematic design and then identify which lots would be site planned.

Commissioner Liese asked the public members present for their thoughts.

Commissioner Josserand said a site plan would have to be done at some point, now or later, and that this is really about process. He said the PD Overlay was designed to keep people involved. He said he was not supportive of rushing a project that had moving parts.

Commissioner Liese asked Mr. Paul Davis to respond to their discussion.

Mr. Paul Davis said he was not sure he had a dog to fight in the discussion. He said there was a significant problem with the existing road. He said he could not render an opinion to either option they were discussing.

Mr. Brian Sloop said the new road was just proposed tonight. He said he agreed with saving Alvamar. He wondered how Alvamar would be saved in the long run and if the money that the developer made would go back into Alvamar. He wondered about the total development expenditure that this would contribute to the community.

Mr. Werner said the goal was to increase the number of activities in the area and people living and using the facility. He said all of that would feed into the facilities.

Commissioner Josserand said even though Alvamar was privately owned he considered it to be a public good. He asked if the developer anticipated the project requiring economic development incentives.

Mr. Werner said no. He said they would not be requesting TIFFs. He felt it was fair for the City to deal with Bob Billings in whatever way they could.

Commissioner Liese said they could start with conditional zoning and then move to a PD Overlay if needed.

Mr. Bob Johnson said the current shareholders of Alvamar had no interest and little ability to create the blue spots shown on the conceptual plan. He stated the infill development of the project done by the developer would create the wherewithal to potentially save recreation operations as much as a quarter million dollars a year.

Commissioner Denney asked staff if they had enough information to work with if the item was deferred.

Mr. McCullough said yes.

**ACTION TAKEN on Items 3A & 3C**

Motioned by Commissioner Liese, seconded by Commissioner Kelly, to defer both Items 3A and 3C with direction to staff to work with the developer and community to put conditions on the rezoning with the option to also put together a Preliminary Plat.

Commissioner Britton asked if staff remembered why former Planning Commissioners Finkeldei and Hird didn't like conditional zoning.

Commissioner Kelly said he would vote in favor of the motion. He explained PD Overlays to the audience and read the definition.

Commissioner Josserand said he would reluctantly support the motion but his biggest issue was to know how the proposed conditions would be communicated to the residents and business owners in the area and their reaction to them.

Commissioner Struckhoff said he would support the motion and felt it got them closer to where they wanted to be.

Commissioner Denney said he would support the motion and that it did not close off options. He said if they could not find acceptable conditions to the public they would be starting over next month where they are right now.

Commissioner von Achen asked what more would the PD Overlay provide that the conditional zoning did not in terms of protecting existing homeowners and Alvamar.

Ms. Day said the PD Overlay would more clearly define the actual setbacks, specific placement of buildings, parking and access, and building articulation.

Commissioner von Achen was concerned that in an effort to speed this along to accommodate the developer they may not be giving the oversight to this gigantic project that it deserved. She said she would vote in opposition because she felt the PD Overlay allowed for the most control over the project.

Commissioner Britton said he could go either way with PD Overlay or conditional zoning. He said he thought he would vote in opposition of the motion because he trusted staff's opinion and put a lot of weight in it.

Commissioner Graham said she did not have any reservations about deferral. She said there were still a lot of questions regarding specifics. She said the new road was new information and the community and developer needed more time to work together. She said she would vote against the motion and would prefer a PD Overlay.

Commissioner Josserand said Commissioners Britton and von Achen were persuasive and he would vote against the motion.

Motion failed 4-4, with Commissioners Britton, Graham, Josserand, and von Achen voting against the motion. Commissioners Denney, Kelly, Liese, and Struckhoff voted in favor of the motion.

## **ACTION TAKEN on Item 3A**

Motioned by Commissioner Liese, seconded by Commissioner Graham, to defer with direction to have the applicant apply a PD Overlay to the rezoning request.

Motion carried 6-2, with Commissioners Kelly and Struckhoff voting against the motion.

**ACTION TAKEN on Item 3C**

Motioned by Commissioner Liese, seconded by Commissioner Graham, to defer the Preliminary Plat.

Motion carried 8-0.

PC Minutes 2/23/15 **DRAFT**

**ITEM NO. 4 TEXT AMENDMENT FOR INCUBATOR SPACE (SLD)**

**TA-14-00535:** Consider a Text Amendment to the City of Lawrence Land Development Code to add a *Use* that provides incubator space for business/entrepreneurial collaboration and prototyping. Staff will provide a memo for the commission consideration regarding options and articles within the Development Code that would need to be amended. *Initiated by Planning Commission on 11/17/14.*

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**PUBLIC HEARING**

Mr. Greg Thompson said he was enthusiastic about the topic and supported the text amendment.

**COMMISSION DISCUSSION**

Commissioner von Achen asked if Limited Maker Spaces were allowed in most districts.

Ms. Day said with the Limited it would be a permitted use in all of the non-residential zoning districts except for OS and H. She said the Intensive Maker Spaces would be a Special Use Permitted in the Commercial districts and permitted by right in Industrial districts.

Commissioner von Achen inquired about retail being a part of it.

Ms. Day said retail should always be a minimal part of the piece so it would be evaluated with the site plan.

**ACTION TAKEN**

Motioned by Commissioner Struckhoff, seconded by Commissioner Britton, to approve the proposed amendment, TA-14-00535, to establish a use that provides space for business/entrepreneurial collaboration and prototyping or similar businesses and amending Sections 20-402, 20-403, an Section 20-902, and Article 17 of the Land Development Code and that the Planning Commission forward a recommendation for approval to the City Commission.

Unanimously approved 8-0.

PC Minutes 2/23/15 **DRAFT**

**ITEM NO. 5      TEXT AMENDMENT FOR PARKING & ACCESS STANDARDS (SMS)**

**TA-13-00235:** Continue discussion related to proposed Text Amendments to the City of Lawrence Land Development Code, Article 9 and related sections of Chapter 20, for comprehensive revisions to parking and access standards. Discussion will focus on defining types of Major Recreational Equipment and identifying permitted parking locations for this equipment on residential properties. *Action on this item will not occur until after the commission completes their discussion on several of the elements of the code language and a final draft is available for their review.*

**STAFF PRESENTATION**

Ms. Sheila Stogsdill presented the item.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Josserand said the issue of duplex parking in the Oread Neighborhood was an important issue which he felt should be included in their future discussions.

*Planning Commission will continue discussion at their April Mid-Month meeting.*

**NO ACTION TAKEN**



PC Minutes 2/23/15

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

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**ADJOURN 10:09pm**

*Complete audio from the meeting can be found online:*

<http://www.lawrenceks.org/boards/planning-commission/agendas>

# Planning Commission

## Key Links



City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES



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### 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](#)

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO: Lawrence Douglas County Planning Commission**

**FROM: Lynne Braddock Zollner, Historic Resources Administrator**

**CC: Scott McCullough, Director PDS**  
**Amy Miller, Assistant Director Planning**  
**Sheila Stogsdill, Planning Administrator**

**DATE: March 13, 2015**

**RE: Lawrence Register of Historic Places Nominations**

According to Chapter 22 of the City Code, the Historic Resources Administrator must notify the Planning Commission of nominations to the Lawrence Register of Historic Places and shall transmit to them copies of the application and report. The Planning Commission may comment on the nominations; however, **no action is required by the Planning Commission.**

The following properties have been nominated by the property owner of record for inclusion in the Lawrence Register of Historic Places:

1711 Massachusetts Street – the Goodrich House  
947 Louisiana Street – the Greenlee House  
809 Vermont Street – the Lucy Hobbs Taylor House

The three properties are currently listed in the National Register of Historic Places. The applications and the report will be placed on the Planning and Development Services web page located here [http://www.lawrenceks.org/pds/hrc\\_agendas\\_minutes](http://www.lawrenceks.org/pds/hrc_agendas_minutes) on March 19, 2015.

**Action** No action is required.

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

PC Staff Report  
3/23/15

**ITEM NO. 2: FINAL DEVELOPMENT PLAN FOR HUTTON FARMS WEST PHASE II; N SIDE OF PETERSON ROAD BETWEEN DAYLILLY DRIVE AND WILMA WAY (SLD)**

**FDP-14-00551:** Consider a Final Development Plan for Hutton Farms West Phase II, located on 16.4 acres on the north side of Peterson Road between Daylily Drive and Wilma Way. The plan includes 87 units of duplex and detached residential units. Submitted by Paul Werner Architects, for North Forty LC, property owner of record.

**STAFF RECOMMENDATION:** Planning Staff recommends approval of the Hutton Farms West Phase II Final Development Plan based upon the findings of fact presented in the body of the staff report and subject to the following conditions:

1. Revision of the Final Development Plan to show:
  - a. Water and sanitary sewer service line locations consistent with the approved public improvement plans.
  - b. Fire hydrants in locations as approved by Fire Prevention Staff.
2. Verification by the Stormwater Engineer that the plan dated 3/16/15 addresses the previous Stormwater Engineering review comments.
3. City Commission approval of a requested variance to utility requirements scheduled to be heard on 3/24/16.
4. Approval and recording of a Minor Subdivision prior to the recording of the Final Development Plan.
5. Submittal of a Site Plan Performance Agreement.

**Reason for Request:** This is a PRD that was preliminarily shown as part of the Hutton Farms West PRD. This particular parcel was shown as Phase II of the development and is now ready to move forward. The owner plans to build one-story duplexes and detached single-dwellings on the property and build Lou Lou Lane as shown on the original plan with the exception that access from Peterson Road be allowed since Peterson Road is now a two-lane road with a turn lane. The PRD for Phase II includes 87 units which is 15 less than the originally approved 102 units.

**KEY POINTS**

- An application is being requested for a Final Development Plan in anticipation of development for Phase II.
- The original approval of Hutton Farms West identified Phase II as a future development and required approval of a Final Development Plan prior to future development.
- A revised Preliminary Development Plan was approved by the City Commission on 01/26/15.
- Direct access to Peterson Road is proposed with this application.

- This property is platted as Hutton Farms West No. 2. A Minor Subdivision application has been submitted which modifies easements and includes access to Peterson Road.
- This property was zoned PD in 2006. Previous Zoning was PRD-1. The pre-1966 Zoning Code required Planning Commission approval of Final Development Plans.

### **FACTORS TO CONSIDER**

- Conformance with Article 20-222 as a Planned Development established prior to 2006.
- Conformance with the purpose of Planned Developments (Section 20-701, Development Code) and Article 10 of the 1966 Zoning Code.
- Conformance with Density and Dimensional Standards contained or incorporated in the terms and conditions of the original approval of the Planned Development (Section 20-222 (e) and the 1966 Zoning Code Section 20-1006 and 1007.
- Compliance with Development Code Section 20-701(b) regarding this review process.
- Conformance with *Horizon 2020*.
- Conformance with Subdivision Regulations.

### **ASSOCIATED CASES/OTHER ACTION REQUIRED**

#### **Associated Cases**

- MS-15-000899; Minor Subdivision – In process.
- PDP-14-00511; approved by Planning Commission on 1/26/15.
  - Variances and Waivers approved include the following:
    - Reduction of peripheral setback from 35' to 16.5' on the east side of the property and side and rear setback reduced from 10' to 4' as shown on the approved PDP.
- PDP-12-12-04; approved by the City Commission on 04/05/05.
- PF-05-18-05; Hutton Farms West No. 1 (Phase I with individual single-family lots)
- PF-05-19-05; Hutton Farms West No. 2 (Phase II with large lot and several tracts for detention and open space.)
- Z-09-43-05; Approved by City Commission 11/16/04 subject to approval of a PDP and recording of final plat prior to publication.
- FDP-06-07-05; Hutton Farms West approved by the Planning Commission on 8/22/05.

#### **Other Action Required**

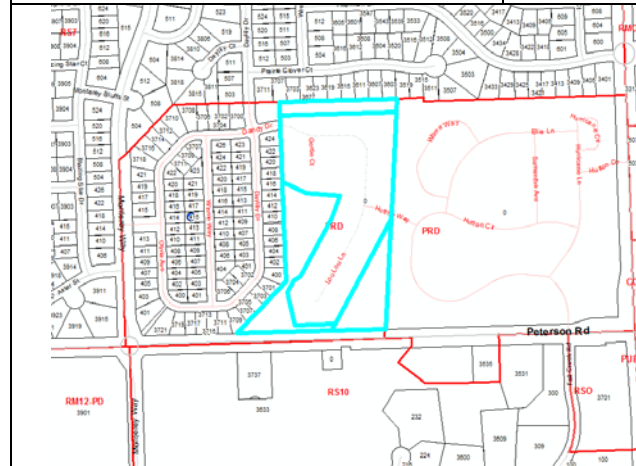
- Recording of Final Development Plan with the Douglas County Register of Deeds.
- Recording of the Minor Subdivision with the Douglas County Register of Deeds.
- Building permits must be obtained prior to construction of structures.

### **ATTACHMENTS**

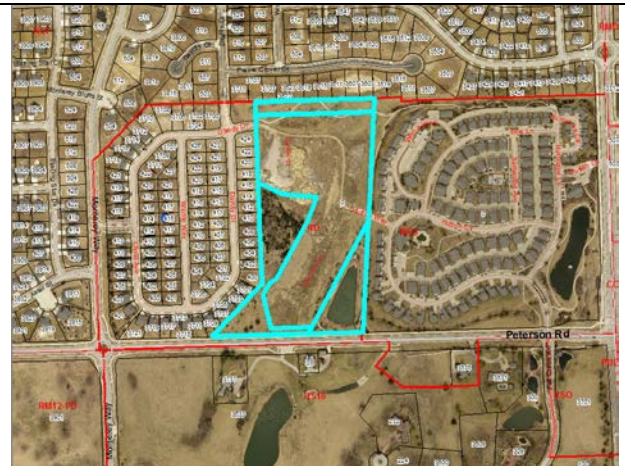
1. Proposed Final Development Plan.
2. Communication from adjacent property owner at 3703 Tucker Trail.
  - a. The communication references that buildings will be located no closer than 200 feet to the property line at this address. The proposed structures are located approximately 110 feet to 170 feet from the property line consistent with the approved Preliminary Development Plan which did not reference a distance agreement.

**Table 1: GENERAL INFORMATION**

Current Zoning and Land Use:	PD [Hutton Farms West PRD]; undeveloped Phase II
Surrounding Zoning and Land Use:	
To the north:	RS7 (Single-Dwelling Residential) District. Developing Stonegate IV Addition.
To the west:	PD [Hutton Farms West PRD] District. Developing Phase I, detached residences on individual lots.
To the east:	PD [Hutton Farms PRD] District. Existing multi-dwelling residential development including amenities proposed to be shared with the subject property such as clubhouse and pool.
To the south:	RS10 (Single-Dwelling Residential) District. Unplatted area of Fall Creek Farms Subdivision. Existing homes located on individual platted lots along the south side of Peterson Road.



**Figure 1: Existing Zoning**



**Figure 2: Existing Land Use**

**Table 2: SITE SUMMARY**

<b>SITE SUMMARY</b>	<b>Existing</b>	<b>Proposed</b>
Land Use:	Undeveloped	Detached and Duplex Dwelling units
Land Area (sq ft):	Tract A: 1.874 AC Tract B: 3.181 AC Tract C: 1.002 AC Total Open Space: 6.057 AC Total Phase II: 16.415 AC	Detention Pond for Phase 1 and 2 Common Area – undisturbed area Common Area – other area Open Space = 36.7% of site
Proposed Building Footprint:	0 SF Approved 102 units	136,658 SF (3.137 AC) Proposed 87 units
Total Pavement:	0 SF	107,914 SF (2.477 AC)
Total Impervious Area:	0 SF	244,572 SF (5.614 AC)
Total Pervious Area:	715,047 SF	470,475 SF (10.8 AC)

### PARKING SUMMARY

Off street parking is provided within this development in garages and in driveways for each unit. The Land Development Code requires two spaces for Detached Dwellings and one space per bedroom for Duplex units.

#### 42 Duplex buildings (84 units) =

Building Type A (2 bedrooms per unit) = 28 buildings; 56 units; 112 bedrooms = 112 spaces

Building Type B (1 bedroom per unit) = 14 buildings; 28 units; 28 bedrooms = 28 spaces

#### 3 Detached Residential buildings (3 units) =

Building Type C (1 bedroom per unit) = 3 buildings; 3 units; 3 bedrooms = 6 spaces

To meet the current Development Code, 146 off-street parking spaces are required. The proposed Final Development Plan shows off-street parking provided in garages, driveways and common parking spaces in the northeast and northwest areas of the development. The graphics below identify parking spaces provided for each type of unit. A total of 301 parking spaces are provided.

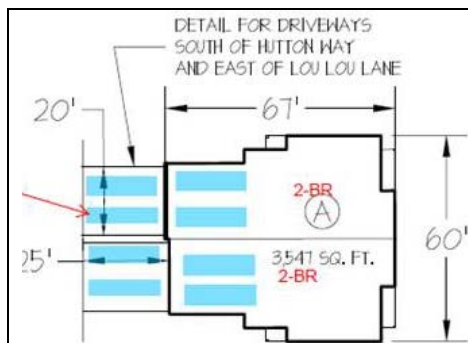


Figure 3: Unit A Parking

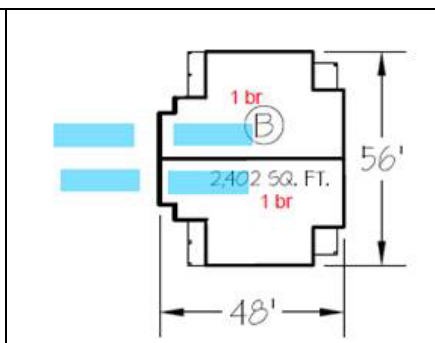


Figure 4: Unit B Parking

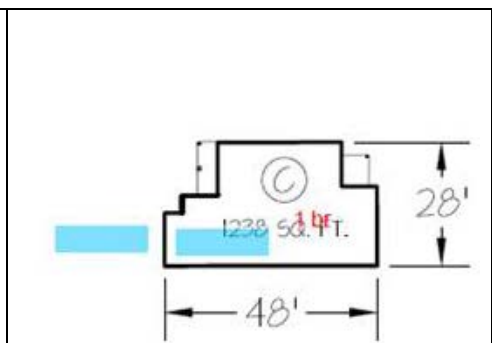


Figure 5: Unit C Parking

### STAFF ANALYSIS

This property was included in the Hutton Farms West Planned Development. The area to the west of the property included all of Phase I and is developing with conventional detached houses on individual lots. Each lot is accessed from the interior private street network. Phase II included the designated open space tracts and detention pond that would serve the entire development.

### Landscape Review

Section 20-701(d) states that all of the standards of the Development Code apply to development within a PD District except as expressly authorized by regulations of Section 20-701. The west portion of Hutton Farms West (Phase II) was developed under the 1966 Zoning Code. Regardless, some design standards, such as Street Trees, are the same or similar in the Land Development Code.



A buffer yard is provided along the north side of Phase II between the proposed development and the developing subdivision to the north. This area is encumbered by existing gas utility lines and extensive building setback requirements. An interior sidewalk has been constructed within this space and provides connectivity between Kasold Drive to the east and Dandy Drive to the west. Portions of this sidewalk will be relocated in the north buffer yard.

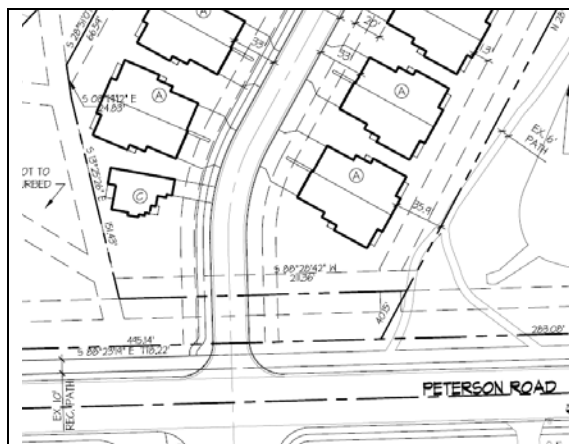
Lou Lou Lane and Gertie Court are private streets within the development. This project includes street trees located in between buildings throughout the development.

### Subdivision Review

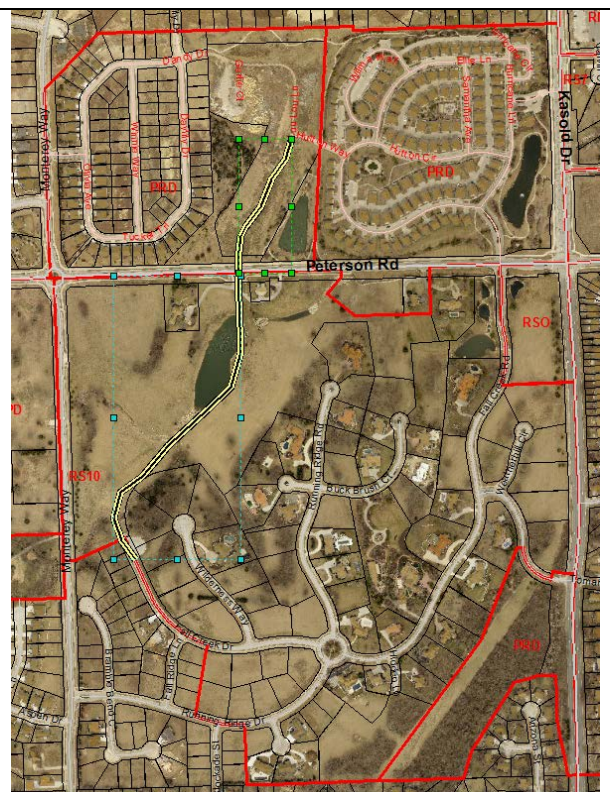
This property was previously platted with easements and access and development restrictions. A Minor Subdivision application has been submitted to revise utility and access easements within this development.

**Access:** This project includes a change to the access with a proposed intersection of Lou Lou Lane and Peterson Road. Access to Peterson Road was restricted during the original development because it was (and is) a designated arterial street and was not constructed to City Standards. Peterson Road was reconstructed to its current City Standard profile in 2006. Therefore, access restriction is no longer needed.

The proposed Final Development Plan relocates the access to intersect with Peterson Road and has aligned the intersection with the future street crossing to the south. The following graphic shows the street intersection alignment. North of Peterson Road, Lou Lou Lane is a private street. The property south of Peterson Road is expected to develop with a public street as the remaining portions of Fall Creek Farms are subdivided with lots and streets.



**Figure 6: Lou Lou Lane/Peterson Road Intersection**



**Figure 7: Street network**



**Street Design:** The Preliminary Development Plan was approved to include a fire access gate at the east end of existing Dandy Drive to limit vehicular access through Hutton Farms Phase I Development to the west. The interior street network is proposed as a private street configuration. The Preliminary Development Plan was approved with a standard 27' street cross section. The Final Development Plan reduces the pavement width of the fire access lane to visually indicate that the street connection changes.

**Sidewalks:** The provision of public sidewalks on both sides of the streets provides direct routes within the development for pedestrians within and through the development. Additional pedestrian connections located around dedicated open space areas accommodate accessibility to amenities within the development that may or may not be used for direct pedestrian access.

The City has adopted a Complete Streets Policy and increased the emphasis on development proving for multi-modal transportation options.

The proposed Final Development Plan shows sidewalks on both sides of the street.

**Public Improvement Plans:** Public Improvement Plans have been submitted and the Final Development Plan is conditioned subject to approval of these plans by the Utility Engineer.

#### **City Utilities and Infrastructure**

The City Utility Engineer and the City Stormwater Engineer have indicated changes are needed to the Final Development Plan with regard to specific site improvements and related Public Improvement Plans. The applicant submitted a revised plan on March 16, 2015. City Staff will review this revision to determine if the conditions noted in the most recent review have been addressed. To assure compliance, staff recommends the approval of this Final Development Plan be subject to the approval of the City Stormwater Engineer and the City Utility Engineer.

#### **LAND DEVELOPMENT CODE – FINAL DEVELOPMENT PLAN REVIEW**

The proposed Final Development Plan for Hutton Farms II has been evaluated per Section 20-1304(e)(2)(ii) which states that the modification of the plan as preliminarily approved may not:

- a) **Increase the proposed gross residential density or intensity of use by more than 5% or involve a reduction in the area set aside for common open space, open air recreation area or non-encroachable area, nor the substantial relocation of such areas; nor,**

**Staff Finding** – There is no change in density from the approved Preliminary Development Plan; no reduction in the area of the common space, open air recreation area or the non-encroachable area; and the areas have not been relocated.

- b) **Increase by more than 10% the total floor area proposed for non-residential or commercial uses; nor,**

**Staff Finding** – The Final Development Plan does not include any non-residential uses.

- c) **Increase by more than 5% the total ground area covered by buildings nor involve a substantial change in the height of buildings.**

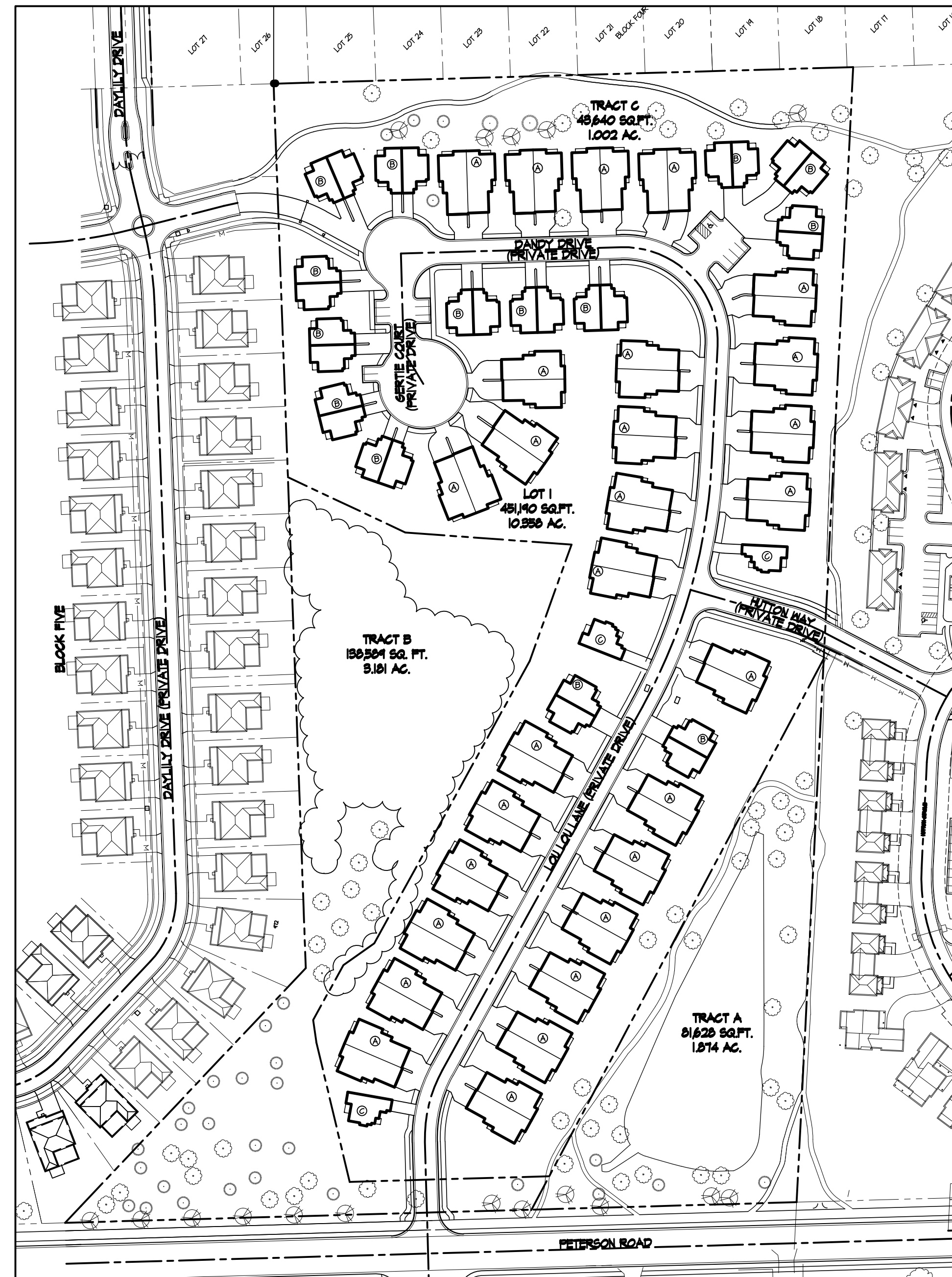
**Staff Finding** – The configuration of the west end of Dandy Drive was modified to provide a cul-de-sac with a limited fire access connection to address the conditions of the approved Preliminary Development Plan. Building layout in the northwest portion of the development was accordingly modified but the number of total units remains the same. The building areas and impervious surface areas were reduced from the approved Preliminary Development Plan. Building heights were not changed.

**Staff Review and Conclusion**

The proposed Final Development Plan, as conditioned, conforms to the land use recommendations for residential development anticipated for this area. The overall development is less intense than allowed for the district. This property was originally approved for residential development prior to the adoption of the Land Development Code. The Final Development Plan, as conditioned, meets the approved Preliminary Development Plan.

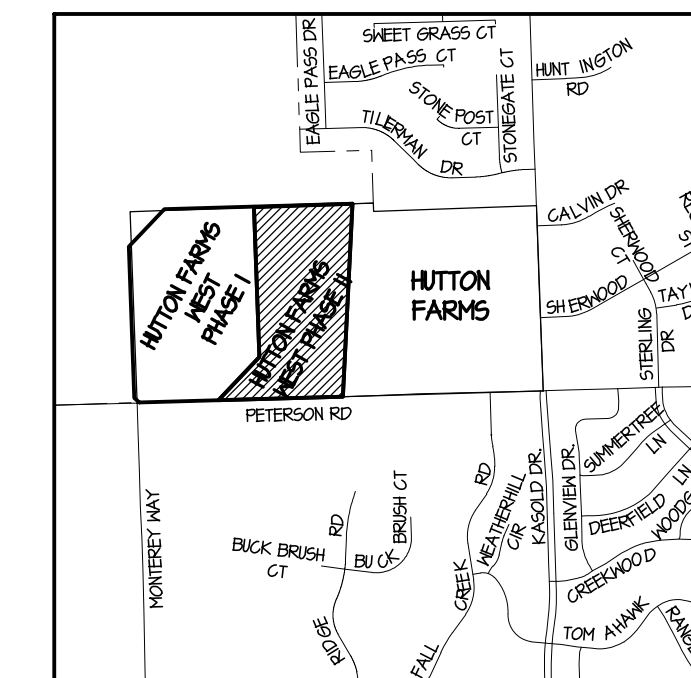
# HUTTON FARMS WEST - PHASE II

## EXCLUSIVE INDEPENDENT COMMUNITY MONTEREY WAY & PETERSON ROAD LAWRENCE, KANSAS



### LOCATION MAP:

NOT TO SCALE



### FINAL DEVELOPMENT PLAN DOCUMENTS:

- 1 COVER SHEET
- 2 OVERALL LAY
- 3 LAYOUT
- 4 GRADING
- 5 UTILITY
- 6 LANDSCAPING
- 7 SITE SECTIONS
- 8 ADDRESSING PLAN

### SUPPLEMENTAL DOCUMENTS: (PROVIDED SEPARATELY)

- 9 LIGHTING PLAN

RELEASE:		
1.0	12.22.14	SUBMITTAL TO CITY
1.1	1.18.15	SUBMITTAL TO CITY
1.2	1.18.15	SUBMITTAL TO CITY
1.3	3.15.15	SUBMITTAL TO CITY

paulwerner  
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SUITE B2  
LAWRENCE, KS 66044  
OFFICE: 785.832.0804  
FAX: 785.832.0890

DEVELOPER:  
DFC CO. OF LAWRENCE  
643 MASSACHUSETTS, SUITE 300  
LAWRENCE, KS 66044  
OFFICE: 785.841.6346  
FAX: 785.841.6342

BUILDER:  
DFC CO. OF LAWRENCE  
643 MASSACHUSETTS, SUITE 300  
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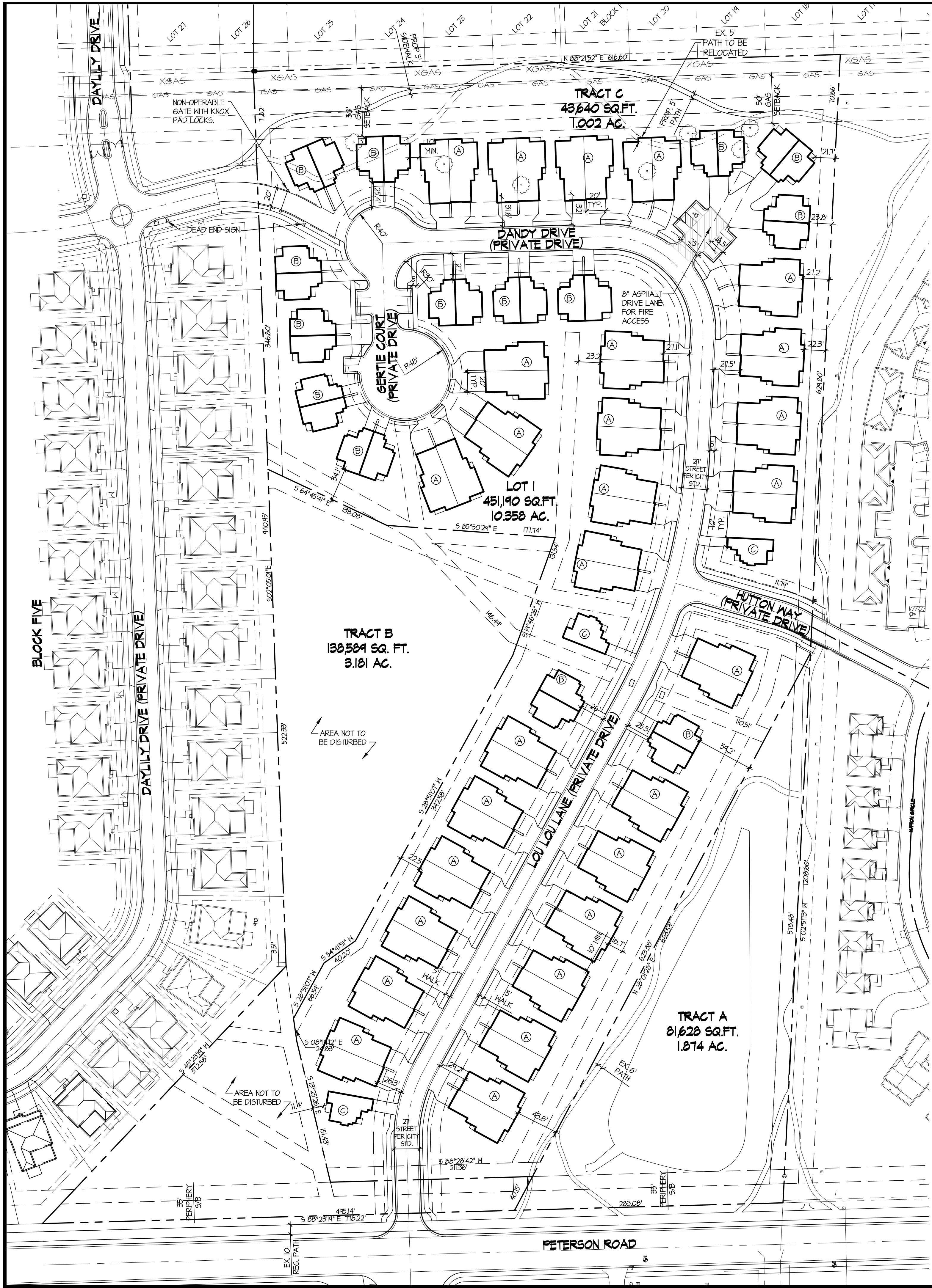
HUTTON FARMS WEST  
PHASE II - FDP  
EXCLUSIVE INDEPENDENT COMMUNITY  
MONTEREY WAY & PETERSON ROAD  
LAWRENCE, KANSAS

PROJECT # 214-B20  
AUGUST 18, 2014

RELEASE:	DATE:
1.0	12.22.14
1.1	1.18.15
1.2	2.23.15
1.3	3.15.15



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LEGAL DESCRIPTION:

HUTTON FARMS WEST NO. 2, LOT 1 AND TRACTS A, B, & C IN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 12 SOUTH, RANGE 19 EAST OF THE 6TH P.M. IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.

GENERAL NOTES:

- 1.1 CURRENT ZONING: FRD-I, 7 UNITS PER ACRE
- 1.2 CURRENT USE: VACANT
- 1.3 PROPOSED USE: DUPLEX AND DETACHED SINGLE FAMILY DWELLINGS.
- 1.4 TRASH: WILL BE PROVIDED WITH CURB SIDE SERVICE. CITY OF LAWRENCE WILL NOT BE HELD RESPONSIBLE FOR DAMAGE TO PAVEMENT.
- 1.5 MAIL: LOCATION OF CURBSIDE MAILBOXES WILL BE COORDINATED WITH THE POST OFFICE.
- 1.6 TOPO INFORMATION FROM 2006 CITY DATA.
- 1.7 SITE PLAN HAS BEEN DESIGNED TO COMPLY WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES (ADAAG) FOR BUILDINGS AND FACILITIES, APPENDIX A TO 28CFR PART 36.
- 1.8 SITE PLAN HAS BEEN DESIGNED TO COMPLY WITH THE MINIMUM PROVISIONS OF THE FINAL FAIR HOUSING ACCESSIBILITY GUIDELINES, 24 CFR, CHAPTER I, SUBCHAPTER A, APPENDIX II, OF THE FAIR HOUSING ACT OF 1968, AS AMENDED.
- 1.9 PRIVATE STREETS WILL BE 27'-0" IN PROFILE AND MEET CITY STANDARDS
- 1.10 PUBLIC IMPROVEMENT PLANS FOR STREETS, WATER LINES, AND SANITARY & STORM SEWER WILL BE SUBMITTED BY WATER ENGINEERING TO PUBLIC WORKS AND UTILITIES FOR REVIEW AND APPROVAL. A BOND IF REQUIRED, SHALL BE PROVIDED TO PUBLIC WORKS TO ASSURE ALL THE PUBLIC IMPROVEMENTS SHALL BE CONSTRUCTED PER PLANS AND MEETING THEIR STANDARDS.
- 1.11 THE CLUBHOUSE AND ACTIVITY BUILDINGS LOCATED IN HUTTON FARMS (EAST) MAY BE USED BY RESIDENTS OF HUTTON FARMS (EAST) AND HUTTON FARMS WEST-PHASE II AND THEIR GUESTS.
- 1.12 ADDRESSES TO BE APPROVED PRIOR TO THE RELEASE OF THE FINAL DEVELOPMENT PLAN.
- 1.13 ALL GROUND MOUNTED MECHANICAL UNITS SHALL BE SCREENED IN ACCORDANCE WITH SECTION 20-14A04 .
- 1.14 ALL TRAFFIC CONTROL SIGNS PLACED ON PRIVATE PROPERTY OPEN TO THE GENERAL PUBLIC SHALL COMPLY WITH THE "MANUAL ON UNIFORMS TRAFFIC CONTROL DEVICES" AND "STANDARD HIGHWAY SIGNS," PUBLISHED BY THE FEDERAL HIGHWAY ADMINISTRATION, WITH RESPECT TO SIZE, SHAPE, COLOR, RETROREFLECTIVITY, AND POSITION.
- 1.15 WE HEREBY DEDICATE TO THE CITY OF LAWRENCE THE RIGHT TO REGULATE ANY CONSTRUCTION OVER THE AREA DESIGNATED AS COMMON OPEN SPACE, OPEN AIR RECREATION AREA, AND NON-ENCROACHABLE AREA AND TO PROHIBIT ANY CONSTRUCTION WITHIN SAID AREAS AND SPACES INCONSISTENT WITH THE APPROVED USE OR ENJOYMENT OF RESIDENTS, LESSEES AND OWNERS OF THE PLANNED UNIT DEVELOPMENT.
- 1.16 NO FENCING SHALL BE PERMITTED IN THE PUBLIC RIGHT-OF-WAY OR IN PEDESTRIAN/UTILITY EASEMENTS.
- 1.17 A STORMWATER POLLUTION PREVENTION PLAN (SWPPP) WILL BE PROVIDED WITH FINAL DEVELOPMENT PLAN.
- 1.18 EASEMENTS AS SHOWN ON THE PLAN WILL BE RECORDED WITH THE DOUGLAS COUNTY REGISTER OF DEEDS.
- 1.19 THE OWNER OF HUTTON FARMS WEST NO. 2, LOT 1, WILL OWN AND MAINTAIN TRACTS A, B AND C.
- 1.20 ALL CURB INLETS WILL BE CONSTRUCTED PER CITY STORM SEWER STANDARDS DETAILS.

SITE SUMMARY:

GROSS AREA: 16.415 ACRES (715,047 SQ. FT. +/-)			
TRACT 'A': 1.874 ACRES	D/E - DETENTION POND FOR PHASE I AND 2		
TRACT 'B': 3.181 ACRES	UNDISTURBED AREA - COMMON OPEN SPACE		
TRACT 'C': 1.002 ACRES	COMMON OPEN SPACE		

TOTAL OPEN SPACE : 6.051 ACRES

UNITS:	102 UNITS MAX. PER PREVIOUSLY APPROVED DEVELOPMENT PLAN
	87 UNITS PROVIDED
A - 56 UNITS (112 BEDS)	
B - 28 UNITS (28 BEDS)	
C - 3 UNITS (3 BEDS)	

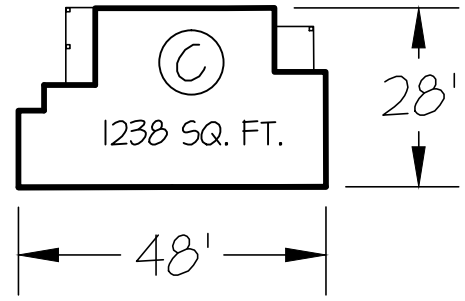
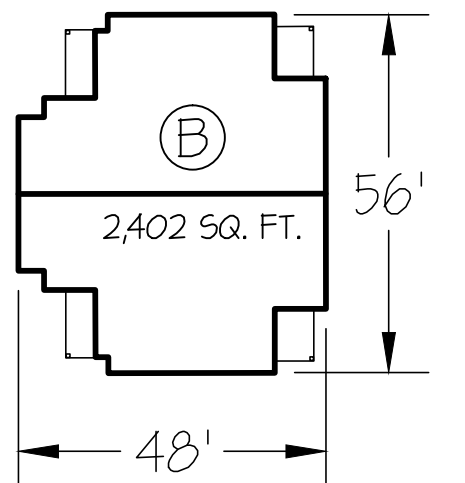
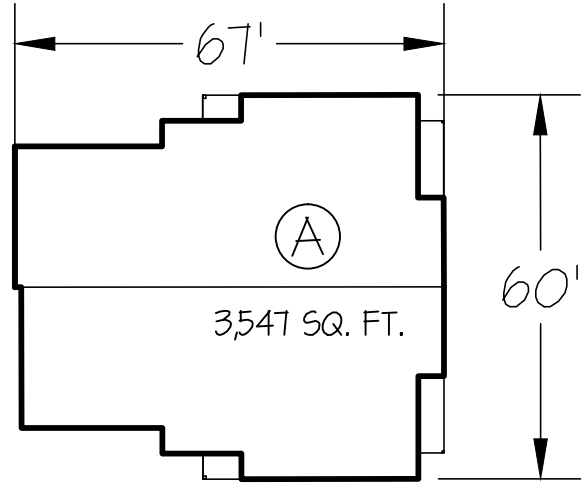
SURFACE SUMMARY:

EXISTING CONDITIONS:		PROPOSED CONDITIONS:	
PHASE 2:		PHASE 2:	
	SQ. FT. AC		SQ. FT. AC
LAND AREA	715,047 16.415	LAND AREA	715,047 16.415
RESIDENCES - FOOTPRINT:	0 0	RESIDENCES - FOOTPRINT:	136,658 3.131
PAVEMENT AREAS:	0 0	PAVEMENT AREAS:	107,914 2.471
TOTAL IMPERVIOUS:	0 0	TOTAL IMPERVIOUS:	244,572 5.614
TOTAL PERVIOUS:	415,151 9.544	TOTAL PERVIOUS:	470,475 10.800

PARKING INFORMATION:

- 3.1 PHASE II: PARKING REQUIRED: 2 SPACES PER DETACHED DWELLING = 3 UNITS (6 SPACES) (146 SPACES)  
1 SPACE PER BEDROOM FOR DUPLEXES = 140 BEDS (140 SPACES)  
  
PARKING PROVIDED: UNIT A - 56 UNITS W/2 SPACES IN GARAGES & 2 IN DRIVEWAYS = 224 SPACES (301 SPACES)  
UNIT B - 28 UNITS W/1 SPACE IN GARAGE & 1 IN DRIVEWAYS = 56 SPACES  
UNIT C - 3 UNITS W/1 SPACE IN GARAGE & 1 IN DRIVEWAY = 6 SPACES  
PARKING LOT SPACES - 15 SPACES
- 3.2 PHASE II: DESIGNATED HANDICAPPED ACCESSIBLE SPACES SHALL BE PROVIDED AT THE REQUEST OF A RESIDENT
- 3.4 TYPICAL DIMENSIONS: 'R' SPACES - 9' X 18' (16.5' X 15' OVERHANGS AT SIDEWALKS) 'H' SPACES - 9' X 18' SIDEWALKS SHALL BE 4" CONCRETE - 5' TYPICAL WIDTH.
- 3.5 PAVEMENT: APPROACHES: 6" - 4,000 PSI REINFORCED CONCRETE, WELDED WIRE FABRIC (6 X 6 X 12.9 X 12.9) OR REBAR (#4 BARS @18" CENTERS) OR FIBER REINFORCEMENT SHALL BE PLACED IN THE APRON 2 INCHES FROM THE TOP OF THE CONCRETE SURFACE.  
  
DRIVES & PARKING AREAS: MINIMUM 4" - 4,000 PSI REINFORCED CONCRETE OR 5" ROCK BASE W/ 2" OF ASPHALT OR 7" OF GRANULAR ROCK WITH A DOUBLE ASPHALTIC PRIME AND SEAL OR 5" OF FULL DEPTH ASPHALT

PHASE 2 BUILDING FOOTPRINTS



BUILDING SETBACKS:

PERIPHERAL SETBACK: 35' ON NORTH AND SOUTH PROPERTY LINES  
FRONT SETBACK: 20' FROM BACK OF CURB LINE OR SIDEWALK (IF ONE EXISTS)  
REAR SETBACK: DEFINED BY EASEMENT AND TRACT BOUNDARIES  
SIDE SETBACK: 10' BETWEEN BUILDINGS  
PLANNING COMMISSION APPROVED REDUCED SETBACKS FOR UNITS 1 (5'), 243 (7') AND 35436(4') AS SHOWN ON ADDRESSING PLAN

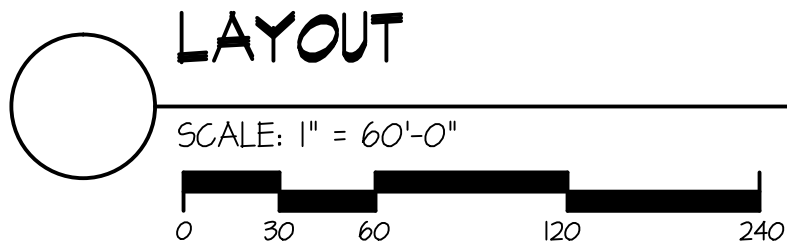
CONSTRUCTION SCHEDULE:

NOTE:  
CONSTRUCTION SCHEDULE SUBJECT TO APPROVAL OF CITY COMMISSION & PUBLIC WORKS DEPARTMENT.

PHASE 2:	
CONSTRUCTION TO BEGIN	APRIL 2015
OCCUPANCY PERMITS; ONCE FINAL INSPECTIONS ARE APPROVED	AUG. 2015

BENCHMARKS:

- BENCHMARK #1: "X" MARKED ON CABLE TV MANHOLE RIM 900' +/- NORTH OF CENTERLINE PETERSON & KASOLD AND 60' EAST OF CENTERLINE OF KASOLD. ELEV. 840.51
- BENCHMARK #2: "X" MARKED ON MANHOLE RIM +/- 450' WEST OF CENTERLINE OF PETERSON & KASOLD AND +/- 50' NORTH OF CENTERLINE PETERSON ELEV. 900.85



paulwerner  
ARCHITECTS

123 W. 8TH STREET  
SUITE B2  
LAWRENCE, KS 66044  
  
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FAX: 785.832.0890

DEVELOPER:  
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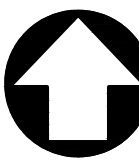
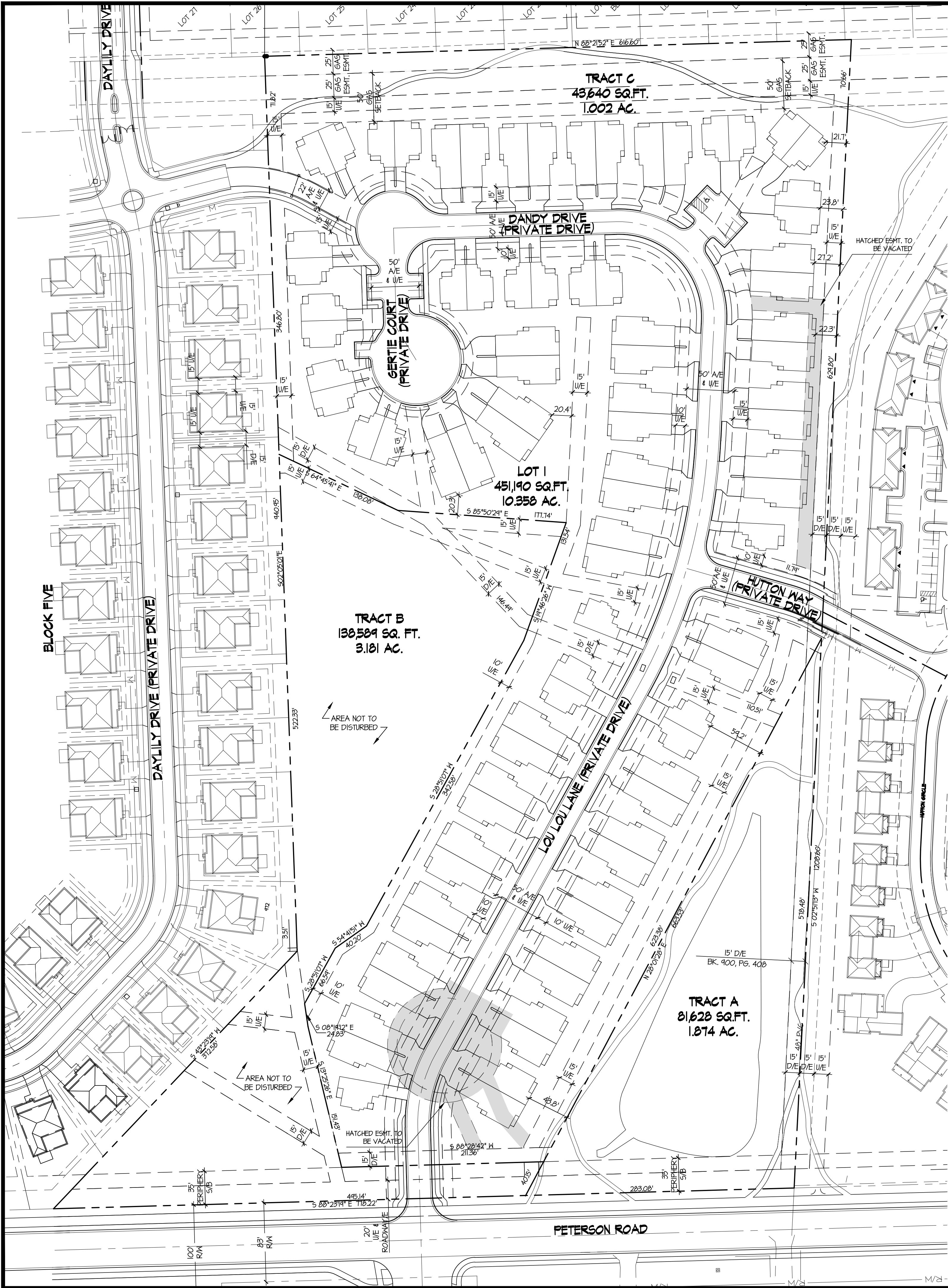
HUTTON FARMS WEST  
PHASE II - FDP  
EXCLUSIVE INDEPENDENT COMMUNITY  
MONTEREY WAY & PETERSON ROAD  
LAWRENCE, KANSAS

PROJECT # 214-820  
AUGUST 18, 2014

RELEASE:	DATE:
1.0	12.22.14
1.1	1.18.15
1.2	2.23.15
1.3	3.15.15



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LOT LINES, EASEMENT, SETBACKS

SCALE: 1" = 60'-0"



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**HUTTON FARMS WEST**  
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MONTEREY WAY & PETERSON ROAD  
LAWRENCE, KANSAS

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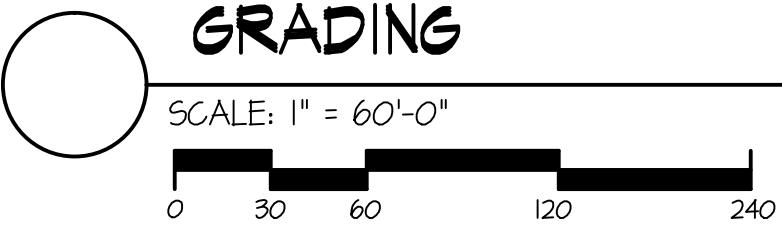
RELEASE:	DATE:
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1.3	3.15.15





GRADING NOTES:

- REFER TO CIVIL DOCUMENTS FOR ALL UTILITIES AND ADDITIONAL INFORMATION REGARDING GRADING.
- RETAINING WALLS TO BE INSTALLED ON SITE BY GENERAL CONTRACTOR ENGINEERS AS NEEDED BY NAPIER ENG.
- ANY AREAS DISTURBED BY RETAINING WALLS SHALL BE GRADED TO PREVIOUS STATE.
- GUARDRAILS PROVIDED ON EAST SIDE OF PROPERTY WHERE PEDESTRIANS AND/OR TENANTS MAY BE ADJACENT TO WALLS.



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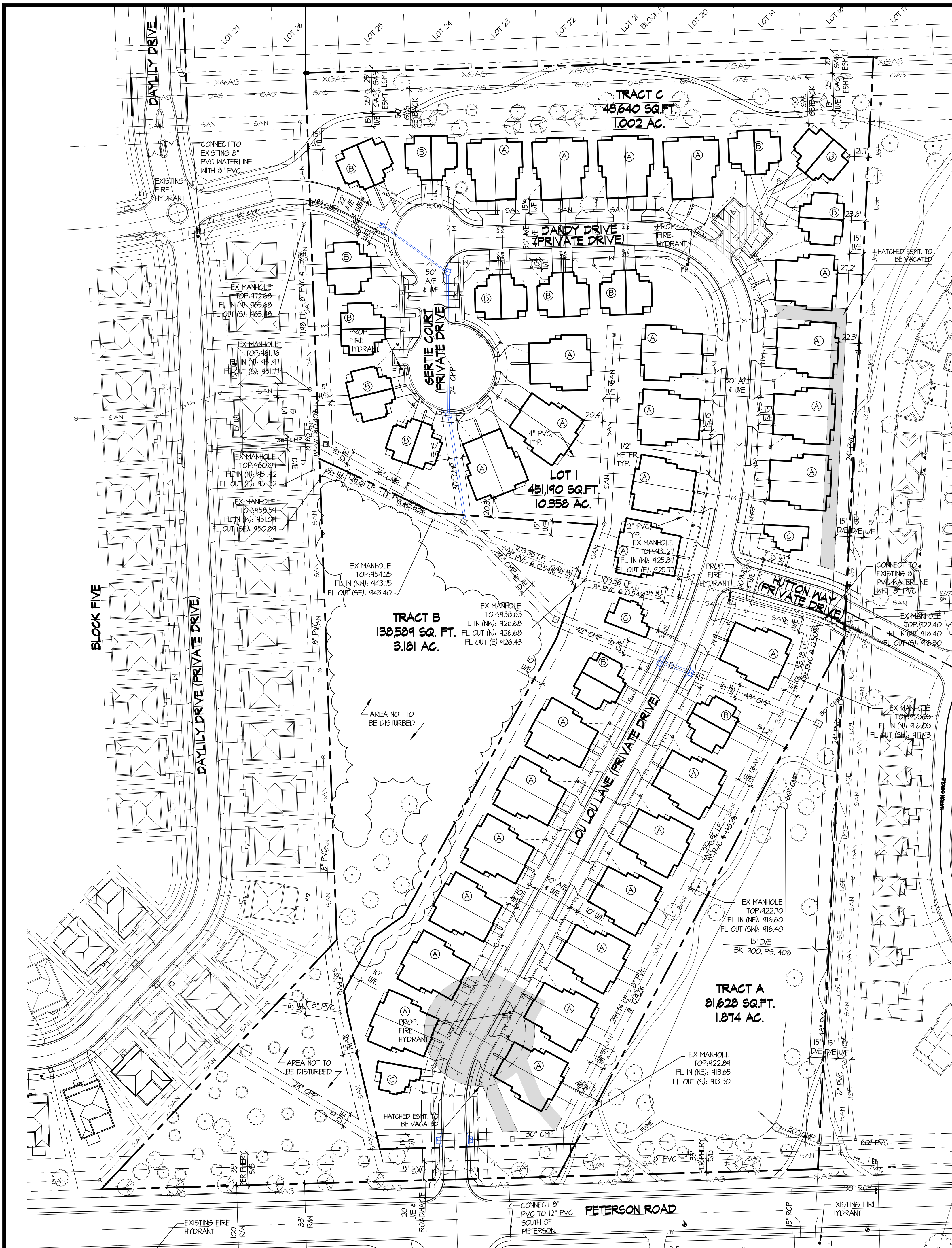
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**HUTTON FARMS WEST**

**PHASE II - FDP**

EXCLUSIVE INDEPENDENT COMMUNITY

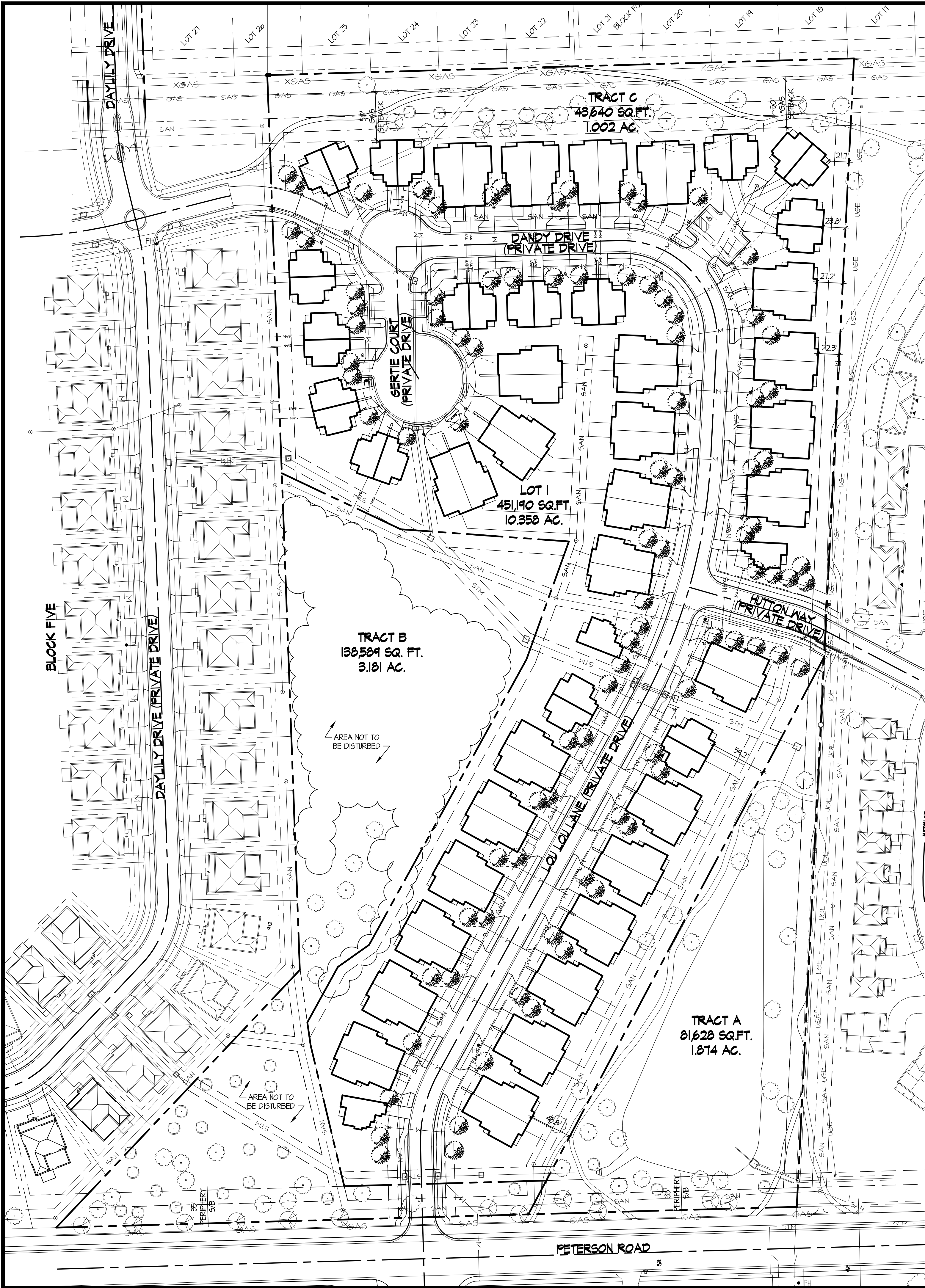
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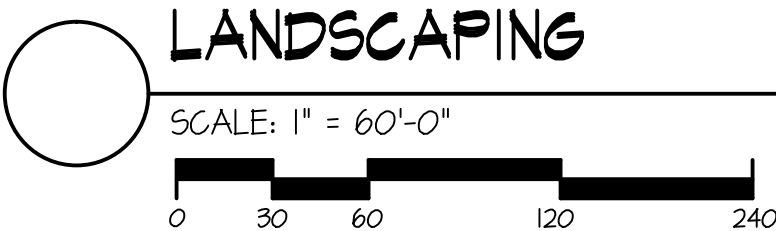


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LANDSCAPING NOTES:

SYM.	DESCRIPTION	QTY.	APPROVED TYPES	BOTANICAL NAMES	SIZE	COND.
	STREET TREES	42	LEGACY SUGAR MAPLE SUMMERSHADE NORWAY MAPLE LACEBARK ELM SHIMBARD OAK GREENSPIRE LINDEN LONDON PLANE TREE	ACER SACCHARUM 'LEGACY' ACER PLATANOIDES 'SUMMERSHADE' ULMUS PARVIFOLIA QUERCUS SHUMARDII TILIA CORDATA 'GREENSPIRE' PLATANUS OCCIDENTALIS 'BLOODGOOD'	2"-2 1/2" CAL.	B & B
	EXISTING TREES	127	ELM, LACEBARK HORSEBARK, COLUMNAR MAPLE, AUTUM BLAZE MAPLE, COLUMNAR NORWAY MAPLE, PACIFIC SUNSET MAPLE, SIENNA GLEN OAK, BUR BALD CYPRESS OAK, NORTHERN RED OAK, SHINGLE ZELKOVA, GREEN VASE OAK, SWAMP WHITE SAND TOOTH OAK NORWAY MAPLE THORNLESS HONEY LOCUST WHITE PINE BLUE SPRUCE	ULMUS PARVIFOLIA CARPINUS BETULUS 'FASTIGIATA' ACER FREEMANII 'LEFT RED' ACER PLATANOIDES 'COLUMNAR' ACER TRUNCATUM X PLATANOIDES ACER FREEMANII 'SIENNA' QUERCUS MACROCARPA TAXODIUM DISTICHUM QUERCUS RUBRA FAGACEAE QUERCUS ZELKOVA SERRATA QUERCUS BICOLOR QUERCUS ACUTISSIMA ACER PLATANOIDES 'SUPERFORM' GLEDETZIA TRIACANTHOS VAR. INERMIS PINUS STROBUS PICEA PENSILVANA	2"-2 1/2" CAL.	B & B



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545 COLUMBIA DRIVE  
SUITE 1002  
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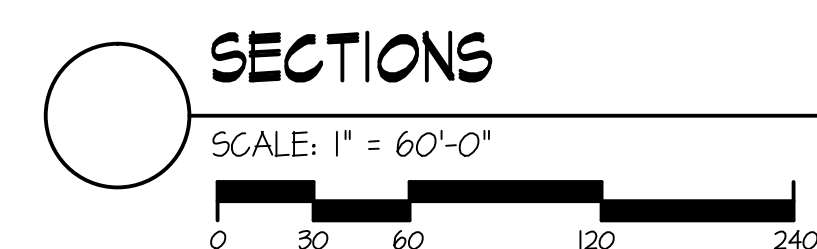
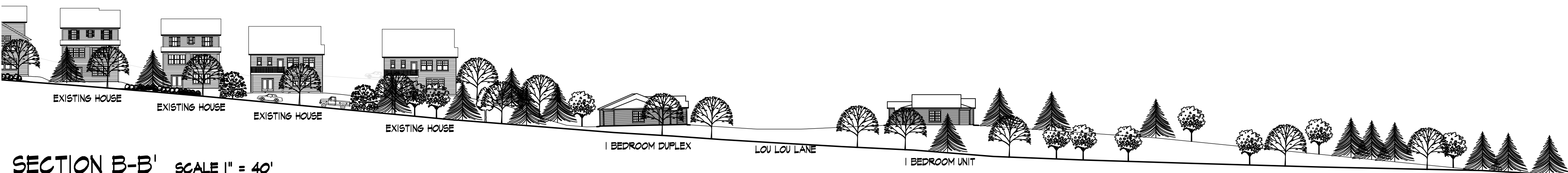
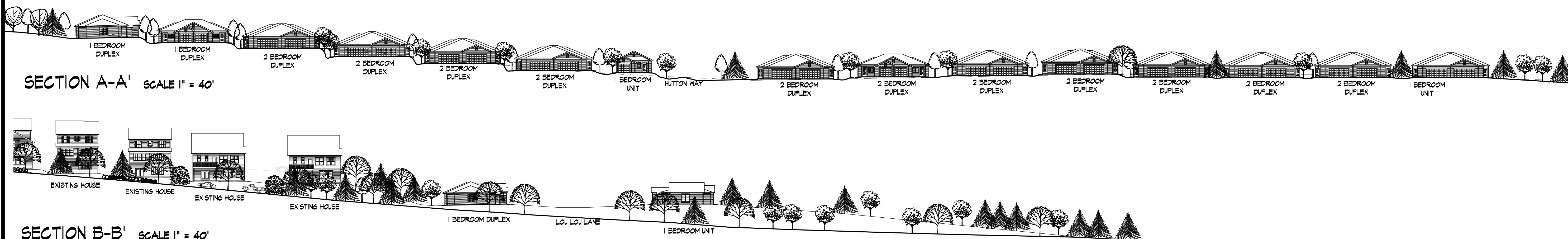
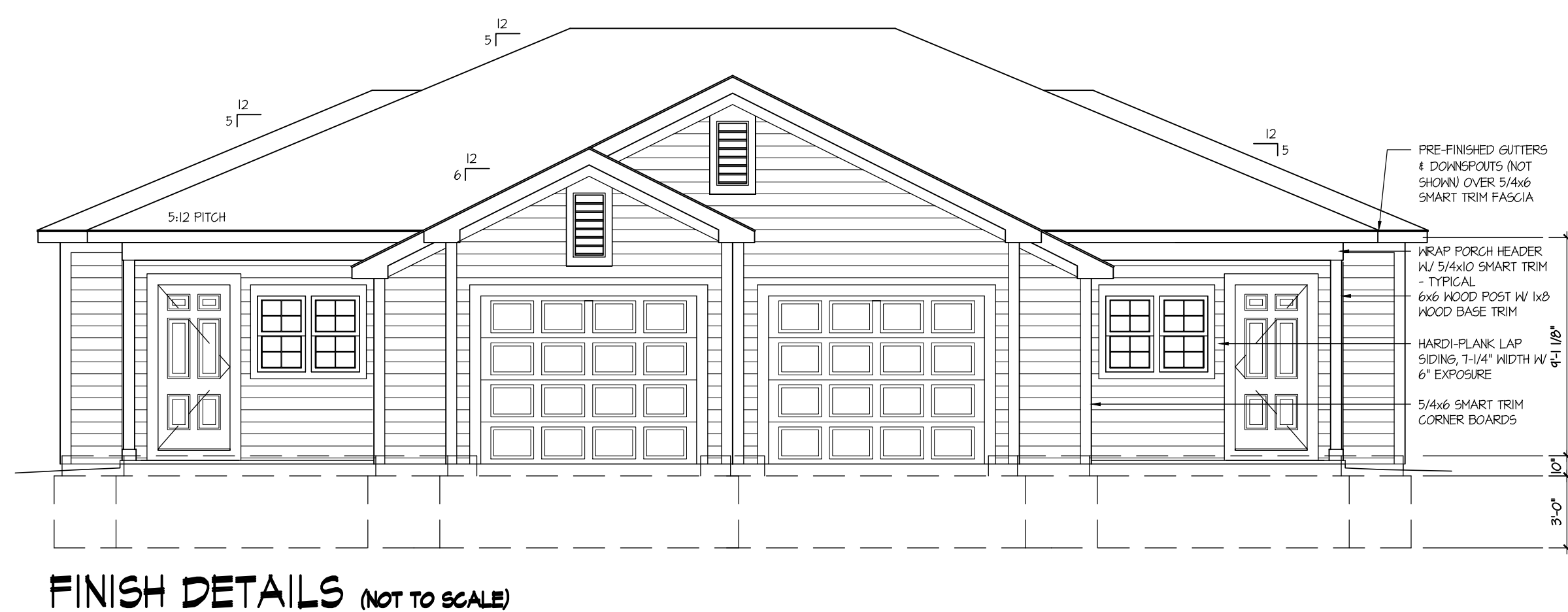
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**HUTTON FARMS WEST**  
**PHASE II - PDP**  
EXCLUSIVE INDEPENDENT COMMUNITY  
MONTEREY WAY & PETERSON ROAD  
LAWRENCE, KANSAS

PROJECT # 214-820  
AUGUST 18, 2014

RELEASE:	DATE:
1.0	11.24.14
1.1	1.07.15
1.2	1.19.15
1.3	2.16.15
1.4	3.13.15





RECEIVED

MAR 17 2015

City County Planning Office  
Lawrence, Kansas

*Larry A Hatfield*

3703 Tucker Trail  
Lawrence, Kansas at 66049  
Phone 785 764 2307

*March 12<sup>th</sup>, 2015*

*To: Lawrence - Douglas County Planning Commissions*

*RE: FDP-14-00551*

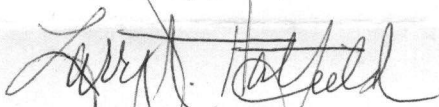
*Dear Commissioners,*

*In a phone conversation I had with Thomas Fritzel, probably in late January, 2015, he told me the following:*

*I promise you no building will be any closer than (200) two hundred feet from your property line. Also, each structure will be single story. Not an exact quote but a truth as to what was conveyed. I expect this to hold true. I also hope the neighborhood has been cleared of construction debris and our private streets will be kept private.*

*I thank you for your time and service.*

*Sincerely yours,*



Larry A. Hatfield  
3703 Tucker Trail  
Lawrence, KS 66049

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

PC Staff Report  
03/23/15

**ITEM NO. 3: SPECIAL USE PERMIT FOR 12<sup>TH</sup> & HASKELL RECYCLE CENTER; 1010 E. 11TH STREET. (SLD)**

**SUP-15-00019:** Consider a Special Use Permit for 12<sup>th</sup> & Haskell Recycle Center, to permit expansion of a Scrap and Salvage Operation, in conjunction with a Recycling, Collection and Processing Center, located at 1010 E. 11<sup>th</sup> Street on approximately 5.83 acres. Submitted by Bartlett & West, Inc., for Robert B. Killough, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of SUP-15-00019, a Special Use Permit for the expansion of a Scrap and Salvage Operation, in conjunction with a Recycling, Collection and Processing Center, located at 1010 E. 11<sup>th</sup> Street, based upon the findings presented in the body of the staff report and with a recommendation for approval to be forwarded to the City Commission subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.
2. Submission of a revised plan to include the following notes that states: "*All manholes shall be maintained and clear of material storage to allow access to manholes as necessary by the City.*"

**Applicant's Reason for Request:** *According to Section 20-527 of the City of Lawrence Development Codes, a special use permit is required for any scrap and salvage operations.*

**KEY POINTS**

- The Special Use Permit is requested to permit the Scrap and Salvage Operation.
- The submitted plan acts as the site plan for the Recycling-Collections and Processing Center and the SUP for the Scrap and Salvage Operation.
- Existing buildings will be reused for proposed operations.
- This request expands the operation to include property located at 1010 E. 11<sup>th</sup> Street and a vacant parcel located to the southeast of the existing operation.
- As discussed with the Planning Director on Jan. 6, the property will not need to be replatted until improvements requiring a building permit are proposed.
- The property is not currently in the regulatory floodplain, however the preliminary FEMA maps (to be adopted this fall) do include a majority of the property in the regulatory floodplain.
- This request revises and updates the operation.

**ASSOCIATED CASES/ OTHER ACTION REQUIRED**

- SP-9-61-95; Site Plan for Consolidated Lumber
- SUP-5-4-12; approved Special Use Permit for current operation located at 1106 E. 11<sup>th</sup> Street.
- Approval of a local floodplain development permit FP-15-00042

**PLANS AND STUDIES REQUIRED**

- *Traffic Study* – No updated required. Refer to SUP-5-4-12.
- *Downstream Sanitary Sewer Analysis* – No updated required. Refer to SUP-5-4-12.

- *Drainage Study* – A drainage study is not required for this project because downstream flooding is confined to the regulatory floodplain. [Stormwater Management Criteria Section 1.6.E.2.a].
- *Retail Market Study* – Not applicable to this request.

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

- No comments prior to publication

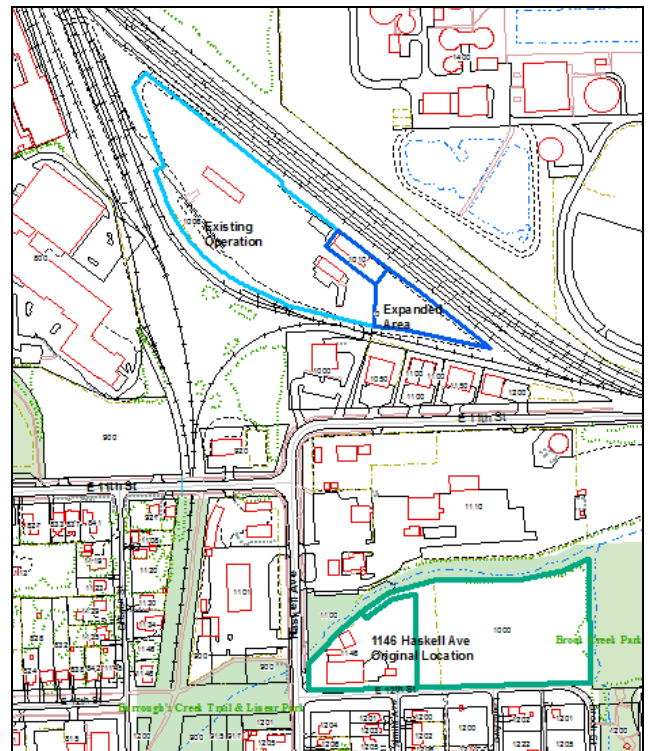
### **ATTACHMENTS**

- Area map
- Existing and Proposed Floodplain Boundary Maps
- Site Plan

<b>GENERAL INFORMATION</b>	
Current Zoning and Land Use:	IG (General Industrial) District; existing recycling and salvage operation.
Surrounding Zoning and Land Use:	<p>IG (General Industrial) District; to the northwest, west, and south. Existing Railroad right-of-way surrounds the property. Warehouse uses to the east and south.</p> <p>GPI (General Public and institutional) District to the northeast, City of Lawrence wastewater treatment facility.</p>

### **Summary of Request**

This request is for the expansion of an existing recycling and scrap and salvage operation. This use was relocated from 1146 Haskell Avenue to 1000 E. 11th Street in 2012. Existing buildings on the site are used for the operation. This application expands the use to include property at 1010 E. 11<sup>th</sup> Street that includes an existing building and an adjacent parcel that is undeveloped. The existing building will be used for metal storage and the undeveloped lot will be used for trailer and truck parking. The image to the right shows the original site at 1146 Haskell Avenue and the current location of the operation.



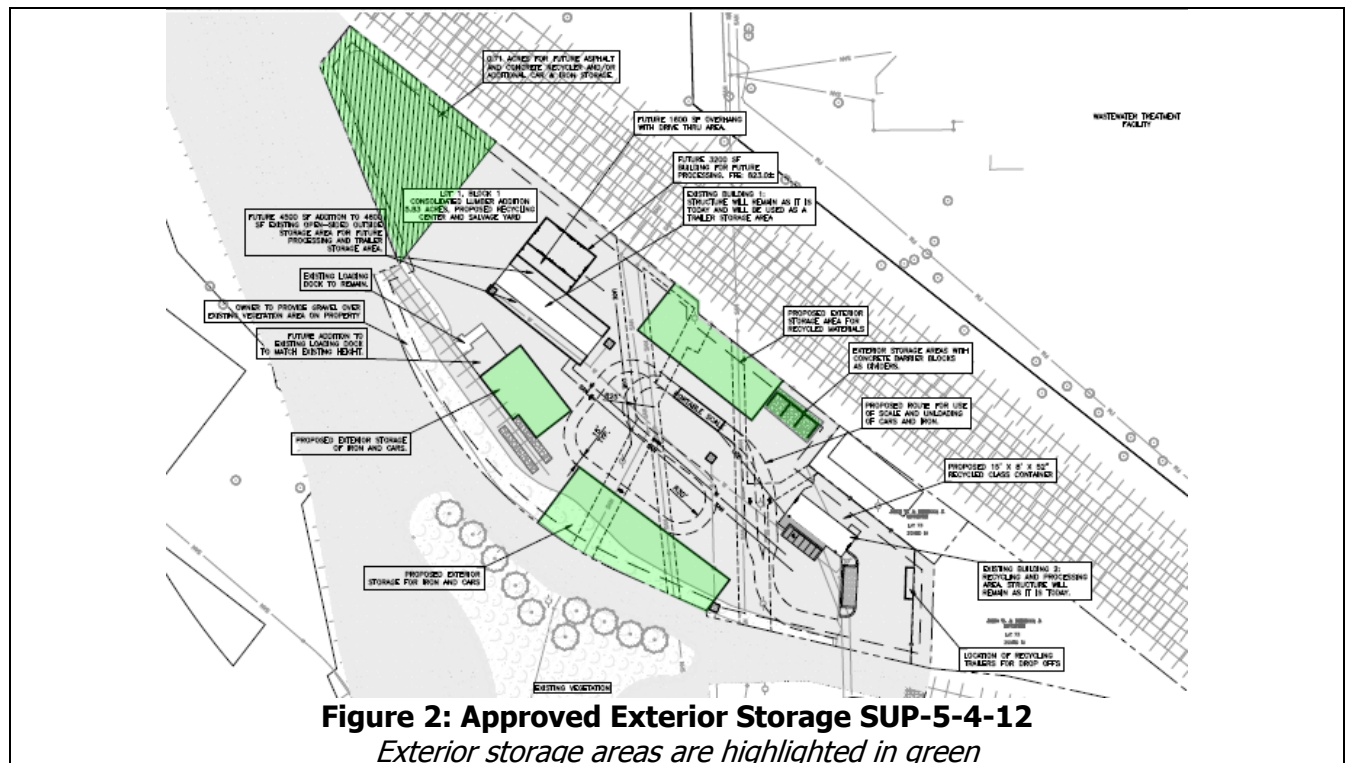
**Figure 1: Development Location**



### Site Plan Review:

This site plan shows the existing buildings and uses associated with the operation of the 12<sup>th</sup> & Haskell Recycling Center. The use includes outdoor storage as well as buildings used for recycling/processing operations and associated office use for the business. The original approval of this use noted that open shed building (labeled Existing Building 1) will be used for trailer storage in the short term. Long term plans include the expansion of the shed building and enclosing it to provide additional processing and enclosed storage space. This application does not include any changes to the existing building only the expansion of the trailer and truck storage area to the southeast of the main operation and the incorporation of the building at 1010 Haskell Avenue. The property will include two primary uses: Scrap and Salvage Operations; and, Recycling Processing Center. These uses are defined at the end of this report.

This use also includes exterior storage activity. Approval of this revised Special Use Permit will allow for additional storage of trucks and trailers to the southeast of the current operation.



**Figure 2: Approved Exterior Storage SUP-5-4-12**  
*Exterior storage areas are highlighted in green*

The acquisition of land to this existing operation has resulted in a revision to the planned improvements to this property. The approved plan shows a future expansion of a building located in the north part of the site. The building located at 1010 E. 11<sup>th</sup> will be used for indoor storage. The open sided structure, shown, will remain in its current size and configuration. This allows an expanded area for exterior storage of recyclable materials.

The previous plan also shows the location of three bunker areas along the north side of the site designated for exterior storage. The applicant has relocated these bunkers to the center of the lot to mitigate theft of materials. This space is now used for storing recycled pallets that have been processed into mulch. Recyclable material that is theft prone is stored in the central part of the lot away from perimeter fencing.

**Figure 3: Revised Storage Area SUP-15-00019**

*Exterior storage areas are highlighted in green*

*Expanded storage areas highlighted in orange*

This application expands the operation to include property at 1010 E. 11<sup>th</sup> Street but also updates the site to reflect the current operations of the site. Approval of the request is intended to provide more flexibility to the operation needs of this use as well as to respond to changing demands and trends in recyclable materials. An example of this trend is in the wood pallet industry where the used pallets are ground for use as landscape mulch.

Regardless of the material being recycled the basic operations of this use are as follows:

1. Receive Materials
2. Sort materials
3. Bail/Containerize/Bundle Materials
4. Ship Materials.

### Review and Decision-Making Criteria (20-1306(i))

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

**Applicant's Response:** Yes. Please see attached site plan for details of the future site.

Recycling Facilities – Large Collection and Processing Centers are permitted in the IG (General Industrial) District, subject to Site Plan approval. Scrap and Salvage Operations are permitted in the IG District, subject to approval of a Special Use Permit. Exterior storage uses are also governed by the use standards of Article 5. These standards regulate the location of exterior storage areas on a property, prescribe minimum setbacks and require a specific landscape bufferyard where exterior storage areas abut public right-of-way. This property is unique in its shape and lack of direct access to a public street. The proposed storage areas do not abut public street right-of-way and are not visible from nearby streets.

Section 20-527 has specific requirements regarding Scrap and Salvage Operations. Specifically, 20-527 requires screening and pile height restrictions when the property abuts an arterial or collector street. This property abuts neither and is well screened from the surrounding street network by natural vegetation and other industrial uses. Further, Section 20-527 states that open burning is prohibited. This restriction is shown on the face of the site plan.

This request expands the use to include additional interior storage in the building at 1010 E. 11<sup>th</sup> Street and establishes an area for storage of trucks and trailers outside of the main processing area.

20-540(5)(ii)(a) states: Small or Large Collection Facilities shall be located on a paved surface. The majority of the site is gravel and various bins will be established for the collection of certain products. An administrative waiver was granted with the site plan to permit the location of recycling collection bins/trailers on a non-paved surface per Section 20-1305(b)(3)(v) of the Development Code.

**Staff Finding** – The proposed use is compliant with all applicable provisions of the Development Code as conditioned.

**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 surrounded on three sides by land owned by the railroad. The areas surrounding the railroad are local businesses/warehouses with similar operating hours and zoning.

The proposed uses are industrial in nature in terms of scale and operating characteristics. The property is surrounded by railroad right-of-way with various warehouses and industrial uses backing up to this area providing additional buffering and land use transition for the area. This request expands the operation within the area bound by the existing railroad lines in the area.

While not technically located in a specifically designated neighborhood, this property is located at the convergence of the East Lawrence and Brook Creek Neighborhoods. This portion of the neighborhood is industrial in nature with noise and vibration created by the railway operation and odors created by the City's wastewater treatment plant; however, the operating characteristics of the proposed uses can impact an area farther than the adjacent industrial uses if not restricted. Noise, vibration, dust and litter are the primary potential impacts related to this use given the potential to crush vehicles and load bulk materials. Except for the rail and wastewater treatment plant as noted above, the other industrial uses in this area have limited outdoor impacts.

The salvage and recycling processing center uses have been operating for approximately one year in this location. A residential project is being constructed to the northwest of the property along Delaware Street. A coffee shop is also open and operating at 902 Delaware. The nearest residentially zoned property is approximately 790 feet away and substantial mature trees exist between the properties, reducing much of the potential impact. These trees are located within the existing railroad right-of-way. Existing railroad tracks on the south side of the property are not in active operation and are in place but not actively maintained.

Previous approval of this use included restrictions for hours of operation. These approved restrictions are not altered by this expansion request.

**Staff Finding** – There are no new operational conditions of approval associated with this application. The proposed uses are compatible with adjacent and nearby 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 surrounding sites are of the same industrial type usage along with the City's property to the south and the wastewater treatment facility to the north.

This property is located east of the East Lawrence Neighborhood and north of the Brook Creek Neighborhood. The property is also north of the Burrough's Creek Trail and Linear Park. A large portion of the land area located along the railroad and along the Kansas River is zoned and developed with industrial uses including the City's wastewater treatment plant. Per previous approval, the business was relocated to property outside of the Brook Creek Neighborhood and within an industrial corridor along the railroad.

The expanded use establishes an area for exterior parking of trucks and trailers in the southeast part of the expanded site. This area is located to the rear of existing uses and businesses that front to E. 11<sup>th</sup> Street and are separated by existing railroad right-of-way.

**Staff Finding** – The proposed use will not cause a substantial diminution in the value of surrounding property.

**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**

This property is located within the City of Lawrence. Multiple sanitary sewer lines cross this property connecting the City's treatment facility to the existing sanitary sewer network. These lines are high pressure lines and not suitable for individual property connections. The water main is located on the north side of E. 11th Street. Capacity in the system is available to serve this site.

East 11<sup>th</sup> Street includes both arterial and collector street designations. Haskell Avenue and the E. 11th Street segment to the west are designated as an arterial street. Where Haskell Avenue turns into E. 11th Street to the east, the street is designated a collector. A traffic study was provided by the applicant with the original 2012 application. Staff concurred with the findings that no street improvements associated with this project are required. The expansion of the use modifies the operations and does not require a new traffic study.



It was noted in the review that recycling materials may be located over an existing sanitary sewer manhole. A site visit made during the review of the application confirmed that the sanitary sewer manholes are both marked and clear of materials. There are no current barricades around the manholes as there are around the fire hydrants. Staff recommends the application be revised to provide a note that states all manholes shall be maintained clear of material storage to allow access to manholes as necessary by the City.

The applicant has been advised that future changes to the water service to existing buildings will require City approval.

**Staff Finding** – Public safety, transportation and utility services are currently available and a sufficient level of such services is available to support the proposed use. New utility services are not proposed to the expanded operation.

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

**Staff Finding** – The site plan will function as the enforcement document to assure that maintenance and use of the property is consistent with the conditions of approval.

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

**Applicant's Response:** The existing site was used for storage of materials and is gravel. The proposed storage of recycled materials shall not cause a negative impact on the environment. It will be the owner's responsibility to follow all rules and regulations set forth by the City, State and Federal Governments.

This property is located in an area surrounded by railroad right-of-way. The site is comprised of a gravel surface and limited vegetation located along the fringe of the site. The property is currently not encumbered by the regulatory floodplain. However, in September 2015, this property will be encumbered by regulatory floodplain when new FEMA FIRM's are adopted. The existing and future floodplain boundaries are attached to this report for reference.

This change in floodplain designation will have an impact on the operations of the existing use. Many buildings along E. 11<sup>th</sup> Street and the area proposed for truck and trailer storage are above the base elevations and not located in the regulatory floodplain. Additional requirements regarding the exterior storage of smaller recyclable materials may be required to be elevated or contained in a manner to prevent material from becoming a hazard during a flood event. The applicant has submitted a floodplain development permit concurrently with this application. The Local Floodplain Development Permit is being processed by staff as an administrative item. Changes that result from the floodplain review may require modifications to the site plan and will be coordinated by staff with the applicant.

**Staff Finding** – The proposed use will not cause adverse impacts on the natural environment. Changes in the federally designated floodplain boundaries do impact this property and may require operation changes to the 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.**

Scrap and Salvage Operations are subject to a Special Use Permit. Exterior storage areas are permitted as an accessory use in most nonresidential zoning districts to provide space for outdoor storage of materials related to the business of the principal use.

It may be necessary to monitor this site as it pertains to the floodplain requirements and this will be covered by the Floodplain Development Permit currently under review.

**Staff Finding** – It is not appropriate to place a time limit on this type of Special Use given the nature of the use and the site improvements required to implement the use with the exception of the regulatory floodplain.

**Site Plan Review**

This section of the report focuses on the proposed physical improvements of the site.

**A. Site Summary**

<b>SITE SUMMARY – SUP-5-4-12</b>		
	<b>Existing</b>	<b>Proposed</b>
Property Area (sq ft):	253,979 (5.83 acres)	253,979 (5.83 acres)
Building Area (sq ft):	7,630	16,874
Paved Area (sq ft):	4,465	8,342 (3.3%)
Total Impervious Area (sq ft):	12,095	25,216 (9.9%)
Total Pervious Area (sq ft):	241,884	228,763 (90.1%)
<b>Site Summary – SUP-15-00019</b>		
Property Area (sq ft):	306,643 (7.04 acres)	306,643 (7.04 acres)
Building Area (sq ft):	12,556	21,800
Paved Area (sq ft):	4,465	8,342
Total Impervious Area (sq ft):	17,021	30,142
Total Pervious Area (sq ft):	289,622	276,501


The overall area dedicated to this use has been expanded by 1.21 acres. There are no new buildings proposed with this use. There is no new parking lot (pavement) proposed with this use. The previous plan that included a future building expansion is no longer included in this revised application. The applicant is working with the engineer to revise and update the use of the existing development per discussions and clarification with Planning staff.

**B. Access and Parking**

Access to this property is accommodated via an existing access easement from E. 11th Street. The access crosses the railroad right-of-way. There are no active lines in this portion of the right-of-way. No changes to access are proposed with this development.

The site plan shows a designated parking area located at the southeast end of the property near the recycling/processing building. This area includes new landscape islands within the site, installed per the previous plan that will help to direct vehicular circulation within this property. No additional parking is needed. The proposed request relocates existing truck and trailer parking to the south

end of the site outside of the operation activity area of the site. The applicant is more fully using the 5.86 acres for the scrap and salvage operation. This change does not increase the required parking.

<b>Parking Summary</b>		
<b>Use</b>	<b>Parking Requirements</b>	<b>Spaces Required/Provided</b>
Scrap and Salvage Operations 1006 E. 11 <sup>th</sup> only	1 parking space/ AC	Approved: 5.26 acres less recycling building and vehicular parking spaces= 6 spaces  Proposed: 5.26 acres less recycling building and vehicular Parking Spaces= 6 spaces
Recycling-Processing Center 1006 E. 11 <sup>th</sup> Street Recycling-Processing Center 1010 E. 11th	1 space per 1,000 SF [1-20,000 SF]  Indoor storage	Office Building/Sorting 2,984 SF = 3 spaces Covered storage Area 5,594 SF = 0 spaces  New indoor storage 4,928 SF = 5 spaces  Total Spaces paces = 8
		
<b>Total Approved Plan</b> 9 spaces required 11 spaces Provided at 1006 E. 11th		<b>Total Proposed Plan</b> 14 spaces required 11 spaces at 1006 E. 11 <sup>th</sup> Street 4 spaces at 1010 E. 11th Street <b>15 spaces provided</b>

**Table 1: Parking Summary**

The existing parking spaces at 1006 E. 11<sup>th</sup> Street for the current operation are concrete pavement. The access drives internal to the site and the area proposed for truck and trailer parking are not paved. These areas are a compacted gravel surface. This gravel surface is included in the "pervious area" summary for the site. The proposed use of the building at 1010 E. 11<sup>th</sup> Street is for interior

storage and will not fundamentally change the off-street parking requirements. If off-street parking is required an additional 5 spaces would be required. Off-street parking is available to the south of the existing building. Three spaces are generally identified by concrete barricades along the north property line. There is sufficient area for parking up to four (4) vehicles in this location. The current arrangement of the buildings, overhead doors, established parking and site circulation is not conducive to expansion of the parking areas around the primary building at 1006 E. 11<sup>th</sup> Street. Adequate off-street parking is accommodated on site.

The access between E. 11th Street and the south side of the railroad crossing is an existing concrete pavement drive. North of the railroad tracks the surface type is compacted gravel.

This property is a low point of the immediate area. The permeable surface facilitates stormwater runoff via percolation for this property. The City Stormwater Engineer recommends this approach for this site. The City Engineer approved the original parking lot design as shown on the Site Plan.

### **C. Industrial Design Standards**

#### **There are no changes to these elements with the expansion of the operation.**

Industrial Design Standards were reviewed with the original application. Existing buildings are used "As Is". This request eliminated the need for building addition to the pole barn structure shown in the previous approval. No building improvements are proposed for this site at this time.

#### ***Fencing and Screening:***

**No changes to the existing fencing and screening are proposed with this application.**

This property is located behind developed industrial properties and along existing railroad right-of-way and is not considered a High Visibility or Sensitive Area. This property is one of the least visible areas with regard to aesthetics and the need for screening. The site is currently fenced with a chain-link fence material and is not proposed to be altered with this application. The railroad right-of-way along the west and south sides of the property are inactive and characterized with large mature trees forming a dense vegetative buffer. Screened fencing at this time is not needed.



The additional area for truck and trailer parking will not be fenced at this time. This space is intended as an area to accommodate trailers and trucks that have been loaded prior to transport to other locations.

#### ***Pedestrian accessibility:***

Sidewalks are constructed along E. 11<sup>th</sup> Street but do not extend along the access easement to this property. This use is not associated with a high level of pedestrian activity nor would it be considered a pedestrian destination. The interior site circulation is not intended for pedestrians. The site is designed to provide small vehicles customer access to the facility on the south and east side of the property and heavier truck traffic and vehicular circulation in the central part of the site. Minimal pedestrian areas are provided along the recycling building and the parking area to accommodate small volume customers from the parking area to the building.

#### **D. Landscaping and Screening**

**Landscape and screening requirements were reviewed with the original application. There are no changes to these elements with the expansion of the operation.**

This property does not include frontage along any public street. Street Trees and perimeter landscaping are not applicable to this property. Small landscape islands around the constructed parking lot area were required with the original approval to address interior landscape standards. Section 20-1006 of the Development Code requires that mechanical equipment be screened from adjacent properties and rights-of-way. A note to this effect is included on the face of the site plan.

#### **E. Lighting**

The original approval included a photometric plan for the extent of the property included in the original application. The applicant is not proposing to add any additional lighting to the expanded area to be used for storage of trucks and trailers. Any new lighting would be subject to compliance with the City's lighting standards, including submission of a revised photometric plan and provision of fixture details. Since any new lighting would require an electrical permit the requirements could be reviewed through the building permit process. It is not necessary to condition this application at this time.

#### **F. Floodplain**

This property is not currently encumbered by the regulatory floodplain. However, as discussed above in the report changes to the regulatory floodplain will become effective in September 2015 and will impact this property requiring a local floodplain development permit.

#### **Conclusion**

The proposed Special Use Permit addresses the changes to exterior storage activity related to this use and includes the expansion of the operation to include two parcels to the north and east of the current operation. The main salvage operation will remain within the existing fenced area. The expanded land area will be used for truck and trailer parking and the existing building will be used for indoor storage of materials. The location of this property, within an industrial corridor and along the railroad right-of-way, is suited for the proposed use with no additional improvements to the site.



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Last edit on: 00/00/00

### SITE SUMMARY

AMENDED JANUARY 20, 2015

#### EXISTING SITE SUMMARY

EXISTING BUILDING:	12,556 SF (0.29 AC.)
EXISTING PAVEMENT:	4,465 SF (0.10 AC.)
TOTAL IMPERVIOUS:	17,021 SF (0.39 AC.)
EXISTING PERVIOUS:	289,622 SF (6.65 AC.)
TOTAL PROPERTY AREA:	306,643 SF (7.04 AC.)

#### NEW SITE SUMMARY

EXISTING/PROPOSED BLDG:	12,500 SF (0.29 AC.)
PROPOSED PAVEMENT:	8,342 SF (0.19 AC.)
PROPOSED IMPERVIOUS:	20,842 SF (0.48 AC.)
PROPOSED PERVIOUS:	285,801 SF (6.56 AC.)
TOTAL PROPERTY AREA:	306,643 SF (7.04 AC.)

### LEGAL DESCRIPTIONS

A.  
LOT 1, BLOCK 1 OF CONSOLIDATED LUMBER ADDITION

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 12 SOUTH, RANGE 20 EAST AND NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE 6TH P.M., CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, CONTAINING 5.83 ACRES MORE OR LESS

B. ADDED IN JANUARY 2015  
BEG AT PT WHICH IS N01DEG30'49"W ALONG W LINE NW 1/4 385.06 FT & S76DEG53'35"E 292.11 FT FROM SW COR SD OR SEC,SD PT BEING ON LINE PARA WITH & 25 FT N OF CENTERLINE OF THAT CERTAIN TRACK DESIGNATED IN RECORDS AT&SF RR CO AS TRACK NO 11 AT LAWRENCE,KS;TH S76DEG53'35"E ALONG SD PARA LINE 398.2 FT TO SWLY COR OF THAT CERTAIN 22,383 SQ FT PARCEL LAND TOAT&SF RR CO BK 326/1405 TH N51DEG37'23"W ALONG SWLY LINE SD22,383 SQ FT PARCEL & ALONG SWLY BNDRY OF THAT CERTAIN 4.88ATR LAND DESC BK 28/560 TO KANSAS CITY,TOPEKA & WESTERN RR CO642.02 FT TH S38DEG22'37"W 63.5 FT TH S51DEG37'23"E 203.51 FT TH S02DEG00'39"W 132.24 FT TO PT BEG 1.209A (TR A IN SURVEY FILED 3/31/1997 BK 575/1),LESS 0.909A D 823/1709 0.3A (DIV2003 U13465)

C. ADDED IN JANUARY 2015  
COM AT SW COR NW 1/4 SD SEC TH N01DEG30'49"W ALONG W LINE NW 1/4 SD SEC 32 385.06FT TO S LINE LT 1 BLK 1 CONSOLIDATED LUMBER ADD TH S76DEG53'35"E ALONG S LINE SD LT 292.11FT TO SE COR SD LT 1 FOR PT BEG,SD PT ALSO BEING ON N R/W LINE AT&SF RR TRACK NO 11;TH N02DEG00'39"E ALONG E LINE SD LT 1 132.24 FT TH N38DEG22'37"E 63.5 FT TO S R/W LINE AT&SF RR MAIN TRACK TH S51DEG37'23"E ALONG S R/W LINE AT&SF MAIN TRACK 438.51 FT TO N R/W LINE AT&SF RR TRACK NO 11 398.2 FT TO PT BEG 0.909A (DIV 2003 U13465)

### PROJECT OWNER/DEVELOPER

ROBERT B. KILLOUGH  
1146 HASKELL ST.  
LAWRENCE, KS 66044

### PAVEMENT SCHEDULE

PROPOSED  
LED ALL  
C.P.T.E. E

	EXISTING GRAVEL
	EXISTING CONCRETE PAVEMENT
	PROPOSED 6" REINFORCED CONCRETE
	PROPOSED 4" ADA ACCESSIBLE CONCRETE SIDEWALK

NOT FOR CONSTRUCTION  
PLANNING LAYOUT ONLY

### GENERAL NOTES

- Existing Zoning: IG (General Industrial District)
- Current Use:  
Lot 1, Block 1 Consolidated Lumber Addition: Empty, gravel storage yard with an existing building and covered storage area.  
  
Lot 1, Polk Subdivision: Existing building with a paved parking area in the front and a gravel access in the rear.
- Boundary and Topographic information taken from City GIS data and plats. Easement, property lines, structures, etc. were not field verified via a surveyor.
- No changes will be made to Lot 1 of the Polk Subdivision. An additional building, drive through area, scales, loading dock, outside storage areas and concrete parking area are being added to Lot 1, Block 1 Consolidated Lumber Addition.
- Proposed Concrete Pavement to be 6" reinforced concrete on a 4" granular base.
- This site plan has been designed to comply with the provisions of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for building and facilities. Appendix A to 28 CFR Part 36.
- Accessible spaces are to be signed and stenciled per Sec. 20-912.
- All mechanical equipment will be screened in accordance with Section 20-1006(b) of the Development Code.
- All traffic control signs placed on private property open to the general public shall comply with the "Manual on Uniform Traffic Control Devices" and "Standard Highway Signs," published by the Federal Highway Administration, with respect to size, shape, color, retroreflectivity, and position.
- Existing water and sanitary location connections for the existing buildings will not change.
- All retaining walls to be segmental block system, unless noted otherwise on the plan.
- All disturbed areas shall be seeded unless noted otherwise.
- Owner to install a Knox Box at the entry of Existing Building 2 for fire safety.
- Refer to Sheet SP-5 for Landscaping Plan. Owner reserves the right to install additional landscaping as they deem necessary and as long as it meets the City of Lawrence Landscape Codes.
- Parking Information:

Proposed Parking  
Scrap and Salvage Operations Required Parking:  
1 Space Per 1 Acre Used in Business  
5.26 Acres (Lot Minus Recycling Building and Parking)  
= 6 Stalls Required

Recycling-Processing Center Required Parking:  
1 Space Per 1,000 Square Feet Floor Area  
2,984 SF building = 3 Stalls Required

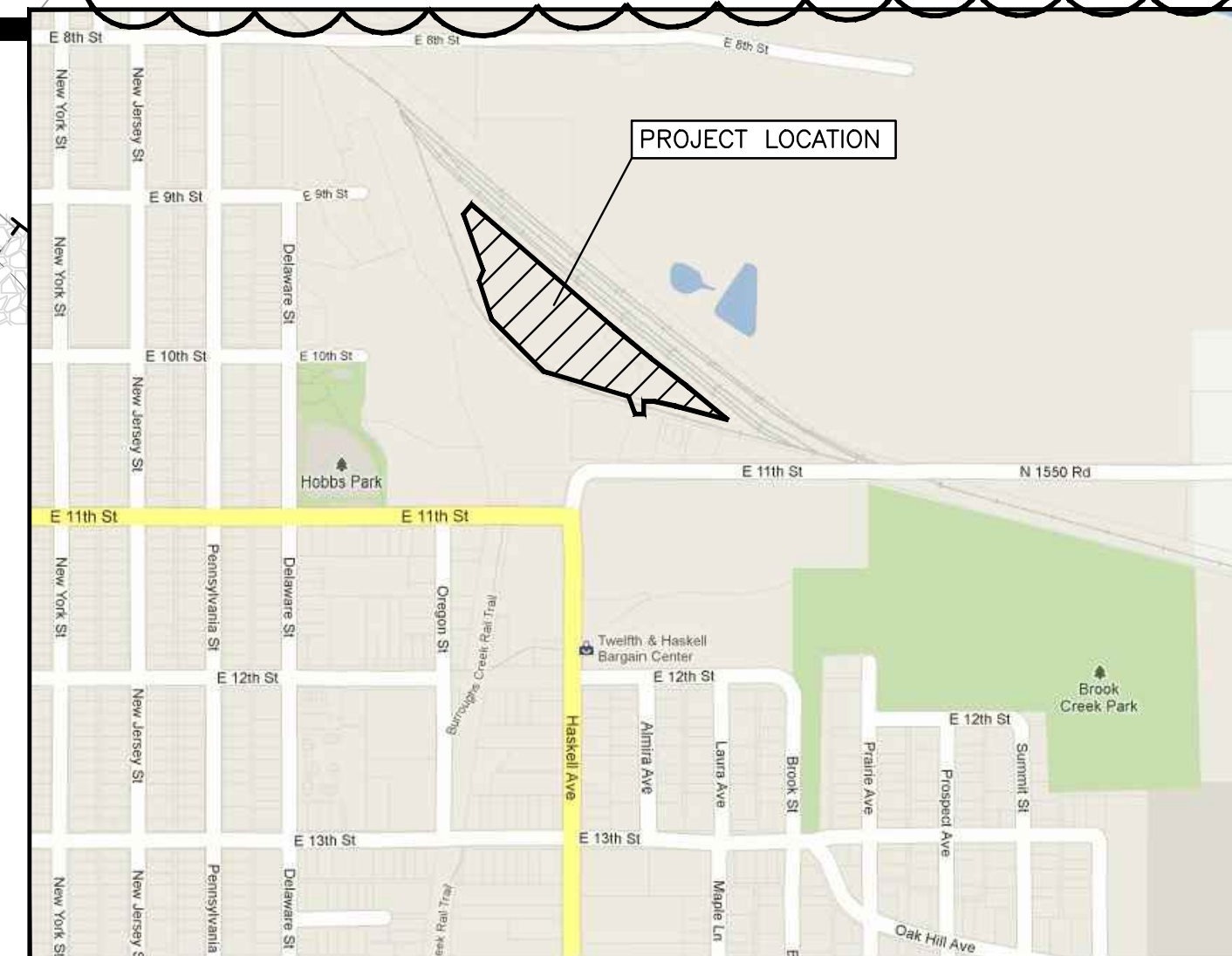
0 Bicycle Parking Required

Total Parking Required = 9 Stalls

Parking Provided = 11 Stalls (10 + 1 ADA)

- No open burning of junked, salvaged or discarded materials shall be permitted.
- The owner is responsible for maintaining the property, especially the perimeter fencing, in a litter-free manner.
- The operation shall comply with all state and local solid hazardous waste laws and standards, particularly as they relate to the removal of vehicular fluids.
- A restriction on the hours of operation for the outdoor crushing of vehicles and loading of bulk materials into semi-trucks as follow:  
Monday - Friday: 8:00 a.m. to 6:00 p.m.  
Saturday: 8:00 a.m. to 4:00 p.m.  
Sunday: Prohibited
- The existing utility connections have been determined to be acceptable as existing conditions and full compliance with the code will occur at the time of future sale of one or both of the properties.

- NOTES AMENDED WITH JANUARY 2015 SUP UPDATE.
- The lots that are added with the January 2015 amended sup have not been platted. These lots will not be required to be platted unless the owner makes improvements that require a building permit or additional development is undertaken.
  - Updated Flood Insurance Maps will be released in 2015. It is known that the lot that is being added to the SUP with this amendment contains an existing structure that will not be above the 100 Year Floodplain Elevation. The owner will apply for a separate Floodplain Development Permit for this existing structure.



### LOCATION MAP

NOT TO SCALE

LAYOUT

REVISIONS PER CITY COMMENTS	DATE	DESCRIPTION
1	7/6/12	
2	7/9/12	
3	8/6/12	
4	1/20/15	AMENDMENT TO SUP
5	3/17/15	AMENDMENT TO SUP

DESIGNED BY:	CBC
DRAWN BY:	CBC
APPROVED BY:	DRA
DESIGN PROJ:	18101.001
CONST PROJ:	----
SCALE:	AS NOTED
DATE:	MAY 2012
DRAWING NO:	SP-1
SHEET NO:	1 of 6

544 COLUMBIA DR., LAWRENCE, KS 66049  
785.749.9445  
WWW.BARTLETT&WEST.COM

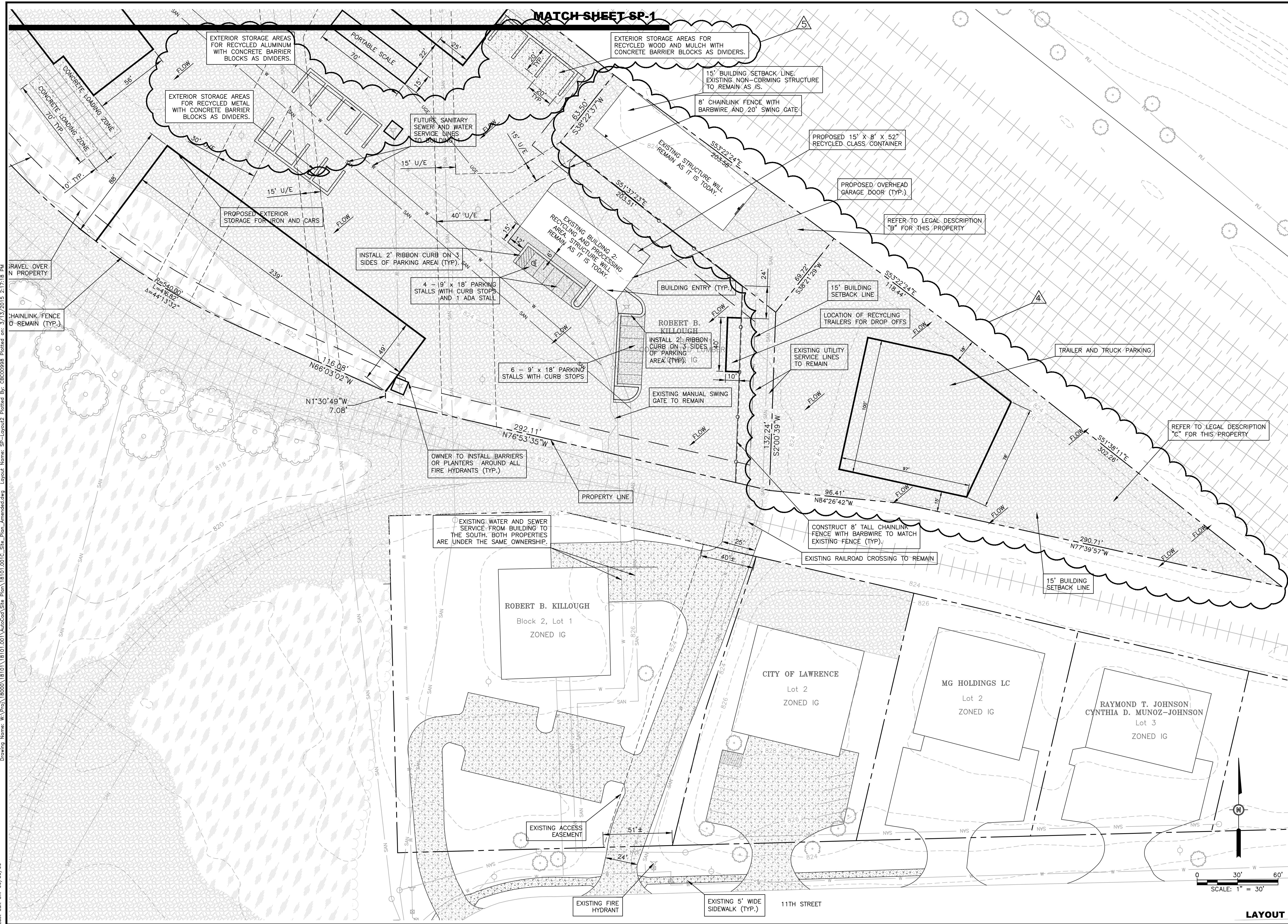
**BARTLETT & WEST**

**12TH & HASKELL RECYCLING CENTER**

**PROPOSED SITE PLAN**  
**1000 EAST 11 ST.**  
**LAWRENCE, KS 66044**



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CBC	2	7/9/12	
CBC	3	8/9/12	
CBC	4	1/20/15	AMENDMENT TO SUP
CBC	5	3/17/15	AMENDMENT TO SUP

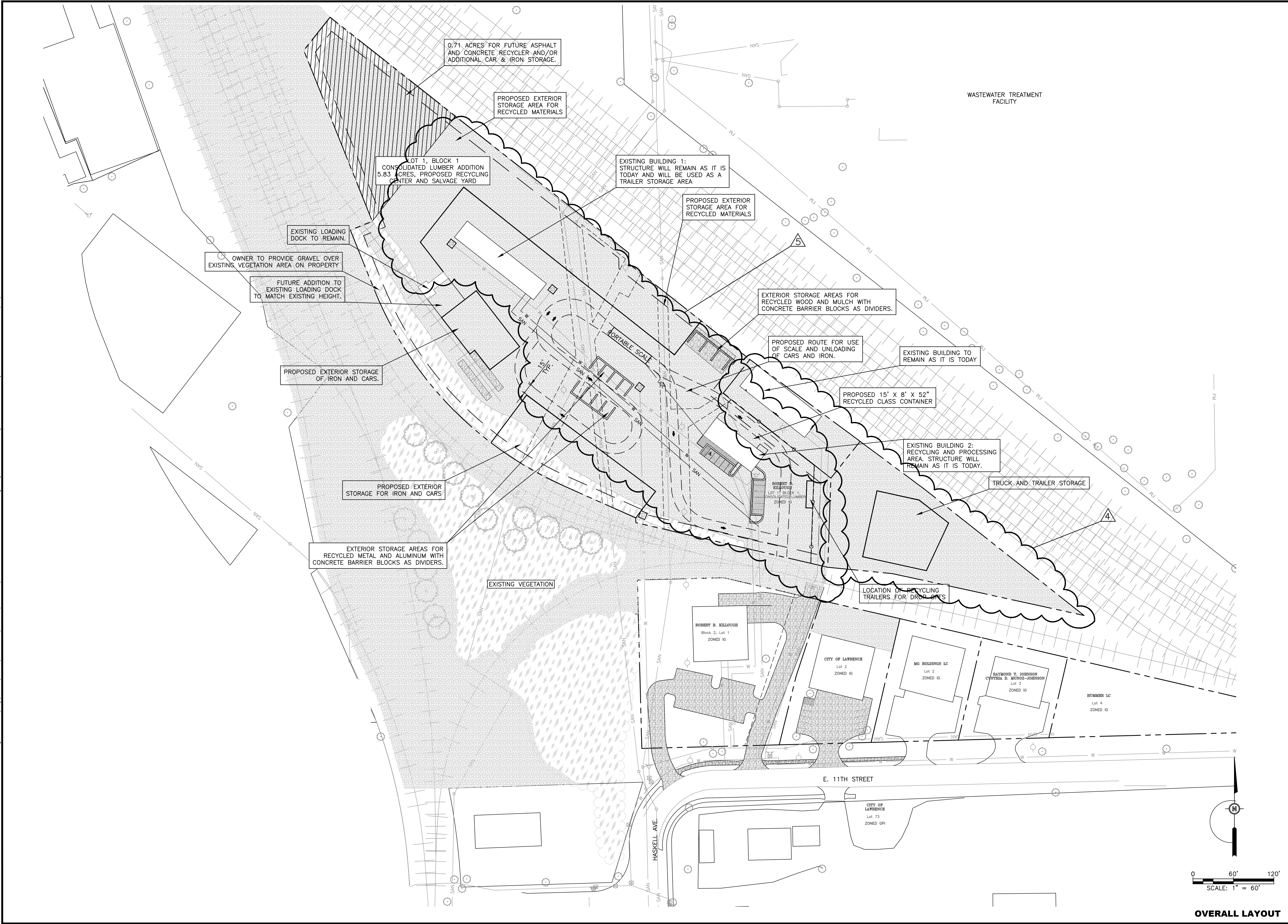
<b>BARTLETT &amp; WEST</b>	
544 COLUMBIA DR., LAWRENCE, KS 66044	
785.749.9445	
WWW.BARTLETTANDWEST.COM	

<b>12TH &amp; HASKELL RECYCLING CENTER</b>	
PROPOSED SITE PLAN	
1000 EAST 11 ST.	
LAWRENCE, KS 66044	

DESIGNED BY:	CBC
DRAWN BY:	CBC
APPROVED BY:	DRA
DESIGN PROJ:	18101.001
CONST PROJ:	
SCALE:	AS NOTED
DATE:	MAY 2012
DRAWING NO:	<b>SP-2</b>
SHEET NO:	2 of 6



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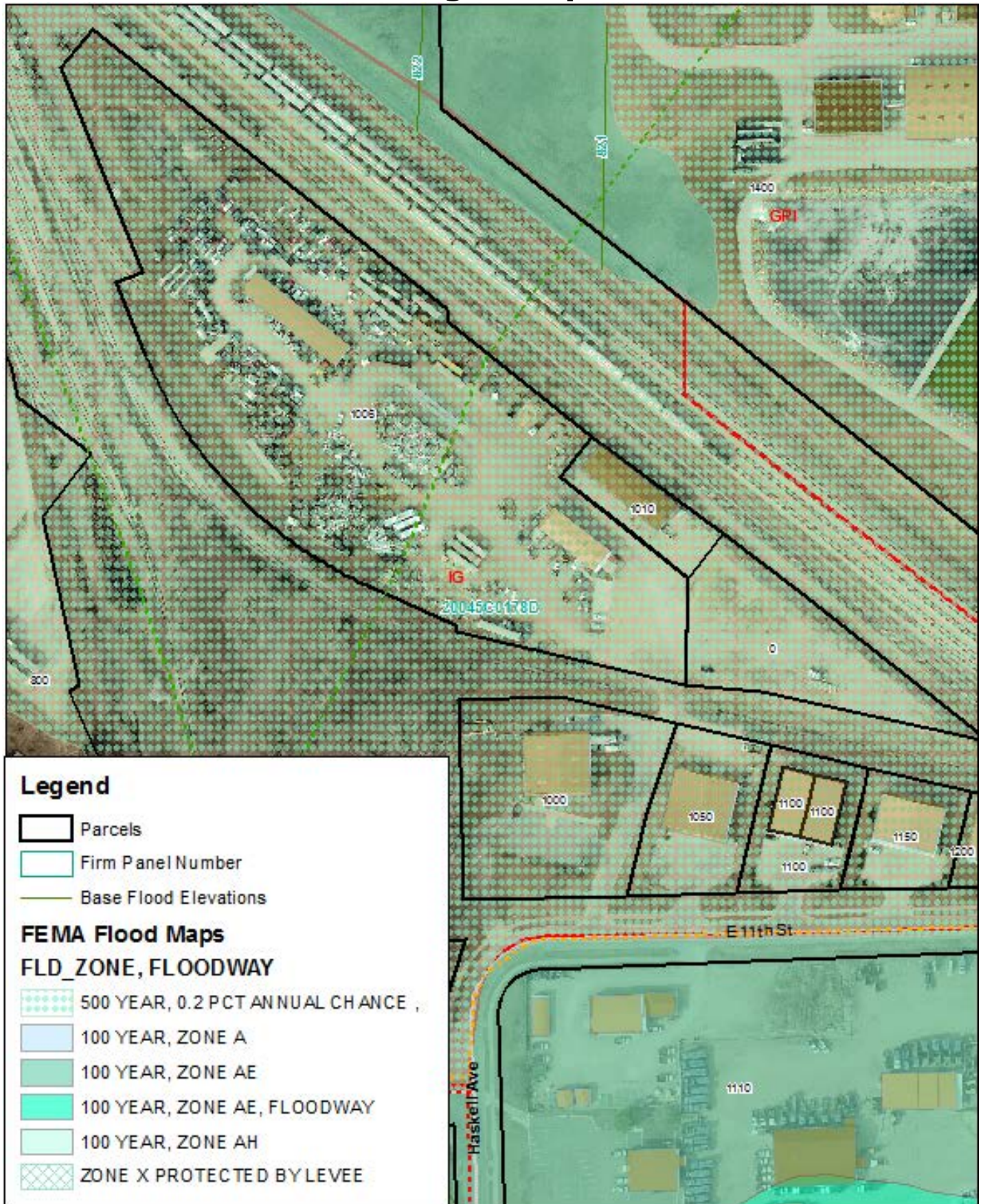
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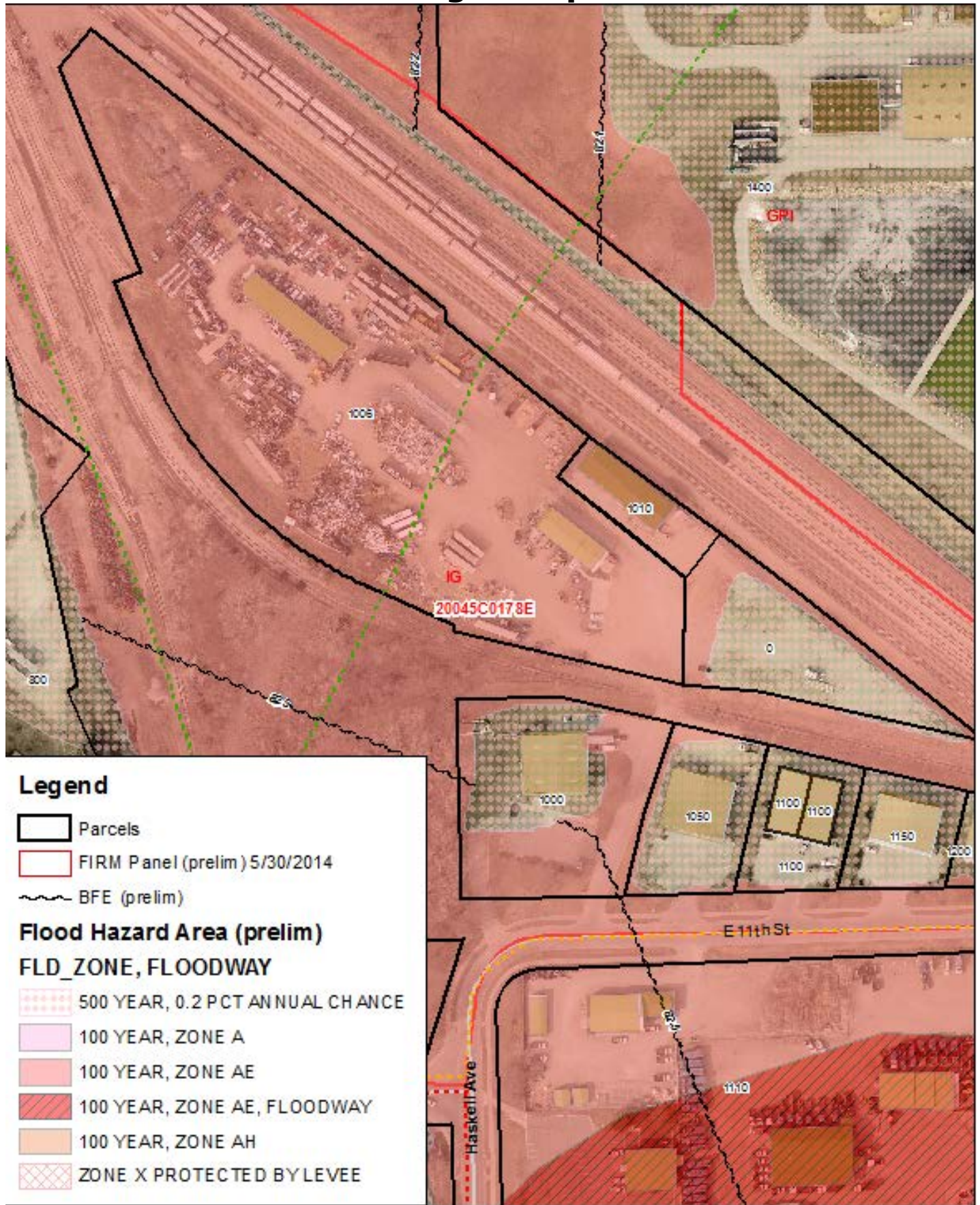


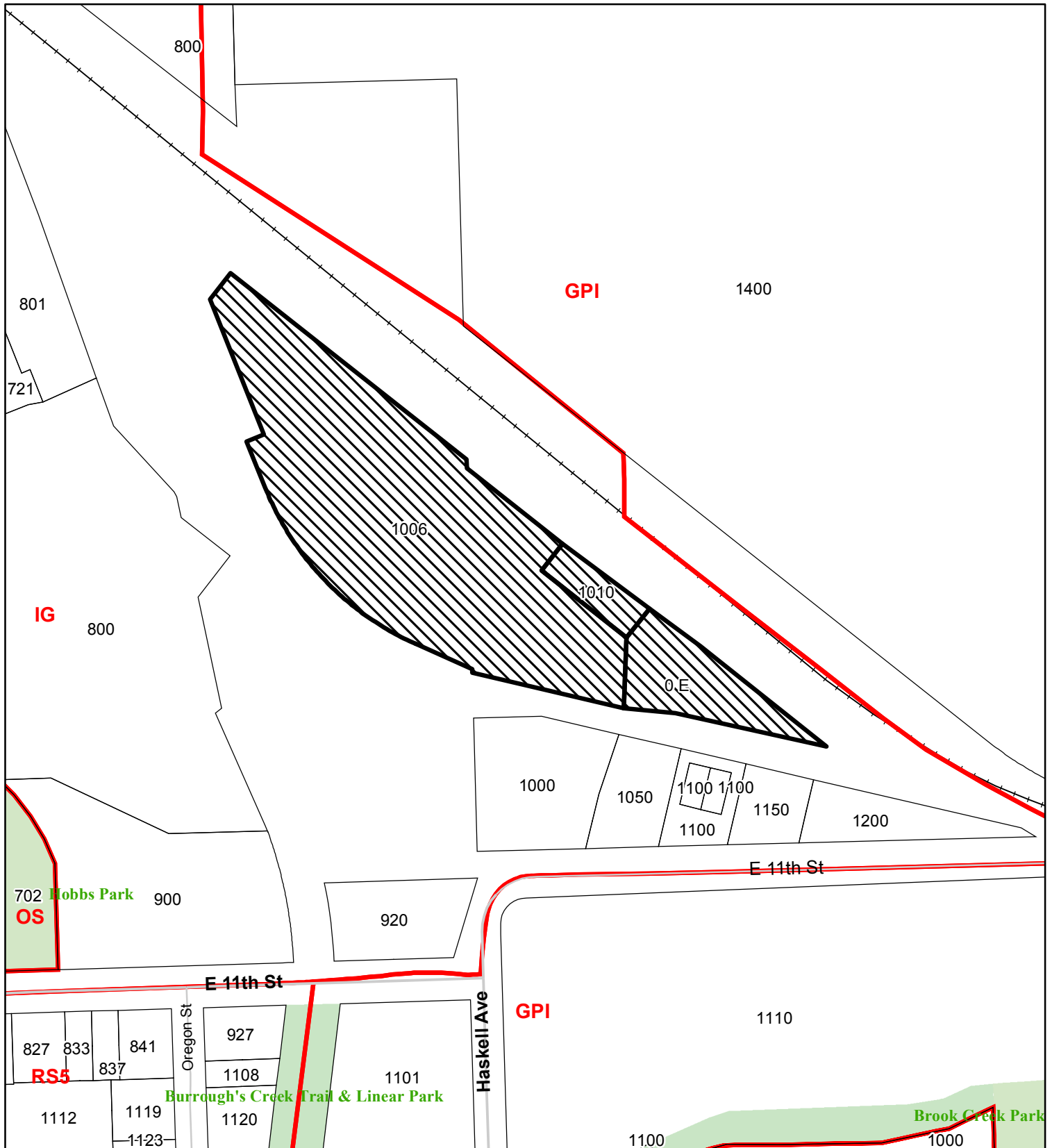
# Existing Floodplain






## Pending Floodplain





**SUP-15-00019: Special Use Permit for 12th & Haskell Recycle Center  
to Permit Expansion of Scrap and Salvage Operations  
Located at 1006 & 1010 East 11th Street**

Lawrence-Douglas County Planning Office  
March 2015

 Subject Property



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

PC Staff Report  
3/23/15

**ITEM NO. 4: CS-UC TO CS-UC; 0.27 ACRES; 804 PENNSYLVANIA ST (MKM)**

**Z-15-00022:** Consider a request to rezone approximately 0.27 acres from CS-UC (Commercial Strip with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban Conservation Overlay) District with modification to the zoning restriction to permit a bar use without a food sales requirement, located at 804 Pennsylvania St. Submitted by Flint Hills Holdings on behalf of Ohio Mortgage Investors LLC, property owner of record.

**STAFF RECOMMENDATION:** Staff provides the following options for action on the request to modify the CS zoning to remove the food-sales requirement from the *Bar* use:

- a) Denial of the rezoning request to remove the 55% food sales requirement for *Bar* uses, or
- b) Approval of the rezoning request with a condition stating that a *Bar* use without the food sales requirement is permitted only when approved with a Special Use Permit.

**APPLICANT'S REASON FOR REQUEST**

*"This request is being made because the current restrictions stated in Ordinance 8920, Section 2, item a. i. creates 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.*

*The bistro site plan and architectural layout will not change even after approval of the rezoning request—the concept is exactly the same. However, the requirement and logistics of reporting daily sales from the food trucks on site, in addition to their own in-house reporting, has turned off all aspiring business owners.*

*The building is only 1,300 gross square feet, so is a very small footprint for any type of use. However, surrounding business owners, property owners, clients and colleagues have requested a place to have lunch, carry out a meeting, or have a drink with others after work without having to get into a car and drive somewhere to achieve this.*

*We understand the spirit of the 45%/55% restriction when it was conceived to protect densely developed areas from becoming bar districts or to limit the number of bar establishments in a college town. However, this would be the first establishment within six blocks in any direction to serve alcohol. There is a clear need for this service. Additionally, this rezoning request would only impact this property, every other property in the neighborhood would have to go through the same process to lift this restriction should they choose to do so. Further, the ownership group of this building is the same ownership group of the Poehler Lofts and the Cider Gallery—properties that abut 804 Pennsylvania to the east and south respectively. There is no one with more to lose than this ownership group if this turns into a rowdy, disruptive bar because it will undoubtedly negatively impact those that live in the Poehler, office in the Cider Coworking Space, or wish to have an event in the neighboring courtyard*



*or gallery of the Cider Gallery. If there was any chance that this rezoning would cannibalize the surrounding properties, this request would never be submitted.”*

### 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 rezoning request under the State Preservation Law (K.S.A. 75-2724, as amended). This meeting is scheduled for March 26, 2015.



**Figure 1.** Historic structure on the property, site plan approved for use as a bar/bistro.

- The subject property and the surrounding area has been master-planned through the 8<sup>th</sup> and Pennsylvania Urban Conservation Overlay District.
- The subject property is regulated in part by the 8<sup>th</sup> and Penn Neighborhood Redevelopment Zone Design Guidelines. (Figure 2)
- The commercial zoning which was approved for portions of the 8<sup>th</sup> & Pennsylvania Urban Conservation Overlay District was conditioned with Ordinance 8054 in 2006 to limit the permitted uses. The conditioned zoning permits a *Bar* use only if 55% or more of the total receipts are from food sales.

The subject property was rezoned from the CS (Commercial Strip) District to the RM12D (Multi-Dwelling Residential) District in 2011 to remove the nonconformity status from use of the property; the building was used as a duplex residence at that time.

The property was then rezoned back to the CS District in 2013 with the same limited uses identified in Ordinance 8054 with a revision to the *Bar* use. The Rezoning Ordinance 8920, adopted in November 2013, included the following condition related to this use:

*Bars (unless, within a calendar year, 55% of gross receipts from said use are derived from the sale of food for consumption on the premises; said restriction shall be applied beginning on the two-year anniversary of the commencement of the use);*

The current rezoning request proposes the complete removal of the food sales requirement from the *Bar* use proposed at 804 Pennsylvania Street.

- In staff's opinion, a *Bar* use without an associated restaurant is not compatible with the nearby land uses unless the impacts are mitigated through site specific conditions which could be established with the approval of a Special Use Permit.

## ATTACHMENTS

- A. Permitted Use Table
- B. Rezoning Ordinances

## ASSOCIATED CASES

**Z-12-80-05:** Establishment of an Urban Conservation Overlay District for the 8<sup>th</sup> and Penn Neighborhood Redevelopment Zone and development of Design Guidelines. City Commission adopted on October 24, 2006 with Ordinance No. 8053. (Figure 2)

**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 condition 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-8-23-11:** 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. The Ordinance listed the following excluded uses:

- i. Bars (unless, within a calendar year, 55% of gross receipts from said use are derived from the sale of food for consumption on the premises; said restriction shall be applied beginning on the two-year anniversary of the commencement of the use);
- 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 are allowed);
- vii. Furriers;
- viii. Pawn Shop;
- ix. Mobile Home Sales and Service;
- x. Golf Driving Range;
- xi. Pet Store (animal sales)
- xii. Loan Office (short-term cash advance loans); and
- xiii. Convenience store with Gasoline Sales.



**Figure 2.** 8<sup>th</sup> & Penn Neighborhood Redevelopment Zone outlined. Subject property marked with a star.

**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.

**Other Action Required:**

- Historic Resources Commission approval. The rezoning has administrative approval with HRC confirmation set for March 26, 2015 HRC meeting.
- City Commission approval of rezoning request and adoption/publication of ordinance.
- Historic Resources Commission review will be required if any changes are proposed to the approved site plan, SP-14-00220.
- A building permit must be obtained prior to development.

**Project Summary**

The request proposes the rezoning of the property at 804 Pennsylvania from the CS-UC District to the CS-UC District to revise the condition listing the prohibited uses so that *Bar* uses would be allowed without the requirement to meet a 55% food sales requirement. The rezoning would accommodate the development of the property with a bar with accessory food sales from mobile food vendors without a 55%/45% ratio of food to alcohol sales.

A condition listed the prohibited uses, including the prohibition on bars unless the 55% food sales requirement is met, was applied with the rezoning of a portion of the 8<sup>th</sup> and Pennsylvania Urban Conservation Overlay District from industrial zoning to the C-5 (CS) District in 2006. The prohibition on uses was in response to concerns from the neighborhood regarding potential negative impacts the proposed mixed use development could have on the surrounding neighborhood.

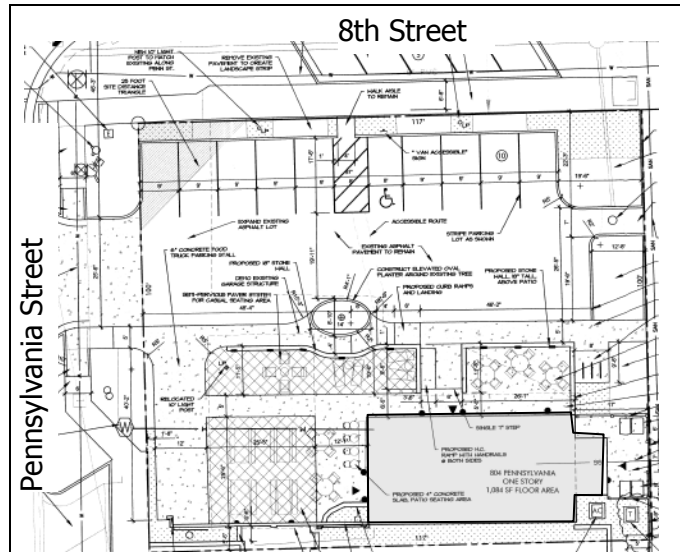
The 2013 rezoning of the subject property from the RM12D to the CS District was recommended for approval with the following options:

- 1) applying the same 55% food sale restriction as the rest of the CS-UC District,  
or
- 2) applying operational standards that could minimize negative impacts of the *Bar* use on the surrounding area.

At the September 23, 2013 Planning Commission meeting, the applicant indicated a preference for the 55% food sale requirement option if a longer time-frame could be provided for compliance. The applicant indicated that in the event that he was not able to meet the food sales requirement he would take a look at doing something closer to Option 2 (operational standards) in the future. The rezoning request was approved with a revised condition allowing 2 years for the *Bar* to come into compliance with the 55% food sales requirement.

The current rezoning request proposes a revision to the list of prohibited uses so that a *Bar* would be permitted on the subject property without the need to achieve 55% of total sales receipts from food sales. There would be no changes to the conditions which apply to the other properties in the 8<sup>th</sup> and Penn CS-UC District. A complete list of uses that are currently permitted in the CS District noting those uses restricted with the 8<sup>th</sup> and Penn CS-UC Zoning is included in Attachment A.

The applicant indicated that there would be no change in the development proposed for the site, which was approved with SP-14-00220. (Figure 3) This site plan approved a bar with 1084 sq ft of interior customer service area, 1,565 sq ft of outside seating area and a location for two Mobile Food Vendors. The intent was to have the food sales from the Mobile Food Vendors make up the 55% Food Sales Requirement. The applicant indicated that they've had difficulty finding operators who felt confident they could meet the 55% food sales requirement; therefore, they are requesting the removal of that requirement.



**Figure 3.** Approved site plan, SP-14-00220 for Bar with Mobile Food Vendor locations.

## REVIEW & DECISION-MAKING CRITERIA

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

*"The CS zoning designation will remain if this request is approved, so this will have no impact on the Horizon 2020 Comprehensive Plan. It is still in concert with the city's long-range plans."*

This request is governed by general policies of *Horizon 2020* and the *8<sup>th</sup> and Penn Neighborhood Redevelopment Zone Design Guidelines*, which are standards used to implement the 8<sup>th</sup> and Pennsylvania Urban Conservation Overlay District. *Horizon 2020* is the focus of this section of the report. The *8<sup>th</sup> and Penn Neighborhood Redevelopment Zone Design Guidelines* are discussed later in this report.

The CS Zoning Designation, with proposed conditional uses, was reviewed and found to be in conformance with the Comprehensive Plan with the earlier rezonings of this property to the CS District (Z-01-01-06 and Z-13-00287). The current rezoning request would not change the CS Zoning District but would remove the zoning condition which limits the *Bar* use to those in which food sales make up 55% of the total sales receipt. Therefore, this section looks at the compliance of the request to include a *Bar* as a permitted use with the recommendations in the Comprehensive Plan.

Chapter 6 of the Comprehensive Plan provides the following recommendation for a Mixed-use district:



*"Mixed-use districts shall include a mix of uses designed to maintain the character of the surrounding neighborhood, achieve integration with adjacent land uses, and be no larger than 20 acres in size."*(Page 6-6, *Horizon 2020*)

Policy 2.2: *"Locate Less Compatible Uses Toward the Interior of Commercial Areas."*(Page 6-28, *Horizon 2020*)

Policy 3.4: Criteria for Mixed-Use Districts

D. *"Mixed-Use Districts shall maintain the character of the surrounding neighborhoods by:*

- a. Achieving integration with adjacent land uses by providing transitions through alleyways, variation among development intensity, and implementation of landscape buffers;*
- b. Incorporating existing structures wherever possible;*
- c. Maintaining general structure spacing, massing, scale, and street frontage relationship when incorporating new structures."*(Page 6-31, *Horizon 2020*)

The Comprehensive Plan recommends a mix of uses and recommends that the uses be designed to maintain the character of the surrounding neighborhood. The plan does not specifically prohibit or designate certain uses as being incompatible with other uses, but does recommend that less compatible uses be located toward the interior of commercial areas.

The Comprehensive Plan recommends the use of high density residential as a transition between higher intensity uses, such as commercial and lower density residential uses. (Policy 1.3, Page 5-23, *Horizon 2020*) The zoning map in Figure 4 shows the area zoned for industrial, commercial, and high density residential uses. Higher intensity commercial uses would appear to be appropriate based on the zoning of the area. However, this area has been developed with primarily single-dwelling homes on approximately 5890 sq ft lots (medium density residential). While the proposed use is a good fit with the zoning of the area, the use must be reviewed in context of the development in the area to insure compatibility.

**Staff Finding** –The Comprehensive Plan recommends that mixed use development be designed to maintain the character of the surrounding neighborhood and achieve integration with adjacent land uses. Compliance with the provisions of the *8<sup>th</sup> and Penn Neighborhood Redevelopment Zone Design Guidelines* will insure compatibility of the design with the physical character of the surrounding neighborhood. The proposed use is a good fit with the zoning of the area; however, the introduction of a *Bar* use into the area may have an impact on the character of the nearby single-dwelling residential neighborhood due to possible negative impacts associated with the noise and activity of outdoor seating areas. If a *Bar* use is to be permitted in this area, it should require approval through a Special Use Permit so that site specific standards and conditions can be applied to insure compatibility.

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

Current Zoning and Land Use: CS-UC\* (Commercial Strip with Urban Conservation Overlay) District; vacant building which has site plan approval for development as a Bistro with accessory bar (55% food sales may be accomplished through Mobile Food Vendors).

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 4)



**Figure 4a.** Zoning of area. Subject property is outlined. Hatched area indicates conditional zoning.



**Figure 4b.** Land use in the area. Subject property is outlined.

\*The subject property and the adjacent properties to the south and west are not only located within an Urban Conservation Overlay zone, but the CS zoning was conditioned via the adopting ordinance (Ord 8054). Per the conditions of the zoning, the following uses are prohibited in this district:

- Bars [unless 55% of gross receipts are derived from food sales as outlined in 20-509(5)(i)] (Subject property has a slightly revised condition which allows 2 years to meet this requirement.)
- Liquor Store
- Ambulance Service
- Car or Truck Wash
- Auto Repair
- External drive-through ATM or drive-through window [walk-up ATM's are allowed]
- Furriers
- Pawn Shop
- Mobile Home Sales and Service
- Golf Driving Range
- Pet Store [animal sales]
- Loan Office [short-term cash advance loans]
- Convenience store with Gasoline Sales

**Staff Finding** – The surrounding properties are zoned IG, CS (with conditions as noted above), and RM32 within the Urban Conservation Overlay District and are part of the 8<sup>th</sup> and Penn Neighborhood Redevelopment District. The area contains a mix of single and multi-dwelling residential, retail, industrial, and office uses.

### 3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

*"East Lawrence is one of the most vibrant neighborhoods in Lawrence. It is rich in history and culture, and has been the primary reason development growth and evolution has taken place in what is known as the Warehouse Arts District. East Lawrence is an eclectic mix from young to old, Lawrence natives and those that just recently moved to town. It is a walkable neighborhood and artists and their work are on display in every corner. This establishment is aimed to serve that clientele and to attract others looking to feed off of the creative energy found in the area. This establishment will directly support the 35 businesses within a 1-block radius and the 92 occupied 1, 2, and 3 bedroom apartment units within the same block. There is not another establishment close that can offer this service, and this establishment will fill a need that has been requested by those living and working in the area."*

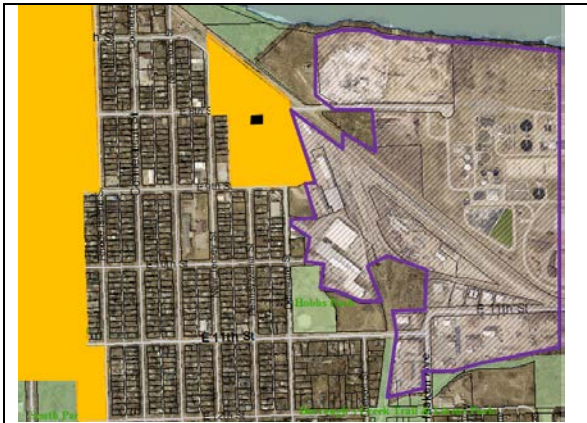
The area containing the subject property is served by Local Streets in a grid pattern. A network of Collector Streets (New Hampshire, Connecticut, E 7<sup>th</sup>, and E 9<sup>th</sup> Streets) are located in the western part of this area. The neighborhood contains industrial, retail, office, and residential uses and clearly reflects the mixed use nature of East Lawrence. In addition, several historic properties and historic districts are present in the area. (Figure 5)

The area to the east of the 8<sup>th</sup> & Penn Urban Conservation Overlay District is industrially zoned and has been developed with industrial land uses which include a concrete plant, a wastewater treatment plant, a recycling scrap and salvage center, a publishing company, and City fleet storage and material yards. The 8<sup>th</sup> and Penn area is intended to be a transitional area between the residential areas to the south and west and the more intense industrial uses to the north and east.

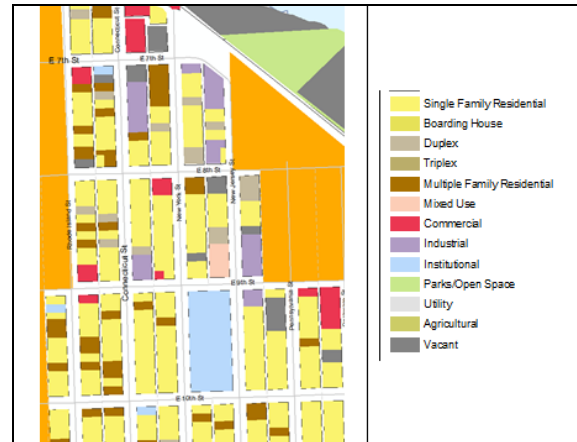
The Downtown Urban Conservation and 8<sup>th</sup> and Pennsylvania Street Urban Conservation Overlay Districts are both located in this area. The Urban Conservation Overlay Districts are intended to conserve the cultural resources, historic resources and property values within an identified neighborhood or area. The Downtown Conservation Overlay District, to the west side of the map in Figure 7, contains a mix of uses with the majority being retail, eating and drinking establishments, office, and residential uses. The 8<sup>th</sup> and Pennsylvania Street Urban Conservation Overlay District consists of a mix of residential, retail, office, warehouse, and manufacturing and production uses.

The remainder of this area, which is unmarked in Figure 6, is developed with a mix of residential, commercial, industrial, and office uses. The mix of uses in this area are illustrated in Figure 7.





**Figure 6.** Conservation Overlay Districts -gold. Industrial uses -purple. Parkland -green. Subject property-black.



**Figure 7.** Land uses per Appraisers records (Excluding the Urban Conservation Overlay Districts).

**Staff Finding** – The neighborhood contains a mix of industrial, residential, office, and retail uses as well as numerous historic properties. The Downtown and 8<sup>th</sup> and Penn Urban Conservation Overlay Districts are both located within this area. The 8<sup>th</sup> and Penn Urban Conservation Overlay District serves as a transition between the more intense industrial uses to the north and east and the residential areas to the west and south. The proposed *Bar* use could be a good fit in the neighborhood if the outdoor activity area was limited to minimize any negative impacts to the nearby residential uses.

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

The subject property is located within the East Lawrence Neighborhood. A land use plan was adopted for the East Lawrence Neighborhood in 1979 designating the property for industrial uses. A more recent plan, the *East Lawrence Neighborhood Revitalization Plan*, was adopted in November of 2000. The Revitalization Plan is an action plan for maintaining and improving the vitality of the neighborhood rather than a land use plan. This area of East Lawrence is undergoing a revitalization with the recent reuse of the Poehler Building for affordable housing, construction of Delaware Street, rehabilitation of Pennsylvania Street to its historical brick surface, ongoing construction of additional housing at 9 Del Lofts (900 Delaware Street), the reuse of the Cider Building (810 Pennsylvania Street) as gallery and office space, and addition of art studios and gallery space in the industrial building at 720 Delaware. In addition, the 9<sup>th</sup> Street Corridor Project has received funding and a design to reconstruct and revitalize six blocks of E 9<sup>th</sup> Street from Delaware to Massachusetts Street is in the planning process.

The *8<sup>th</sup> and Penn Neighborhood Redevelopment Zone Design Guidelines*, adopted in January of 2007, was the result of a collaborative planning effort that included participation from the property owners, East Lawrence Neighborhood Association, and other stakeholders. The guidelines recommend a mix of uses in this area, with a limitation on retail to prevent it from being the predominate use.

The Guidelines designate the subject property within Zone 1 of the district and note:

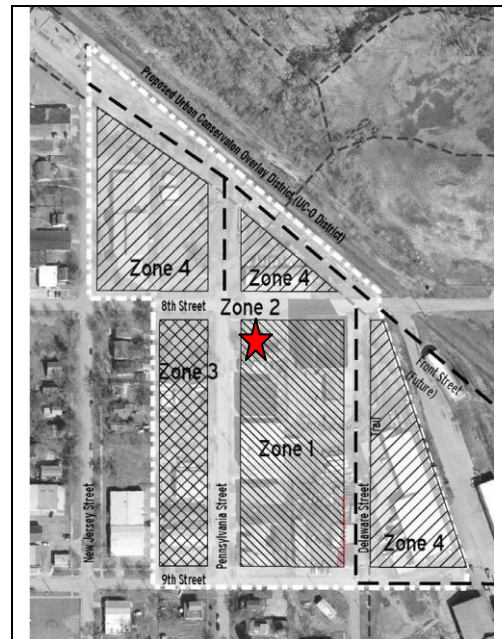


*"The centerpiece of the redevelopment zone is the group of masonry manufacturing buildings bounded by East 8<sup>th</sup> Street on the north, Pennsylvania Street on the west, Delaware Street on the east, and East 9th Street on the south that is eligible for listing as a historic district in the National Register of Historic Places. These industrial buildings range from one story to four stories in height and date from the 1880s through the 1920s. The buildings are ideal candidates for rehabilitation into mixed adaptive uses that will allow them to retain the necessary level of historic architectural integrity to continue to contribute to an understanding of the historic district's associations with commerce and architecture in Lawrence." (page 8)*

The Guidelines do not regulate uses except to note that big box retail uses are not desired. The plan contains the following recommendations regarding land use:

*"Namely, neither the Developer, City, nor the East Lawrence Neighborhood Association, desires this property to be developed for 'big box' retail uses or as an area that is principally retail in use. As such, retail uses shall be limited to a maximum of 25% of the net floor area for the UC-O District (See Appendix B) In addition, as the Poehler Mercantile Company building is to serve as the anchor and focus of the UC-O District, in no case shall a single retail shop or tenant occupy net floor area in excess of 16,000 square feet at ground level. A single retail shop or tenant may occupy in excess of 16,000 if they occupy multiple floors." (Page 11)*

The remainder of the Guidelines deals with physical design elements.



**Figure 8.** Overlay District Boundaries and Zones. Subject property marked with a star.

**Staff Finding –** The land use plan for the area encourages the retention of a mix of uses and the conservation of affordable housing stock, but does not recommend specific land uses. The proposed rezoning from CS-UC to CS-UC with revised conditions to remove the 55% food sales requirement is consistent with the recommendations of the plan for the area as the net floor area for retail uses shall remain under the 25% threshold. However, the requested rezoning is not consistent with the restricted uses for the Commercial portion of the Urban Conservation Overlay District established with the adoption of Ordinance 8054.

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

Applicant's Response:

*"The only restriction hindering us from beginning construction and signing a contract with a business owner right away is the burden of the 45%-55% restriction when applying to this specific property. The concept has been consistently well received by the neighborhood, business owners, neighbors, and food and beverage experts. The property owners are not well versed in the food service industry, so they defer to those that know. However, what has not been received well is finding an owner/operator that believes the 45%/55% threshold*

*is achievable given the size of the building and the reporting restraints that come with it.*

*This building was built in the late 1880's and is an historic asset to the neighborhood, but with historic buildings come problems that new construction does not face. As preservationists, it is not an option to tear this building down and rebuild a brand new commercial kitchen with ample interior square footage. It would be a travesty to tear down a building so rich in history and distinction. However, the simple act of removing this restriction would allow for the public to get to experience this building while providing an arena for a new business owner to succeed."*

The building is relatively small and it may be difficult to develop it with a restaurant and bar observing the 55%/45% food to alcohol sales ratio. A demolition permit has been obtained to remove the garage structure to the west of the principal structure. This is the area that has been designated for Mobile Food Vendors on the approved site plan. It may be possible to build a commercial kitchen in this location.

A variety of uses are permitted in the CS Zoning, including a *day care center, health care office/clinic, offices* (with the exception of short term loan offices), *general retail sales* (with the limitations on furriers, pawn shops, etc. listed in the zoning ordinance), *personal improvement* (such as yoga or fine art studio), and *personal convenience* (such as beauty shop). The property appears to be suitable for the *Bar* use (55% food sales) that is permitted with the current zoning, or a modification to allow the *Bar* use without the food sales requirement while addressing the impacts, such as requiring a Special Use Permit or setting operational conditions on the use; however, the property is suitable for many other uses permitted in the current zoning district given the expanding residential base.

**Staff Finding** – In staff's opinion, the property is suitable for the *Bar* use with the 55% food sales requirement, but if it is not possible to accomplish the food and alcohol sales ratio, the property is suitable for various other uses permitted in the CS District or for a *Bar* with operational conditions that address potential impacts.

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

Applicant's response:

*"This property has remained vacant as long as it has been classified as CS zoning. We have advertised for non-service industry use as well with no success. The previous use was a residential duplex, but we believe that would not be an appropriate use of the building given the needs of the neighborhood. Residential developments have been very successful in close proximity, but there is a consensus that food and beverage establishments are needed down here for the area to take the next step in returning on the public and private investment.*

The subject property was developed in the late 1800s or early 1900s. The industrial building was converted to a duplex in 1984. The property was rezoned from CS to RM12D in 2011 to remove the nonconforming status from the duplex use. The property was rezoned to the CS District in 2013 in preparation for development as a bar/bistro and was vacant at that time.

**Staff Finding** – The property was developed in the late 1880s or early 1900s. The building has been vacant since being rezoned to the CS District in 2013.



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

Applicant's response:

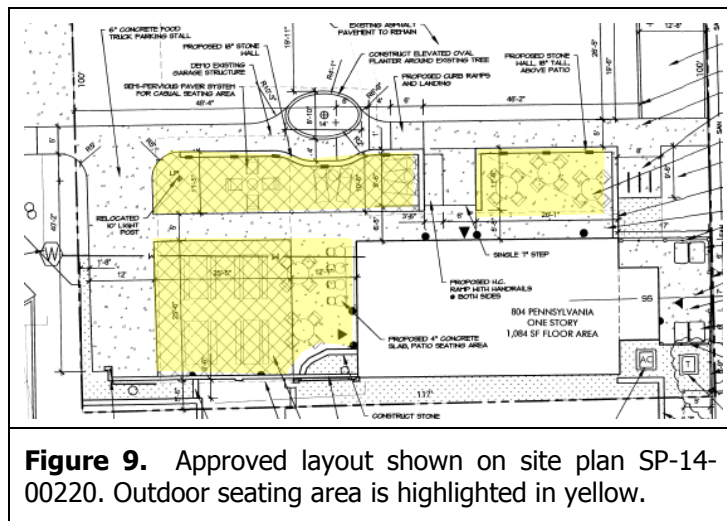
*"Seeing as how the concept for the restaurant will not change if approval is given, the impact will be exactly the same as our previously approved site plan and concept. This will not become a loud, obnoxious, collegiate bar. We aim to serve those in the neighborhood and anything that is not respectful to their wishes and offering a product they will not enjoy is counterproductive to all. Food trucks will still have a place on site. Coffee and baked 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 55% food sales requirement was placed on the *Bar* use with the original rezoning to the C-5 District in 2006 in response to concerns raised from the neighborhood regarding possible negative impacts the mixed use development could have on the existing residential uses in the area. The outdoor seating area associated with a *Bar* could be noisy in late evenings and create a nuisance to nearby residences. The *Bar* use could have been restricted in order to prevent the development of an entertainment district in this inner neighborhood area. Either of these factors could be incompatible with the existing residential land uses.

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 1200 sq ft while the outdoor seating area has an area of approximately 1,240 sq ft. The site plan depicts 32 chairs and 4 picnic tables in the outdoor seating area. (Figure 9)

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 addition, the timing and amount of traffic generated by a bar as well as noise associated with patrons leaving at late hours, could also negatively impact the nearby properties.



The condition requiring the majority of the sales to be from food sales limits the amount of sales that can be derived from alcohol and thereby defines the character of the establishment as a restaurant with accessory sales of alcohol. Without this condition the establishment would be a stand-alone bar. In staff's opinion, the primary source of possible negative impacts with the surrounding properties would be the outdoor seating area, the timing and quantity of traffic generated by the use, and the late operating hours.

It may be appropriate to place operating restrictions on the *Bar* use, in lieu of the food sales requirement, to insure compatibility with the surrounding area. Operating restrictions that could be used to mitigate the negative impact associated with the noise, timing of traffic, and outdoor activity could be a time limit on amplified music in the outdoor area or an early closing time. These standards may be too specific for conditional zoning and development would be more appropriate through the Special Use Permit process.

**Staff Finding** – The proposed rezoning could negatively impact nearby properties through noise typically associated with a bar with an outdoor seating area. The negative impact could be mitigated by retaining the 55% requirement for food sales, or by requiring a Special Use Permit for a *Bar* use so that operational standards and conditions can be set.

**7. 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:

*"First and foremost, a productive, occupied building is much better for the city of Lawrence, the citizens of Lawrence and the landowner above all else. We are extremely confident that if this rezoning request was granted, a business operator/owner would sign a contract and we would be a few months away from having another business in East Lawrence that all could be proud to support. If not granted, there is no doubt that we will continue to struggle to find an operator that is willing to take on the aforementioned risk of starting a business under the current restrictions. The city is heavily invested in the district (specifically on this block of Pennsylvania) to date, and this is a great opportunity to begin to see some of the return on that investment.*

*Finally, although difficult to quantify, this development will be another step in the right direction to add to the lifestyle people are drawn to in East Lawrence and the Warehouse Arts District. Although it has always been significant to many in town in prior decades, the WAD has attracted people to live, work and play for about three years now and they all like tapping onto the creative energy that exists down here. Jobs have been created, businesses have grown, art is given a place to be shared and created and it seems the more exposure given to the area the important a destination it has become. This rezoning needs approval to add to the mix of activities in the area and balance out the residential and office space that already is near full occupancy. This development will offer a place to relax, unwind, connect with colleagues/clients, or reconnect with neighbors. It will be an asset to the area and to Lawrence when the design is implemented."*

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.

If the rezoning to remove the 55% food sales requirement was denied, the property could be used for a bar that is accessory to a restaurant or for other uses permitted within the CS-UC District, if it is not possible to meet the food sales requirement. This may benefit the community by maintaining the quiet, residential nature of the surrounding area.

If the rezoning to allow a *Bar* without the 55% food sales requirement was approved, with the establishment of operational standards; it may be possible to operate a bar at this location without negatively impacting the character of the surrounding area.

The hardship to the applicant from the denial of the rezoning request would be that the rezoning would not allow the development of the proposed *Bar* use. The property would remain viable for the other uses permitted within the district.

**Staff Finding** – Denial of the rezoning request to the CS District with revised conditions to remove the 55% food requirement from the *Bar* use would permit the development of a bar only when accessory to a restaurant. The intensity (activity and noise level) of the outdoor areas associated with bars could affect the character of the area. The character of the area could be maintained through the denial of the request to revise the zoning condition which requires that 55% of the total sales be from food sales or through approval of the rezoning request to allow the use when approved as a Special Use so that operational standards could be developed.

#### **PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed location for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning request is compliant with recommendations for mixed use development in *Horizon 2020*.

Staff recommends retaining the 55% food sales requirement for *Bar* uses and adding a *Bar* use without the 55% food sales requirement when approved with a Special Use Permit. The Special Use Permit will allow for the development of site specific conditions and standards to minimize negative impacts associated with the use.

USES PERMITTED IN THE CS DISTRICT (Restrictions for 8 <sup>th</sup> & Penn CS-UC District noted in red)	
HOUSEHOLD LIVING	RETAIL SALES & SERVICES
Multi-Dwelling Structure	Building Maintenance
Non-Ground Floor Dwelling	Business Equipment
Work/Live Unit	Business Support
GROUP LIVING	Construction Sales and Service
Group Living-General (requires a SUP)	Food and Beverage
COMMUNITY FACILITIES	Mixed Media Store
Cemetery	Personal Convenience
College/University	Personal Improvement
Day Care Center	Repair Service, Consumer
Day Care Home, Type A and B	Retail Sales, General (liquor store prohibited,)
Lodge, Fraternal & Civic Assembly	Retail Establishment, Large (requires SUP)
Postal & Parcel Service	Retail Establishment, Medium
Public Safety (ambulance service prohibited)	Retail Establishment, Specialty
School	SEXUALLY ORIENTED BUSINESSES
Funeral and Interment	Sex Shop
Temporary Shelter (SUP or Accessory)	Sexually Oriented Theater
Social Service Agency	TRANSIENT ACCOMMODATION
Community Meal Program (SUP or Accessory)	Campground
Utilities Minor	Hotel, Motel, Extended Stay
Utilities Major (SUP)	VEHICLE SALES AND SERVICE
MEDICAL FACILITIES	Cleaning (Car Wash) Restricted
Health Care Office, Health Care Clinic	Fleet Storage
Outpatient Care Facility	Gas and Fuel Sales Prohibited
RECREATIONAL FACILITIES	Heavy Equipment Repair Prohibited
Active Recreation	Heavy Equipment Sales and Rental
Entertainment & Spectator Sports	Inoperable Vehicle Storage
Participant Sports	Light Equipment Repair Prohibited
Passive Recreation	Light Equipment Sales/Rentals
Nature Preserve	RV and Boat Storage
Private Recreation	INDUSTRIAL
RELIGIOUS ASSEMBLY	Laundry Service
Campus or Neighborhood Institution	Mfg and Production Lmt'd (SUP)
ANIMAL SERVICES	Mfg and Production Technical
Kennel	Research Service
Livestock Sale (requires a SUP) Prohibited	WHOLESALE STORAGE AND DISTRIBUTION
Sales & Grooming (Sales Prohibited)	Exterior (must be accessory)
Veterinary	Heavy (requires SUP)
EATING AND DRINKING ESTABLISHMENTS	Light
Accessory Bar (must be accessory)	Mini-warehouse
Bar or Lounge (55% food sales required)	AGRICULTURAL
Brewpub	Agricultural Sales
Fast Order Food	Crop Agriculture
Fast Order Food with Drive-in	COMMUNICATIONS FACILITIES
Nightclub	Amateur & receive only antennas (accessory)
Private Dining Establishment	Communications Service Establishment
Quality Restaurant	Telecommunications antenna (accessory)
OFFICE	Telecommunications tower (SUP)
Administrative and Professional	Satellite Dish (accessory)
Financial, Insurance & Real Estate (Short-term cash advance loans, Drive up ATM or window prohibited.)	
Other	RECYCLING FACILITIES
PARKING FACILITIES	Large Collection
Accessory and Commercial	Small Collection

Z-12-80-05

ORDINANCE NO. 8053

AN ORDINANCE ESTABLISHING THE 8<sup>TH</sup> AND PENNSYLVANIA STREET URBAN CONSERVATION OVERLAY DISTRICT; AMENDING THE ZONING DISTRICT MAP INCORPORATED BY REFERENCE IN SECTION 20-108, OF THE "CODE OF THE CITY OF LAWRENCE, KANSAS, 2006 EDITION," AND AMENDMENTS THERETO.

WHEREAS, after due and lawful notice and hearing, the Lawrence-Douglas County Metropolitan Planning Commission on May 22, 2006, recommended that the "8<sup>th</sup> and Pennsylvania Street Urban Conservation Overlay District" be established for the area within the City of Lawrence, Douglas County, Kansas, described in Section II of this ordinance.

WHEREAS, after due and lawful notice the recommendation came on for hearing before the governing body of the City of Lawrence, Douglas County, Kansas on August 8, 2006, and after due consideration and deliberation the recommended establishment of the "8<sup>th</sup> and Pennsylvania Street Urban Conservation Overlay District" was authorized.

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

SECTION I. The above stated recitals are by reference incorporated herein, and shall be as effective as if repeated verbatim.

SECTION II. That the "8<sup>th</sup> and Pennsylvania Street Urban Conservation Overlay District" classification for the following described area situated in the City of Lawrence, Douglas County, Kansas, to-wit:

COMMENCING AT THE CENTER OF THE INTERSECTION OF 8<sup>TH</sup> STREET AND NEW JERSEY STREET RIGHTS-OF-WAY; THENCE EAST ALONG THE CENTERLINE OF 8<sup>TH</sup> STREET RIGHT-OF-WAY TO THE INTERSECTION OF THE EXTENDED CENTERLINE OF THE ALLEY BETWEEN NEW JERSEY STREET AND PENNSYLVANIA STREET; THENCE SOUTH ALONG THE CENTERLINE OF SAID ALLEY TO THE CENTERLINE OF 9<sup>TH</sup> STREET RIGHT-OF-WAY; THENCE EAST ALONG THE CENTERLINE OF 9<sup>TH</sup> STREET RIGHT-OF-WAY TO THE EAST LINE OF DELAWARE STREET RIGHT-OF-WAY, WHICH IS ALSO THE WEST LINE OF LOT 1, MCDONALD BEVERAGE ADDITION; THENCE NORTH 15 FEET ALONG THE WEST LINE OF LOT 1, MCDONALD BEVERAGE ADDITION TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE ALONG THE NORTH LINE OF LOT 1, MCDONALD BEVERAGE ADDITION, WHICH ALSO IS THE SOUTH LINE OF LOT 2, POEHLER ADDITION, TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTHERLY ALONG THE EAST LINE OF THE FINAL PLAT OF POEHLER ADDITION TO THE NORTHEAST CORNER OF LOT 1, POEHLER ADDITION; THENCE CONTINUING NORTHERLY ALONG AN EXTENDED EAST LINE OF POEHLER ADDITION TO THE APPROXIMATE CENTERLINE OF THE BNSF RAILWAY RIGHT-OF-WAY; THENCE NORTHWEST FOLLOWING THE APPROXIMATE CENTERLINE OF SAID BNSF RAILWAY RIGHT-OF-WAY TO THE INTERSECTION OF THE EXTENDED CENTERLINE OF



NEW JERSEY STREET RIGHT-OF-WAY; THENCE SOUTH ALONG THE CENTERLINE OF NEW JERSEY STREET RIGHT-OF-WAY TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED AREA INCLUDES THE FOLLOWING LEGALLY DESCRIBED PROPERTIES:

EVEN NUMBERED LOTS 14 – 36 ON PENNSYLVANIA STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS

ODD NUMBERED LOTS 15 – 37 ON PENNSYLVANIA STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS

EVEN NUMBERED LOTS 14 – 24 ON NEW JERSEY STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS

LOTS 1 & 2, POEHLER ADDITION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS

ODD NUMBERED LOTS 1 – 23 ON DELAWARE STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS

BEGINNING AT THE NE CORNER OF LOT 1 ON DELAWARE STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; THENCE EAST 75 FEET MORE OR LESS TO THE NW CORNER OF LOT 1, POEHLER ADDITION; THENCE SOUTH ALONG THE WEST LINE OF LOT 1, POEHLER ADDITION A DISTANCE OF 250.49 FEET; THENCE EAST 30 FEET ALONG THE SOUTH LINE OF SAID LOT 1; THENCE SOUTH 350.66 FEET ALONG THE WEST LINE OF LOT 2, POEHLER ADDITION; THENCE WEST 75 FEET MORE OR LESS TO THE SE CORNER OF LOT 23 ON DELAWARE STREET; THENCE NORTH 600 FEET MORE OR LESS TO THE POINT OF BEGINNING.

ODD NUMBERED LOTS 1 – 13 ON PENNSYLVANIA STREET, TOGETHER WITH THE VACATED ALLEY ADJACENT TO LOT 1 ON THE NORTH SIDE THEREOF AND ALL OF THE VACATED PENNSYLVANIA STREET RIGHT-OF-WAY ADJACENT TO SAID LOTS, IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.

ALL THAT PART OF RESERVE NUMBER 11 IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, LYING SOUTH AND WEST OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT ON THE NORTH LINE OF 8<sup>TH</sup> STREET WHICH LIES 312.5 FEET EAST OF THE NORTHEAST CORNER OF 8<sup>TH</sup> AND PENNSYLVANIA STREETS; THENCE NORTHWESTWARDLY TO A POINT IN THE NORTH LINE OF SAID RESERVE 11 WHICH LIES 16.1 FEET EAST OF THE NORTHWEST CORNER OF SAID RESERVE 11, SAID LINE BEING ESTABLISHED BY THE DEED TO THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY RECORDED IN DEED BOOK 114 AT PAGE 541; AND THE EAST HALF OF PENNSYLVANIA STREET ADJACENT TO SAID TRACT VACATED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS AS RECORDED IN BOOK 342 AT PAGES 619-620, DOUGLAS COUNTY, KANSAS.

is hereby established as such district is defined and prescribed in the Development Code of the City of Lawrence, Kansas, effective July 1, 2006, and amendments thereto. In addition, the



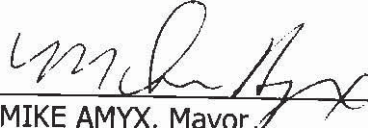
"Design Guidelines – 8<sup>th</sup> and Penn Neighborhood Redevelopment Zone" are also adopted, and shall apply to development/redevelopment within the area described above.

SECTION III. That the Zoning District Map incorporated by reference in and by Section 20-108 of the "Code of the City of Lawrence, Kansas, 2006 Edition" is hereby amended by showing and reflecting thereon the new urban conservation overlay district classification for the aforesaid area, as set forth in Section II of this ordinance.

SECTION IV. 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, the 19  
day of Dec, 2006.


APPROVED:

  
MIKE AMYX, Mayor

ATTEST:

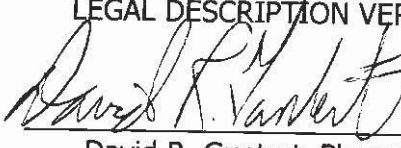
  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM AND LEGALITY:

 12-26-06  
Toni Ramirez Wheeler Date

Interim Director of Legal Services

LEGAL DESCRIPTION VERIFIED:

 12/29/2006  
David R. Guntert, Planner Date

ORDINANCE NO. 8054

AN ORDINANCE PROVIDING FOR THE REZONING OF 4.54 ACRES FROM M-2 (GENERAL INDUSTRIAL) DISTRICT AND M-3 (INTENSIVE INDUSTRIAL) DISTRICT TO CS (COMMERCIAL STRIP) DISTRICT; AMENDING THE ZONING DISTRICT MAP INCORPORATED BY REFERENCE IN SECTION 20-108, OF THE "CODE OF THE CITY OF LAWRENCE, KANSAS, 2006 EDITION," AND AMENDMENTS THERETO.

WHEREAS, after due and lawful notice and hearing, the Lawrence-Douglas County Metropolitan Planning Commission on March 15, 2006, recommended that the zoning classification for the tract of land described in Section II of this ordinance all within the City of Lawrence, Douglas County, Kansas, be changed from M-2 (General Industrial) District and M-3 (Intensive Industrial) District to C-5 (Limited Commercial) District.

WHEREAS, after due and lawful notice the zoning recommendation came on for hearing before the governing body of the City of Lawrence, Douglas County, Kansas on August 8, 2006, and after due consideration and deliberation the recommended zoning change was authorized with the following list of uses excluded from this zoning change:

- Bars [unless 55% of gross receipts are derived from food sales as outlined in 20-509(5)(i)]
- Liquor Store
- Ambulance Service
- Car or Truck Wash
- Auto Repair
- ~~No~~ External drive-through ATM or drive-through window [walk-up ATM's are allowed]
- Furriers
- Pawn Shop
- Mobile Home Sales and Service
- Golf Driving Range
- Pet Store [animal sales]
- Loan Office [short-term cash advance loans]
- Convenience Store with Gasoline Sales; and,

WHEREAS, the Governing Body of the City of Lawrence, Kansas did on April 4, 2006, adopt Ordinance No. 7985, adopting the Development Code of the City of Lawrence, Kansas, (hereinafter "the Development Code") effective July 1, 2006; and

WHEREAS, the Governing Body of the City of Lawrence, Kansas did on April 4, 2006, adopt Ordinance No. 7986, adopting the Official Zoning District Map for the Development Code of the City of Lawrence, Kansas, effective July 1, 2006; and

WHEREAS, pursuant to Section 20-110 (e) of the Development Code, the Official Zoning District Map designations in effect before the effective date of the Development Code convert to New Map Designations set forth in the table in Section 20-110 (e); and

WHEREAS, pursuant to Section 20-110 (e) of the Development Code, the C-5 designation has converted to Commercial Strip District, CS designation.

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



SECTION I. The above stated recitals are by reference incorporated herein, and shall be as effective as if repeated verbatim.

SECTION II. That the zoning district classification for the following described tract of land situated in the City of Lawrence, Douglas County, Kansas, to-wit:

FROM M-2 TO C-5:

ALL OF LOTS 15, 17 AND 19 ON PENNSYLVANIA STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS;  
AND,

THE WEST ONE-HALF OF PENNSYLVANIA STREET (80 FEET WIDE RIGHT-OF-WAY) FROM THE EASTERLY PROLONGATION OF THE LINE COMMON TO LOTS 19 AND 21 ON PENNSYLVANIA STREET TO 8<sup>TH</sup> STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.

CONTAINING A TOTAL OF 23,581 SQUARE FEET OR 0.54 ACRES, MORE OR LESS.

FROM M-3 TO C-5:

THE EAST ONE-HALF OF PENNSYLVANIA STREET (80 FEET WIDE RIGHT-OF-WAY) FROM 9<sup>TH</sup> STREET TO 8<sup>TH</sup> STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS;  
AND,

ALL OF LOTS 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, AND 36 ON PENNSYLVANIA STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; AND ALSO,

THE 16 FEET WIDE ALLEY RUNNING NORTH AND SOUTH FROM 9<sup>TH</sup> STREET TO 8<sup>TH</sup> STREET BETWEEN PENNSYLVANIA STREET AND THE NORTHERLY EXTENSION OF DELAWARE STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; AND ALSO,

ALL OF LOTS 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, AND 23 ON DELAWARE STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS;  
AND ALSO,

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1 ON DELAWARE STREET; THENCE EAST 75 FEET; THENCE SOUTH 200 FEET; THENCE WEST 75 FEET; THENCE NORTH 200 FEET TO THE PLACE OF BEGINNING;  
AND ALSO,

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS DESCRIBED AS FOLLOWS: BEGINNING 117 FEET EAST OF THE NORTHWEST

CORNER OF SAID LOT 9 ON DELAWARE STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; THENCE SOUTH 50 FEET; THENCE WEST 75 FEET; THENCE NORTH 50 FEET; THENCE EAST 75 FEET TO THE PLACE OF BEGINNING;  
AND ALSO,

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS DESCRIBED AS FOLLOWS: BEGINNING 117 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 17 ON DELAWARE STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; THENCE SOUTH 200 FEET; THENCE WEST 76 FEET; THENCE NORTH ALONG THE EAST LINE OF LOTS 23, 21, 19, AND 17 ON DELAWARE STREET, TO THE NORTH LINE OF SAID LOT 17; THENCE EAST TO THE POINT OF BEGINNING;  
AND ALSO,

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS DESCRIBED AS FOLLOWS: BEGINNING 117 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 11 ON DELAWARE STREET IN THE ORIGINAL TOWNSITE OF THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; THENCE SOUTH 150 FEET; THENCE WEST 75 TO THE SOUTHEAST CORNER OF SAID LOT 15; THENCE NORTH 150 FEET; THENCE EAST 75 FEET TO THE PLACE OF BEGINNING.

THE ABOVE DESCRIBED CONTAINING A TOTAL OF 4.00 ACRES, MORE OR LESS.

is hereby changed from that of M-2 (General Industrial) District and M-3 (Intensive Industrial) District to CS (Commercial Strip) District as such district is defined and prescribed in the Development Code of the City of Lawrence, Kansas, effective July 1, 2006, and amendments thereto, subject to use restrictions and additional restrictions of rezoning. The Restrictions and additional conditions of rezoning are set forth in this ordinance. The uses not permitted in this District include:

- Bars [unless 55% of gross receipts are derived from food sales as outlined in 20-509(5)(i)]
- Liquor Store
- Ambulance Service
- Car or Truck Wash
- Auto Repair
- ~~No~~ External drive-through ATM or drive-through window [walk-up ATM's are allowed]
- Furriers
- Pawn Shop
- Mobile Home Sales and Service
- Golf Driving Range
- Pet Store [animal sales]
- Loan Office [short-term cash advance loans]
- Convenience Store with Gasoline Sales; and,

The additional condition of rezoning for the property being rezoned from M-2 to C-5: Prior to the issuance of a building permit the property owner and City shall enter in to an agreement



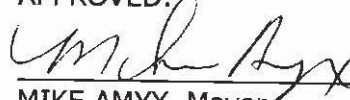
whereby the property owner agrees to provide a portion of the dwelling units to be used for affordable housing as part of a continuing land trust.

SECTION III. That the Zoning District Map incorporated by reference in and by Section 20-108 of the "Code of the City of Lawrence, Kansas, 2006 Edition" is hereby amended by showing and reflecting thereon the new zoning district classification for the aforesaid tract, as set forth in Section II of this ordinance.

SECTION IV. 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, the 19 day of Dec, 2006.

APPROVED:

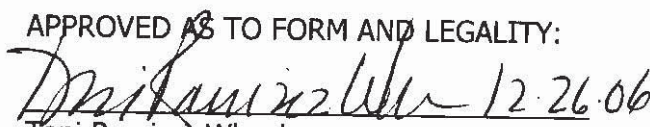
  
MIKE AMYX, Mayor

ATTEST:



Frank S. Reeb, City Clerk

APPROVED AS TO FORM AND LEGALITY:

  
Toni Ramirez Wheeler  
Interim Director of Legal Services

Date

LEGAL DESCRIPTION VERIFIED:

  
David R. Guntert, Planner

Date



**ORDINANCE NO. 8677**

**AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, REZONING APPROXIMATELY 0.27 ACRES FROM CS (COMMERCIAL STRIP) DISTRICT TO RM12D (MULTI-DWELLING RESIDENTIAL) DISTRICT 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, 2011 EDITION," AND AMENDMENTS THERETO.**

**WHEREAS**, on July 29, 2011, the owners of record of the subject property, the legal description of which is set forth at Section 2, *infra*, filed with the City of Lawrence, Kansas, Rezoning Application, No. Z-8-23-11, seeking to rezone the base district of the subject property from CS (Commercial Strip) District to RM12D (Multi-Dwelling Residential) District;

**WHEREAS**, on September 26, 2011, after due and lawful notice was given in accordance with K.S.A. 12-757 and City of Lawrence, Kan., Code § 20-1303 (Jan. 1, 2011), the Lawrence-Douglas County Metropolitan Planning Commission conducted a public hearing on Rezoning Application, No. Z-8-23-11;

**WHEREAS**, at the September 26, 2011, public hearing, the Lawrence-Douglas County Metropolitan Planning Commission considered the report and recommendation of City staff, weighed the evidence adduced at the public hearing, reviewed the decision-making criteria set forth at City of Lawrence, Kan., § 20-1303 (Jan 1, 2011), and voted unanimously (9-0) to recommend to the City Commission that it approve Rezoning Application, No. Z-8-23-11; and

**WHEREAS**, at its October 11, 2011, public meeting, the Governing Body considered Rezoning Application, No. Z-8-23-11, and the recommendation of the Lawrence-Douglas County Metropolitan Planning Commission.

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

**SECTION 1.** The above-stated recitals are incorporated herein by reference and shall be as effective as if repeated verbatim.

**SECTION 2.** 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, 8TH AND PENNSYLVANIA NEIGHBORHOOD REDEVELOPMENT  
ADDITION NO. 3

is hereby changed from CS (Commercial Strip) District to RM12D (Multi-Dwelling Residential) District, as such district is defined and prescribed in Chapter 20 of the "Code of the City of Lawrence, Kansas, 2011 Edition," and amendments thereto.

**SECTION 3.** The subject property is part of the UC (8<sup>th</sup> and Pennsylvania Urban Conservation) Overlay District. This rezoning described in Section 2, *supra*, applies only to the base district of the subject property and has no effect on the UC (8<sup>th</sup> and Pennsylvania Urban Conservation) Overlay District.

**SECTION 4.** The "Official Zoning District Map," which is adopted and incorporated into the City Code by reference at City of Lawrence, Kan., Code § 20-108 (Jan. 1, 2011), is hereby amended

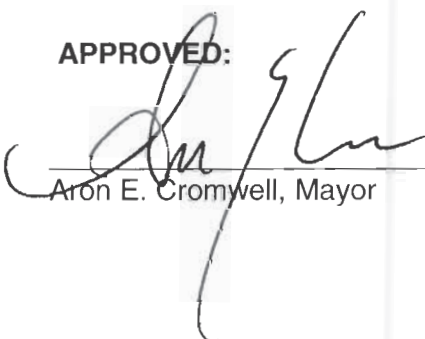
by showing and reflecting thereon the new zoning district classification for the subject property as described in more detail in Section 2, *supra*.

**SECTION 5.** If any section, clause, sentence, 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.

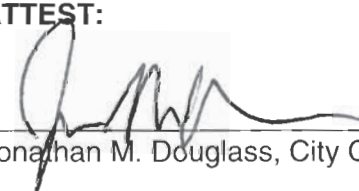
**SECTION 6:** This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

**ADOPTED** by the Governing Body of the City of Lawrence, Kansas, this 18<sup>th</sup> day of October, 2011.

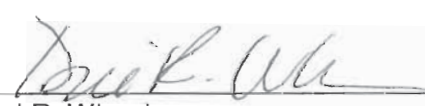
**APPROVED:**

  
Aron E. Cromwell, Mayor

**ATTEST:**

  
Jonathan M. Douglass, City Clerk

**APPROVED AS TO FORM AND LEGALITY:**

  
Toni R. Wheeler  
Director of the Legal Department

**ORDINANCE NO. 8920**

**AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, REZONING APPROXIMATELY 0.27 ACRES FROM RM12D-UC (MULTI-DWELLING RESIDENTIAL-URBAN CONSERVATION OVERLAY) DISTRICT TO CS-UC (COMMERCIAL STRIP-URBAN CONSERVATION OVERLAY) DISTRICT 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, 2013 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 RM12D-UC (Multi-Dwelling Residential-Urban Conservation Overlay) District to CS-UC (Commercial Strip-Urban Conservation Overlay) District, as such district is defined and prescribed in Chapter 20 of the "Code of the City of Lawrence, Kansas, 2013 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, 2013 Edition, as amended, is also subject to the following special condition:

- (a) The following uses are excluded from the zoning district described in Section 1, *supra*:
  - (i) Bars (unless, within a calendar year, 55% of gross receipts from said use are derived from the sale of food for consumption on the premises; said restriction shall be applied beginning on the two-year anniversary of the commencement of the use);
  - (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 are allowed);
  - (vii) Furriers;

- (viii) Pawn Shop;
- (ix) Mobile Home Sales and Service;
- (x) Golf Driving Range;
- (xi) Pet Store (animal sales)
- (xii) Loan Office (short-term cash advance loans); 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 (July 1, 2013), 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, clause, sentence, 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.

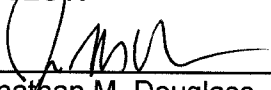
**SECTION 5.** This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

**PASSED** by the Governing Body of the City of Lawrence, Kansas, this 5<sup>th</sup> day of November, 2013.


**APPROVED:**

  
\_\_\_\_\_  
Michael Dever  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
Jonathan M. Douglass  
City Clerk

**APPROVED AS TO FORM AND LEGALITY:**

  
\_\_\_\_\_  
Toni R. Wheeler  
City Attorney

said those were the two things that would like to see added to the process, if and when the City rewrote that code.

Dever said the Commission would take that under advisement.

**Moved by Schumm, seconded by Amyx,** to defer the taxicab license for Party on Wheels. Motion carried unanimously.

**Moved by Amyx, seconded by Farmer,** to approve all other licenses. Motion carried unanimously.

**C. CITY MANAGER'S REPORT:**

David Corliss, City Manager, presented the report.

**D. REGULAR AGENDA ITEMS:**

1. *Considered approving a request to rezone, Z-13-00287, approximately .27 acre from RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban Conservation Overlay) District, located at 804 Pennsylvania St. Submitted by Bartlett & West, Inc., for Ohio Mortgage Investors LLC, property owner of record. Adopted on first reading, Ordinance No. 8920, rezoning (Z-13-00287) approximately .27 acre from RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban Conservation Overlay) District, located at 804 Pennsylvania St. (PC Item 7; approved 9-1 on 9/23/13)*

Scott McCullough, Planning and Development Services Director, asked that Commissioners disclose any ex-parte discussions.

Farmer said he hadn't had any ex-parte discussions.

Schumm said he was present at the last East Lawrence Neighborhood Association meeting and spoke at length about this project in general terms. Specifically about food and liquor requirements and how the ratios were interpreted in the industry which he was a part of.

Amyx said the only ex-parte comment he had was with Leslie Soden and they only talked about the bar and the 55% rule.

Dever said he had conversation with Leslie Soden and Tony Krsnich discussing questions about the application.



Schumm said he had a conversation with Leslie Soden and Soden was at the meeting as well.

Riordan said he didn't have anything to report.

Mary Miller, Planner, presented the staff report.

Schumm said he was confused on the zoning request. He asked if 804 Pennsylvania Street was a vacant lot.

Miller said no, previously it was a duplex and before that it was a historic building.

Schumm said that was 806 Pennsylvania.

Miller said it was called 804/806 Pennsylvania because it was a duplex, but its official address was 804 Pennsylvania and was the same lot.

Schumm said it was the two garages.

Miller said correct and the stone building.

Schumm said the stone building back to the east that fronted on the alley and between the Poehler Building and the garage.

Miller said it was located on the alley between the Poehler Building and the garage.

Schumm said as well as the vacant property to the north.

Miller said it was just the north property.

Schumm said there was a parking lot on the north.

Scott McCullough, Planning and Development Services Director, said yes.

Schumm said it was the parking lot and the structure at 806 Pennsylvania.

Miller said it was a small parking area.

Schumm said this was a rezoning and the rule would run with the land in perpetuity.

Miller said correct.

Schumm said unless it was downzoned or a zoning change took place and changed it. He asked how was this different and why weren't they using a special use permit, instead of the rezoning tying a liquor law to a land use or was it one in the same thing.

Miller said it was the condition that was applied on the zoning. They could have applied a condition back when it was zoned to CS district. There could have been a condition that stated a special use permit, but instead they wanted to make the bar more of an accessory use. It would not be an actual bar. When having the 55% food sales, it meant primarily an establishment was a restaurant and the bar was an accessory. The neighborhood felt that would be better than allowing a bar even with a special use permit.

McCullough said the zoning request was CS zoning which was the predominate commercial zoning of the Poehler District and this condition was already in place. He said it was rezoned to the duplex use when the applicant felt that that was going to be the use in the future and then when Krsnich decided to make it a bar use, the logical step was to revert it back to that CS zoning with that same condition. The CS zoning district allowed bars outright without a special use permit and even without conditions. The condition of the 55 percent rule, which they were borrowing from the CD district was applied to the entire Poehler District and was being applied again back to this property.

Schumm said it was commercial and this was going back to the commercial state in which all the liquor consumption was allowed.

McCullough said it was reverting back to what it formally had with the extension of the time period by which to comply with the condition of 55% and an additional year.

Amyx said in 2006 when the Commission approved Ordinance No. 8054, he asked if there was discussion at that time about that 55 percent rule and that it was important that that came into play at that point.

McCullough said yes because that CS district again, would have had to been added as a special condition. It was a prohibited use unless that condition was maintained.

Amyx asked if the recommendation of the Planning Commission was different.

McCullough said it was different in the sense that the condition remained. He said how they practiced that condition was that an establishment was created and established on a

certain date and then they basically had the calendar year to prove they could meet the condition. He said the applicant worked with the City Clerk's Office and submitted their receipts. Staff checked those receipts and if they met the 55 percent, great, but if the applicant hadn't, staff called them in to figure out how they could meet it. He said one of the recent establishments he was familiar with downtown, for example, staff worked with them to add more service, more menu, lunch times, and those type of things to give the applicant a grace period by which to come into compliance with the condition. He said when talking to this applicant about that process, he had concerns for not being able to meet that requirement in the first year and requested to make it two years to be able to prove to the City that the applicant was able to maintain 55 percent in non-alcohol sales and was how staff arrived at this negotiated condition on the zoning.

Amyx asked if staff pulled occupancy at the end of the first year on any applicant.

McCullough said there was an issue on Massachusetts Street where staff discovered that an establishment wasn't meeting the food sales requirement. The applicant added a lunch menu. Jo Shmo's was one of the establishments that staff worked with.

Mayor Dever called for public comment.

Eric Jay said he and his wife were in the process of building a home about a half block from the proposed development. He was the co-owner of a small company called Struct/Restruct LLC, which was located a block and a half south of the proposed rezoning. He said he and his wife decided a year and a half ago that Lawrence was where they wanted to raise their family. He said they bought their lot well aware of the mixed use nature of the neighborhood. In fact, that was part of their appeal in picking this location. He said they supported the idea of neighborhood dining establishment and thought the east side community would benefit for having a place for families and friends could gather to enjoy others company and thought this would be a successful business venture. He said their concern arose from the many unknowns associated with the proposed development. Their children would be raised in

the direct line of sight of the proposed development and they wanted to make every effort to ensure it was an asset to the area and not the type of establishment that would detract from the charm and appeal of the neighborhood. He said they currently lived at 9<sup>th</sup> and Ohio, among a mix of owner occupied homes and student rentals. At night it was crossroad for college students headed downtown or to a house party. On weekends and more often than not, on a least one night a week they were guaranteed to be woken by inebriated college students. The hooting and hollering were disruptive enough, but the real impact was the disrespect and destruction of private property. They had potted plants smashed, their children's scooters taken for joy rides, vehicles keyed, mirrors smashed and the side of their house was used as a urinal. In addition to the impaired judgment displayed, the actions also arose from the people not being part of the neighborhood and were just passing through and felt no ownership or responsibility for how things were treated. He said he knew from experience that if the proposed development became a straight up bar, with hours until 2:00 am, the clientele it attracted would exhibit the same behaviors of bar goers anywhere. Of course not all bar patrons had the same purpose of getting pickled, but a drink or two could turn up anyone's volume. The current design of the property, namely the lack of a kitchen and a large outdoor patio certainly resembled an outdoor drinking oriented establishment and that could potentially create a very noisy scene. In the past month there had been several receptions at the Cider Building just south of the proposed development. He said from their house on New Jersey, they could clearly hear people standing outside the front doors of the Cider Building who were mostly speaking at a normal level. If the patio of the proposed development were at capacity, all 1300 square feet, his family and the neighborhood would be subjected to a roar of noise. He said an amplified outdoor event such as a concert or movie screening, using speakers would also be a significant disruption to the neighborhood. The noise would travel for blocks. He said from their residence on Ohio they could hear events occurring 5 blocks away on Massachusetts. In order for the proposed development to benefit to its surrounding neighbors and enjoy the

neighborhoods patronage, the hours of operation must be limited and curfews enforced for outdoor events. They recommended a closing time of midnight and outdoor events ending by 9:00 pm on weeknights and 11:00 pm on weekends. With those operating conditions in place, they were more confident that the environment created would be respectful to the neighborhood and conducive to their kids getting a good night's rest. He said he and his wife request that the City Commission defer the agenda item to a later meeting until the developer had specifics about the planned establishment. He said the developer had yet to meet with his family or anyone on New Jersey. Taking a bit more time to collaborate with the neighborhood and outline details of the plan would not only ease concerns of the surrounding residence, but could very well ensure a loyal clientele.

Tony Krsnich, applicant, said he was surprised to hear Jay's comments. He said he met with Jay at his house, a beautiful modern house and talked to Jay about their concept and the concept had not changed. He said the amount of investment that Jay was making in the neighborhood he had no doubt that Jay had rightful concerns. He said he was holding a sheet of paper that had been signed by 66 people which represented all but 6% of the people that actually lived at the Poehler Lofts and decided not to sign the petition, but 80% had. He said 100% of the property owners and adjacent property owners had signed the petition and 100% of the people that worked in the area had signed the petition as well. He said regarding noise, they shouldn't be talking about a 931 square foot bistro, but talking about the talk of the town, nationally award winning project, the Cider Gallery. The Cider Gallery was 10 times the size of this space and received one complaint at which point he worked very closely with Soden last week and both believed they remedied that complaint which was at 10:00 pm, they closed the garage door. He said he was broke because of it, but in the area he had invested in almost 2 city blocks and there was no way that they would create a problem in the area. He said they would make much more money, short-term, if they just placed a \$50,000 Band-Aid on it and rented it out as a duplex. He said it was going to be \$150,000 investment. He said regarding



the rezoning, from the beginning, he was unsure if they could meet the 55% or more test because of the transition in the area as Schumm had discussed. He said they had lots of construction going on and asked for an additional year. He believed he could have come to the Commission with this list from the business plan and gotten the votes to have a bar. He said they volunteered to do the 55% food sales. He said city planning staff recommended before the Planning Commission one of two options which was a full blown bar, close the bar at 12:00 am or 12:30 am depending on whether it was Thursday, Friday or a Saturday night or agree to the 55% or more rule. He said they decided to achieve the goal of 55% food sales, but asked for one additional year. He said he had the best interest of the neighborhood, commonly known as the warehouse arts district in place. He said he would never do anything to jeopardize the public/private partnership that they had in place and asked the City Commission for their support.

Schumm said the layout that he had seen of the proposed bistro did not have a kitchen.

Krsnich said correct. He said they had large outdoor kitchen that was going in and it was going to be very similar to the Bourgeois Pig, about three times the size with the addition of cold cuts, prepared food and that was how they intended on achieving the 55% or more test. He said they would work with local vendors to provide food.

Schumm asked if they would prepare food on site.

Krsnich said due to the size of the building, they had very minimal opportunity and that was why they were looking at premade food for resale. Additionally, year two there was a strong opportunity that the garages would be taken down and a new very modern kitchen would be built at that location, but in good faith he couldn't come before the Commission and tell them those plans were going to happen when they broke ground however, they had offers to do so and was the reason for an additional year versus having a full blown bar and closing down at midnight or 12:30 am.

Schumm said he was confused about the option of a full blown bar.

Krsnich said essentially, due to staff recommendation, they had two options, one option was the 55% or more food sale requirement, or no restaurant component, but close down at midnight or 12:30 am on the weekends. He said they wanted to close at that time and probably would and the only difference was the 55% or more. There were a lot of people living at the Poehler Lofts that worked in the service industry that get off work at 11:30 pm or midnight and they wanted to be accommodating to those people as well. He said for those reasons they opted to go with the 55% food sales or more which didn't have a time restriction.

McCullough said they presented in their staff report two options and discussed a number of things with the Planning Commission. One was a different operational characteristics between more of a restaurant/bar and a straight bar and that was where the 55% food sales came in. He said for example, if you wanted to sit and dine that was a different operation than if you were standing, the games on television and everyone was getting loud and such. He said staff presented two options for consideration, one option was the 55% rule and made sure that food sales would be part of the operation and the second would be an outright permitted bar without the food sales requirement but with the opportunity to place conditions on the use itself. The conditions staff proposed weren't specific but were up for discussion. The conditions they proposed was restricting business hours, amplified music in the outdoor seating area, and limiting the size of the outdoor seating area. At the end of the discussion and in part because of the communication they received from the East Lawrence Neighborhood Association, the Planning Commission was recommending the 55% rule condition.

Schumm said but legally, they could request to go either direction.

McCullough said the Planning Commission had that ability to recommend either option to the City Commission.

Schumm said in the zone they were in, the Planning Commission could have approved a straight bar.

McCullough said yes.

Amyx said going back to Ordinance No. 8054, where the City Commission established those restrictions, but asked what the difference with the one and two year compliance.

McCullough said that was the difference between the two zoning districts. In other words a tenant space down the 800 block of Pennsylvania could come in and site plan a bar use, would have the 55% rule applied to it and could be established without any conditional approval because the zoning existed in most of that area.

Amyx said what the Planning Commission recommended was the two year compliance.

Josh Davis, President of the East Lawrence Neighborhood Association, said he had talked to Krsnich and agreed on a lot of things. He also agreed with some of the concerns Jay brought up and concerns from the board. As a representative of the board, they had 100% agreement in support of the bar as a 55% restriction and closing at midnight. He said he understood Krsnich position as a business man and his investment with money trying to make this work. He said he believed Krsnich had the best interest of the area because of his investment and he didn't think Krsnich wanted a nuisance property or obscene noise and problems. He said one of his concerns was that this area was receiving a lot of attention and in his mind he saw this as a top of hill of sorts because it was going to be the first big change along those lines. The Cider Building was big and he was thankful for that project. He said he was concerned what the precedent might be and who might be the next developer and would they be as invested. He said he wanted to make sure that whatever was done was done thoughtfully because right now everybody was invested in the area, including the City in building brick streets. He said they didn't need a bar district, but needed to be a place where families were buying homes and restoring those homes or building new homes, but would like a place to go to have a sandwich and a beer. He said how to balance all of those things, he was not sure. He said they presented some ideas, but he wasn't a zoning expert. Ultimately, he was thinking about the end goal and they proposed some mechanisms to help reach that end goal.

Schumm asked if the board had been able to sit down with Krsnich and go over the issues their board had.

Davis said Krsnich had been to meetings.

Krsnich said he had been to two of the last 5 meetings. He said furthermore there was a little bit more criticism at the Planning Commission from one gentleman, the only vote in opposition, that he and the general management team addressed the concept with individuals in the area directly. He said they wanted one on one time, individualized time. He said he took that to heart last Monday, a week from yesterday, and posted 5 days prior in the building at the Poehler Lofts that they would have a town hall discussion. He said just like any of the other developments in the Warehouse Arts District, not only was everyone being informed, but it was a job creation tool.

Schumm asked about the points Davis was a part of, in terms of operation.

Davis said it sounded like solely the closing time and it was mentioned tonight that it might not be a late running establishment.

Schumm said the specific question was what time would they close Sunday through Thursday and Friday and Saturday; and, what time was amplified music restricted from the patio outside.

Krsnich said there was no amplified music, due to the 55% or more test just like any other restaurant. He said he didn't believe restaurants had a closing time before 2 am.

Schumm said alcohol couldn't be sold after 2 am.

Krsnich said they were taking ELNA recommendation and to be a restaurant at which point they would close down at 2:00 am. They would have no amplified music. He said they would sell 55% or more, being a restaurant, but were being asked for additional stipulations which would potentially restrict the success or profitability of the establishment. If closing time was the issue and not 55% or more, he would do either one. He said both had pluses and minuses. If they needed to close down Monday through Wednesday for example at 12:00 and

Thursday, Friday and Saturday where some of those vibrant artist types were wanting last call at 1:00 am, he said he would close it down an hour earlier, but did not want to horse trade a deal after he already bent over backwards, when he truly believed in the best interest of the district, he could have asked for a full blown bar. He said this rezoning hindrance was volunteered by the former developer but quite frankly, he wasn't sure the former developer realized that this area could potentially turn into an arts district like it had. He said this idea of the bistro occurred organically and wasn't his idea. He said he spent more time talking about this bistro than he had on the Poehler Building. He said this was the idea of the people that lived in the area. He said he was in favor of cooperating, but suggested not stopping the progress made and continue the vibrancy of the warehouse arts district.

Schumm said the only thing he would say about that was there really wasn't going to be a restaurant because there was no kitchen and without the kitchen, and without the 55% requirement being met for two years, he might have quite a bar without the food. He said when you have a bar without food there was a more boisterous or a different kind of clientele.

Krsnich said he appreciated that, but Schumm knew him well enough that if it was ever a problem, he would pull the plug long before anyone in the room would. He said he had more a vested interest than anyone. He said coffee counted for the 55% test and a repackaged cold cut counted. He said he didn't want to make commitments based upon proposals or letters of intent. He said if Schumm understood some of the caliber of people that were interested in taking this challenge it would ease a lot of concerns. He said he was in favor of the rezoning of 804 Pennsylvania, the opening of a Bistro at this location and understood that the revenue from non-alcoholic sales could be less than 55%. He said they were signing up for more than the 55%, but this was the public that was directly engaged, people that lived in the district and adjacent property owners.

Dever said the only question he was hearing was 55% food and closing time. He said ELNA wanted both although both were never simultaneously applied to any establishment.



Davis said it was also not in staff's recommendation.

Dever said what ELNA was in favor of was both restrictions.

Davis said to please note that those were tools they were thinking of to try to ultimately protect the environment for this development and future development. He said while they could say the board wanted both of those conditions which was true, but ultimately they wanted those conditions down the road and those were the tools they were seeking.

Mike Riling said he was a member of several LLC's that own property in that area on Pennsylvania Street. He said they owned 832, 826, Pennsylvania and 720 East 9<sup>th</sup>. He said he had been down for quite a while and seen a dramatic change in the property and the way it had been used. He said he knew Krsnich and knew that bars were an alarm to the community, but knew Krsnich was sincere and if it did get bad, Krsnich would shut it down because Krsnich had more to lose than anyone by having a bar next to the Poehler Building. He said they spent a lot of money developing that building and what the whole scheme was to make Pennsylvania Street and that area a destination. He said they weren't going to have a kind of rowdy bar that people were afraid of to make into a destination. He said even the East Lawrence community wanted to share in the proper atmosphere so the danger was if this could change into an improper atmosphere, but the Commission would have control over that with a two year come back. He said the City Commission could exercise some control if there wasn't a commitment being met and any type of showing of good faith toward the food sales, the City would have some options, but it wouldn't get to that point. He said the biggest investment for Krsnich and his group was the Poehler Building by far much more than this little bar. He said he had been inside that duplex a couple of times and would make a cool little place to have a beer and a sandwich. He said he was convinced that Krsnich would put together a nice place where everyone would be happy with, but they needed to let Krsnich make a little money. He said the area had changed tremendously in the last 10 years.

Leslie Soden said she knew a lot about zoning, but not everything and was wondering, when a tenant arrived for that building with perhaps a special use permit or a conditional use permit, she wasn't sure of the difference. She said she didn't know if that would be applied to the zoning or applied to the liquor license, but perhaps something that was renewed on an annual basis would be a fair compromise.

Dever asked if liquor licenses renewed annually.

Douglass said liquor licenses were renewed every two years now.

Schumm said he went to the ELNA meeting and had quite a discussion. He said there were probably 20 people present. He said what he took away from that meeting was that they were generally in favor of the bar, but were concerned about the food requirement because that dictated what type of bar it would be and were concerned about the hours of operation and noise. He said one concern he had was this condition would run with the land and if that project was sold then someone else was the new owner and as they talked in the meeting, bars were all about management. He said there were good bars and bars they had problems with. He said they had problems out south around McDonald's, problems downtown and a number of really good bars that operate well. He said someone couldn't classify all bars as being problematic and difficult, but here were operators that didn't do a good job. He said he had complete faith in Krsnich that he would operate this bar in the best way. He said what he did have a concern, based upon his career, was how Krsnich would get to 55% without a kitchen. He said it was almost impossible, in fact if they were talking about a downtown establishment and someone came up with the same proposal, the Commission would want a kitchen if selling 55% food. He said Krsnich could do this for a year or two years, but he guessed they would be back to the Commission to see if they could waive the 55% food requirement all together which then spoke to another issue which was what did someone else take away from that who wanted to operate something downtown when 55% was an absolute minimum. He said if the Commission started waiving those conditions then all of a sudden you start waiving for something else. He said 55%

food was a very liberal amount of food when talking about a bistro. He said when they started out downtown it was a 75% food requirement to have a sidewalk café because they didn't want those establishment to be overpowered with alcohol sales to where they were rowdy and noisy on Massachusetts Street and the interior was 65% food sales, then an applicant came with a new restaurant and wanted it lowered to 55% and if eventually got to 55% food sales and 45% alcohol. He didn't know if it differentiated between the sidewalk café and the interior any longer or not, but it was a very liberal amount of liquor to food if he was going to have a bistro or a dining operation.

Amyx asked if the other conditions the Planning Commission required for this district was okay as far as operation of 55% food sales and one or two years.

Schumm said he believed that was correct.

Amyx suggested reviewing the bistro, after the first year, to see how it was progressing with the 55% food sales requirement.

Dever said it was Krsnich point that it was going to take that long just to get it ramped up. He said there was probably a way to achieve that 55% requirement with today's costs with ancillary drinking products such as lattes and coffees. He said with it being a small facility, it might actually achieve that requirement. He said the bistro should go to a straight bar and close at 12:30 a.m. and be done with it, because Schumm was worried about the land issue and meeting the food requirement.

Amyx said then there was no control at all.

Farmer said Krsnich had a vested interest in the success. If this bistro was unsuccessful and it created detriment to the neighborhood and people didn't want to work in the Cider Building and live in the Poehler Building, Krsnich would be shooting himself in the foot. He said he agreed with Schumm that management of bars was key and important. One of the things he appreciated about this was that it was a very innovative business model. A lot of folks were moving toward the locally made, grown, and prepared food. He said something like this would

be pretty innovative idea to see if it would work because a lot of folks would love to eat culinary. If they could revisit this and see if the bistro was close to meeting the food sales requirement after a year or two would be good. He said he wasn't in that type of business and didn't have the same perspective as Schumm. He said it seemed that they wouldn't lose anything by giving it a shot to see if this innovative business model for this particular area was something that could work, with the caveat that it could come back to the commission for review.

Riordan said he had a concern about bringing this item back in a year because what was okay, 50%? 45%? He said it made more sense to bring it back in two years because that was what the applicant was asking. He said Schumm made a good point that this would be difficult, but it was a unique project and most of the people in that area were interested in it. He said he happened to live next to people who were up until 2:00 or 3:00 a.m., making lots of noise and knew what that was like. He said there were difficulties with it being a zoning issue, but he thought it was reasonable to try even though it might not make it.

Farmer said he was trying to compromise with Schumm. If after a year the bistro was at 12% food sales, they probably wouldn't make the 55% food sales in two years. He agreed with Riordan in giving Krsnich two years to meet the 55% food sales.

Riordan said Krsnich had shown that he was respectful of this area and had a lot to lose and he might be wrong, but someone else would have the same requirements. He said to close the bistro at 1:00 a.m. would be reasonable because that would give people that work in that area an hour after those jobs ended. He said he was leaning toward granting this zoning request.

Schumm said Krsnich had not agreed to close at 1:00 a.m., but wanted to close at 2:00 a.m.

Riordan said he heard that Krsnich wanted to close at 1:00 a.m. and asked if he had misunderstood.

Krsnich said he shared in Schumm's and Amyx's concerns. He said from the beginning, meeting the 55% test was never on his radar screen. In fact to do so in year one, he would need to have people parachuting in to drink coffee. He said he didn't think it was possible. The idea was meant for one reason and that was to appease East Lawrence Neighborhood Association request and they were going to try to do it. He said at best it would take two years. He said the two options were the 55% or more, which was a restaurant that did not have a closing time, or have a bar which there was no food requirement and wasn't a restaurant, but there was a closing time. He said he was standing before the City Commission not knowing which way to turn. He said he understood if a precedent was to be set for someone on Massachusetts Street, this was voluntarily done by the previous developer and it might make sense to scale it back and to just have an arbitrary closing time and have it be a bar. He said he was open and wanted to be transparent and not tell people what they wanted to hear and over promise and under deliver. He said he had the same concerns, but he had made a commitment to try to achieve the 55% food sales requirement. He said if the letters and conversations regarding the garages turn out, he wouldn't have a problem and would probably have no problem meeting the 55% test, but right now what he had in hand, he did not have that and it was not bankable and was the reason he was asking for two years. If it didn't need to be a restaurant he would agree to a 1:00 a.m. closing time for the bar, Thursday, Friday, and Saturday night and a midnight or before any other night of the week. Again, he said they were talking about a 900 square foot building that might be able hold 70 or 80 people. The Cider Gallery that had a full-blown liquor license, a huge outdoor space literally 5 times the amount of people could fit outdoors then the entire bistro complex indoors and outdoors was the talk of the town. He said for some reason they were really focused on a precedent, but the precedent they were setting was that future developers agreed that ELNA wishes. He said he as just asking for one additional year and if that set a precedent, he could agree to the challenge of that with Schumm. He said if that was the case, then let's call it what it very well might be which if it did



fail the 55% test, it would be a bar and scale the hours back accordingly, but it had to be bankable. He said whatever it would be, it would be respectful and an asset to the Warehouse Arts District and not a detriment.

David Corliss, City Manager, said the Commission could adopt the ordinance as recommended by the Planning Commission and then add 24 months of operation and if it wasn't meeting the 55% food sale requirement, the City Commission could go back and limit the hours of operation at that time. He said he was trying to find some way to suggest a compromise on this issue.

Dever said he remember there was similar angst when it came to the Bourgeois Pig. He said there were some issues about the outdoor area and the food sales. He said they were all worried about things that could transpire and now it was an interesting place. It felt like the same scale as what they were talking about with the bistro. He said Bourgeois Pig was different and a concept the then-Commission wasn't comfortable with and struggled with.

Corliss said the struggle was the sidewalk permit and the food sales requirement.

Dever said it was the same concept and the Bourgeois Pig turned out great.

Corliss said it looked like Bourgeois Pig was successful from a business point.

Amyx said the Planning Commission had done a good job in going through the process and making recommendations to the City Commission. He said the only question was that if they were to concur with the Planning Commission's recommendation, he asked if there would be anything else the City Commission wished to add in the condition of approval of this site.

Dever said Schumm's concern was about the viability of something like this and the fact that it was running with the land and not a use permitted to the applicant. He said that would be the only reason he thought about looking back because that might give the Commission that trigger. He said obviously this was a new type of service in a new area that they weren't familiar with.

Corliss said he did agree with the applicant's observation in that it would probably take some time to build that uniqueness for a food location. He said this was an area that didn't have that history. He said the City Commission might want to forecast to the property owner because it did run with the land and successors that at 24 months of operation that the City Commission would have that authority to look at that information, determine whether or not they met the 55% food sale requirement. If they hadn't met that requirement, then the City Commission had the authority to limit the hours.

Dever said or bring it back to the City Commission for discussion. He said he was in favor of moving forward but didn't want Schumm to feel uncomfortable with this decision.

Schumm said he appreciated everything that had been done, but he was just trying to bring up the points for discussion. He said on one hand they had an ordinance and he liked to follow the City's ordinances because if they started to not follow those ordinances, then they fall apart. He said if we waive parts of an ordinance, then suddenly there was a watered down situation where people could shoot holes in things and rightfully so. He said he had been very instrumental in trying to protect downtown in terms of its appropriateness, its character, how it presented itself to people and a lot of what he was concerned about was how the City's hospitality industry operated, how it functioned, and how it presented itself to the public. If there were 20 bars up and down the street with broken glass all over the sidewalk, there wouldn't be quite the charm it had the way it worked right now. He said he loved that district, but was having a hard time getting by the fact that there was no kitchen in this bistro. He said he could see that they were going to import some food and try to make it work along with the beverage sales that were non-alcoholic. He said he was willing to give it shot. It's a good program. The statement was made that the liquor license was reviewed every two years. Once issuing a liquor license it was awfully hard to take it back. It was like a right in the State of Kansas. He said he had been on two such task forces to try and revoke a license and they weren't easy. He said it wasn't a safety valve at all. He said where the City Commission had some leverage was

that any restrictions the City Commission wanted to place on that bistro now and in two years check it and if it was going well that was fine, but if it wasn't going well it would need to be adjusted. He said he would like to see this issue back in two years to see what was happening. He said his question was if the City Commission would have the opportunity to make adjustments at that time and place restrictions on the establishment if things weren't going well.

McCullough said staff had thought about this because as they've gone through the potential that Krsnich couldn't meet the 55% food sales requirement after two years, typically the applicant would have some avenues to pursue. One would be to in short order, come into compliance if that meant adding a kitchen or adding different services. The other would be to request that the condition be altered or removed all together. He said staff had been very careful not make too many parallels to the downtown district. He said it was a different district all together, but the standard was borrowed and was a tight negotiating package of zoning standards. The list was long about prohibited uses and this wasn't the only use. One of the avenues the applicant could pursue was to go back through the process with the Planning and City Commissions to change the condition. If he had an establishment that was going well and there weren't complaints, he might request that the condition be removed all together. There also might be an opportunity to request that the City revert to option 2, which was to place different kinds of conditions on the use that restrict hours and those types of things, but remove the food sales. Typically, downtown restaurants didn't have those options to make those requests because it was conditional zoning in this case, whereas downtown was the zoning standards by right. He said they had a built in 2 year timeframe. If after 2 years, the bistro was meeting the 55% rule, then he would keep going with it. If not, he needed to make changes and those were the avenues to pursue. He said they could of course build in a review of some sort and advise the Commission on what was happening after those two years, but after two years if the bistro was not meeting it, then changes would need to be made in any event.

Schumm said with this zoning request the City Commission would approve it with a City Commission review at the end of 2 years of operation if not meeting the 55% requirement.

McCullough said if he wasn't meeting the 55% requirement, they could build that into the ordinance. He said it would either be shut down or pursue some condition amendment of some sort.

Schumm said it was not anything other than what he already agreed to because staff was going to review it in 2 years.

McCullough said it could be reviewed monthly because those reports were submitted monthly. He said staff could track it and advise Schumm on its progress, but it wouldn't have an impact on the operation until after two years.

Schumm asked what reports were submitted monthly.

Douglass said what staff asked for with liquor license applications were copies of the liquor excise tax returns.

Krsnich said he would want to make sure the two year period started from the certificate of occupancy. He said they probably won't even begin construction until spring. He said they were going to put as much thought, if not more, into this project than they were per square foot from the Poehler or Cider. He said there wasn't a chance that they would be open until the summer of 2014.

Schumm said they could start when they received their certificate of occupancy or when they received their liquor license.

Davis said two years sounded like a fair amount of time. He said for the potential precedent that the Commission discussed regarding loosening restrictions, he wondered if they were talking about that in two years and then saying they might be generating monthly reports and on one wanted to look at monthly reports. He asked if a precursory review of one year be appropriate to make sure they weren't hovering at 8%.

Dever said they discussed that, but the Commission didn't have any authority. He said the Commission didn't want the authority because they didn't believe it was fair to create this concept in 12 months. He said reviewing the food sales in one year might be premature because it might take 12 months to ramp up and then boom the concept took off. He said they already talked about that.

Davis said he wondered if the option was that after two years then they start looking at it and then another year to sort through the issues and if it was a problem and couldn't sell enough food then they would drop down to midnight. He said what it sounded like was that they were a full-fledged bar for 3 years and then switch to midnight was what it could end up being.

Dever said that was a possibility.

Moved by Farmer to approve the request to rezone (Z-13-00287) approximately .27 acres from RM12D-UC District to CS-UC District, located at 804 Pennsylvania Street and adopt on first reading, Ordinance No. 8920.

Schumm said regarding noise that bothered neighbors on a continuous basis, if that happened, from midnight to 2:00 a.m. He said right now the weather was nice and windows were opened, he asked what they would have other than calling the police.

McCullough said the City had a noise ordinance and police response.

Dever said asked if adopting Ordinance No. 8920 was the Planning Commission's recommendation.

Amyx said if the 55% rule was not met it would automatically come back to the City Commission. He said through the process did any of the language that the City Manager brought up needed to be included. He said it would need to begin after the license had been issued or the time of occupancy permit was issued.

Corliss said the way the ordinance was written was that said restriction shall be applied beginning on the 2 year anniversary on the commencement of the use.



Dever said to be clear, Corliss indicated that upon that review the Commission could dictate those changes be made anyway so special language wasn't needed.

McCullough said correct.

Corliss said the way the ordinance was written the applicant would not be in compliance with the City's zoning code if they weren't meeting this requirement.

Schumm said regarding the motion, if the 55% rule was not met it would be brought back to the City Commission in 2 years.

Dever said no, it would be automatic.

Schumm said it was a staff review.

McCullough said after 2 years, if the food sales were not met, there would be a zoning violation and in that case either the City Commission upon report from staff could initiate a rezoning and change the condition or the applicant would have avenues to pursue to remedy the violation.

**Moved by Farmer, seconded by Riordan,** to approve the request to rezone (Z-13-00287) approximately .27 acres from RM12D-UC District to CS-UC District, located at 804 Pennsylvania Street and adopt on first reading, Ordinance No. 8920. Motion carried unanimously.

2. **Conduct a public hearing and consider recommendations from the Historic Resources Commission to designate the following properties as Landmarks on the Lawrence Register of Historic Places:**

- . 900 Rhode Island Street, Turnhalle**
- . 1500 Haskell Avenue, Kibbee House**
- . 1734 Kent Terrace, Joseph Savage House**

Lynne Braddock Zollner, Historic Resources Administrator, presented the staff report.

Amyx asked about the 1500 Haskell Avenue property that was connected to 1734 Kent Terrace.

Zollner said there was a correction that needed to be made in the City Commission's Agenda Packet regarding the report from the Historic Resources Commission on the Kibbee



**Z-15-00022: Rezone 0.27 acres from CS-UC District to CS-UC District with Restrictions  
Located 804 Pennsylvania Street**



----- Forwarded message -----

From: "Arch" <[arch@sunflower.com](mailto:arch@sunflower.com)>

To: "[bruce@kansascitysailing.com](mailto:bruce@kansascitysailing.com)" <[bruce@kansascitysailing.com](mailto:bruce@kansascitysailing.com)>, "[clay.britton@yahoo.com](mailto:clay.britton@yahoo.com)" <[clay.britton@yahoo.com](mailto:clay.britton@yahoo.com)>

Cc: "Scott McCullough" <[smccullough@lawrenceks.org](mailto:smccullough@lawrenceks.org)>, "David L. Corliss" <[DCorliss@lawrenceks.org](mailto:DCorliss@lawrenceks.org)>

Subject: Item 4 on agenda for March 23, 2015

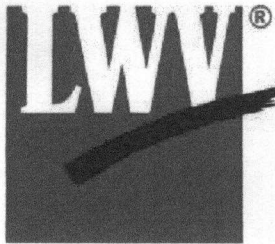
Date: Mon, Mar 23, 2015 9:55 am

Dear Chair and Vice-Chair,

Please do not allow a bar without requirements that all other bars/restaurants must follow. This proposed site was once 2 apartments. He could of left it as apartments. He should return the property back to apartments. Don't let him go around the restaurant/bar requirements that was negotiated already. The basil leaf cafe has around the same footprint. They managed to put a kitchen into their building. It would be opening a can of worms to allow them a bar only.

Regards ,

Arch Naramore  
1204 New York  
Lawrence KS



LEAGUE OF WOMEN VOTERS®  
OF LAWRENCE/DOUGLAS COUNTY

March 21, 2015

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MAR 23 2015

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**Austin Turney**

**Melissa Wick**

To Mr. Bruce Liese, Chairman, and Planning Commissioners  
Lawrence-Douglas County Metropolitan Planning Commission

RE: ITEM NO. 4: CS-UC TO CS-UC; 0.27 ACRES; 804 PENNSYLVANIA ST (MKM)

The League of Women Voters Land Use Committee urges the Planning Commission not to approve the recommendation of the Planning Staff to allow the alternative choice of using the subject historic property as a **bar** without food service and only with special conditions. We ask this for the following reasons:

1. The applicant, himself, has said that the residents of the area have expressed the need for a use within walking distance to provide food service, we assume especially at noon, but also after work so as to avoid having to travel by car to a another area for lunch or meetings.
2. The need for a bar alone seems to be primarily that of the owner of the property, not of the residents of the neighborhood. A bar would not provide the need expressed by those who live in the area. It would not really function as a need for the immediate neighborhood.
3. At noon and in the evening a bar would attract customers outside the area and could become much more intensely used, especially in the outside patio area. This would make it more difficult to control the noise, clutter, and other unpleasant side effects that a bar rather than a restaurant would bring.
4. Because the suggestion of allowing a bar without food service would not serve the neighborhood, there are alternatives mentioned that would facilitate providing a restaurant which were not considered by staff in their final recommendation.
  - a. There is a near-by building that can be replaced to supplement the needed space, especially for a kitchen. A building addition that would connect to the stone building could provide for the needed kitchen so as to avoid imported food service.
  - b. Because a bar alone without food would likely attract more customers from outside the neighborhood, it could become a hazard and a nuisance rather than a benefit for the neighborhood residents regardless of the conditions imposed.
  - c. There would be less need for auto parking if the use is designed to attract the local customers.
  - d. One of our LUC members who has worked in retailing pointed out that the objection to keeping track of daily sales is something retailers do routinely and questioned this as a valid reason for objecting to the food sales requirement.

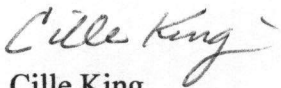


LEAGUE OF WOMEN VOTERS®  
OF LAWRENCE/DOUGLAS COUNTY  
Page 2

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We urge that you recommend to the Historic Resources and City Commissions that the food requirement be the only alternative to allowing serving liquor, i.e., the first recommended alternative, and that the applicant seek methods to facilitate that choice if he chooses to continue to use this building for commercial use.

Sincerely yours,



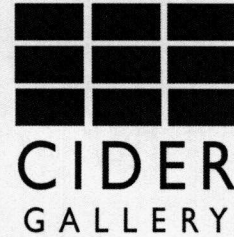
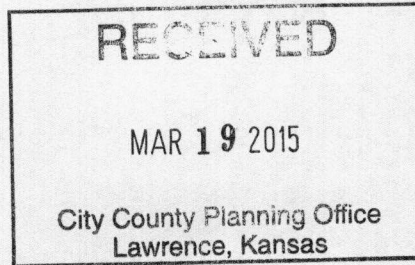
Cille King  
President



Alan Black, Chairman  
Land Use Committee

March 01, 2015

City of Lawrence  
City Commissioners  
6 East 6<sup>th</sup> Street  
Lawrence, KS 66044



Cider Gallery  
810 Pennsylvania St.  
Lawrence, KS 66044

**RE: Rezoning Request for 804 Pennsylvania St. Bar/Bistro**

Esteemed Commissioners,

As Cider Gallery Coworking Office tenants, we are unanimously speaking out in favor of the recent rezoning request for the Bistro at 804 Pennsylvania Street to remove the 55% food sales reporting requirement to allow for the opening of a neighborhood bar bistro.

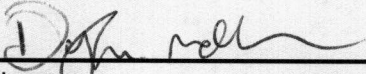
One of the first things we hear from clients and colleagues who come through our offices is that this district has improved so much since they last visited, and that it would be great if we had a place to sit down for a beverage after the meeting! What we REALLY need as employees and employers is a place to take colleagues and clients to discuss business or unwind after a long day of work. It would be hugely helpful to have a bar bistro next door to help our businesses thrive.

Additionally, it should be noted that hundreds of Cider event visitors often populate the vibrant outdoor courtyard and that has never distracted us or neighbors from the work at hand. Further, with only enough space for roughly twenty people outside of the Bistro it hardly seems detrimental from any perspective. We support the location and unrestricted business hours because often, we work late hours or a second job to help us get our businesses established. Closing early would restrict many of us from supporting the bistro when we would prefer to visit.

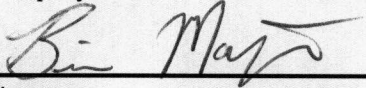
Let the signatures on this document illustrate our support for this rezoning request and for any business owner looking to establish him/herself in the neighborhood.

Sincerely,

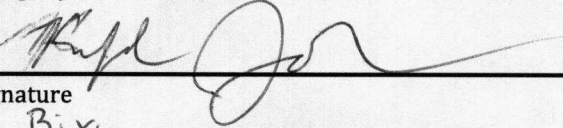
Cider Gallery Coworking Office Tenants


  
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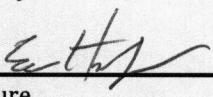
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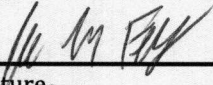
  
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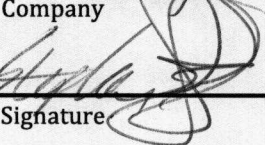
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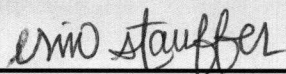
 (Kyle Johnson)  
Signature  
Bixy

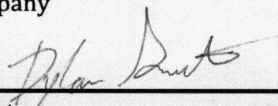
 (Jon Stewart)  
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Bixy

 (Evan)  
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 Jacob  
Signature  
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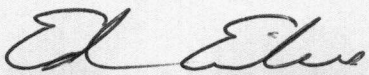
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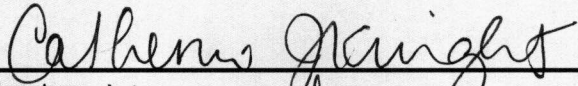
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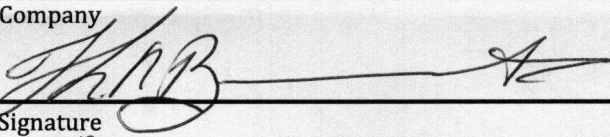
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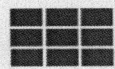
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CIDER GALLERY

March 18, 2015

City of Lawrence

City Commissioners

6 East 6<sup>th</sup> Street

Lawrence, Kansas 66044

RECEIVED

MAR 19 2015

City County Planning Office  
Lawrence, Kansas

Cider Gallery 810 Pennsylvania Street

Lawrence, Kansas 66044

RE: Rezoning Request for 804 Pennsylvania Street Bar/Bistro

Commissioners,

As the Director of the Cider Gallery, I am writing this letter to show full support for the rezoning request at 804 Pennsylvania Street, in order to allow for a neighborhood eating and drinking establishment.

We host multiple events at the gallery throughout the year – we have no fewer than 68 events on the schedule for 2015. These range from Final Fridays to East Side Blues Nights, Weddings and Receptions, Corporate Parties and Events, Customer Appreciation Gatherings, Political Fundraisers, KU Classes and Receptions, Non-Profit Fundraisers and Social Events, Free State Festival Activities, and Awards Ceremonies. As a member of the Warehouse Arts District, we are interested in bringing Lawrence residents to the historic east side of town on a regular basis, and not only within the confines of our planned events. A neighborhood gathering spot that includes indoor and outdoor seating as well as great atmosphere, will add to the energy that is already being generated in the area.

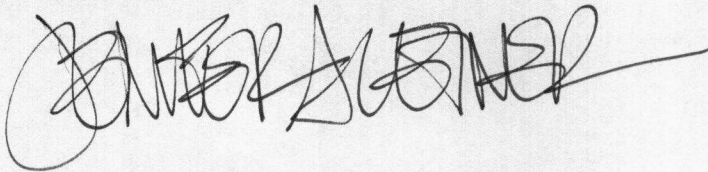
We host coworking office tenants on our second floor. They invite clients to the district, and have a need to entertain. They also work long and varied hours, and would be interested in acquiring food and beverages that are in close proximity to our work space.

Our occupancy in the gallery space, including use of our outdoor courtyard, is 316. We have hosted events for up to 300 people without finding that the noise is a factor for our neighbors. A small patio space at 804 Pennsylvania would only accommodate a fraction of that number for seating, and we don't imagine that to be a disruption within the community.

We plan to work with management at 804 Pennsylvania to ensure that guests at both establishments are pleased with the location, service, sound management, and parking situations. We are looking forward to this addition to the Warehouse Arts District and believe that it will serve to support the business leaders and artists who are already actively working in this thriving part of Lawrence.

Thank you for considering our letter in support of this particular rezoning request.

Jennifer Letner

A handwritten signature in black ink, appearing to read "JENNIFER LETNER", with a long horizontal flourish extending to the right.

Director, Cider Gallery – Events, Fine Art

785-304-4005

785-248-6000

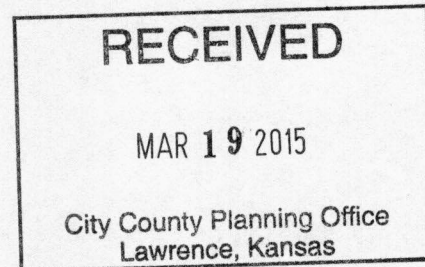
[jennifer@cidergallery.com](mailto:jennifer@cidergallery.com)





**FLINT HILLS MANAGEMENT GROUP, LLC**  
832 Pennsylvania Street  
Lawrence, KS 66044  
PH: 785-550-7228  
FAX: 785-856-5658  
jputman@flinthillsmgmt.com

**To:** City of Lawrence  
City Commissioners  
6 East 6<sup>th</sup> Street  
Lawrence, KS 66044



**RE: Rezoning Request for 804 Pennsylvania St.**

Respected Commissioners,

As Vice President of the overseeing Management Company for the Poehler Lofts, Cider Gallery, 720 Annex, 832 Pennsylvania offices, 9-Del Lofts and the Warehouse Arts District, as well as an East Lawrence resident for many years, I am extremely supportive of the rezoning change that will bring a much needed new service business to the thriving area.

We at Flint Hills Management Group are extremely eager to welcome the Bistro into our neighborhood. I believe it will be an asset to what currently exists here, and I have heard from many of our tenants and colleagues how much they too are looking forward to its opening. As a management company we see how certain business types can be disruptive to our mission, but the Bistro concept will be very complimentary to what currently exists down here today!

I would like this letter to reflect my complete support for the rezoning request and bringing this unique and highly desirable restaurant to the flourishing district.

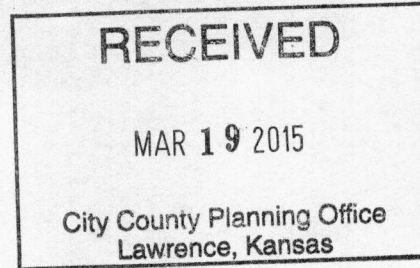
Sincerely,

A handwritten signature in black ink, appearing to read "Jacqueline Putman".

Jacqueline Putman  
VP of Property Management  
Flint Hills Management Group

March 01, 2015

City of Lawrence  
City Commissioners  
6 East 6<sup>th</sup> Street  
Lawrence, KS 66044



Poehler Loft Apartments  
619 East 8<sup>th</sup> St.  
Lawrence, KS 66044

**RE: Rezoning Request for 804 Pennsylvania St. (AKA 605 E. 8<sup>th</sup> St.)**

Esteemed Commissioners,

As Poehler Loft Apartment tenants, we are extremely supportive of the rezoning change lifting the 55% restriction on the neighboring Bistro Bar to allow for a successful business to thrive outside our back door.

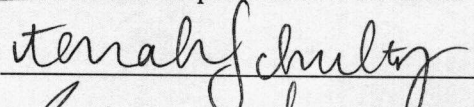
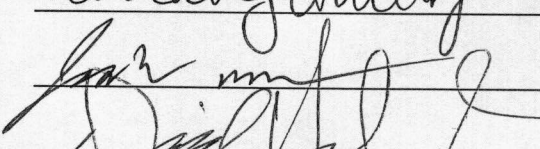
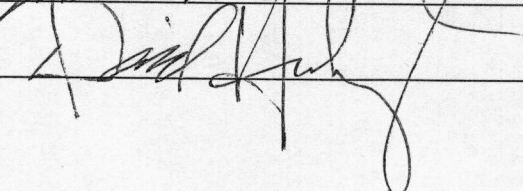
The ownership group and design team have done more than asked to minimize noise pollution, protect our privacy and modify the design to suit all of our concerns for the Bistro. We are thrilled with the final product and look forward to it's grand opening.

Not only are we in support as patrons, but we think this will be a tremendous asset to the whole district and neighborhood by providing an establishment to enjoy good food and beverage, especially since there is not a location to do this within the neighboring 7 blocks. We are looking forward to having a location to entertain friends, meet with colleagues and get to know others in the neighborhood.

Let the signatures on this document illustrate our support for this rezoning request and for any business owner looking to establish him/herself in the neighborhood.

Sincerely,

Poehler Loft Apartment Residents

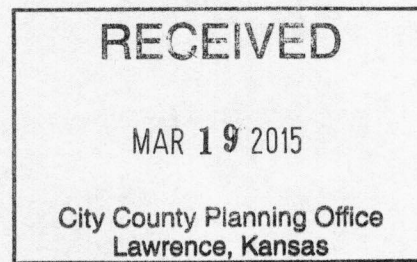
	Unit 212
	208
	209



Lisa Burns	102
Sharon Chernock	401
Allison Marker	304
Jessica Andahl	312
Will Ogle	312
Matthew P. Cannon	311
Kendra Noll	307
Alexa Coob	306
Schnathen Flaherty	306
Leah Gohin	308
Travis Jack Hartz	108
Mr. Guff	404
Janece Ramsey	108.
Mr. J. E. Clement	353
Rachel May	207
Rant Burns	102
Cason Weller	403
Joe W.	410
Mike C.	103
Janece R. Smith	201

March 01, 2015

City of Lawrence  
6 East 6<sup>th</sup> St.  
Lawrence, KS 66044



**Rezoning of 804 Pennsylvania St.**

Commission,

As business owners and operators in the heart of the Warehouse Arts District, we would like to show our support for the rezoning request of our neighbors at 804 Pennsylvania St.

All of us started or moved our businesses to the Warehouse Arts District because of the vitality, creative energy and excitement surrounding the evolution of this District. We really enjoy living and working around other artists, professionals and entrepreneurs, and this density of other like-minded individuals is difficult to replicate other places in the city.

When we first invite other clients or colleagues to the area, they first comment on how they have never been down here prior to our meeting, and second discuss how great it would be if they could stay down here for lunch, dinner or a drink after work. There is not anywhere close for us to call our own, and we are in desperate need of a neighborhood-friendly, low-key bistro bar such as the one proposed.

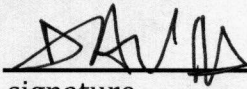
From our discussions with the development group they have clearly established that this will be a community-gathering place, a place to bring friends and family, somewhere where you can carry on a conversation inside or outside without having to yell. We are extremely excited for this to move forward and know it will not only be enjoyable but will be a big asset for growing our businesses.

Sincerely,

Warehouse Arts District Business Owners



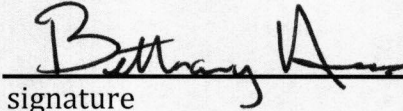
By signing this letter we fully support the rezoning request at 804 Pennsylvania St.:



signature

WOTC SOLUTIONS

business



signature

Catherine Hess Law, LLC

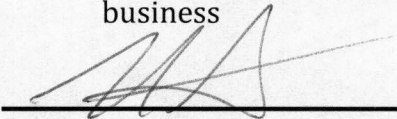
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SeedCo Studios


business



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Seed Co Studios

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SEEDCO STUDIOS

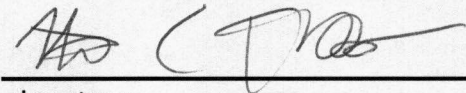
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Through A Glass Productions

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Through A Glass Productions

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Taryn Miller

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Abroxas

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A-1 AUTOMOTIVE

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WOTC Solutions LLC

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Julia K Peterson

WOTC Solutions LLC

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MEAN GRAD

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Law Offices of Catherine Hoss, LLC

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business

# Memorandum

## City of Lawrence

### Planning Department

TO: Lawrence Douglas County Metropolitan Planning Commission  
FROM: Planning Staff  
DATE: March 20, 2015  
RE: Item No. 5: Text Amendment for Value-added Agricultural Business Conditional Use

This memo is intended to clarify staff's recommendation on Standard H, compliance with the Access Management Standards.

Page 5-5 of the staff report notes staff's recommendation that the standard requiring compliance with the Access Management Standards (Standard H) be removed until the Access Management Standards have been revised to clarify how they apply to vested parcels and parcels in zoning districts other than the A and A-1 Districts.

Staff had discussed this proposal with the County Engineer who recommended that the standard be retained but revised to clarify how it applies to parcels that were created before, and those that were created after, the adoption of the Access Management Standards.

The proposed draft language was revised to incorporate the County Engineer's recommendation but the body of the staff report was not revised to indicate that staff recommends that Standard H be revised rather than removed. This was an oversight on staff's part.

The draft language provided on Page 5-7 of the staff report contains the following language that staff recommends for Standard H (language that is changed is in red, deleted text is ~~struckthrough~~, new language is underlined):

- a. Road Access and Frontage:
  - i. The site must have direct access to a full maintenance public road.
  - ii. ~~and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations. Access for parcels that were created prior to the adoption of the Access Management Standards, (October 25, 2006) will be dependent on the County Engineer's review of the anticipated traffic and the nature and condition of the adjacent road network. Additional conditions may be applied or access may be denied based on this review.~~
  - iii. Access and the minimum road frontage required in the Access Management Standards must be met for parcels that were created after the adoption of the Access Management Standards on October 25, 2006.

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

PC Staff Report  
03/23/15

**ITEM NO. 5 TEXT AMENDMENT FOR VALUE-ADDED AGRICULTURAL BUSINESS  
CONDITIONAL USE (MKM)**

**TA-14-00548:** Consider a Text Amendment to clarify locational and developmental standards for the *Value-added Agricultural Business* Conditional Use and to clarify the uses which are permitted on non-conforming vested properties. *Initiated by County Commission on 12/17/14.*

**RECOMMENDATION:** Staff recommends approval of the proposed amendment, TA-14-00548, to revise the standards for the *Value-added Agricultural Business* conditional use in Section 12-319-4.35 of the Zoning Regulations and that the Planning Commission forward a recommendation for approval to the Board of County Commissioners.

**Reason for Request:** The *Value-added Agricultural Business* use was added to the list of uses permitted with a CUP in 2008 with an amendment to the Zoning Regulations. Through the review of the first CUP application for a *Value-added Agricultural Business* use in 2014, standards related to the minimum site area and road access and frontage were found to be unclear. In addition, through the discussion of the CUP request, the Commission asked for clarification about uses which are allowed on non-conforming vested properties.

**RELEVANT GOLDEN FACTOR:**

- Conformance with the comprehensive plan.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- Property owners within the notification area of the previous *Value-added Agricultural Business* Conditional Use, CUP-14-00304, were notified of the proposed text amendment and the Planning Commission meeting date. Inquiries about the amendment were received, but no comments were received prior to the publication of this report.

**ATTACHMENTS**

- Attachment A – Chart of CUP Uses
- Attachment B – Initiation Memo
- Attachment C – 2008 Text Amendment Materials
- Attachment D – Complete Code Section

**RELEVANT DEFINITIONS**

*"Value-added Agricultural Business*

*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)." (Section 12-319-4.35, Zoning Regulations)*



## **OVERVIEW OF PROPOSED AMENDMENT**

The amendment is focused on the *Value-added Agricultural Business* standards which have been identified as being unclear and will look into the uses which are permitted on vested nonconforming properties, as requested by the County Commission. The *Value-added Agricultural Business* use was added to the list of Conditional Uses in 2008 in response to a proposal to develop a business that pressed straw (not produced on the property) into bricks for use as heating fuel. The project did not progress and a Conditional Use Permit was not submitted at that time. The first application for a Conditional Use Permit was for the Central Soyfood Processing Facility. It was during the review of this CUP that the issues with the standards were identified. This text amendment is not geared to one particular use but will review the standards in question to determine the intent at the time, and develop appropriate language to clarify the meaning.

**Standard (g). Minimum Site Area:**  
**A minimum site area is consistent with the County adopted policy for agricultural uses.**

The staff memo, reports and meeting minutes reflect the original standard and the various changes which resulted in the current language (This standard was labeled '7' in the early memos and reports):

### **April 14 and 16, 2008 BoCC Meetings:**

Staff initiation memo included the following standard:

*"7. Minimum Site Area: A minimum site area of 80 acres is required for the operation of all value-added agricultural businesses"*

No discussion of the minimum area was reflected in the minutes and the text amendment was initiated.

### **July 2008, Planning Commission Meeting**

The staff report included the following revised standard:

*"7. Minimum Site Area: A minimum site area of 40 acres is required for the operation of all value-added agricultural businesses."*

The item was deferred from the July 21<sup>st</sup> to the July 23<sup>rd</sup> meeting so Linda Finger could be present to answer questions. Linda Finger provided the following information related to the minimum area and agricultural uses at the July 23<sup>rd</sup> meeting

*"Regarding standard number 7, since the County Commission sent this (text amendment) forward they have adopted by home rule resolution the administrative policy for what an agricultural use is. It is either 40 acres, or the determination that the owner is in agricultural production through the provision of a schedule F, which is filed with their federal income tax, which shows they have invested more than \$1,000 in farming. If the government believes they are agricultural then the County will believe that too, even if they do not have 40 acres. That is what the County Commission recently adopted so County staff felt they should change the minimum site area to be consistent with the County's adopted policy for agriculture uses."*

*"If it is an agricultural product they would not have to produce it onsite, but they could not claim it as an agricultural product simply because it was hay or straw brought in on their property."*

The definition of 'agricultural' is important when determining if a use is exempt from the Zoning Regulations and if a structure is exempt from the requirement to obtain a Building Permit. A structure that is used for strictly agricultural purposes is not required to obtain a Building Permit and an

*Agricultural* use is not subject to the Zoning Regulations. Much of the discussion appears to be intended to clarify that the *Value-added Agricultural Business* use was not considered *Agricultural* if it did not meet the definition the County had adopted. In that case, it is subject to the Zoning Regulations and any structures used in the production would be required to obtain a building permit and be compliant with building codes. If the property is over 40 acres, it appears it would meet the definition of an *Agricultural* use and would be exempt from the Zoning Regulations. However, bringing the commodities in from another site would remove the *Agricultural* designation and require compliance with Zoning Regulations and the Building Code.

Minutes from this meeting reflect that Standard 7(g) was revised as:

Minimum Site Area: A minimum site area of 40 acres is required for the operation of all value-added agricultural business. **is consistent with the County adopted policy for agricultural uses.**

### **September 15, 2008: Board of County Commissioners meeting**

Minutes reflect that the County Commission adopted the text amendment with the language proposed by the Planning Commission.

### **INTENT**

In staff's opinion, Standard 7(g) was intended to provide guidance as to when a Conditional Use Permit is required for a *Value-added Agricultural Business* use. In the event the use does not meet the definition of 'Agriculture' a CUP is required. The exemption for *Agricultural* uses is specifically listed in Section 12-304-6.01 of the Zoning Regulations:

*"No land may be used except for a purpose permitted in the district in which it is located, provided, however, that no regulations shall apply to the use of land for agricultural purposes nor for the erections or maintenance of buildings thereon as long as such buildings are used for strictly agricultural purposes."*

The County Resolution defining *Agricultural* uses and the *Value-added Agricultural Business* text amendment occurred at about the same time, and, in staff's opinion, Standard 7 (g) is no longer needed, now that the resolution has been adopted.

The Conditional Use Permit standards as a whole are intended to minimize negative impacts and ensure compatible development. The establishment of a minimum area would not serve to minimize negative impacts as there is no standard related to the location of the facility on a site. Standard (e) requires that negative impacts be contained on the property—"associated noise, light, and vibrations from the production operation shall not be perceptible at the site boundary/property lines." It may be appropriate to include 'odor' as one of the negative impacts as that was a concern with the soyfood processing CUP.

Removing standard (g) would allow the minimum site area to be determined on a case-by-case basis depending on the location of the facility on the site, and the construction and design of the facility. These factors would have more of an impact on regulating negative impacts than the establishment of a minimum area for all *Value-added Agricultural Business* uses. The type of possible uses vary greatly: jelly or salsa production, prepping and packaging of vegetables, wheat weaving, soyfood processing, distillery, compression of straw into fuel blocks, etc.

Other standards applied to the use, such as a limitation on the number of employees, the maximum size of the building, and a limit on the number of deliveries by larger commercial vehicles, serve to ensure the scale of the facility remains small enough to be compatible with adjacent properties. In

staff's opinion, the standards regulating the scope of the project and the standards prohibiting negative external impacts beyond the property lines, in addition to any specific conditions that are applied to the project based on its unique characteristics and location, should minimize negative impacts and result in compatible development without the need to set a minimum area requirement.

**Standard h. Road Access and Frontage:  
The site must have direct access to a full maintenance public road and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations.**

Prior to the County Commission's initiation of the *Value-added Agricultural Business* text amendment, the County Planning Resource Coordinator and Public Works Director took the question of the Access Management Standards to the County Commission. The following excerpt is from the April 16, 2008 Board of County Commission meeting minutes:

*"The Board discussed whether the access, if determined safe, to a 'value-added agriculture business' property should have to meet the minimum frontage requirements or be considered as having vested rights to a road cut with less than the minimum road frontage. The Board broadened the discussion to all conditional use requests, not just requests for value-added agricultural businesses. Johnson stated he felt the Board created the access dilemma for existing parcels when the new regulations were adopted and that parcels with less than the required road frontage should be permitted access."*

The item was tabled for further discussion and the following is an excerpt from the May 5, 2008 minutes:

*"The Board discussed adding a clause to the text amendment that in addition to meeting frontage requirements, the applicant must also meet eligibility by an evaluation of the existing divisions and frontage based on land use intensity and safety as determined by the Public Works Director. Jones stated we have the right to consider access in light of safety and this clause should apply to all Conditional Use Permits (CUPs).*

*Browning asked if CUPs in general or value added CUPs are under the same minimum frontage requirements as residential. Johnson stated technically the answer is "no." Browning then clarified on an existing parcel that doesn't meet our current requirements, we will issue the residential permit if the division existed prior to the regulations. But the regulations should say that it doesn't apply to CUPs."*

*After further discussion, it was the consensus of the Board to table the item for consideration of non-residential properties."*

Staff was unable to find any further minutes related to the Access Management Standards.

The overall purpose of the Access Management Standards is to insure safety on the adjacent roadways. As the County Engineer noted in the 2008 County Commission discussions, if the Access Management Standards are intended to prohibit non-residential driveway permits to properties that were divided prior to 2006 the standards should be revised to clarify that.

The question before us at this time is should only the existing properties that have the required frontage per the Access Management Standards be allowed to develop with a *Value-added Agricultural*

*Business* use, regardless of the nature of the use. A connected question is whether any CUPs or site plans should be granted to properties that do not meet the Access Management Standards. The chart in Appendix A shows various properties that have had CUP approval since the adoption of the Access Management Standards and the Subdivision Regulations in 2006 that do not comply with the Access Management Standards.

In addition, the frontage requirements listed in the Zoning Regulations for properties in the R-1, B-1, B-2, B-3, I-1, I-2, I-3, I-4, and V-C Districts do not comply with the frontage requirements in the Access Management Standards. (Figure 1)

12-318 HEIGHT, AREA AND BULK REQUIREMENTS											
12-318-1. Height, area and bulk requirements for the various districts shall be indicated in the chart below, together with other height, area, and build requirements contained in this Resolution.											
12-318-2. The minimum lot sizes listed in any Zoning District of less than one acre are applicable only where an approved sanitary sewer system is available.											
Article	District	Max. Feet in Height	Max. Height in Stories	Min. Depth of Front yard in Ft.	Min. Width of Side yard in Ft. (2 required)	Min. Depth of Rear Yard in Ft.	Min. Lot/Parcel Area Per Family in Acres or Sq. Ft.	Min. Lot / Parcel Area in Sq. Ft.	Min. Lot/ Parcel Width at road right-of-way or road easement line (in Feet) <sup>1</sup>	90% of Min. Lot/ Parcel Width (in feet)	Min. Depth of Lot/ Parcel in Feet
6	"A" Agricultural	35	2 ½	50*	10	30	3 acres *	3 acres *	250*	225	250
				75**			3 acres**	3 acres**	330**	297	250
				100***			5 acres***	5 acres***	500-660***	450-594	250
				150****			10 acres****	10 acres****	1320****	1188	300
7	"A-1" Suburban Home Residential	35	2 ½	50*	10	30	3 acres *	3 acres *	250*	225	250
				75**			3 acres**	3 acres**	330**	297	250
				100***			5 acres***	5 acres***	500-660***	450-594	250
				150****			10 acres****	10 acres****	1320****	1188	300
8	"R-1" Single Family Residential	35	2 ½	25		30	10,000	10,000	75	N/A	120
9	"B-1" Neighborhood Business	35	2 ½	40	Dwellings: 10 Other bldgs: 20	30	15,000	15,000	75	N/A	125
							--		N/A		
9A	"B-3" Limited Business	25	2	50	50	50	43,560	87,120	150	N/A	125
10	"B-2" General Business	45	3	40	Dwellings: 10 Other bldgs: 20	30	15,000	15,000	75	N/A	75
							--		N/A		
11	"I-1" Limited Industrial	45	2	50	20	30	--	43,560	150	N/A	200
12	"I-2" Light Industrial	55	4	25	10	Dwellings: 30	15,000	15,000	75	N/A	125
						Other bldgs: 20	--	7,500	75	N/A	100
13	"I-3" & "I-4" Heavy Industrial	--	--	25	10	20	--	15,000	100	N/A	150
14	"V-C" Valley Channel	35	2 ½	50	15	50	5 Acres	5 Acres	300	N/A	300
28	"F-W" Floodway	-- SAME AS UNDERLYING ZONING DISTRICT REGULATIONS --									
	"F-F" Floodway Fringe	-- SAME AS UNDERLYING ZONING DISTRICT REGULATIONS --									
*	Property which takes access from and has the required frontage on a Local road										
**	Property which takes access from and has the required frontage on a Minor Collector road										
***	Property which takes access from and has the required frontage on a Major Collector or Minor Arterial road										
****	Property which takes access from and has the required frontage on a Principal Arterial road										

Figure 1. Zoning District Requirements Table from 12-318.

Figure 1. Zoning District Requirements Table from 12-318.

In staff's opinion, the question of the applicability of the Access Management Standards is broader than just the *Value-added Agricultural Business* use. Staff recommends that the language be removed from this particular use until a County policy has been adopted regarding the applicability of the Access Management Standards to non-residential uses, including uses which require additional permits and uses in other zoning districts. When the policy has been adopted, the Zoning Regulations should be revised as needed.

Until that time, the County Engineer would determine access on a case by case basis by evaluating the anticipated traffic, the adjacent road network, and the condition of the roads. A permit may be denied, or conditions restricting the intensity of the use may be applied, to insure safety.



## USE OF VESTED NONCONFORMING PROPERTIES

### **Section 11-101(e)(2) Lot of Record or Non-Conforming Lots/Parcels**

**(iv)** *For property in the Unincorporated Areas of Douglas County, a lot of record or a parcel lawfully created within the A (Agricultural) District, A-1 (Suburban-Home Residential) District, or R-1 (Single-Family Residential) District in the Unincorporated Area of Douglas County on or before December 31, 2006, that has been maintained in individual ownership, may be used for residential purposes for a single-family home or for another use allowed within the District the property is located in, without further review under this Article, until such lot of record or parcel is further subdivided."*

The language provided in the Subdivision Regulations indicates that a non-conforming parcel in the A, A-1, or R-1 Districts that was legally created may continue to be used for any use that is allowed in that district. Staff contacted the County Counselor for an explanation of the term 'individual ownership' to see if properties that were owned jointly or owned by corporations were included. The County Counselor indicated this was meant to insure that there was one deed for the property, that it had not been divided by deed into separate ownership but did not exempt properties that are owned jointly by husband/wife, trusts, or corporations.

The question was brought up about the meaning of the words 'allowed in the District'. Did this apply only to Residential and Agricultural uses, or did it apply to uses which required County Commission approval, such as Site Plans, Conditional Use Permits, Temporary Business Uses, and Rural Home Business Occupations?

The Zoning Regulations contain provisions related to non-conforming uses (Section 12-320) but does not address nonconforming lots or parcels. A non-conforming use is defined in Section 12-303-1.64 as *"Any building or land lawfully occupied by a use at the time of passage of this Resolution or amendment thereto which does not conform after the passage of this Resolution or amendment thereto with the use regulations of the district in which it is located."*

The comprehensive revision of the Zoning Regulations may include additional information related to the use of non-conforming lots or parcels; however, at this time, the only guidance provided is that in the Subdivision Regulations. If the Commission determines that the use of non-conforming parcels or lots in the A, A-1, and R-1 District should be limited, a text amendment to the Subdivision Regulations could be initiated.

### **Proposed Article Changes**

Changes to the text are shown on the following pages and are noted in **red**. Additions are underlined; and deleted text is ~~struckthrough~~. The entire Section 12-319-4.35 is provided at the end of this report as Attachment A for reference.

### **Amend Section 12-319-4 Conditional Uses Enumerated**

**12-319-4.35 Value-added Agricultural Business.** 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).

Agricultural value-added businesses shall meet each of the following location and development standards:

- a. Employees: A maximum of 4 full-time equivalent employees shall be allowed.
- b. Buildings or Structures:
  - i. The total square footage for all buildings used in the operation, production, and storage of materials shall not exceed 10,000 sq feet.
  - ii. Structures are required to be upgraded to meet commercial building code requirements if used for more than storage of raw agricultural materials.
- c. Deliveries to/from the site: Commercial vehicles that exceed 5 tons (gvw) in capacity shall be limited to two trips (to and from the site) per day.
- d. Environmental considerations: No part of the production of the value-added product may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.
- e. Equipment: 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.
- f. ~~Off-site impacts: In either case,~~ The associated noise, **odor**, light, and vibrations from the production operation shall not be perceptible at the site boundary/property lines.
- ~~g. Minimum Site Area: A minimum site area is consistent with the County adopted policy for agricultural uses.~~
- h. Road Access and Frontage:
  - i. The site must have direct access to a full maintenance public road.
  - ii. ~~and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations. Access for parcels that were created prior to the adoption of the Access Management Standards, (October 25, 2006) will be dependent on the County Engineer's review of the anticipated traffic and the nature and condition of the adjacent road network. Additional conditions may be applied or access may be denied based on this review.~~
  - iii. **Access and the minimum road frontage required in the Access Management Standards must be met for parcels that were created after the adoption of the Access Management Standards on October 25, 2006.**
- i. Signage: One sign, limited to no more than 6 square feet in area, shall be visible from a public road, identifying the business. The sign shall be located no closer than 10 feet from the road easement/right-of-way line. No other signs may be posted or erected on the property.

### CONFORMANCE WITH THE COMPREHENSIVE PLAN

*Horizon 2020* promotes agricultural land uses as the predominant land uses within the rural areas of the county. The plan encourages uses which allow the farmer to sell directly to a consumer to provide flexibility to farmers and an incentive to retain agricultural land in production. The current text amendment seeks to clarify standards associated with the established *Value-added Agricultural Business* use.

### CRITERIA FOR REVIEW AND DECISION-MAKING



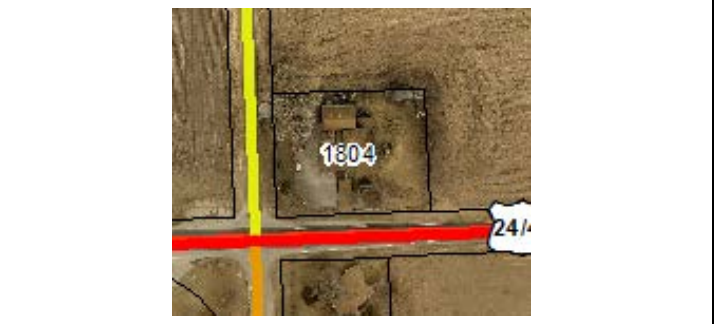

Section 12-324 of the Zoning Regulations provides the process for proposed text amendments but does not include criteria for review and decision-making. The text amendment was reviewed with the following criteria which are similar to those in the City of Lawrence Development Code:

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

The proposed text amendment corrects an inconsistency in the Zoning Regulations. Two standards were identified as being unclear through a review of the first *Value-added Agricultural Business* Conditional Use application. Standard (g) discussed a minimum site area, but did not provide a required minimum area. Standard (h) required compliance with the Access Management Standards, but related County Commission discussions indicated that the Access Management Standards were not intended to apply to non-residential uses. The amendment proposes revised language to clarify these standards.

**2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of the Zoning Regulations**

The proposed amendment is consistent with the Comprehensive Plan and the purpose of the Zoning Regulations in that it includes standards and processes to insure the compatibility of development with existing land uses, while encouraging the development of agricultural related industry in the unincorporated portions of Douglas County.

<p><b>CUP-14-00295</b> <b>Creekwood Lawn/equip storage</b> <b>Approved 10/8/2014</b> Lawn business, without residence Vested, nonconforming parcel on principal arterial</p> <ul style="list-style-type: none"><li>• 1320 ft of frontage required - 626 ft provided.</li><li>• Minimum 10 acres required - 3.9 acres provided.</li></ul>	
<p><b>CUP-13-00482</b> <b>838 E 1500 Rd</b> <b>Good Earth Gatherings/ classes</b> <b>Approved on Feb 19, 2014.</b> Vested nonconforming parcel on minor collector</p> <ul style="list-style-type: none"><li>• 330 ft of frontage required -- 251 ft provided.</li></ul>	
<p><b>CUP-13-00492</b> <b>1804 E 1500 Rd</b> <b>The FETE/ banquet facility</b> <b>Approved on March 19, 2014.</b> Access on E 1500 Rd, minor collector.</p> <ul style="list-style-type: none"><li>• 330 ft of frontage required -- 177 ft provided.</li><li>• Minimum 3 acres required -- .8 acres provided.</li></ul>	
<p><b>CUP-12-00154</b> <b>Kanwaka Mini-storage</b> <b>Parcel w of 757 Hwy 40 (star)</b> <b>Approved on November 28, 2012,</b> CUP expired</p> <p>Access for all properties comes from a principal arterial 1320 ft of frontage required and minimum area of 10 acres.</p> <ul style="list-style-type: none"><li>• 3 parcels frontage: 394 ft, 197 ft, and 193 ft</li><li>• 3 parcels area: 3, 1.3, and 1.4 acres</li></ul>	



**CUP-3-1-11**  
**1193 N 1250 Rd**  
**Lawrence Landscape**  
**Approved on July 6, 2011**

Located on major collector

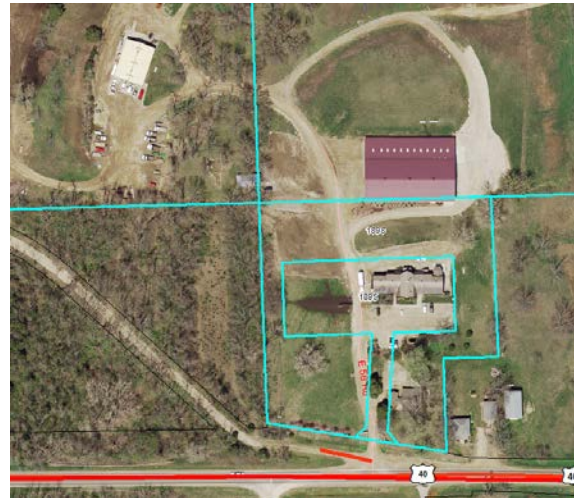
- 500 ft of frontage required - 483 ft provided.



**CUP-04-3-11**  
**1898 E 56 Road**  
**Big Springs Indoor Sport Center**  
**Approved July 6, 2011**

Project consists of several parcels, 2 are landlocked and 2 have access to Hwy 40, a principal arterial.

1320 ft of frontage required for parcels which access a principal arterial / 326 ft frontage provided for both parcels.  
(E 56 appears to be a private road which matches the driveway. The CUP report noted that the property takes direct access to Hwy 40.)



**CUP-8-9-09**  
**RWD # 5 Booster Station**  
**1292 N 1100 Rd**

Located on a Major Collector

- 660 ft frontage required – 50 ft provided
- 5 acres min required - .09 acre provided



**CUP-05-02-08**  
**Lone Star Bison Ranch**  
(CUP approvals expired)  
Located on principal arterial

1320 ft of frontage required – 934 ft provided.



**CUP-02-04-07**  
**Child Care at First United Methodist**  
**Church 867 Hwy 40**  
**Approved May 16, 2007**  
Located on principal arterial  
1320 ft of frontage required – 520 ft  
provided



# Memorandum

## City of Lawrence

### Planning & Development Services

**TO: Board of County Commissioners**  
**CC: Craig Weinaug**  
**FROM: Mary Miller, City/County Planner**  
**Date: December 5, 2014**  
**RE: Request for Initiation of Text Amendment to clarify locational and developmental standards for *Value-added Agricultural Business* Conditional Use and to clarify the uses which are permitted on non-conforming vested properties**

The *Value-added Agricultural Business* use was added to the list of Conditional Uses in Section 12-319-4 of the Zoning Regulations with the adoption of Text Amendment, TA-05-06-08, in September of 2008. The Central Soyfoods Conditional Use Permit application, CUP-14-00304, was the first application for a *Value-added Agricultural Business* that has been submitted under the revised regulations. Through the review of the CUP application, the following provisions and standards of the Code were identified as being difficult to implement due to a lack of clarity: the minimum site area required for a *Value Added Agricultural Business* use; the road access and frontage required for non-conforming vested parcels; and whether uses which require additional approvals, such as a Conditional Use Permit, are allowed on non-conforming vested properties.

The specific Code sections and language are listed below, with a notation as to the type of change that would be made with the amendment.

Staff requests the Board of County Commissioners initiate a text amendment to the *Zoning Regulations for the Unincorporated Territory of Douglas County* to clarify the following standards:

<b>MINIMUM SITE AREA</b>	<b>Section 12-319-4.35(g)</b>
<b>Minimum Site Area: A minimum site area is consistent with the County adopted policy for agricultural uses.</b>	

The draft code language which was proposed with the Value Added Agricultural Business CUP text amendment included a requirement for a minimum site area of 80 acres. The language was revised at the Planning Commission meeting to reference County policy for agricultural uses. The current standard does not reference a specific area requirement and agricultural uses are not required on a site with a *Value Added Agricultural Business*.

- The text amendment would review existing *Value Added Agricultural Business* uses in other communities to determine if a minimum site area should be required and, if so, establish the minimum site area.

**ROAD ACCESS AND FRONTAGE**

**Section 12-319-4.35(g)**

**Road Access and Frontage: The site must have direct access to a full maintenance public road and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations.**

This standard does not provide guidance for non-conforming vested properties (properties that were legally created prior to the adoption of the 2006 Subdivision Regulations, and that no longer comply with the standards). County staff requested an interpretation from the County Commission as to the standard in relation to vested properties at their April 16, 2008 meeting. The following is an excerpt from that meeting:

*"Browning stated the Access Management Regulations were not restricted to application of only residential properties and that he would apply the same process to any use on a 'vested' parcel of land. He asked if the Board would agree with this interpretation of the regulations. The board discussed whether the access, if determined safe, to a 'value-added agriculture business' property should have to meet the minimum frontage requirements or be considered as having vested rights to a road cut with less than the minimum road frontage. The Board broadened the discussion to all conditional use requests, not just requests for value-added agricultural businesses. Johnson stated he felt Board created the access dilemma for existing parcels when the new regulations were adopted and that parcels with less than the required road frontage should be permitted access."*

- The revised regulations would clarify the frontage requirements for vested properties.

**USE OF VESTED NON-CONFORMING PARCELS**

**Section 11-101(e)(2)(iv)**

***For property in the Unincorporated Areas of Douglas County, a Lot of Record or a Parcel lawfully created within the A (Agricultural) District, A-1 (Suburban-Home Residential) District, or R-1 (Single-Family Residential) District in the Unincorporated Area of Douglas County on or before December 31, 2006, that has been maintained in individual ownership, may be used for residential purposes for a single-family home or for another use allowed within the District the property is located in, without further review under this Article, until such Lot of Record or Parcel is further Subdivided."***

This Code reference from the Subdivision Regulations notes that a vested property may be used for any use allowed within the District without requiring that the property be replatted or divided through a Certificate of Survey. The Zoning Regulations are silent regarding the type of uses which are allowed on non-conforming vested lots or parcels but do contain a section regarding nonconforming uses and structures (Section 12-320).

- The text amendment would revise Section 12-320 of the Zoning Regulations to include a provision clarifying the uses which are permitted on vested non-conforming platted lots, lots of records, or parcels.



## Minutes from County and Planning Commission meetings

**April 14, 2008 Board of County Commissioners minutes  
Initiation of text amendment****ZONING & AMENDMENT 04-14-08**

The Board considered initiation of an amendment to Article 19 of the County Zoning Regulations to add a new conditional use for "value-added agricultural business" to the regulations, based on Commission discussion with Bill Schaetzel at the March 24, 2008, meeting. A second amendment recommended for initiation by staff and the County Counselor to Article 19 was for correction to errors of codification that have occurred in Article 19. Linda Finger, Planning Resource Coordinator, and Evan Ice, County Counselor, were present for the discussion.

Jones asked if Finger had talked with anyone in the agricultural community regarding the proposed language for the "value-added agricultural business" use. Finger stated she spoke with Bill Wood in the Douglas County Extension Office, who said the language for "value-added agricultural business" fits how Extension has discussed it. He said they used the USDA definition, which is what Finger used to create the draft language.

Jones asked how wide open was the concept of "value-added agriculture business". Finger stated the applicant would have to meet the requirements as defined by USDA Regulations and the specific development criteria recommended. Adding the development criteria made this use more restrictive than it would be if added to an Industrial zoning category.

Johnson stated he would not be in favor of narrowing the language of the proposed regulations any further. As Conditional Use Permits, the Board will find out what the specific use is that is proposed, how it is intended to operate, and how the use fits with the development criteria proposed. Finger added that a Conditional Use Permit has an appeals procedure should, once the use is in operation, the neighbors believe the use is not being operated as it was approved. Approval of a site plan for a permitted use in a zoning district does not have an appeal procedure.

The Board discussed changes in wording to reflect the number of truck trips in and out of the property; having direct access to a full maintenance public road; meeting the minimum frontage requirements; and, the need to require all CUPs to meet all applicable state and federal laws, not just this proposed use.

It was the consensus of the Board to table the item for staff to making the wording revisions discussed and to place on the agenda for the Wednesday, April 16, 2008 meeting.

**April 16, 2008 Board of County Commissioners minutes  
Initiation of text amendment (continued)****PLANNING 04-16-08**

The Board considered initiation of a text amendment to Article 19 of the Zoning Regulations to correct codification errors that have occurred over time in that article of the regulations. Staff also added a "compliance with all applicable state and federal laws" language to the general CUP review criteria in accordance with the previous direction of the County Commission during their discussion of the new "value-added agricultural business" use. Linda Finger, Planning Resource Coordinator, was present for the discussion.

Jones moved to initiate the amendment with revisions as indicated by Staff during the meeting for public hearing in June by the Planning Commission. Motion was seconded by McElhaney and carried unanimously.

Minutes from County and Planning Commission meetings

**April 16, 2008 Board of County Commissioners minutes**  
**Discussion of Access Management Standards**

**MISCELLANEOUS & ACCESS REQUIREMENT 04-16-08**

Linda Finger, Planning Resource Coordinator, and Keith Browning, Director of Public Works, asked the Board for an interpretation regarding application of the Access Management Regulations to the proposed new conditional use of "Value Added Agriculture Businesses".

Browning stated the property owned by Bill Schaetzel was purchased prior to October 25, 2006. The property has 1074 feet, not the required 1320 feet of road frontage on a minor collector. Using the Access Management Regulations, the existing parcel would be eligible for a road cut for a single-family residence. Browning stated the Access Management Regulations were not restricted to application of only residential properties and that he would apply the same process to any use proposed on a 'vested' parcel of land. He asked if the Board would agree with this interpretation of the regulations. The Board discussed whether the access, if determined safe, to a 'value-added agriculture business' property should have to meet the minimum frontage requirements or be considered as having vested rights to a road cut with less than the minimum road frontage. The Board broadened the discussion to all conditional use requests, not just requests for value-added agricultural businesses. Johnson stated he felt Board created the access dilemma for existing parcels when the new regulations were adopted and that parcels with less than the required road frontage should be permitted access.

Item was tabled for further discussion.

**May 5, 2008 Board of County Commissioners minutes**  
**Discussion of Access Management Standards (cont.)**

**PLANNING&WORK SESSION ITEM 05-05-08**

The Board continued their discussion regarding "value added agriculture" compliance with access management regulations, as tabled from the April 14, 2008 work session. Linda Finger, Planning Resource Coordinator; Keith Browning, Director of Public Works; and Keith Dabney, Director of Zoning were present for the discussion.

The Board discussed adding a clause to the text amendment that in addition to meeting frontage requirements, the applicant must also meet eligibility by an evaluation of the existing divisions and frontage based on land use intensity and safety as determined by the Public Works Director. Jones stated we have the right to consider access in light of safety and this clause should apply to all Conditional Use Permits (CUPs).

Browning asked if CUPs in general or value added CUPs are under the same minimum frontage requirements as residential. Johnson stated technically the answer is "no." Browning then clarified on an existing parcel that doesn't meet our current requirements, we will issue the residential permit if the division existed prior to the regulations. But the regulations should say that it doesn't apply to CUPs.

After further discussion, it was the consensus of the Board to table the item for consideration of non-residential properties

PC Minutes 7/21/08

**ITEM NO. 7      AMENDMENTS TO COUNTY ZONING REGULATIONS (JCR)**

**TA-05-06-08:** Consider amendments to Article 19, County Zoning Regulations, to add a new use for 'value-added agricultural business.' Initiated by County Commission April 14, 2008.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle presented the item.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Rasmussen asked why it was limited to just four full-time equivalent employees.

Mr. Rexwinkle said he could not answer that question because he did not draft that specific language.

Commissioner Hird said it was a type two business in the existing Code. He agreed it made no sense.

Commissioner Hird asked what the interplay was between the value-added agricultural business and agri-tourism.

Mr. Rexwinkle said a component of the agri-tourism use might be a value-added agricultural use by producing something on a property that draws people, but the standards probably would not go the full extent of what someone might want to do with agri-tourism.

Commissioner Hird said there were a lot of cases where a Conditional Use Permit was required, and that the people subject to that face the same problems getting financed that builders do. He said the same thing applies to people in the agricultural world and he wondered if there was a kind of zoning contemplated for value added or agri-tourism.

Mr. Rexwinkle said that Mary Miller or someone who has been working on the County Zoning re-write might be best suited to answer those types of questions.

Commissioner Finkeldei said on behalf the committee for County Zoning re-write that it is on the agenda Wednesday. He said they spent a lot of time narrowing the Conditional Use Permits down and allow a lot more permitted uses. He said they have been trying to get away from a complex Conditional Use Permit within the middle of the zoning code.

Commissioner Harris said the wording of the three examples was confusing and not entirely necessary. She wondered about instances where they would not want to have agri-cultural product changed to a chemical that may not be good for the environment.

Mr. McCullough said that Planning was shepherding the item through for the County Planning Officer, Linda Finger. He said that comments or questions could be taken to her.

The Commission had questions that could be best answered by Linda Finger, who was not present, so they decided to defer the item to Wednesday.

**ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Moore, to defer item 7 until the Wednesday, July 23, 2008 Planning Commission meeting.

Motion carried 9-0.



PC Minutes 7/23/08

**ITEM NO. 7      AMENDMENTS TO COUNTY ZONING REGULATIONS (JCR)**

**TA-05-06-08:** Consider amendments to Article 19, County Zoning Regulations, to add a new use for 'value-added agricultural business.' Initiated by County Commission April 14, 2008.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle was not present at the meeting. Mr. Scott McCullough recapped that the item was deferred from the Monday Planning Commission meeting so that Linda Finger could attend for questioning.

Commissioner Harris said the descriptions for what a value added business is seemed confusing and seemed to be geared more toward a business plan rather than how you would treat such a business in a zoning regulation. (she referred to page 19-11). She wanted more simple clear language.

Ms. Linda Finger said that they started with the USDA definitions. She put on the overhead projector her suggested word changes. She stated that if people are out growing products organically the County Commission does not want them to get caught up in this regulation. They want to encourage niche farming in the county. She suggested changing the example to say 'such as production of products from raw agricultural materials' to be more succinctly what was intended. The County Commission does not want to discourage the production of raw materials. They do want to have some control over how those raw materials are then produced into something else and/or processed. She said that processing involves the changing of the material. She said that one individual they have talked to wants to take raw products such as hay or straw and compress and create compound little bricks; and that would be marketable as a different product. The individual has not processed anything from them, but has produced a more compact form of the original agricultural product. Ms. Finger thought if it was clearer more clear that it was the production of products from raw agricultural materials that than the definition would work. She also stated that standard #2 was not meant to just capture agricultural structures, because there may be an accessory building on a property. There could be, what was formerly a residential building or some other type of outbuilding, that was not used for agricultural. If the building is used for production it needs to be included, so the 'agricultural' adjective needs to be stricken. Regarding standard number 7, since the County Commission sent this forward they have adopted by home rule resolution the administrative policy for what an agricultural use is. It is either 40 acres; or the determination that the owner is in agricultural production through the provision of a schedule F, which is filed with their federal income tax, which shows they have invested more than \$1,000 in farming. If the government believes they are agricultural than the County will believe that too, even if they do not have 40 acres. That is what the County Commission recently adopted so Count Staff felt they should change the minimum site area to be consistent with the County's adopted policy for agriculture uses.

Mr. McCullough added this is an offshoot of something the State is trying to encourage.

Ms. Trudy Rice, County Extension Director, said the three definitions that Commissioner Harris referred to were taken from the USDA's website of how they have determined 'value-added.' Kansas State University has a value added center that is encouraging this type of value added to agricultural products to enhance the economic growth of the community as well as the economic status of the farmer. The Kansas Department of Commerce and Department of Agriculture are both actively encouraging value added through education and grants that are available to producers, organizations, and communities.

Commissioner Harris said that the second definition could possibly be taken out. She asked if there was a difference between the first definition and the second definition.

Ms. Rice said that the first definition was changing the physical state. She did not think it would make a difference to take out the second definition. USDA was trying to come at it in that it was selling a finished product rather than a commodity. Traditional agricultural has been commodity based, and this is more of a product based that is ready to be consumed by the consumer.

Commissioner Finkeldei said it was very unlikely someone would sell something that decreased the value of the commodity they were working with.

Ms. Rice said that an example of definition number two could be if someone decided to market birdseed and they produced two or three of the grains that went into the birdseed and purchased the fourth grain, that would be considered a production of a product that enhances its value. She went on to say her example could probably fall under the third definition and that definition two might not be necessary.

Commissioner Harris said getting to the point of using some of the products on the land, she thought as it is written that was not required. She said someone could actually bring all the natural resources from outside and manufacture them onsite and then ship them off. She wondered if that was what they really want.

Ms. Finger said yes, that is what the County Commission anticipated. If it is an agricultural product they would not have to produce it onsite, but they could not claim it as an agricultural product simply because it was hay or straw brought in on their property. That is precisely what the one property owner who has contacted Ms. Finger wants to do. She said that he has about 80 acres and is not farming it for hay or straw. The amount of product that he could create from his own 80 acres would be processed in less than a day and a half so it would not be worth the effort. The concept is to provide an area where others who have hay and straw that are within a reasonable marketing distance can take it to be processed so it would still be an agricultural product.

Ms. Rice said that not all agricultural producers have their skill set in marketing or a finished product, that this really is an advantage to agricultural producers because they can still produce that product and market it for a higher resale value because someone else in the neighborhood or in the community is providing the marketing or value added service.

Commissioner Harris said some other ordinances say that there should be 50% of the product coming from the property. She said that if that is not what they are wanting, but are wanting to use the neighboring area, should it be worded to say a certain percentage should come from the county or surrounding area, so that manufacturing facilities are not created in the country.

Ms. Rice said that currently 'local food for local people' uses a 100 mile radius.

Commissioner Harris said it would make sense to have some language that refers to reasonably nearby in the county.

Ms. Finger said that was a reasonable consideration. She stated there was minimal discussion about that at the County Commission meeting, only to the extent that the County Zoning Administrator had raised the question of how to monitor where it comes from. She said that criteria can be placed that says it has to come from Douglas County but what if it was next to the Jefferson County line, why could they not cross the border. The County Commission felt that the Planning Commission would be better to have the first shot at what that standard should be.

Ms. Rice said currently the 'local food for local people' use a 100 mile radius.

Ms. Finger said they would be fine with the 100 mile radius if the Planning Commission wanted to add it to one of the standards.

Commissioner Harris said that the section does not really describe the goals in encouraging these businesses in the county. It would be helpful in making judgment calls on something they would have goals to shoot for. There is no reference to disposal of sewage, using water, noxious discharge or odor, which she felt could be a factor.

Ms. Rice said definition four was the closest to that because it talks about air quality.

Commissioner Harris said those were only air quality issues, not liquid emissions, odor, sewage, water use, etc. and that there might be need to address those depending on the size of the business.

Ms. Finger said those issues could be looked at on an individual basis when the Commission evaluates the use. She asked if Commissioner Harris wanted to set standards.

Commissioner Harris said she did not want to set standards today but she noticed in the Special Use Permit language that some of the Special Uses have a lot of conditions attached to them and some do not. It depends on the intensity that is expected, such as daycare versus quarry. She also expressed concern about the limit of five ton loads going in and out of the facility two times a day.

Ms. Finger said that Keith Browning, County Public Works Director/County Engineer, was present at the County Commission meeting when it was discussed. The County Commission felt that two trips were reasonable and would help limit the intensity of use because manufacturing production would have many more than two trucks coming in at any time. They moved the tonnage up from two to five and the trips from one to two. She said that the number of four employees was based on making it similar to the Home Occupation regulations for some equivalency.

Commissioner Hird asked if any thought was given to the seasonality of the workers.

Ms. Finger said it was full time equivalents and that would allow seasonable employees to be increased, which also corresponds with Home Occupation type 2.

Commissioner Finkeldei asked if there was a time rush on this or if it could be reworked and brought back to Planning Commission.

Ms. Finger said a time delay might affect one applicant because he might lose grant funding, but the County would like to get it right the first time.

Commissioner Carter said that getting it right the first time would delay it.

## **PUBLIC HEARING**

No public comment.

## **COMMISSION DISCUSSION**

Commissioner Moore asked what Commissioner Harris had in mind for the goals.

Commissioner Harris said she had the Michigan Agricultural Tourism Advisory Commission Local Zoning Guidebook which had examples of goals. She read some examples from the book: *intends goals and purposes to promote and maintain local farming, to increase community benefits by having fresh local*

*produce for sale, and increase positive growing businesses that contribute to the general economic conditions.*

Commissioner Finkeldei asked if the Zoning Regulations would need to be rearranged.

Ms. Miller said yes, it would need to be reworked.

Commissioner Harris wondered if the new comments could be incorporate in the new form.

Mr. McCullough said that it is doable and Commissioner Harris' comments could be incorporated.

Commissioner Hird was not extremely concerned about the definitional section because subparts 1, 2, & 3 were illustrative of the main concept. He was concerned however about the limitation of 4 full-time equivalent employees. He understood that it came from the type 2 Home Occupation licensing but felt that type 2 Home Occupation licensing was for less intense and smaller activities that take place inside a home and has its own set of limits on square footage and other requirements. The value added business can have the need for a significant number seasonal workers. It is a great way to encourage employment in the county but flexibility needs to be allowed to business owners. He also stated that 10,000 square feet for the buildings was very small.

Commissioner Singleton was concerned about environmental issues and felt that other environmental issues other than air quality should be addressed.

Commissioner Finkeldei asked if this is passed this would be the first step and then the applicant would have to submit a Conditional Use Permit, and then Planning Commission could condition the environmental factors.

Mr. McCullough said that was correct, they would be subject to the County Health Codes.

Commissioner Blaser felt they should get this started so that the one applicant so far could proceed.

Commissioner Carter asked if the 4 employee requirement was okay with the current applicant.

Ms. Finger said yes, it was okay for him, and he does understand that he will have to go through the Conditional Use Permit process.

Commissioner Harris said she would like the following words stricken from the paragraph:

*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:*

Commissioner Finkeldei said the reason the words were there was because they do not want this to apply to a person who produces something onsite and does all the work themselves onsite, they would not have to have a Conditional Use Permit. If someone grew strawberries onsite and created jam in the basement this would not apply to them. He felt that they should clear up the language to say 'not produced entirely on site.'

Mr. McCullough said that maybe they could define agricultural product and agricultural commodity.



Ms. Finger said that it could be helpful to add definitions for agricultural product and agricultural commodity. It may complicate matters to say that it is not entirely produced onsite.

Commissioner Harris asked if the wording 'entirely produced onsite' could be added.

Ms. Finger said that might capture someone who may have any part of production.

Commissioner Moore asked if they were confusing raw commodity with the end product. He said that Commissioner Harris was saying if it is entirely produced onsite that is fine if the raw commodity comes from outside.

Commissioner Harris was also concerned that they are not setting up a business that brings its raw commodities totally from the outside to be manufactured into a product.

Ms. Finger said that a business does not have to produce any of the agricultural product onsite, but it has to be an agricultural product that is produced, it just may not be on the land where it is being changed into a commodity.

Ms. Rice gave the example of 'local food for local people', do individual marketing, so they can be a broker for the fruits and vegetables, a collection site for the fruits and vegetables, make jam onsite, and also work with restaurants or vendors to sell that food.

Commissioner Harris was still not comfortable with the language because there might be consequences.

## **ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Blaser, to approve the proposed amendments [TA-05-06-08 to Chapter XI, Article 19 of Douglas County Code (Zoning Code)] with the following changes and forward to the Douglas County Board of County Commissioners.

### **35. *Value-added Agricultural Business.***

*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:*

- 1. A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam).*
- 2. ~~The production of a product in a manner that enhances its value, as demonstrated through a business plan (such as organically produced products).~~*
- 3. 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).*

*Agricultural value-added businesses shall meet each of the following location and development standards:*

- 1. Employees: A maximum of 4 full-time equivalent employees shall be allowed.*
- 2. Buildings or Structures: The total square footage for all buildings used in the operation, production, and storage of materials shall not exceed 10,000 sq feet. ~~Existing agricultural structures are required to be upgraded to meet commercial building code requirements if used for more than storage of raw agricultural materials.~~*

3. *Deliveries to/from the site: Commercial vehicles that exceed 5 tons in capacity shall be limited to two trips (to and from the site) per day.*
4. *Environmental considerations: No part of the production of the value-added product may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.*
5. *Equipment: 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. In either case, the associated noise, light and vibrations from the production operation shall not be perceptible at the site boundary/property lines.*
6. *Storage of products: Shall be enclosed within a building or structure so that it is not visible from the site boundary/property lines.*
7. *Minimum Site Area: A minimum site area ~~of 40 acres is required for the operation of all value-added agricultural businesses.~~ **is consistent with the County adopted policy for agricultural uses.***
8. *Road Access and Frontage: The site must have direct access to a full maintenance public road, as defined in Chapter XI, Subdivision Regulations, Douglas County Code, and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations.*
9. *Signage: One sign, limited to no more than 6 square feet in area, shall be visible from a public road, identifying the business. The sign shall be located no closer than 10 feet from the road easement/right-of-way line. No other signs may be posted or erected on the property.*

Motion carried 8-1, with Commissioner Harris voting in opposition

Minutes from County and Planning Commission meetings

**September 3, 2008 Board of County Commissioners minutes**  
**Approval of Text Amendment**

**PLANNING & TEXT AMENDMENTS 09-03-08**

The Board considered TA-05-06-08, amendments to Article 19, of the County Zoning Regulations, to add a new use for 'value-added agricultural business.' The item was initiated by the County Commission on April 14, 2008. J Rexwinkle, Lawrence and Douglas County Metropolitan Planning Staff, presented the amendment.

Johnson expressed interest in having Development Standard 3 refer to gross vehicle weight, "gvw", in addition to the tonnage amount, as he felt this would make the standard easier to enforce. There was brief discussion on the merits of using 'gvw' alone or in conjunction with '5 tons' in the regulations. It was determined that using the two terms in conjunction with each other would provide greater clarity in the regulations.

Johnson moved to approve item TA-05-06-08, Text Amendment to Chapter XI, Article 19 of the Douglas County Code (Zoning Code) with the following language recommended by the Planning Commission on July 23, 2008, and with the addition of the reference to gross vehicle weight in Development Standard 3:35. Value-added Agricultural Business. 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:

1. A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam).
2. 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).

Agricultural value-added businesses shall meet each of the following location and development standards:

- a. Employees: A maximum of 4 full-time equivalent employees shall be allowed.
- b. Buildings or Structures: The total square footage for all buildings used in the operation, production, and storage of materials shall not exceed 10,000 sq feet. Structures are required to be upgraded to meet commercial building code requirements if used for more than storage of raw agricultural materials
- c. Deliveries to/from the site: Commercial vehicles that exceed 5 tons (gvw) in capacity shall be limited to two trips (to and from the site) per day.
- d. Environmental considerations: No part of the production of the value-added product may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.
- e. Equipment: 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. In either case, the associated noise, light and vibrations from the production operation shall not be perceptible at the site boundary/ property lines.

Minutes from County and Planning Commission meetings

- f. Storage of products: Shall be enclosed within a building or structure so that it is not visible from the site boundary/property lines.
- g. Minimum Site Area: A minimum site area is consistent with the County adopted policy for agricultural uses.
- h. Road Access and Frontage: The site must have direct access to a full maintenance public road, as defined in Chapter XI, Subdivision Regulations, Douglas County Code, and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations.
- i. Signage: One sign, limited to no more than 6 square feet in area, shall be visible from a public road, identifying the business. The sign shall be located no closer than 10 feet from the road easement/right-of-way line. No other signs may be posted or erected on the property.

Motion was seconded by Jones and carried 2-0.

**September 15, 2008 Board of County Commissioners minutes  
Approval of Resolution 08-39, amending the Zoning Regulations  
with the Value-Added Agricultural Use.**

**ZONING & RESOLUTION 09-15-08**

The Board considered the approval of Resolution 08-39, amending the Zoning Regulations, Chapter XII, Article 19, to add a new conditional use for Value-Added Agricultural Business and to reformat the existing Article by creating sections 19-2 Time Limitations and 19-3 Amending or Revocating a Conditional Use Permit. The BOCC approved text amendments TA-05-06-08 and TA-05-07-08 at the September 3, 2008. Linda Finger, Planning Resource Coordinator, presented the item.

Jones moved to approve Resolution 08-39, amending the Douglas County Zoning Regulations, Chapter XII, Article 19 Supplemental Use Regulations - Conditional Uses - Temporary Uses to: Add a new use of Value Added Agriculture; identify the applicability of State and Federal Regulations; and to reformat existing text to create separate subsections for time limitations and the amendment or revocation process for a Condition Use Permit. Motion was seconded by McElhaney and carried unanimously.



**12-319-4.35. Value-added Agricultural Business.** 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).

Agricultural value-added businesses shall meet each of the following location and development standards:

- a. Employees: A maximum of 4 full-time equivalent employees shall be allowed.
- b. Buildings or Structures: The total square footage for all buildings used in the operation, production, and storage of materials shall not exceed 10,000 sq feet. Structures are required to be upgraded to meet commercial building code requirements if used for more than storage of raw agricultural materials.
- c. Deliveries to/from the site: Commercial vehicles that exceed 5 tons (gvw) in capacity shall be limited to two trips (to and from the site) per day.
- d. Environmental considerations: No part of the production of the value-added product may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.
- e. Equipment: 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. In either case, the associated noise, light and vibrations from the production operation shall not be perceptible at the site boundary/property lines.
- f. Storage of products: Shall be enclosed within a building or structure so that it is not visible from the site boundary/property lines.
- g. Minimum Site Area: A minimum site area is consistent with the County adopted policy for agricultural uses.
- h. Road Access and Frontage: The site must have direct access to a full maintenance public road and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations.
- i. Signage: One sign, limited to no more than 6 square feet in area, shall be visible from a public road, identifying the business. The sign shall be located no closer than 10 feet from the road easement/right-of-way line. No other signs may be posted or erected on the property.

**RESOLUTION NO. 08-25**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, RATIFYING AND AFFIRMING THE ADMINISTRATIVE POLICY TO ASSIST IN THE DETERMINATION OF AN AGRICULTURAL USE FOR GRANTING AN AGRICULTURAL BUILDING EXEMPTION

**WHEREAS**, on September 23, 1966, the Board of County Commissioners of Douglas County, Kansas (the "Board") adopted the Douglas County Zoning Resolution which applied to the unincorporated territory of Douglas County, Kansas (the "County").

**WHEREAS**, on September 11, 1985, by Resolution 85-46, the Board codified such zoning regulations, together with all amendments that had previously been made thereto, which zoning regulations have been subsequently amended in certain respects and such zoning regulations, as previously amended, are hereinafter referred to as the "Zoning Regulations."

**WHEREAS**, Section 4-6.02 of the Zoning Regulations prohibits the erection, conversion, enlargement, reconstruction, structural alteration, or use of a building, except for a use permitted in the zoning district in which the building is located.

**WHEREAS**, as a general rule, the Zoning Regulations do not permit a storage shed or other similar building on a premises unless it is accessory to another building or use that is specifically permitted.

**WHEREAS**, Section 4-6.01 of the Zoning Regulations, however, provides that the Zoning Regulations do not apply to the erection or maintenance of buildings as long as such buildings are used strictly for agricultural purposes.

**WHEREAS**, Section 3-1.03a of the Zoning Regulations defines an "agricultural building" as follows:

A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. Such structure shall not be a place of human habitation or a year-round place of employment where agricultural products are processed, treated or packaged; nor shall it be a building or structure open year-round for use by the public. A "farmer's market" building will be considered an agricultural building so long as it is located on the farmstead where the products are grown.

**WHEREAS**, on June 9, 1999, by Home Rule Resolution No. 99-6-2, the Board, adopted "The Uniform Building Code - 1997 Edition" (the "Building Code"), as published by the International Conference of Building Officials, with various amendments thereto, which the Board has subsequently further amended and codified at Article 1 of Chapter III of the County Code, and which the Board may further amend or replace by a different building code.

**WHEREAS**, the Building Code generally requires a building permit for the erection, construction, alteration, moving, converting, extension or enlargement of a building,

except a building permit is not required for a building to be used solely for agricultural purposes if the owner completes and files with the building official certain specified certificates and applications.

**WHEREAS**, Section 106.2 of the Building Code (Section 3-105.1 of the County Code) defines an “agricultural building” and a “building to be used solely for agricultural purposes” as follows:

For purposes of this Section, an “agricultural building” and a “building to be used solely for agricultural purposes” is a structure designed, constructed, and used solely to do any one or combination of the following: (a) to house hay, grain, poultry, livestock, or other agricultural or horticultural products; (b) to sort, grade, wash, weigh, package, or otherwise prepare agricultural or horticultural products produced on site for market; (c) to prepare, sort, or house agricultural inputs if such agricultural inputs are to be planted or otherwise used in connection with agricultural pursuits (i) on site, (ii) on other property under common control of the owner or tenant of the property on which the building is located, or (iii) on other property if the use on other property is ancillary to the use of such agricultural inputs on property under (i) or (ii); or (d) to house farm implements, tools and equipment used in connection with any of the foregoing.

Except as expressly provided above, a building is not an “agricultural building” or a “building to be used solely for agricultural purposes” if it is a place of human habitation or a place of employment where agricultural or horticultural products not produced on site are processed, treated or packaged; nor is it an agricultural building if it is a place used by the public (other than a temporary “farmer’s market” predominantly for the sale of agricultural or horticultural products produced or grown on site).

**WHEREAS**, the County Department of Zoning & Codes is regularly faced with requests for owners of property to permit the construction of a storage shed or similar building not accessory to another permitted building, which requires a determination of whether the premises is used for agricultural purposes and building is or will be an agricultural building.

**WHEREAS**, to aid in the determination of whether a building is or will be an agricultural building, the County Department of Zoning & Codes has adopted an administrative policy, which the Board desires to ratify and affirm.

**NOW, THEREFORE**, the Board of County Commissioners of Douglas County, Kansas, sitting in regular session this 2<sup>nd</sup> day of July, 2008, does hereby resolve as follows:

1. Administrative Policy Ratified and Affirmed. The following administrative policy for the determination of eligibility as an agricultural building, exempt from the Zoning Regulations, as amended, and eligible for an exemption from the Building Code, as amended or superseded by a subsequent code, is ratified and affirmed:

a. If the premises on which the proposed building is located consists of 40 or more contiguous acres, the Department of Zoning & Codes will generally rely upon the owner's certification that the building is (if already constructed) and will be used solely for agricultural purposes, without further documentation.

b. If the premises on which the proposed building is located consists of less than 40 contiguous acres, the owner shall provide the Department of Zoning & Codes additional documentation to establish to its satisfaction that the owner or tenant of the premises uses the premises for an agricultural use and that the building is (if already constructed) and will be used as an accessory to such agricultural use. Such additional documentation shall generally include a copy of Schedule F to the owner's most recent IRS Form 1040, and may include additional documentation.

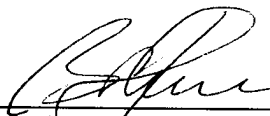
2. Applicability of Other Regulations. The foregoing administrative policy does not mean that the actual use of the building need not satisfy the other requirements or prohibitions of an agricultural building or any other applicable governmental regulations. The use of any building, even though previously determined to be an exempt agricultural building, in a manner not in accordance with applicable definitions shall constitute a violation of the applicable regulations.

3. Not Exclusive Policy. The foregoing policy is not exclusive of other administrative policies the Douglas County Department of Zoning & Codes may adopt and apply from time to time in furtherance of its oversight and enforcement of the Zoning Regulations and the Building Code.

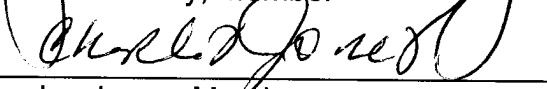
4. Effective Date. This Resolution shall take effect and be in force from and after its adoption.

IN WITNESS WHEREOF, the foregoing Resolution was adopted this 2<sup>nd</sup> day of July, 2008.


**BOARD OF COUNTY COMMISSIONERS OF  
DOUGLAS COUNTY, KANSAS:**

  
\_\_\_\_\_  
Bob Johnson, Chair

  
\_\_\_\_\_  
Jere McElhaney, Member

  
\_\_\_\_\_  
Charles Jones, Member

ATTEST:

  
\_\_\_\_\_  
Jameson Shew, County Clerk



## Mary Miller

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**To:** Bryan Culver  
**Subject:** RE: Value added agricultural business c u p

Begin forwarded message:

**From:** Willis Long <[longbell61@aim.com](mailto:longbell61@aim.com)>  
**Date:** March 19, 2015 at 8:28:43 PM CDT  
**To:** [amalia.graham@gmail.com](mailto:amalia.graham@gmail.com), [jonjossierand@gmail.com](mailto:jonjossierand@gmail.com), [pkelly@usd497.org](mailto:pkelly@usd497.org),  
[bcculver@gmail.com](mailto:bcculver@gmail.com)  
**Subject:** Fwd: Value added agricultural business c u p

-----Original Message-----

From: Willis Long <[longbell61@aim.com](mailto:longbell61@aim.com)>  
To: jlong500g <[jlong500g@gmail.com](mailto:jlong500g@gmail.com)>  
Sent: Thu, Mar 19, 2015 8:12 pm  
Subject: Value added agricultural business c u p

I am writing as 3min. is not enough time to express myself , and get all my questions answered .

I would like to know how you would feel to work your entire life to get what you have, only to have 15% taken away because of decision being made by others .Please give this some thought . some would think it is neat to have an ag. business in the county ,but to do this it shouldn't have negative affect on others . We will loose \$65,000 in property value as there is vacant property is only 250 ft. from us. Decisions are being made and we have had no say, (we are not getting help on how to get through the process)  
We do what we think is right but no one is listening .(I am frustrated)

This C U P has so many open holes that I think it needs to be tabled till the County gets their new Planner hired. We can then have someone writing the policy after looking at the county as a whole and not just at one parcel.

There are a lot of parcels in Douglas County that were divided before 2006 some as small as 1 acre, that is only 1 of many reasons there should be acreage requirements. If it takes 10 acres to build in the county why on earth would you allow someone to build a stand alone commercial rental factory that can be up to 10,000 sq. ft. on any thing under 40acres?

I wont get into the road frontage, but I would like to know what is meant by agriculture ?(plant , animal, etc .)

Dose this c u p mean it will be allowed as long as there is some sort of ag. product in it ?

I also need someone to explain to me how a person can take a property that has always been a resident , in what country people call neighborhoods tear it down and rebuild a completely different stand alone commercial factory

and not have to be in commercial zoning. To change the ordinances allowing rural properties to be converted into factories depletes the regulations set-in place to protect property owners .

I don't believe this would ever happen in the city limits so why should we hurry this to make it happen in the county .

Please consider tabling all of this till the New County Planner gets it revised .

Thank You  
Linda Long